



## EXECUTIVE ORDER NO. 725

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### PROMOTING PUBLIC SAFETY BY ESTABLISHING STANDARDS AND ACCOUNTABILITY FOR CORRECTIONAL INCENTIVE TIME

**WHEREAS** a primary function of state government is keeping Alabamians' lives, homes, families, businesses, and property safe and secure from crime;

**WHEREAS**, to that end, it is the policy of my Administration to require unreformed, unrehabilitated incarcerated convicts to remain in prison to the full extent allowed by law;

**WHEREAS** the Legislature enacted the Alabama Correctional Incentive Time Act in 1980;

**WHEREAS** this law allows eligible inmates to earn sentence deductions during periods of good behavior but requires them to forfeit those deductions upon the commission of an offense or the violation of a prison rule;

**WHEREAS** implementation of this law has heretofore been left primarily to the discretion of facility-level prison officials, resulting in a patchwork of inconsistent policies that may undermine the law's purpose;

**WHEREAS** establishing uniform minimum punishments for inmate misconduct will promote the orderly administration of Alabama's prisons;

**WHEREAS** establishing such punishments will ultimately help promote public safety by more effectively incentivizing inmate rehabilitation;

**WHEREAS** establishing such punishments will ensure that correctional incentive time—or "good time"—will never simply be a means of shuffling inmates through the system; and

**WHEREAS** inmate escapes uniquely put the public at risk, necessitating greater coordination between the Department of Corrections and other law

enforcement agencies to bring about the quick recapture and return to ADOC custody of escaped inmates;

**NOW, THEREFORE**, I, Kay Ivey, Governor of the State of Alabama, by virtue of the authority vested in me by the Constitution and laws of the State of Alabama, do hereby order the following measures to implement and execute the Alabama Correctional Incentive Time Act and other laws governing the Department of Corrections, effective immediately:

1. **Uniform minimum standards for loss of good time.** The Commissioner of the Department of Corrections shall implement the following uniform minimum standards for correctional incentive time sanctions pursuant to Ala. Code § 14-9-41(f)(1).
  - a. **Levels of rule violations.** The Commissioner shall establish four levels of disciplinary rule violations – severe, high, medium, and low – and shall assign each existing rule violation to one of those levels.
    - i. **Severe violations.** Severe violations shall include offenses such as homicide, assault with a weapon, sexual assault, escape, and attempt to escape by force.
    - ii. **High-level violations.** High-level violations shall include offenses such as assault without a weapon, fighting with a weapon, sexual offenses (non-assault), robbery, possession of a weapon, rioting or inciting a riot, encouraging or causing a work stoppage, failure to obey a direct order of an ADOC employee, drug possession, extortion or blackmail, bribery or attempted bribery, absconding from supervision, and attempt to escape without force.
    - iii. **Medium-level violations.** Medium-level violations shall include offenses such as fighting without a weapon, possession or use of gang-related paraphernalia or symbols, property destruction or theft, refusing to work, curfew violations, possession of a phone, and the second or subsequent offense within a year for being in an unauthorized area, disorderly conduct, possession of contraband, or insubordination.

- iv. **Low-level violations.** Low-level violations shall include offenses such as gambling and the first offense within a year for being in an unauthorized area, disorderly conduct, possession of contraband, or insubordination. Low-level violations shall also include any violation of institutional rules.
  
- b. **Sanctions for severe violations.** As a sanction for any severe rule violation, an inmate earning good time shall forfeit all accrued good time.
  - i. **Restoration.** Good time forfeited as a sanction for a severe violation shall not be restored, except by the Commissioner under Ala. Code § 14-9-41(f)(2), and only in such rare instances where clear and convincing evidence demonstrates a sustained, long-term pattern of well-documented good behavior of an exceptional and exemplary nature.
  
  - ii. **Earning status.** As an additional sanction for a severe rule violation, an inmate otherwise eligible to earn good time shall be permanently barred from good time-earning status (that is, shall be permanently classified as a Class IV prisoner under Ala. Code § 14-9-41(a)(4), consistent with the Commissioner's authority to set classification criteria under § 14-9-41(b)), except in such rare circumstances where the Commissioner determines there is clear and convincing evidence that demonstrates a sustained, long-term pattern of well-documented good behavior of an exceptional and exemplary nature.
  
- c. **Sanctions for high-level violations.** As a sanction for any high-level rule violation, an inmate earning good time shall forfeit a minimum of 1,080 days (approximately three years) of accrued good time. For an inmate who has accrued less than 1,080 days of good time, a high-level violation shall result in the forfeiture of all accrued good time.
  - i. **Restoration.** Good time forfeited as a sanction for a high-level violation shall not be restored, except as permitted by

Ala. Code § 14-9-41(f)(2), and then only in increments of up to 90 days, occurring at least 90 days apart, and only after the inmate has demonstrated good behavior for at least one year after the sanction was imposed, with continued demonstration of good behavior required for each subsequent 90-day increment of good time restored.

- ii. **Earning status.** As an additional sanction for a high-level rule violation, an inmate otherwise eligible to earn good time shall be barred from good time-earning status for at least one year (that is, shall be classified for at least one year as a Class IV prisoner under Ala. Code § 14-9-41(a)(4), consistent with the Commissioner's authority to set classification criteria under § 14-9-41(b)). Such inmate may be returned to good time-earning status (that is, may be classified as a Class I, Class II, or Class III prisoner, as appropriate under the requirements of § 14-9-41(a)(1)-(3)) only after demonstrating good behavior for at least one year.
  
- d. **Sanctions for medium-level violations.** As a sanction for any medium-level rule violation, an inmate earning good time shall forfeit a minimum of 720 days (approximately two years) of accrued good time. For an inmate who has accrued less than 720 days of good time, a medium-level violation shall result in the forfeiture of all accrued good time.
  - i. **Restoration.** Good time forfeited as a sanction for a medium-level violation shall not be restored, except as permitted by Ala. Code § 14-9-41(f)(2), and then only in increments of up to 90 days, occurring at least 90-days apart, and only after the inmate has demonstrated good behavior for at least six months after the sanction was imposed, with continued demonstration of good behavior required for each subsequent 90-day increment of good time restored.
  - ii. **Earning status.** As an additional sanction for a medium-level rule violation, an inmate otherwise eligible to earn

good time shall be barred from good time-earning status for at least six months (that is, shall be classified for at least six months as a Class IV prisoner under Ala. Code § 14-9-41(a)(4), consistent with the Commissioner's authority to set classification criteria under § 14-9-41(b)). Such inmate may be returned to good time-earning status (that is, may be classified as a Class I, Class II, or Class III prisoner, as appropriate under the requirements of § 14-9-41(a)(1)-(3)) only after demonstrating good behavior for at least six months.

- e. **Sanctions for low-level violations.** As a sanction for any low-level rule violation, an inmate earning good time shall forfeit a minimum of one day of accrued good time.
  - i. **Restoration.** Good time forfeited as a sanction for a low-level violation shall not be restored, except as permitted by Ala. Code § 14-9-41(f)(2), and then only after the inmate has demonstrated good behavior for at least 90 days after the sanction was imposed.
  - ii. **Earning status.** As an additional sanction for a low-level rule violation, an inmate otherwise eligible to earn good time may be barred from good time-earning status for a period determined by the disciplinary hearing officer subject to approval from a warden, consistent with the Commissioner's authority to set classification criteria under § 14-9-41(b).
- f. **Aggravating and mitigating factors.** In administering the above good time sanctions, a warden may consider aggravating or mitigating factors (such as the facts and circumstances surrounding the offense, the inmate's disciplinary history, and the extent and nature of any injuries or property damage caused) to increase or decrease the sanctions imposed by the disciplinary hearing officer. In no event, however, may the warden reduce sanctions below the minimum standards set out in this executive order.



- d. **Weekly monitoring of inmates on escape status.** The Department shall conduct weekly checks to ensure the accurate status of any inmates who should be on escape status.
  - e. **Proactive collaboration with other law enforcement agencies.** The Department shall implement measures to streamline communication and coordination with law enforcement agencies and put in place plans for the immediate deployment of ADOC personnel to assume physical custody of an escaped inmate upon recapture by any Alabama law enforcement agency.
  - f. **Quality control procedures.** The Department shall implement training, documentation, and audit requirements to ensure that these procedures are routinely followed.
3. **Implementation.** This order shall be implemented to the maximum extent possible consistent with applicable law. Nothing in this order shall be construed as impairing or otherwise affecting the authority granted by law to the Department of Corrections, or to the Commissioner of Corrections, except as expressly set forth above.
4. **No private right of action.** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any private party against the State of Alabama, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONE AND ORDERED this 9th day of January 2023.



Handwritten signature of Kay Ivey in black ink.

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KAY IVEY  
*Governor*

ATTESTED:

Handwritten signature of John H. Merrill in black ink.

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JOHN H. MERRILL  
*Secretary of State*