

# HOUSE BILL No. 1098

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-50-6.

**Synopsis:** Elimination of credit time. Provides that a habitual violent offender is not entitled to good time credit.

**Effective:** July 1, 2023.

---

---

## Gore

---

---

January 10, 2023, read first time and referred to Committee on Courts and Criminal Code.

---

---



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

# HOUSE BILL No. 1098

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-50-6-4, AS AMENDED BY P.L.44-2016,  
 2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2023]: Sec. 4. **(a) As used in this section, "habitual violent  
 4 offender" means a person who has been convicted of two (2) or  
 5 more violent offenses (as defined in IC 11-12-3.7-6).**  
 6 ~~(a)~~ **(b)** A person:  
 7 (1) who is not a credit restricted felon **or a habitual violent  
 8 offender;** and  
 9 (2) who is imprisoned for a Level 6 felony or a misdemeanor or  
 10 imprisoned awaiting trial or sentencing for a Level 6 felony or  
 11 misdemeanor;  
 12 is initially assigned to Class A.  
 13 ~~(b)~~ **(c)** A person:  
 14 (1) who is not a credit restricted felon **or a habitual violent  
 15 offender;** and  
 16 (2) who is imprisoned for a crime other than a Level 6 felony or  
 17 misdemeanor or imprisoned awaiting trial or sentencing for a



1 crime other than a Level 6 felony or misdemeanor;  
2 is initially assigned to Class B.

3 ~~(e)~~ **(d)** A person who is a credit restricted felon and who is  
4 imprisoned for a crime or imprisoned awaiting trial or sentencing is  
5 initially assigned to Class C. A credit restricted felon may not be  
6 assigned to Class A or Class B.

7 **(e) A person who is a habitual violent offender and who is:**

8 **(1) imprisoned for a felony; or**

9 **(2) imprisoned awaiting trial or sentencing for a felony;**

10 **committed after June 30, 2023, is initially assigned to Class D. A**  
11 **habitual violent offender may not be assigned to Class A, Class B,**  
12 **or Class C.**

13 ~~(d)~~ **(f)** A person who is not a credit restricted felon **or a habitual**  
14 **violent offender** may be reassigned to Class C or Class D if the person  
15 violates any of the following:

16 (1) A rule of the department of correction.

17 (2) A rule of the penal facility in which the person is imprisoned.

18 (3) A rule or condition of a community transition program.

19 However, a violation of a condition of parole or probation may not be  
20 the basis for reassignment. Before a person may be reassigned to a  
21 lower credit time class, the person must be granted a hearing to  
22 determine the person's guilt or innocence and, if found guilty, whether  
23 reassignment is an appropriate disciplinary action for the violation. The  
24 person may waive the right to the hearing.

25 ~~(e)~~ **(g)** A person who is a credit restricted felon may be reassigned  
26 to Class D and a person who is assigned to Class IV may be assigned  
27 to Class III if the person violates any of the following:

28 (1) A rule of the department of correction.

29 (2) A rule of the penal facility in which the person is imprisoned.

30 (3) A rule or condition of a community transition program.

31 However, a violation of a condition of parole or probation may not be  
32 the basis for reassignment. Before a person may be reassigned to Class  
33 III or Class D, the person must be granted a hearing to determine the  
34 person's guilt or innocence and, if found guilty, whether reassignment  
35 is an appropriate disciplinary action for the violation. The person may  
36 waive the right to the hearing.

37 ~~(f)~~ **(h)** In connection with the hearing granted under subsection ~~(d)~~  
38 ~~or (e)~~, **(f) or (g)**, the person is entitled to:

39 (1) have not less than twenty-four (24) hours advance written  
40 notice of the date, time, and place of the hearing, and of the  
41 alleged misconduct and the rule the alleged misconduct is alleged  
42 to have violated;



- 1 (2) have reasonable time to prepare for the hearing;
- 2 (3) have an impartial decisionmaker;
- 3 (4) appear and speak in the person's own behalf;
- 4 (5) call witnesses and present evidence;
- 5 (6) confront and cross-examine each witness, unless the hearing
- 6 authority finds that to do so would subject a witness to a
- 7 substantial risk of harm;
- 8 (7) have the assistance of a lay advocate (the department may
- 9 require that the advocate be an employee of, or a fellow prisoner
- 10 in, the same facility or program);
- 11 (8) have a written statement of the findings of fact, the evidence
- 12 relied upon, and the reasons for the action taken;
- 13 (9) have immunity if the person's testimony or any evidence
- 14 derived from the person's testimony is used in any criminal
- 15 proceedings; and
- 16 (10) have the person's record expunged of any reference to the
- 17 charge if the person is found not guilty or if a finding of guilt is
- 18 later overturned.

19 Any finding of guilt must be supported by a preponderance of the  
20 evidence presented at the hearing.

21 ~~(g)~~ **(i)** Except for a credit restricted felon **or a habitual violent**  
22 **offender**, a person may be reassigned from:

- 23 (1) Class III to Class I, Class II or Class IV;
- 24 (2) Class II to Class I;
- 25 (3) Class D to Class A, Class B, or Class C;
- 26 (4) Class C to Class A or Class B.

27 A person's assignment to Class III, Class II, Class C, or Class D shall  
28 be reviewed at least once every six (6) months to determine if the  
29 person should be reassigned to a higher credit time class. A credit  
30 restricted felon **or a habitual violent offender** may not be reassigned  
31 to Class I or Class II or to Class A, Class B, or Class C.

32 ~~(h)~~ **(j)** This subsection applies only to a person imprisoned awaiting  
33 trial. A person imprisoned awaiting trial is initially assigned to a credit  
34 class based on the most serious offense with which the person is  
35 charged. If all the offenses of which a person is convicted have a higher  
36 credit time class than the most serious offense with which the person  
37 is charged, the person earns credit time for the time imprisoned  
38 awaiting trial at the credit time class of the most serious offense of  
39 which the person was convicted. However, this section does not apply  
40 to any period during which the person is reassigned to a lower credit  
41 time class for a disciplinary violation.

42 ~~(i)~~ **(k)** This subsection applies only to a person placed on pretrial



1 home detention awaiting trial. This subsection does not apply to any  
 2 other person placed on home detention. A person placed on pretrial  
 3 home detention awaiting trial is assigned to Class P. A person assigned  
 4 to Class P may not be reassigned to another credit time class while the  
 5 person is on pretrial home detention awaiting trial.

6 SECTION 2. IC 35-50-6-5, AS AMENDED BY P.L.74-2015,  
 7 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2023]: Sec. 5. (a) A person may, with respect to the same  
 9 transaction, be deprived of any part of the educational credit or good  
 10 time credit the person has earned for any of the following:

- 11 (1) A violation of one (1) or more rules of the department of  
 12 correction.
- 13 (2) If the person is not committed to the department, a violation  
 14 of one (1) or more rules of the penal facility in which the person  
 15 is imprisoned.
- 16 (3) A violation of one (1) or more rules or conditions of a:  
 17 (A) community transition program; or  
 18 (B) community corrections program.
- 19 (4) If a court determines that a civil claim brought by the person  
 20 in a state or an administrative court is frivolous, unreasonable, or  
 21 groundless.
- 22 (5) If the person is a sex or violent offender (as defined in  
 23 IC 11-8-8-5) and refuses to register before being released from the  
 24 department as required under IC 11-8-8-7.
- 25 (6) If the person is a sex offender (as defined in IC 11-8-8-4.5)  
 26 and refuses to participate in a sex offender treatment program  
 27 specifically offered to the sex offender by the department of  
 28 correction while the person is serving a period of incarceration  
 29 with the department of correction.

30 However, the violation of a condition of parole or probation may not be  
 31 the basis for deprivation, unless the person is confined on home  
 32 detention as a condition of probation under IC 35-38-2.5-5. Whenever  
 33 a person is deprived of educational credit or good time credit, the  
 34 person may also be reassigned to Class II (if the person is not a credit  
 35 restricted felon) or Class III, Class C, or Class D.

36 (b) Before a person may be deprived of educational credit or good  
 37 time credit, the person must be granted a hearing to determine the  
 38 person's guilt or innocence and, if found guilty, whether deprivation of  
 39 earned educational credit or good time credit is an appropriate  
 40 disciplinary action for the violation. In connection with the hearing, the  
 41 person is entitled to the procedural safeguards listed in section ~~4(e)~~ 4  
 42 of this chapter. The person may waive the person's right to the hearing.



1 (c) Any part of the educational credit or good time credit of which  
2 a person is deprived under this section may be restored.

