

2. A violation of this chapter is a violation of the Iowa consumer fraud Act, section 714.16.

3. Remedies under this chapter are in addition to other remedies available in law or equity.

Sec. 11. NEW SECTION. 535C.11 APPLICABILITY. This chapter does not apply to any activities or arrangements expressly approved or regulated by any regulatory body or officer acting under authority of this state, other than the administrator, or of the United States.

Sec. 12. Section 714.16, subsection 2, Code 1983, is amended by adding the following new paragraph:

NEW PARAGRAPH. A violation of a provision of sections 535C.1 through 535C.10 is an unlawful practice.

Sec. 13. Sections 1 through 11 of this Act are created as a new chapter 535C.

Approved May 25, 1983

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## CHAPTER 147

### REDUCTION OF SENTENCES OF INMATES

*S.F. 302*

**AN ACT** relating to the reduction of sentences of inmates committed to the custody of the director of the division of adult corrections of the department of social services.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Sections 2 through 8 of this Act are enacted as a new chapter of the Code.

Sec. 2. NEW SECTION. CONDUCT REVIEW. The commissioner of social services shall appoint independent hearing officers whose duties shall include but not be limited to review, as provided in section 4 of this Act, of the conduct of inmates in institutions under the department of social services, division of adult corrections.

Sec. 3. NEW SECTION. GOOD CONDUCT TIME. Each inmate of an institution under the department of social services, division of adult corrections, is eligible for a reduction of sentence of one day for each day of good conduct of the inmate while committed to one of the division's institutions. In addition to the sentence reduction of one day for each day of good conduct, each inmate is eligible for an additional reduction of sentence of up to five days a month if the inmate participates satisfactorily in employment in the institution, in Iowa state industries, in an inmate employment program established by the director, or in an inmate educational program approved by the director. Reduction of sentence pursuant to this section may be subject to forfeiture pursuant to section 4 of this Act. Computation of good conduct time is subject to the following conditions:

1. Time served in jail or other facility, credited by the clerk of court prior to actual placement in a correctional institution, shall accrue for purposes of reduction of sentence under this section.

2. Time spent during escape shall not accrue for purposes of reduction of sentence under this section. An inmate who intentionally escapes may forfeit all good conduct time accrued and not forfeited prior to the escape.

3. Time between parole violation, which violation is determined by the board of parole at the final parole violation hearing, and incarceration shall not accrue for purposes of reduction of sentence under this section.

4. Good conduct time earned and not forfeited shall accrue to an inmate serving a life sentence. The good conduct time so accrued does not apply to reduce the life sentence, but shall be credited to the inmate on the date of commutation, if the life sentence is commuted to a term of years.

5. Except in life sentences, good conduct time shall be credited to the maximum sentence annually on the date of admission.

Sec. 4. NEW SECTION. LOSS OR FORFEITURE OF GOOD CONDUCT TIME.

1. Upon finding that an inmate has violated an institutional rule, the independent hearing officer may order forfeiture of any or all good conduct time earned and not forfeited up to the date of the violation by the inmate. The independent hearing officer has discretion within the guidelines established pursuant to section 5 of this Act, to determine the amount of time that should be forfeited based upon the severity of the violation. Prior violations by the inmate may be considered by the hearing officer in the decision.

2. The orders of the hearing officer are subject to appeal to the superintendent or warden of the institution who may either affirm, modify, remand for correction of procedural errors, or reverse an order. However, sanctions shall not be increased on appeal. A decision of the superintendent or warden is subject to review by the director of the division of adult corrections who may either affirm, modify, remand for correction of procedural errors, or reverse the decision. However, sanctions shall not be increased on review.

3. The director of the division of adult corrections or the director's designee, may restore all or any portion of previously forfeited good conduct time for acts of heroism or for meritorious actions. The director shall establish by rule the requirements as to which activities may warrant the restoration of good conduct time and the amount of good conduct time to be restored.

4. The inmate disciplinary procedure, including but not limited to the method of awarding or forfeiting time pursuant to this chapter, is not a contested case subject to chapter 17A.

Sec. 5. NEW SECTION. POLICIES AND PROCEDURES. The director of the division of adult corrections shall develop policy and procedural rules to implement sections 2 through 4 of this Act. The rules may specify disciplinary offenses which may result in the loss of good conduct time, and the amount of good conduct time which may be lost as a result of each disciplinary offense. The director shall establish rules as to what constitutes "satisfactory participation" for purposes of additional reduction of sentence under section 3 of this Act, for employment in the institution, in Iowa state industries, in an inmate employment program established by the director, or for participation in an educational program approved by the director, when such employment or programs are available.

Sec. 6. NEW SECTION. TIME TO BE SERVED—CREDIT. An inmate shall not be discharged from the custody of the director of the division of adult corrections until the inmate has served the full term for which the inmate was sentenced, less good conduct time earned and not forfeited, unless the inmate is pardoned or otherwise legally released. Good conduct time earned and not forfeited shall apply to reduce a mandatory minimum sentence being served pursuant to section 204.406, 204.413, 902.7, 902.8, or 906.5. An inmate shall be deemed to be serving the sentence from the day on which the inmate is received into the institution. However, if an inmate was confined to a county jail or other correctional or mental facility at any time prior to sentencing, or after sentencing but prior to the case having been decided on appeal, because of failure to furnish bail or because of being charged with a non-bailable offense, the inmate shall be given credit for the days already served upon the term of the sentence. The clerk of the district court of the county from which the inmate was sentenced, shall certify to the warden the number of days so served.

An inmate shall not receive credit upon the inmate's sentence for time spent in custody in another state resisting return to Iowa following an escape, or for time served in an institution or jail of another jurisdiction during any period of time the person is receiving credit upon a sentence of that other jurisdiction.

Sec. 7. NEW SECTION. GOOD AND HONOR TIME APPLICATION. Sections 246.38, 246.39, 246.41, 246.42, 246.43, and 246.45, as the sections appear in the 1983 Code, remain in effect for inmates sentenced for offenses committed prior to July 1, 1983.

Sec. 8. NEW SECTION. SEPARATE SENTENCES. When an inmate is committed under several convictions with consecutive sentences, they shall be construed as one continuous sentence in the granting or forfeiting of good conduct time.

Sec. 9. Section 331.702, subsection 45, Code 1983, is amended to read as follows:

45. Certify to the warden of the penitentiary or men's reformatory receiving institution the number of days that an inmate has been credited toward completion of the inmate's sentence as provided in section ~~246.38~~ 6 of this Act.

Sec. 10. Section 663A.2, subsection 6, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

6. The person's reduction of sentence pursuant to sections 2 through 8 of this Act has been unlawfully forfeited and the person has exhausted the appeal procedure of section 4, subsection 2 of this Act; or

Sec. 11. Section 901.6, Code 1983, is amended to read as follows:

901.6 JUDGMENT ENTERED. If judgment is not deferred, and no sufficient cause is shown why judgment should not be pronounced and none appears to the court upon the record, judgment shall be pronounced and entered. In every case in which judgment is entered, the court shall include in the judgment entry the number of the particular section of the Code and the name of the offense under which the defendant is sentenced and a statement of the days credited pursuant to section ~~246.38~~ 6 of this Act shall be incorporated into the sentence.

Sec. 12. Section 906.5, unnumbered paragraph 2, Code 1983, is amended to read as follows:

If the person who is under consideration for parole is serving a sentence for conviction of a felony and has a criminal record of one or more prior convictions for a forcible felony or a crime of a similar gravity in this or any other state, parole shall be denied unless the defendant has served at least one-half of the maximum term of his or her the defendant's sentence. However, the mandatory sentence provided for by this section shall not apply if the sentence being served is for a felony other than a forcible felony and the sentences for the prior forcible felonies expired at least five years before the date of conviction for the present felony.

Sec. 13. Sections 246.38, 246.39, 246.41, 246.42, 246.43, and 246.45, Code 1983, are repealed except they remain in effect for persons sentenced for offenses committed prior to July 1, 1983.

Sec. 14. Sections 2 through 6 and sections 8, 9, 10, 11, and 13 of this Act apply only to inmates sentenced for offenses committed after July 1, 1983. Section 12 of this Act takes effect July 1, 1983 but also applies retroactively to inmates who are serving or will serve mandatory sentences pursuant to section 906.5 before July 1, 1983.

Sec. 15. The Code editor may change any reference to the "division of corrections of the department of social services" appearing in this Act to the "department of corrections" and make other corrective changes to this Act consistent with the intent of Senate File 464, when Senate File 464 is enacted into law.

Approved May 25, 1983