**South Carolina General Assembly**

121st Session, 2015-2016

**H. 5120**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Alexander

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Introduced in the House on March 16, 2016

Currently residing in the House Committee on **Judiciary**

Summary: Prisoner sentencing

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/16/2016 House Introduced and read first time ([House Journal‑page 31](file:///h:\HJ%20Archive\2016\03-16-16.docx))

3/16/2016 House Referred to Committee on **Judiciary** ([House Journal‑page 31](file:///h:\HJ%20Archive\2016\03-16-16.docx))

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**VERSIONS OF THIS BILL**

[3/16/2016](file:///p:\pprever\2015-16\5120_20160316.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 24‑13‑233 SO AS TO PROVIDE THE PROCEDURE WHEREBY REDUCTIONS IN AN INMATE’S SENTENCE ARE CALCULATED; BY ADDING ARTICLE 7, TO CHAPTER 27, TITLE 24 SO AS TO PROVIDE THE CIRCUMSTANCES IN WHICH AN INMATE WHO HAS BEEN INCARCERATED AT LEAST FIFTEEN YEARS MAY PETITION THE COURT TO HAVE HIS SENTENCE MODIFIED; TO AMEND SECTION 24‑13‑150, AS AMENDED, RELATING TO THE EARLY RELEASE OF AN INMATE, SO AS TO REDUCE THE NUMBER OF YEARS AN INMATE WHO HAS COMMITTED A “NO PAROLE OFFENSE” MUST SERVE BEFORE HE MAY BECOME ELIGIBLE FOR EARLY RELEASE, DISCHARGE, OR COMMUNITY SUPERVISION, AND TO PROVIDE A PROCEDURE THAT ALLOWS CERTAIN INMATES TO PETITION THE COURT TO MODIFY THEIR SENTENCE; TO AMEND SECTION 24‑13‑210, AS AMENDED, RELATING TO CREDIT GIVEN TO AN INMATE FOR GOOD BEHAVIOR, SO AS TO INCREASE THE NUMBER OF GOOD BEHAVIOR DAYS AN INMATE WHO HAS COMMITTED A “NO PAROLE OFFENSE” MAY RECEIVE; TO PROVIDE THAT THIS ACT APPLIES TO CERTAIN OFFENSES COMMITTED BEFORE THE DATE OF ENACTMENT; AND TO PROVIDE THAT CERTAIN PERSONS MAY PETITION THE COURT TO HAVE THEIR SENTENCES REDUCED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 3, Chapter 13, Title 24 of the 1976 Code is amended by adding:

“Section 24‑13‑233. The total of all reductions in the sentence of a person convicted of a ‘no parole offense’ as defined in Section 24‑13‑100 and sentenced to the Department of Corrections, including an inmate serving time in a local facility pursuant to a designated facility agreement authorized by Section 24‑3‑20 or 24‑3‑30 must be deducted from his minimum term of imprisonment to determine the date of his eligibility for release on parole, and from his maximum term of imprisonment to determine the date when his release on parole becomes mandatory.”

SECTION 2. Chapter 27, Title 24 of the 1976 Code is amended by adding:

“Article 7

Sentence Modification

Section 24‑27‑600. (A) Notwithstanding another provision of law, upon a petition filed with the solicitor and the judge who participated in the trial of an inmate who has served at least fifteen years of any sentence of imprisonment, the sentencing judge or court may modify the inmate’s sentence.

(B) After an inmate files an initial petition pursuant to this section, he may file a future petition at intervals not to exceed two years.

(C) This section applies only to an inmate who has completed a rehabilitation program, an education program, or who has exhibited exemplary conduct.”

SECTION 3. Section 24‑13‑150 of the 1976 Code, as last amended by Act 237 of 2010, is further amended to read:

“Section 24‑13‑150. (A) Notwithstanding any other provision of law, except in a case in which the death penalty or a term of life imprisonment is imposed, an inmate convicted of a ‘no parole offense’ as defined in Section 24‑13‑100 and sentenced to the custody of the Department of Corrections, including an inmate serving time in a local facility pursuant to a designated facility agreement authorized by Section 24‑3‑20 or Section 24‑3‑30, is not eligible for early release, discharge, or community supervision as provided in Section 24‑21‑560, until the inmate has served at least ~~eighty‑five~~ sixty‑five percent of the actual term of imprisonment imposed. This percentage must be calculated without the application of earned work credits, education credits, or good conduct credits, and is to be applied to the actual term of imprisonment imposed, not including any portion of the sentence which has been suspended. Nothing in this section may be construed to allow an inmate convicted of murder or an inmate prohibited from participating in work release, early release, discharge, or community supervision by another provision of law to be eligible for work release, early release, discharge, or community supervision.

(B) If an inmate sentenced to the custody of the Department of Corrections and confined in a facility of the department, confined in a local facility pursuant to a designated facility agreement authorized by Section 24‑3‑20 or Section 24‑3‑30, or temporarily confined, held, detained, or placed in a facility which is not under the direct control of the department, to include an inmate on a labor crew or any other assigned detail or placement, or an inmate in transport status, commits an offense or violates one of the rules of the institution during his term of imprisonment, all or part of the credit he has earned may be forfeited in the discretion of the Director of the Department of Corrections. If an inmate sentenced to a local detention facility or upon the public works of any county in this State, even when temporarily confined, held, detained, or placed in any facility which is not under the direct control of the local detention facility, to include an inmate on a labor crew or any other assigned detail or placement, or an inmate in transport status, commits an offense or violates one of the rules of the institution during his term of imprisonment, all or part of the credit he has earned may be forfeited in the discretion of the local official having charge of the inmate. The decision to withhold credits is solely the responsibility of officials named in this subsection.

(C) An inmate who has served at least sixty‑five percent of his sentence for a ‘no parole offense’ and is not eligible for parole may petition the sentencing judge to modify his sentence. This subsection applies only to an inmate who has completed a rehabilitation program, an education program, or has exhibited exemplary conduct.”

SECTION 4. Section 24‑13‑210(B) of the 1976 Code, as last amended by Act 237 of 2010, is further amended to read:

“(B) An inmate convicted of a ‘no parole offense’ against this State as defined in Section 24‑13‑100 and sentenced to the custody of the Department of Corrections, including an inmate serving time in a local facility pursuant to a designated facility agreement authorized by Section 24‑3‑20 or Section 24‑3‑30, whose record of conduct shows that he has faithfully observed all the rules of the institution where he is confined and has not been subjected to punishment for misbehavior, is entitled to a deduction from the term of his sentence beginning with the day on which the service of his sentence commences to run, computed at the rate of ~~three~~ six days for each month served. However, no inmate serving a sentence for life imprisonment or a mandatory minimum term of imprisonment for thirty years pursuant to Section 16‑3‑20 is entitled to credits under this provision. No inmate convicted of a ‘no parole offense’ is entitled to a reduction below the minimum term of incarceration provided in Section 24‑13‑125 or 24‑13‑150. When two or more consecutive sentences are to be served, the aggregate of the several sentences is the basis upon which the good conduct credit is computed.”

SECTION 5. This act shall apply to any offense that was committed before its date of enactment if a sentence for the offense has not been imposed on or prior to the date of its enactment.

SECTION 6. A person who was convicted and sentenced before the enactment date of this act for an offense for which the penalty is amended by this act may petition the sentencing court to reduce the term of imprisonment for the offense. The court must consider the nature and seriousness of the danger that the convicted person poses to any person or the community and the post-sentencing conduct of the person when it reviews a petition for a reduction of a term of imprisonment.

SECTION 7. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 8. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 9. This act takes effect upon approval by the Governor.

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