

1 SB323
2 214073-2
3 By Senator Chambliss
4 RFD: Judiciary
5 First Read: 11-MAR-21

1 SB323

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4 ENROLLED, An Act,

5 Relating to corrections; to add a new Article 4 to
6 Chapter 9 of Title 14 of the Code of Alabama 1975; to provide
7 for a possible deduction of a prisoner's sentence upon
8 completion of qualifying programs in certain circumstances; to
9 require the Department of Corrections, in consultation with
10 the Joint Legislative Prison Oversight Committee, to adopt
11 rules for the administration of education incentive time; to
12 amend Section 29-2-20, Code of Alabama 1975, to make
13 nonsubstantive technical revisions to update the existing code
14 language to current style.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Article 4, beginning with Section
17 14-9-100, is added to Chapter 9 of Title 14 of the Code of
18 Alabama 1975, to read as follows:

19 Article 4.

20 §14-9-100.

21 This act shall be known as the Alabama Education
22 Incentive Time Act.

23 §14-9-101.

24 The Legislature finds and declares that according to
25 2013 RAND Corporation research, offenders who participate in

1 quality education programs are 43 percent less likely to
2 return to prison within three years. The Legislature further
3 finds and declares that providing this group of individuals
4 with skills essential for post-release success is paramount,
5 in that it will reduce recidivism and improve post-release
6 transition for offenders.

7 §14-9-102.

8 As used in this article, the following terms shall
9 have the following meanings:

10 (1) QUALIFYING PROGRAM. An academic, vocational,
11 risk-reducing, or apprenticeship program approved by the
12 Department of Corrections.

13 (2) TERM OF INCARCERATION. A continuous period of
14 time during which a prisoner is in the legal or physical
15 custody of the Department of Corrections pursuant to one or
16 more court-imposed sentences starting on the sentence
17 beginning date recorded on the prisoner's conviction
18 transcript and concluding on the prisoner's department
19 calculated end of sentence date.

20 §14-9-103.

21 The Department of Corrections shall adopt rules
22 regarding the administration of education incentive time;
23 provided, however, the department may not propose rules until
24 the department has consulted with the Joint Legislative Prison
25 Oversight Committee, created pursuant to Section 29-2-20. The

1 rules shall include, but are not limited to, specifying the
2 maximum amount of time a sentence may be reduced based on the
3 successful completion of a qualifying program, determining the
4 incremental credit awarded depending on the program complexity
5 and length, establishing a revocation provision for
6 disciplinary infractions, and adopting any additional
7 restrictions at the discretion of the commissioner. The final
8 rules shall be certified to the Legislative Services Agency no
9 later than March 1, 2022.

10 §14-9-104.

11 (a) Except as provided in subsections (e) and (f), a
12 prisoner serving a term of incarceration in a Department of
13 Corrections facility, or a facility leased by the department,
14 may earn a deduction from the term of his or her sentence for
15 successfully completing a qualifying program, known as
16 education incentive time.

17 (b) A prisoner may not receive more than a total of
18 12 months of education incentive time during any term of
19 incarceration.

20 (c) Deductions from a prisoner's term of
21 incarceration based on education incentive time shall be in
22 addition to any other available sentence deductions,
23 including, but not limited to, correctional incentive time
24 awarded pursuant to Section 14-9-41.

1 (d) A prisoner may not receive education incentive
2 time for the completion of any qualifying program that was
3 completed prior to the beginning of the term of incarceration.

4 (e) A prisoner may not receive the benefit of
5 education incentive time if any of the following occur:

6 (1) He or she has been sentenced to death.

7 (2) He or she has been sentenced to a term of life
8 imprisonment.

9 (3) He or she has been convicted of a violent
10 offense, as provided in Section 12-25-32, that is classified
11 as a Class A or Class B felony.

12 (4) He or she has been convicted of a sex offense as
13 provided in Section 15-20A-5.

14 (5) He or she is serving a term of confinement
15 pursuant to Section 15-18-8.

16 §14-9-105.

17 (a) Any education incentive time awarded by the
18 department to a prisoner shall be reported by the department
19 to the Board of Pardons and Paroles. The Board of Pardons and
20 Paroles shall apply education incentive time to advance the
21 initial consideration date and any tentative parole review
22 date already established for the prisoner. The board shall
23 consider the education incentive time when making a final
24 parole release decision of the prisoner.

1 (b) The department shall report to the Board of
2 Pardons and Paroles when a prisoner, who is capable of
3 participating in a qualifying program, declines or refuses to
4 participate in a qualifying program.

5 §14-9-106.

6 This article does not create an interest or right
7 for any prisoner to participate in, or receive education
8 incentive time for, any qualifying program, nor does it
9 authorize the commissioner to create an interest or right. No
10 prisoner or class of prisoners may bring a cause of action
11 against any party in any court involving the subject matter of
12 education incentive time under this article. No court has
13 subject matter jurisdiction over challenges to directives,
14 rules, or policies adopted under this article; awards or
15 failures to award education incentive time; decisions related
16 to approving programs for credit; program admission decisions;
17 financial aid eligibility determinations; evaluations or
18 grades; certifications of program completion; or any other
19 acts or omissions arising from or related to the authority
20 granted by this article.

21 §14-9-107.

22 (a) In addition to any reporting requirements under
23 existing law, the Department of Corrections shall provide to
24 the Joint Legislative Prison Oversight Committee quarterly
25 reports, including all of the following:

1 (1) The number of prisoners who are eligible to
2 receive education incentive time for participation in
3 qualifying programs.

4 (2) The number of prisoners eligible to receive
5 education incentive time who participate in a qualifying
6 program.

7 (3) The number of prisoners eligible to receive
8 education incentive time who complete or fail to complete a
9 qualifying program.

10 (4) The recidivism rate for prisoners who
11 successfully complete a qualifying program before release.

12 (5) The post-release outcomes, including employment,
13 of prisoners who successfully complete a qualifying program
14 before release.

15 (b) In addition to any reporting requirements under
16 existing law, the Board of Pardons and Paroles shall provide
17 the Joint Legislative Prison Oversight Committee quarterly
18 reports detailing the outcomes of parole hearings of prisoners
19 who have received education incentive time.

20 §14-9-108.

21 The Board of Pardons and Paroles shall adopt rules
22 to implement and administer this article.

23 Section 2. Section 29-2-20, Code of Alabama 1975, is
24 amended to read as follows:

25 "§29-2-20.

1 "(a) A permanent legislative committee, to be known
2 as the Joint Legislative Prison Oversight Committee, which
3 shall be composed of eight members, two of whom shall be ex
4 officio members and six of whom shall be appointed members,
5 three each to be appointed by the President of the Senate and
6 Speaker of the House, who shall both serve as the ex officio
7 members, shall be formed to ~~assist in realizing the~~
8 ~~recommendations of the Legislative Prison Task Force and~~
9 examine all aspects of the operations of the Department of
10 Corrections. The ~~chairman~~ chair of the committee shall be
11 selected by and from among the membership.

12 "(b) The committee shall ~~make diligent inquiry and a~~
13 ~~full examination of~~ examine Alabama's present and long term
14 prison needs and they shall file reports of their findings and
15 recommendations to the ~~Alabama~~ Legislature not later than the
16 fifteenth legislative day of each regular session ~~that the~~
17 ~~committee continues to exist.~~

18 "~~(b)~~ (c) The committee shall study and address
19 mental health issues for prisoners reentering the community
20 after a term of imprisonment in order to streamline the
21 sharing of critical mental health information and in order to
22 address barriers to accessing mental health treatment for ~~such~~
23 prisoners. The committee shall report ~~such~~ the findings to the
24 Legislature ~~no~~ not later than ~~April 20, 2016~~ the fifteenth
25 legislative day of each regular session, and shall work in

1 conjunction with all of the following in studying and
2 addressing ~~such~~ the issues:

3 "(1) Department of Corrections~~;~~.

4 "(2) Board of Pardons and Paroles~~;~~.

5 "(3) Department of Mental Health~~;~~.

6 "(4) Administrative Office of Courts~~;~~.

7 "(5) Office of Prosecution Services~~;~~.

8 "(6) Office of the Attorney General~~;~~.

9 "(7) Alabama State Law Enforcement Agency~~;~~.

10 "(8) Association of County Commissions of Alabama~~;~~.

11 "(9) Alabama Probate Judges Association~~;~~.

12 "(10) Alabama Sheriffs' Association~~;~~.

13 "(11) Alabama Criminal Defense Lawyers Association~~;~~.

14 "(12) Alabama Circuit Judges' Association~~;~~.

15 "(13) Department of Public Health~~;~~.

16 "(14) Office of the Governor~~;~~.

17 "(15) Alabama District Attorneys Association~~;~~.

18 "(16) Alabama Drug Abuse Task Force~~;~~and.

19 "(17) Any other advocacy groups as determined by the
20 committee.

21 "~~(c)~~ (d) The committee shall study and address
22 issues related to felony restitution collection in order to
23 improve rates of collection for restitution obligations in
24 felony cases and establish best practices relating to a
25 defendant's ability to pay obligations owed. The committee

1 shall report ~~such~~ the findings to the Legislature ~~no~~ not later
 2 than ~~April 20, 2016~~ the fifteenth legislative day of each
 3 regular session, and shall work in conjunction with all of the
 4 following in studying and addressing ~~such~~ the issues:

5 "(1) Department of Corrections~~;~~.

6 "(2) Board of Pardons and Paroles~~;~~.

7 "(3) Administrative Office of Courts~~;~~.

8 "(4) Office of Prosecution Services~~;~~.

9 "(5) Office of the Attorney General~~;~~.

10 "(6) Alabama State Law Enforcement Agency~~;~~.

11 "(7) Alabama Criminal Defense Lawyers Association~~;~~.

12 "(8) Alabama Circuit Judges' Association~~;~~.

13 "(9) Association of County Commissions of Alabama~~;~~.

14 "(10) Alabama Sheriffs' Association~~;~~.

15 "(11) Alabama Crime Victims Compensation

16 Commission~~;~~.

17 "(12) The Alabama Circuit Clerk's Association~~;~~.

18 "(13) Two crime victims' rights advocates designated
 19 by the Attorney General~~;~~.

20 "(14) Two members from the Alabama District
 21 Attorneys Association, of which one shall be from a largely
 22 populated metropolitan judicial circuit and the other shall be
 23 from a small, rurally populated judicial circuit~~;~~and.

24 "(15) Any other advocacy groups as determined by the
 25 committee.

1 "~~(d)~~ (e) The committee shall study and address
 2 capacity issues within the Department of Corrections to
 3 include, but not be limited to, the issue of design capacity
 4 and operational or functional capacity, as well as the
 5 construction of new prison facilities and the renovation of
 6 current correctional facilities as they relate to prison
 7 overcrowding and public safety. The committee shall report
 8 ~~such the~~ findings to the Legislature ~~no not~~ later than ~~April~~
 9 ~~20, 2016~~ the fifteenth legislative day of each regular
 10 session, and shall work in conjunction with the following in
 11 studying and addressing ~~such the~~ issues:

12 "(1) Department of Correctionsτ.

13 "(2) Board of Pardons and Parolesτ.

14 "(3) Department of Mental Healthτ.

15 "(4) Department of Public Healthτ.

16 "(5) Administrative Office of Courtsτ.

17 "(6) Office of Prosecution Servicesτ.

18 "(7) Office of the Attorney Generalτ.

19 "(8) Alabama State Law Enforcement Agencyτ.

20 "(9) Alabama Drug Abuse Task Forceτ.

21 "(10) Alabama Criminal Defense Lawyers Associationτ.

22 "(11) Alabama Circuit Judges' Associationτ.

23 "(12) Association of County Commissions of Alabamaτ.

24 "(13) Two members from the Alabama Sheriffs'

25 Association, of which one shall be from a largely populated

1 metropolitan judicial circuit and the other shall be from a
2 small, rurally populated judicial circuit, ~~and.~~

3 "(14) Two members from the Alabama District
4 Attorneys Association, of which one shall be from a largely
5 populated metropolitan judicial circuit and the other shall be
6 from a small, rurally populated judicial circuit.

7 "~~(e)~~ (f) The studies and collaborating partners
8 provided for in this section shall reflect the racial, gender,
9 geographic, urban/rural, and economic diversity of the state."

10 Section 3. This act shall become effective
11 immediately following its passage and approval by the
12 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB323

Senate 15-APR-21

I hereby certify that the within Act originated in and passed the Senate.

Senate 17-MAY-21

I hereby certify that the within Act originated in and passed the Senate, as amended by Conference Committee Report.

Patrick Harris,
Secretary.

House of Representatives

Passed: 29-APR-21, as amended

House of Representatives

Passed: 17-MAY-2021, as amended by Conference Committee Report.

By: Senator Chambliss