

SENATE BILL No. 221

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-50-6.

Synopsis: Credit time classes. Changes credit Class A to include any noncredit restricted felon who is charged with a crime. Changes credit Class B to permit a credit restricted felon imprisoned for a crime, or imprisoned and awaiting trial or sentencing for a crime, to earn one day of good time credit for every three days of confinement.

Effective: July 1, 2021.

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January 7, 2021, read first time and referred to Committee on Corrections and Criminal Law.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE BILL No. 221

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, 2021]: Sec. 4. (a) A person:
4 (1) who is not a credit restricted felon; and
5 (2) who is imprisoned for a ~~Level 6 felony or a misdemeanor~~
6 **crime** or imprisoned awaiting trial or sentencing for a ~~Level 6~~
7 ~~felony or misdemeanor; crime;~~
8 is initially assigned to Class A.
9 (b) A person:
10 (1) ~~who is not a credit restricted felon; and~~
11 (2) ~~who is imprisoned for a crime other than a Level 6 felony or~~
12 ~~misdemeanor or imprisoned awaiting trial or sentencing for a~~
13 ~~crime other than a Level 6 felony or misdemeanor;~~
14 is initially assigned to Class B.
15 (c) (b) A person who is a credit restricted felon and who is
16 imprisoned for a crime or imprisoned awaiting trial or sentencing is
17 initially assigned to ~~Class C.~~ **Class B.** A credit restricted felon may not



- 1 be assigned to Class A. ~~or Class B:~~
- 2 ~~(d)~~ (c) A person who is not a credit restricted felon may be
- 3 reassigned to Class C or Class D if the person violates any of the
- 4 following:
- 5 (1) A rule of the department of correction.
- 6 (2) A rule of the penal facility in which the person is imprisoned.
- 7 (3) A rule or condition of a community transition program.
- 8 However, a violation of a condition of parole or probation may not be
- 9 the basis for reassignment. Before a person may be reassigned to a
- 10 lower credit time class, the person must be granted a hearing to
- 11 determine the person's guilt or innocence and, if found guilty, whether
- 12 reassignment is an appropriate disciplinary action for the violation. The
- 13 person may waive the right to the hearing.
- 14 ~~(e)~~ (d) A person who is a credit restricted felon may be reassigned
- 15 to Class D and a person who is assigned to Class IV may be assigned
- 16 to Class III if the person violates any of the following:
- 17 (1) A rule of the department of correction.
- 18 (2) A rule of the penal facility in which the person is imprisoned.
- 19 (3) A rule or condition of a community transition program.
- 20 However, a violation of a condition of parole or probation may not be
- 21 the basis for reassignment. Before a person may be reassigned to Class
- 22 III or Class D, the person must be granted a hearing to determine the
- 23 person's guilt or innocence and, if found guilty, whether reassignment
- 24 is an appropriate disciplinary action for the violation. The person may
- 25 waive the right to the hearing.
- 26 ~~(f)~~ (e) In connection with the hearing granted under subsection (c)
- 27 ~~or (d), or (e);~~ the person is entitled to:
- 28 (1) have not less than twenty-four (24) hours advance written
- 29 notice of the date, time, and place of the hearing, and of the
- 30 alleged misconduct and the rule the alleged misconduct is alleged
- 31 to have violated;
- 32 (2) have reasonable time to prepare for the hearing;
- 33 (3) have an impartial decisionmaker;
- 34 (4) appear and speak in the person's own behalf;
- 35 (5) call witnesses and present evidence;
- 36 (6) confront and cross-examine each witness, unless the hearing
- 37 authority finds that to do so would subject a witness to a
- 38 substantial risk of harm;
- 39 (7) have the assistance of a lay advocate (the department may
- 40 require that the advocate be an employee of, or a fellow prisoner
- 41 in, the same facility or program);
- 42 (8) have a written statement of the findings of fact, the evidence



1 relied upon, and the reasons for the action taken;

2 (9) have immunity if the person's testimony or any evidence
3 derived from the person's testimony is used in any criminal
4 proceedings; and

5 (10) have the person's record expunged of any reference to the
6 charge if the person is found not guilty or if a finding of guilt is
7 later overturned.

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

10 ~~(g)~~ (f) Except for a credit restricted felon, a person may be
11 reassigned from:

12 (1) Class III to Class I, Class II or Class IV;

13 (2) Class II to Class I;

14 (3) Class D to Class A, Class B, or Class C;

15 (4) Class C to Class A or Class B.

16 A person's assignment to Class III, Class II, Class C, or Class D shall
17 be reviewed at least once every six (6) months to determine if the
18 person should be reassigned to a higher credit time class. A credit
19 restricted felon may not be reassigned to Class I or Class II or to Class
20 A, Class B, or Class C.

21 ~~(h)~~ (g) This subsection applies only to a person imprisoned awaiting
22 trial. A person imprisoned awaiting trial is initially assigned to a credit
23 class based on the most serious offense with which the person is
24 charged. If all the offenses of which a person is convicted have a higher
25 credit time class than the most serious offense with which the person
26 is charged, the person earns credit time for the time imprisoned
27 awaiting trial at the credit time class of the most serious offense of
28 which the person was convicted. However, this section does not apply
29 to any period during which the person is reassigned to a lower credit
30 time class for a disciplinary violation.

31 ~~(i)~~ (h) This subsection applies only to a person placed on pretrial
32 home detention awaiting trial. This subsection does not apply to any
33 other person placed on home detention. A person placed on pretrial
34 home detention awaiting trial is assigned to Class P. A person assigned
35 to Class P may not be reassigned to another credit time class while the
36 person is on pretrial home detention awaiting trial.

37 SECTION 2. IC 35-50-6-5, AS AMENDED BY P.L.74-2015,
38 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2021]: Sec. 5. (a) A person may, with respect to the same
40 transaction, be deprived of any part of the educational credit or good
41 time credit the person has earned for any of the following:

42 (1) A violation of one (1) or more rules of the department of



- 1 correction.
- 2 (2) If the person is not committed to the department, a violation
- 3 of one (1) or more rules of the penal facility in which the person
- 4 is imprisoned.
- 5 (3) A violation of one (1) or more rules or conditions of a:
- 6 (A) community transition program; or
- 7 (B) community corrections program.
- 8 (4) If a court determines that a civil claim brought by the person
- 9 in a state or an administrative court is frivolous, unreasonable, or
- 10 groundless.
- 11 (5) If the person is a sex or violent offender (as defined in
- 12 IC 11-8-8-5) and refuses to register before being released from the
- 13 department as required under IC 11-8-8-7.
- 14 (6) If the person is a sex offender (as defined in IC 11-8-8-4.5)
- 15 and refuses to participate in a sex offender treatment program
- 16 specifically offered to the sex offender by the department of
- 17 correction while the person is serving a period of incarceration
- 18 with the department of correction.
- 19 However, the violation of a condition of parole or probation may not be
- 20 the basis for deprivation, unless the person is confined on home
- 21 detention as a condition of probation under IC 35-38-2.5-5. Whenever
- 22 a person is deprived of educational credit or good time credit, the
- 23 person may also be reassigned to Class II (if the person is not a credit
- 24 restricted felon) or Class III, Class C, or Class D.
- 25 (b) Before a person may be deprived of educational credit or good
- 26 time credit, the person must be granted a hearing to determine the
- 27 person's guilt or innocence and, if found guilty, whether deprivation of
- 28 earned educational credit or good time credit is an appropriate
- 29 disciplinary action for the violation. In connection with the hearing, the
- 30 person is entitled to the procedural safeguards listed in section ~~4(c)~~
- 31 **4(b)** of this chapter. The person may waive the person's right to the
- 32 hearing.
- 33 (c) Any part of the educational credit or good time credit of which
- 34 a person is deprived under this section may be restored.

