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#1424



Office of the Attorney General

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April 30, 1985

David E. Belding, Esquire
Deputy Director for Criminal Justice
Division of Public Safety Programs
1205 Pendleton Street
Columbia, South Carolina 29201

Re: Interpretation of S.459 § 16 on Good Behavior
Credits for Inmates Confined in Local Correctional
Facilities (#1424)

Dear Mr. Belding:

You have requested an opinion of our office in regard to a proposed amendment to § 24-13-210, S.C. CODE ANN. (1984 Supp.), concerning the accumulation of good behavior credits by inmates sentenced to a term of "one year or less." You have advised me that the intent of the proposal is to allow jail inmates to be credited with time off for good behavior at a rate of one day for every two days served and have presented as an example that an inmate sentenced to 30 days would serve 20 days, unless he lost the credits earned or failed to earn credits because of an offense or a violation.

Senate Bill 459 would amend § 24-13-210(b) in its pertinent part as follows:

(b) Each prisoner convicted of an offense ... and confined in a local correctional facility ... for a term of one year or less, whose record of conduct shows that he has faithfully observed all the rules of the institution wherein 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 one day for every two days served

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The amendment would change the computation rate for good behavior credits from "fifteen days for each month served" to "one day for every two days served."

Generally, the matter of allowing good behavior credits is purely statutory. Therefore, any allowance for such is totally dependent upon statutes conferring the same. 60 Am.Jur.2d Penal and Correctional Institutions, Section 58, p. 863. It is my opinion that if this legislation is enacted by the General Assembly, in order to earn good behavior credits the inmate would have to serve two days and then get an accumulated credit for a third day. The rate would also provide your desired result of completing service of a thirty-day sentence upon service of twenty days and no lost good behavior credit due to misconduct or other offenses. Finally, the amendment if enacted would revise the prior opinions of this office which had consistently held that a person sentenced to thirty days or less would not be entitled to good behavior credits. See: OPS.ATTY.GEN. dated April 3, 1984; 1967 OPS.ATTY.GEN. No. 2269 dated May 1, 1967. Of course, as noted above, such would be for the General Assembly to determine.


If you have any questions in this matter, please contact me.

Sincerely,

Donald J. Zelenka
Chief Deputy Attorney General

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REVIEWED AND APPROVED BY:


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