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Kowalko, Minor-Brown, Mitchell, Morrison, Wilson-
Anton; Sens. Gay, Lopez, Sokola

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 394

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE DEPARTMENT OF
CORRECTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Subchapter VIII, Chapter 43, Title 11 of the Delaware Code by making deletions as shown by
2 strike through and insertions as shown by underline as follows:

3 § 4381. Earned good time.

4 (a) Subject to the limitations set forth in subsection (b) of this section, all sentences, other than a life sentence,
5 imposed for any offense pursuant to any provision of this title, Title 16 and/or Title 21 may be reduced by good time credit
6 under the provisions of this subchapter and rules and regulations adopted by the Commissioner of Corrections. This
7 provision will apply regardless of any previously imposed statutory limitations set forth in this title, Title 16 or Title 21.

8 (b) The awarding of good time credit set forth in subsection (a) of this section above will not apply to sentences
9 imposed pursuant to § 4214 or § 4204(k) of this title or sentences imposed prior to the enactment of this statute.

10 (c) "Good time" may be earned for good behavior while in the custody of the Department of Correction when the
11 person has not been guilty of any violation of discipline, rules of the Department or any criminal activity and has labored
12 with diligence toward rehabilitation according to the following conditions:

13 (1) During the first year of any sentence, good time may be awarded at the rate of 2 days per month beginning
14 on the first day of confinement.

15 (2) After completing 365 days of any sentence, good time may be awarded at the rate of 3 days per month.

16 (3) No person shall be awarded more than 36 days of good time under this subsection for good behavior in
17 any 1 year consisting of 365 calendar days actually served.

18 (d) "Good time" may be earned by participation in education, rehabilitation, work, or other programs as designated
19 by the Commissioner. Good time may be awarded for satisfactory participation in approved programs at a rate of up to 10
20 days per calendar month. For offenders sentenced on or after August 8, 2012, up to 60 days of additional good time may be
21 awarded for successful completion of an approved program designed to reduce recidivism.

22 (e) No more than a total of 180 days of “good time” may be earned in any 1 year consisting of 365 days actually
23 served. Good time credits shall be applied such that the resulting release date is not prior to the effective completion date of
24 the offender’s approved program. For offenders serving multiple sentences, good time shall be credited to the consolidated
25 time being served, rather than individually to each sentence.

26 (f) Each person serving a sentence in the custody of the Department shall be provided a copy of all rules, policies,
27 and procedures relating to the accrual and forfeiture of good time, notwithstanding § 4322 of this title, at the person’s initial
28 classification and upon transfer to a different facility. The rules, policies, and procedures shall also be made available upon
29 request of a person in custody.

30 (g) The Department shall provide each person in its custody with a quarterly accounting of that inmate’s good
31 time, including the good time accrued each month, total good time accrued, and any good time forfeited, together with the
32 reason therefor. If the inmate believes the accounting is incorrect, the Department shall provide the inmate with an in-
33 person meeting with a correctional counselor or designee to discuss and resolve any alleged discrepancy.

34 § 4382. Forfeiture of good time.

35 (a) Any person subject to the custody of the Department at Level IV or V shall, upon the conviction of any ~~crime~~
36 felony during the term of the sentence, forfeit all good time accumulated to the date of the criminal act; this forfeiture is not
37 subject to suspension.

38 (b) Any person subject to the custody of the Department of Correction at Level IV or V who has been found guilty
39 of a Class-I disciplinary violation may, under the rules and procedures of the Department, forfeit all or part of that person’s
40 accrued good time. who is determined to have violated the rules of the Department of Correction shall under the rules and
41 procedures of the Department forfeit all or part of the good time accrued to the date of such offense. Forfeiture under this
42 subsection may be suspended by the Department for the purposes of encouraging rehabilitation or compliance with
43 discipline.

44 (c) Any person subject to the custody of the Department who is determined to have physically assaulted any
45 correctional officer or employee of the Department shall, in addition to any criminal or civil penalties which may be
46 imposed, forfeit all good time accumulated to date of the assault; this forfeiture is not subject to suspension.

47 (d) When good time is actually ordered forfeit, it may not be recovered by the incarcerated person.

48 (e) Any person subject to the custody of the Department at Level IV or Level V, who is found by a court or a
49 federal court to have filed a factually frivolous claim, malicious claim or legally frivolous claim and sanctioned by the court
50 or federal court pursuant to § 8805(a) or (b) of Title 10, shall be deemed to have failed to earn behavior good time credits
51 within the meaning of § 4381(c) of this title and shall have a portion of that person’s good time credits accumulated

52 pursuant to § 4381(c) of this title forfeited to the extent and in accordance with the order issued pursuant to § 8805 of Title
53 10.

54 Section 2. Amend § 4322, Title 11 of the Delaware Code by making deletions as shown by strike through and
55 insertions as shown by underline as follows:

56 § 4322. Protection of records.

57 (c) No inmate ~~shall~~may be provided a copy of the Department of Correction Policy and Procedures Manuals, ~~The~~
58 the Bureau of Prisons Policy and Procedures Manuals, ~~nor any of the~~ Department of Correction Facilities Operational
59 Procedures, ~~Administrative Regulations and Post Orders.~~ Regulations, or Post Orders that could jeopardize the safety or
60 security of a correctional facility, corrections staff, inmates, or the public.

61 (d) ~~The Department of Correction Policies and Procedures, including any Policy, Procedure, Post Order, Facility~~
62 ~~Operational Procedure or Administrative Regulation adopted by a Bureau, facility or department of the Department of~~
63 ~~Correction shall be confidential, and not subject to disclosure except upon the written authority of the Commissioner.~~ A
64 Department of Correction Policy or Procedure which, in the judgement of the Commissioner, contains information that
65 could jeopardize the safety or security of a correctional facility, corrections staff, inmates or the public shall be confidential
66 and subject to disclosure only upon written authority of the Commissioner. For purposes of this subsection, "Department of
67 Correction Policy or Procedure" includes any policy, procedure, post order, facility operational procedure, or administrative
68 regulation adopted by a bureau, facility, or division of the Department.

SYNOPSIS

This Act provides that the Department of Correction must provide a copy of all policies relating to the accrual and forfeiture of good time to inmates, as well as a quarterly written accounting of good time credit earned and/or forfeited. The requirement that all accrued time must be forfeited upon conviction of any crime within custody, the complete forfeiture will apply only to commission of felonies. Forfeiture of good times for rule violations is changed to apply only to Class I disciplinary violations.

The Act also updates § 4322 of Title 11 to allow dissemination of Department of Correction policies and procedures to inmates and the public where such dissemination would not endanger safety or security of a correctional facility, corrections staff, inmates, or the public.