



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB4351

by Rep. Jerry Lee Long

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-3

from Ch. 38, par. 1003-6-3

730 ILCS 5/5-4-1

from Ch. 38, par. 1005-4-1

Amends the Unified Code of Corrections. For offenses committed on or after the effective date of the amendatory Act, provides that a prisoner who is serving a sentence for predatory criminal sexual assault of a child, aggravated kidnapping or aggravated battery when the victim is a child under the age of 13 years or a person with a severe or profound intellectual disability, or a second or subsequent offense of luring of a minor shall receive no sentence credit and shall serve the entire sentence imposed by the court.

LRB100 16395 RLC 31523 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by  
5 changing Sections 3-6-3 and 5-4-1 as follows:

6 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

7 Sec. 3-6-3. Rules and regulations for sentence credit.

8 (a) (1) The Department of Corrections shall prescribe rules  
9 and regulations for awarding and revoking sentence credit for  
10 persons committed to the Department which shall be subject to  
11 review by the Prisoner Review Board.

12 (1.5) As otherwise provided by law, sentence credit may be  
13 awarded for the following:

14 (A) successful completion of programming while in  
15 custody of the Department or while in custody prior to  
16 sentencing;

17 (B) compliance with the rules and regulations of the  
18 Department; or

19 (C) service to the institution, service to a community,  
20 or service to the State.

21 (2) Except as provided in paragraph (4.7) of this  
22 subsection (a), the rules and regulations on sentence credit  
23 shall provide, with respect to offenses listed in clause (i),

1 (ii), or (iii) of this paragraph (2) committed on or after June  
2 19, 1998 or with respect to the offense listed in clause (iv)  
3 of this paragraph (2) committed on or after June 23, 2005 (the  
4 effective date of Public Act 94-71) or with respect to offense  
5 listed in clause (vi) committed on or after June 1, 2008 (the  
6 effective date of Public Act 95-625) or with respect to the  
7 offense of being an armed habitual criminal committed on or  
8 after August 2, 2005 (the effective date of Public Act 94-398)  
9 or with respect to the offenses listed in clause (v) of this  
10 paragraph (2) committed on or after August 13, 2007 (the  
11 effective date of Public Act 95-134) or with respect to the  
12 offense of aggravated domestic battery committed on or after  
13 July 23, 2010 (the effective date of Public Act 96-1224) or  
14 with respect to the offense of attempt to commit terrorism  
15 committed on or after January 1, 2013 (the effective date of  
16 Public Act 97-990) or with respect to the offenses listed in  
17 clause (i-5) of this paragraph (2) committed on or after the  
18 effective date of this amendatory Act of the 100th General  
19 Assembly, the following:

20 (i) that a prisoner who is serving a term of  
21 imprisonment for first degree murder or for the offense of  
22 terrorism shall receive no sentence credit and shall serve  
23 the entire sentence imposed by the court;

24 (i-5) that a prisoner who is serving a sentence for  
25 predatory criminal sexual assault of a child, aggravated  
26 kidnapping under subdivision (a) (2) of Section 10-2 of the

1 Criminal Code of 2012, a second or subsequent offense of  
2 luring of a minor, or aggravated battery under subdivision  
3 (b) (1) of Section 12-3.05 of the Criminal Code of 2012  
4 shall receive no sentence credit and shall serve the entire  
5 sentence imposed by the court;

6 (ii) that a prisoner serving a sentence for attempt to  
7 commit terrorism, attempt to commit first degree murder,  
8 solicitation of murder, solicitation of murder for hire,  
9 intentional homicide of an unborn child, predatory  
10 criminal sexual assault of a child, aggravated criminal  
11 sexual assault, criminal sexual assault, aggravated  
12 kidnapping, aggravated battery with a firearm as described  
13 in Section 12-4.2 or subdivision (e) (1), (e) (2), (e) (3), or  
14 (e) (4) of Section 12-3.05, heinous battery as described in  
15 Section 12-4.1 or subdivision (a) (2) of Section 12-3.05,  
16 being an armed habitual criminal, aggravated battery of a  
17 senior citizen as described in Section 12-4.6 or  
18 subdivision (a) (4) of Section 12-3.05, or aggravated  
19 battery of a child as described in Section 12-4.3 or  
20 subdivision (b) (1) of Section 12-3.05 shall receive no more  
21 than 4.5 days of sentence credit for each month of his or  
22 her sentence of imprisonment;

23 (iii) that a prisoner serving a sentence for home  
24 invasion, armed robbery, aggravated vehicular hijacking,  
25 aggravated discharge of a firearm, or armed violence with a  
26 category I weapon or category II weapon, when the court has

1 made and entered a finding, pursuant to subsection (c-1) of  
2 Section 5-4-1 of this Code, that the conduct leading to  
3 conviction for the enumerated offense resulted in great  
4 bodily harm to a victim, shall receive no more than 4.5  
5 days of sentence credit for each month of his or her  
6 sentence of imprisonment;

7 (iv) that a prisoner serving a sentence for aggravated  
8 discharge of a firearm, whether or not the conduct leading  
9 to conviction for the offense resulted in great bodily harm  
10 to the victim, shall receive no more than 4.5 days of  
11 sentence credit for each month of his or her sentence of  
12 imprisonment;

13 (v) that a person serving a sentence for gunrunning,  
14 narcotics racketeering, controlled substance trafficking,  
15 methamphetamine trafficking, drug-induced homicide,  
16 aggravated methamphetamine-related child endangerment,  
17 money laundering pursuant to clause (c) (4) or (5) of  
18 Section 29B-1 of the Criminal Code of 1961 or the Criminal  
19 Code of 2012, or a Class X felony conviction for delivery  
20 of a controlled substance, possession of a controlled  
21 substance with intent to manufacture or deliver,  
22 calculated criminal drug conspiracy, criminal drug  
23 conspiracy, street gang criminal drug conspiracy,  
24 participation in methamphetamine manufacturing, aggravated  
25 participation in methamphetamine manufacturing, delivery  
26 of methamphetamine, possession with intent to deliver

1 methamphetamine, aggravated delivery of methamphetamine,  
2 aggravated possession with intent to deliver  
3 methamphetamine, methamphetamine conspiracy when the  
4 substance containing the controlled substance or  
5 methamphetamine is 100 grams or more shall receive no more  
6 than 7.5 days sentence credit for each month of his or her  
7 sentence of imprisonment;

8 (vi) that a prisoner serving a sentence for a second or  
9 subsequent offense of luring a minor shall receive no more  
10 than 4.5 days of sentence credit for each month of his or  
11 her sentence of imprisonment; and

12 (vii) that a prisoner serving a sentence for aggravated  
13 domestic battery shall receive no more than 4.5 days of  
14 sentence credit for each month of his or her sentence of  
15 imprisonment.

16 (2.1) For all offenses, other than those enumerated in  
17 subdivision (a)(2)(i), (ii), or (iii) committed on or after  
18 June 19, 1998 or subdivision (a)(2)(iv) committed on or after  
19 June 23, 2005 (the effective date of Public Act 94-71) or  
20 subdivision (a)(2)(v) committed on or after August 13, 2007  
21 (the effective date of Public Act 95-134) or subdivision  
22 (a)(2)(vi) committed on or after June 1, 2008 (the effective  
23 date of Public Act 95-625) or subdivision (a)(2)(vii) committed  
24 on or after July 23, 2010 (the effective date of Public Act  
25 96-1224), and other than the offense of aggravated driving  
26 under the influence of alcohol, other drug or drugs, or

1 intoxicating compound or compounds, or any combination thereof  
2 as defined in subparagraph (F) of paragraph (1) of subsection  
3 (d) of Section 11-501 of the Illinois Vehicle Code, and other  
4 than the offense of aggravated driving under the influence of  
5 alcohol, other drug or drugs, or intoxicating compound or  
6 compounds, or any combination thereof as defined in  
7 subparagraph (C) of paragraph (1) of subsection (d) of Section  
8 11-501 of the Illinois Vehicle Code committed on or after  
9 January 1, 2011 (the effective date of Public Act 96-1230), the  
10 rules and regulations shall provide that a prisoner who is  
11 serving a term of imprisonment shall receive one day of  
12 sentence credit for each day of his or her sentence of  
13 imprisonment or recommitment under Section 3-3-9. Each day of  
14 sentence credit shall reduce by one day the prisoner's period  
15 of imprisonment or recommitment under Section 3-3-9.

16 (2.2) A prisoner serving a term of natural life  
17 imprisonment or a prisoner who has been sentenced to death  
18 shall receive no sentence credit.

19 (2.3) Except as provided in paragraph (4.7) of this  
20 subsection (a), the rules and regulations on sentence credit  
21 shall provide that a prisoner who is serving a sentence for  
22 aggravated driving under the influence of alcohol, other drug  
23 or drugs, or intoxicating compound or compounds, or any  
24 combination thereof as defined in subparagraph (F) of paragraph  
25 (1) of subsection (d) of Section 11-501 of the Illinois Vehicle  
26 Code, shall receive no more than 4.5 days of sentence credit

1 for each month of his or her sentence of imprisonment.

2 (2.4) Except as provided in paragraph (4.7) of this  
3 subsection (a), the rules and regulations on sentence credit  
4 shall provide with respect to the offenses of aggravated  
5 battery with a machine gun or a firearm equipped with any  
6 device or attachment designed or used for silencing the report  
7 of a firearm or aggravated discharge of a machine gun or a  
8 firearm equipped with any device or attachment designed or used  
9 for silencing the report of a firearm, committed on or after  
10 July 15, 1999 (the effective date of Public Act 91-121), that a  
11 prisoner serving a sentence for any of these offenses shall  
12 receive no more than 4.5 days of sentence credit for each month  
13 of his or her sentence of imprisonment.

14 (2.5) Except as provided in paragraph (4.7) of this  
15 subsection (a), the rules and regulations on sentence credit  
16 shall provide that a prisoner who is serving a sentence for  
17 aggravated arson committed on or after July 27, 2001 (the  
18 effective date of Public Act 92-176) shall receive no more than  
19 4.5 days of sentence credit for each month of his or her  
20 sentence of imprisonment.

21 (2.6) Except as provided in paragraph (4.7) of this  
22 subsection (a), the rules and regulations on sentence credit  
23 shall provide that a prisoner who is serving a sentence for  
24 aggravated driving under the influence of alcohol, other drug  
25 or drugs, or intoxicating compound or compounds or any  
26 combination thereof as defined in subparagraph (C) of paragraph



1 (1) of subsection (d) of Section 11-501 of the Illinois Vehicle  
2 Code committed on or after January 1, 2011 (the effective date  
3 of Public Act 96-1230) shall receive no more than 4.5 days of  
4 sentence credit for each month of his or her sentence of  
5 imprisonment.

6 (3) Except as provided in paragraph (4.7) of this  
7 subsection (a), the rules and regulations shall also provide  
8 that the Director may award up to 180 days of earned sentence  
9 credit for good conduct in specific instances as the Director  
10 deems proper. The good conduct may include, but is not limited  
11 to, compliance with the rules and regulations of the  
12 Department, service to the Department, service to a community,  
13 or service to the State.

14 Eligible inmates for an award of earned sentence credit  
15 under this paragraph (3) may be selected to receive the credit  
16 at the Director's or his or her designee's sole discretion.  
17 Eligibility for the additional earned sentence credit under  
18 this paragraph (3) shall be based on, but is not limited to,  
19 the results of any available risk/needs assessment or other  
20 relevant assessments or evaluations administered by the  
21 Department using a validated instrument, the circumstances of  
22 the crime, any history of conviction for a forcible felony  
23 enumerated in Section 2-8 of the Criminal Code of 2012, the  
24 inmate's behavior and disciplinary history while incarcerated,  
25 and the inmate's commitment to rehabilitation, including  
26 participation in programming offered by the Department.

1           The Director shall not award sentence credit under this  
2 paragraph (3) to an inmate unless the inmate has served a  
3 minimum of 60 days of the sentence; except nothing in this  
4 paragraph shall be construed to permit the Director to extend  
5 an inmate's sentence beyond that which was imposed by the  
6 court. Prior to awarding credit under this paragraph (3), the  
7 Director shall make a written determination that the inmate:

8           (A) is eligible for the earned sentence credit;

9           (B) has served a minimum of 60 days, or as close to 60  
10 days as the sentence will allow;

11           (B-1) has received a risk/needs assessment or other  
12 relevant evaluation or assessment administered by the  
13 Department using a validated instrument; and

14           (C) has met the eligibility criteria established under  
15 paragraph (4) of this subsection (a) and by rule for earned  
16 sentence credit.

17           The Director shall determine the form and content of the  
18 written determination required in this subsection.

19           (3.5) The Department shall provide annual written reports  
20 to the Governor and the General Assembly on the award of earned  
21 sentence credit no later than February 1 of each year. The  
22 Department must publish both reports on its website within 48  
23 hours of transmitting the reports to the Governor and the  
24 General Assembly. The reports must include:

25           (A) the number of inmates awarded earned sentence  
26 credit;

1 (B) the average amount of earned sentence credit  
2 awarded;

3 (C) the holding offenses of inmates awarded earned  
4 sentence credit; and

5 (D) the number of earned sentence credit revocations.

6 (4) Except as provided in paragraph (4.7) of this  
7 subsection (a), the rules and regulations shall also provide  
8 that the sentence credit accumulated and retained under  
9 paragraph (2.1) of subsection (a) of this Section by any inmate  
10 during specific periods of time in which such inmate is engaged  
11 full-time in substance abuse programs, correctional industry  
12 assignments, educational programs, behavior modification  
13 programs, life skills courses, or re-entry planning provided by  
14 the Department under this paragraph (4) and satisfactorily  
15 completes the assigned program as determined by the standards  
16 of the Department, shall be multiplied by a factor of 1.25 for  
17 program participation before August 11, 1993 and 1.50 for  
18 program participation on or after that date. The rules and  
19 regulations shall also provide that sentence credit, subject to  
20 the same offense limits and multiplier provided in this  
21 paragraph, may be provided to an inmate who was held in  
22 pre-trial detention prior to his or her current commitment to  
23 the Department of Corrections and successfully completed a  
24 full-time, 60-day or longer substance abuse program,  
25 educational program, behavior modification program, life  
26 skills course, or re-entry planning provided by the county

1 department of corrections or county jail. Calculation of this  
2 county program credit shall be done at sentencing as provided  
3 in Section 5-4.5-100 of this Code and shall be included in the  
4 sentencing order. However, no inmate shall be eligible for the  
5 additional sentence credit under this paragraph (4) or (4.1) of  
6 this subsection (a) while assigned to a boot camp or electronic  
7 detention.

8 Educational, vocational, substance abuse, behavior  
9 modification programs, life skills courses, re-entry planning,  
10 and correctional industry programs under which sentence credit  
11 may be increased under this paragraph (4) and paragraph (4.1)  
12 of this subsection (a) shall be evaluated by the Department on  
13 the basis of documented standards. The Department shall report  
14 the results of these evaluations to the Governor and the  
15 General Assembly by September 30th of each year. The reports  
16 shall include data relating to the recidivism rate among  
17 program participants.

18 Availability of these programs shall be subject to the  
19 limits of fiscal resources appropriated by the General Assembly  
20 for these purposes. Eligible inmates who are denied immediate  
21 admission shall be placed on a waiting list under criteria  
22 established by the Department. The inability of any inmate to  
23 become engaged in any such programs by reason of insufficient  
24 program resources or for any other reason established under the  
25 rules and regulations of the Department shall not be deemed a  
26 cause of action under which the Department or any employee or

1 agent of the Department shall be liable for damages to the  
2 inmate.

3 (4.1) Except as provided in paragraph (4.7) of this  
4 subsection (a), the rules and regulations shall also provide  
5 that an additional 90 days of sentence credit shall be awarded  
6 to any prisoner who passes high school equivalency testing  
7 while the prisoner is committed to the Department of  
8 Corrections. The sentence credit awarded under this paragraph  
9 (4.1) shall be in addition to, and shall not affect, the award  
10 of sentence credit under any other paragraph of this Section,  
11 but shall also be pursuant to the guidelines and restrictions  
12 set forth in paragraph (4) of subsection (a) of this Section.  
13 The sentence credit provided for in this paragraph shall be  
14 available only to those prisoners who have not previously  
15 earned a high school diploma or a high school equivalency  
16 certificate. If, after an award of the high school equivalency  
17 testing sentence credit has been made, the Department  
18 determines that the prisoner was not eligible, then the award  
19 shall be revoked. The Department may also award 90 days of  
20 sentence credit to any committed person who passed high school  
21 equivalency testing while he or she was held in pre-trial  
22 detention prior to the current commitment to the Department of  
23 Corrections.

24 (4.5) The rules and regulations on sentence credit shall  
25 also provide that when the court's sentencing order recommends  
26 a prisoner for substance abuse treatment and the crime was

1 committed on or after September 1, 2003 (the effective date of  
2 Public Act 93-354), the prisoner shall receive no sentence  
3 credit awarded under clause (3) of this subsection (a) unless  
4 he or she participates in and completes a substance abuse  
5 treatment program. The Director may waive the requirement to  
6 participate in or complete a substance abuse treatment program  
7 in specific instances if the prisoner is not a good candidate  
8 for a substance abuse treatment program for medical,  
9 programming, or operational reasons. Availability of substance  
10 abuse treatment shall be subject to the limits of fiscal  
11 resources appropriated by the General Assembly for these  
12 purposes. If treatment is not available and the requirement to  
13 participate and complete the treatment has not been waived by  
14 the Director, the prisoner shall be placed on a waiting list  
15 under criteria established by the Department. The Director may  
16 allow a prisoner placed on a waiting list to participate in and  
17 complete a substance abuse education class or attend substance  
18 abuse self-help meetings in lieu of a substance abuse treatment  
19 program. A prisoner on a waiting list who is not placed in a  
20 substance abuse program prior to release may be eligible for a  
21 waiver and receive sentence credit under clause (3) of this  
22 subsection (a) at the discretion of the Director.

23 (4.6) The rules and regulations on sentence credit shall  
24 also provide that a prisoner who has been convicted of a sex  
25 offense as defined in Section 2 of the Sex Offender  
26 Registration Act shall receive no sentence credit unless he or

1 she either has successfully completed or is participating in  
2 sex offender treatment as defined by the Sex Offender  
3 Management Board. However, prisoners who are waiting to receive  
4 treatment, but who are unable to do so due solely to the lack  
5 of resources on the part of the Department, may, at the  
6 Director's sole discretion, be awarded sentence credit at a  
7 rate as the Director shall determine.

8 (4.7) On or after the effective date of this amendatory Act  
9 of the 100th General Assembly, sentence credit under paragraph  
10 (3), (4), or (4.1) of this subsection (a) may be awarded to a  
11 prisoner who is serving a sentence for an offense described in  
12 paragraph (2), (2.3), (2.4), (2.5), or (2.6) for credit earned  
13 on or after the effective date of this amendatory Act of the  
14 100th General Assembly; provided, the award of the credits  
15 under this paragraph (4.7) shall not reduce the sentence of the  
16 prisoner to less than the following amounts:

17 (i) 85% of his or her sentence if the prisoner is  
18 required to serve 85% of his or her sentence; or

19 (ii) 60% of his or her sentence if the prisoner is  
20 required to serve 75% of his or her sentence, except if the  
21 prisoner is serving a sentence for gunrunning his or her  
22 sentence shall not be reduced to less than 75%.

23 This paragraph (4.7) shall not apply to a prisoner serving  
24 a sentence for an offense described in subparagraph (i) of  
25 paragraph (2) of this subsection (a).

26 (5) Whenever the Department is to release any inmate

1 earlier than it otherwise would because of a grant of earned  
2 sentence credit under paragraph (3) of subsection (a) of this  
3 Section given at any time during the term, the Department shall  
4 give reasonable notice of the impending release not less than  
5 14 days prior to the date of the release to the State's  
6 Attorney of the county where the prosecution of the inmate took  
7 place, and if applicable, the State's Attorney of the county  
8 into which the inmate will be released. The Department must  
9 also make identification information and a recent photo of the  
10 inmate being released accessible on the Internet by means of a  
11 hyperlink labeled "Community Notification of Inmate Early  
12 Release" on the Department's World Wide Web homepage. The  
13 identification information shall include the inmate's: name,  
14 any known alias, date of birth, physical characteristics,  
15 commitment offense and county where conviction was imposed. The  
16 identification information shall be placed on the website  
17 within 3 days of the inmate's release and the information may  
18 not be removed until either: completion of the first year of  
19 mandatory supervised release or return of the inmate to custody  
20 of the Department.

21 (b) Whenever a person is or has been committed under  
22 several convictions, with separate sentences, the sentences  
23 shall be construed under Section 5-8-4 in granting and  
24 forfeiting of sentence credit.

25 (c) The Department shall prescribe rules and regulations  
26 for revoking sentence credit, including revoking sentence



1 credit awarded under paragraph (3) of subsection (a) of this  
2 Section. The Department shall prescribe rules and regulations  
3 for suspending or reducing the rate of accumulation of sentence  
4 credit for specific rule violations, during imprisonment.  
5 These rules and regulations shall provide that no inmate may be  
6 penalized more than one year of sentence credit for any one  
7 infraction.

8 When the Department seeks to revoke, suspend or reduce the  
9 rate of accumulation of any sentence credits for an alleged  
10 infraction of its rules, it shall bring charges therefor  
11 against the prisoner sought to be so deprived of sentence  
12 credits before the Prisoner Review Board as provided in  
13 subparagraph (a)(4) of Section 3-3-2 of this Code, if the  
14 amount of credit at issue exceeds 30 days or when during any 12  
15 month period, the cumulative amount of credit revoked exceeds  
16 30 days except where the infraction is committed or discovered  
17 within 60 days of scheduled release. In those cases, the  
18 Department of Corrections may revoke up to 30 days of sentence  
19 credit. The Board may subsequently approve the revocation of  
20 additional sentence credit, if the Department seeks to revoke  
21 sentence credit in excess of 30 days. However, the Board shall  
22 not be empowered to review the Department's decision with  
23 respect to the loss of 30 days of sentence credit within any  
24 calendar year for any prisoner or to increase any penalty  
25 beyond the length requested by the Department.

26 The Director of the Department of Corrections, in

1 appropriate cases, may restore up to 30 days of sentence  
2 credits which have been revoked, suspended or reduced. Any  
3 restoration of sentence credits in excess of 30 days shall be  
4 subject to review by the Prisoner Review Board. However, the  
5 Board may not restore sentence credit in excess of the amount  
6 requested by the Director.

7 Nothing contained in this Section shall prohibit the  
8 Prisoner Review Board from ordering, pursuant to Section  
9 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the  
10 sentence imposed by the court that was not served due to the  
11 accumulation of sentence credit.

12 (d) If a lawsuit is filed by a prisoner in an Illinois or  
13 federal court against the State, the Department of Corrections,  
14 or the Prisoner Review Board, or against any of their officers  
15 or employees, and the court makes a specific finding that a  
16 pleading, motion, or other paper filed by the prisoner is  
17 frivolous, the Department of Corrections shall conduct a  
18 hearing to revoke up to 180 days of sentence credit by bringing  
19 charges against the prisoner sought to be deprived of the  
20 sentence credits before the Prisoner Review Board as provided  
21 in subparagraph (a)(8) of Section 3-3-2 of this Code. If the  
22 prisoner has not accumulated 180 days of sentence credit at the  
23 time of the finding, then the Prisoner Review Board may revoke  
24 all sentence credit accumulated by the prisoner.

25 For purposes of this subsection (d):

26 (1) "Frivolous" means that a pleading, motion, or other

1 filing which purports to be a legal document filed by a  
2 prisoner in his or her lawsuit meets any or all of the  
3 following criteria:

4 (A) it lacks an arguable basis either in law or in  
5 fact;

6 (B) it is being presented for any improper purpose,  
7 such as to harass or to cause unnecessary delay or  
8 needless increase in the cost of litigation;

9 (C) the claims, defenses, and other legal  
10 contentions therein are not warranted by existing law  
11 or by a nonfrivolous argument for the extension,  
12 modification, or reversal of existing law or the  
13 establishment of new law;

14 (D) the allegations and other factual contentions  
15 do not have evidentiary support or, if specifically so  
16 identified, are not likely to have evidentiary support  
17 after a reasonable opportunity for further  
18 investigation or discovery; or

19 (E) the denials of factual contentions are not  
20 warranted on the evidence, or if specifically so  
21 identified, are not reasonably based on a lack of  
22 information or belief.

23 (2) "Lawsuit" means a motion pursuant to Section 116-3  
24 of the Code of Criminal Procedure of 1963, a habeas corpus  
25 action under Article X of the Code of Civil Procedure or  
26 under federal law (28 U.S.C. 2254), a petition for claim

1 under the Court of Claims Act, an action under the federal  
2 Civil Rights Act (42 U.S.C. 1983), or a second or  
3 subsequent petition for post-conviction relief under  
4 Article 122 of the Code of Criminal Procedure of 1963  
5 whether filed with or without leave of court or a second or  
6 subsequent petition for relief from judgment under Section  
7 2-1401 of the Code of Civil Procedure.

8 (e) Nothing in Public Act 90-592 or 90-593 affects the  
9 validity of Public Act 89-404.

10 (f) Whenever the Department is to release any inmate who  
11 has been convicted of a violation of an order of protection  
12 under Section 12-3.4 or 12-30 of the Criminal Code of 1961 or  
13 the Criminal Code of 2012, earlier than it otherwise would  
14 because of a grant of sentence credit, the Department, as a  
15 condition of release, shall require that the person, upon  
16 release, be placed under electronic surveillance as provided in  
17 Section 5-8A-7 of this Code.

18 (Source: P.A. 99-241, eff. 1-1-16; 99-275, eff. 1-1-16; 99-642,  
19 eff. 7-28-16; 99-938, eff. 1-1-18; 100-3, eff. 1-1-18.)

20 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

21 Sec. 5-4-1. Sentencing hearing.

22 (a) Except when the death penalty is sought under hearing  
23 procedures otherwise specified, after a determination of  
24 guilt, a hearing shall be held to impose the sentence. However,  
25 prior to the imposition of sentence on an individual being

1 sentenced for an offense based upon a charge for a violation of  
2 Section 11-501 of the Illinois Vehicle Code or a similar  
3 provision of a local ordinance, the individual must undergo a  
4 professional evaluation to determine if an alcohol or other  
5 drug abuse problem exists and the extent of such a problem.  
6 Programs conducting these evaluations shall be licensed by the  
7 Department of Human Services. However, if the individual is not  
8 a resident of Illinois, the court may, in its discretion,  
9 accept an evaluation from a program in the state of such  
10 individual's residence. The court may in its sentencing order  
11 approve an eligible defendant for placement in a Department of  
12 Corrections impact incarceration program as provided in  
13 Section 5-8-1.1 or 5-8-1.3. The court may in its sentencing  
14 order recommend a defendant for placement in a Department of  
15 Corrections substance abuse treatment program as provided in  
16 paragraph (a) of subsection (1) of Section 3-2-2 conditioned  
17 upon the defendant being accepted in a program by the  
18 Department of Corrections. At the hearing the court shall:

19 (1) consider the evidence, if any, received upon the  
20 trial;

21 (2) consider any presentence reports;

22 (3) consider the financial impact of incarceration  
23 based on the financial impact statement filed with the  
24 clerk of the court by the Department of Corrections;

25 (4) consider evidence and information offered by the  
26 parties in aggravation and mitigation;

1           (4.5) consider substance abuse treatment, eligibility  
2 screening, and an assessment, if any, of the defendant by  
3 an agent designated by the State of Illinois to provide  
4 assessment services for the Illinois courts;

5           (5) hear arguments as to sentencing alternatives;

6           (6) afford the defendant the opportunity to make a  
7 statement in his own behalf;

8           (7) afford the victim of a violent crime or a violation  
9 of Section 11-501 of the Illinois Vehicle Code, or a  
10 similar provision of a local ordinance, or a qualified  
11 individual affected by: (i) a violation of Section 405,  
12 405.1, 405.2, or 407 of the Illinois Controlled Substances  
13 Act or a violation of Section 55 or Section 65 of the  
14 Methamphetamine Control and Community Protection Act, or  
15 (ii) a Class 4 felony violation of Section 11-14, 11-14.3  
16 except as described in subdivisions (a)(2)(A) and  
17 (a)(2)(B), 11-15, 11-17, 11-18, 11-18.1, or 11-19 of the  
18 Criminal Code of 1961 or the Criminal Code of 2012,  
19 committed by the defendant the opportunity to make a  
20 statement concerning the impact on the victim and to offer  
21 evidence in aggravation or mitigation; provided that the  
22 statement and evidence offered in aggravation or  
23 mitigation must first be prepared in writing in conjunction  
24 with the State's Attorney before it may be presented orally  
25 at the hearing. Any sworn testimony offered by the victim  
26 is subject to the defendant's right to cross-examine. All

1 statements and evidence offered under this paragraph (7)  
2 shall become part of the record of the court. For the  
3 purpose of this paragraph (7), "qualified individual"  
4 means any person who (i) lived or worked within the  
5 territorial jurisdiction where the offense took place when  
6 the offense took place; and (ii) is familiar with various  
7 public places within the territorial jurisdiction where  
8 the offense took place when the offense took place. For the  
9 purposes of this paragraph (7), "qualified individual"  
10 includes any peace officer, or any member of any duly  
11 organized State, county, or municipal peace unit assigned  
12 to the territorial jurisdiction where the offense took  
13 place when the offense took place;

14 (8) in cases of reckless homicide afford the victim's  
15 spouse, guardians, parents or other immediate family  
16 members an opportunity to make oral statements;

17 (9) in cases involving a felony sex offense as defined  
18 under the Sex Offender Management Board Act, consider the  
19 results of the sex offender evaluation conducted pursuant  
20 to Section 5-3-2 of this Act; and

21 (10) make a finding of whether a motor vehicle was used  
22 in the commission of the offense for which the defendant is  
23 being sentenced.

24 (b) All sentences shall be imposed by the judge based upon  
25 his independent assessment of the elements specified above and  
26 any agreement as to sentence reached by the parties. The judge

1 who presided at the trial or the judge who accepted the plea of  
2 guilty shall impose the sentence unless he is no longer sitting  
3 as a judge in that court. Where the judge does not impose  
4 sentence at the same time on all defendants who are convicted  
5 as a result of being involved in the same offense, the  
6 defendant or the State's Attorney may advise the sentencing  
7 court of the disposition of any other defendants who have been  
8 sentenced.

9 (b-1) In imposing a sentence of imprisonment or periodic  
10 imprisonment for a Class 3 or Class 4 felony for which a  
11 sentence of probation or conditional discharge is an available  
12 sentence, if the defendant has no prior sentence of probation  
13 or conditional discharge and no prior conviction for a violent  
14 crime, the defendant shall not be sentenced to imprisonment  
15 before review and consideration of a presentence report and  
16 determination and explanation of why the particular evidence,  
17 information, factor in aggravation, factual finding, or other  
18 reasons support a sentencing determination that one or more of  
19 the factors under subsection (a) of Section 5-6-1 of this Code  
20 apply and that probation or conditional discharge is not an  
21 appropriate sentence.

22 (c) In imposing a sentence for a violent crime or for an  
23 offense of operating or being in physical control of a vehicle  
24 while under the influence of alcohol, any other drug or any  
25 combination thereof, or a similar provision of a local  
26 ordinance, when such offense resulted in the personal injury to



1 someone other than the defendant, the trial judge shall specify  
2 on the record the particular evidence, information, factors in  
3 mitigation and aggravation or other reasons that led to his  
4 sentencing determination. The full verbatim record of the  
5 sentencing hearing shall be filed with the clerk of the court  
6 and shall be a public record.

7 (c-1) In imposing a sentence for the offense of aggravated  
8 kidnapping for ransom, home invasion, armed robbery,  
9 aggravated vehicular hijacking, aggravated discharge of a  
10 firearm, or armed violence with a category I weapon or category  
11 II weapon, the trial judge shall make a finding as to whether  
12 the conduct leading to conviction for the offense resulted in  
13 great bodily harm to a victim, and shall enter that finding and  
14 the basis for that finding in the record.

15 (c-2) If the defendant is sentenced to prison, other than  
16 when a sentence of natural life imprisonment or a sentence of  
17 death is imposed, at the time the sentence is imposed the judge  
18 shall state on the record in open court the approximate period  
19 of time the defendant will serve in custody according to the  
20 then current statutory rules and regulations for sentence  
21 credit found in Section 3-6-3 and other related provisions of  
22 this Code. This statement is intended solely to inform the  
23 public, has no legal effect on the defendant's actual release,  
24 and may not be relied on by the defendant on appeal.

25 The judge's statement, to be given after pronouncing the  
26 sentence, other than when the sentence is imposed for one of

1 the offenses enumerated in paragraph (a)(4) of Section 3-6-3,  
2 shall include the following:

3 "The purpose of this statement is to inform the public of  
4 the actual period of time this defendant is likely to spend in  
5 prison as a result of this sentence. The actual period of  
6 prison time served is determined by the statutes of Illinois as  
7 applied to this sentence by the Illinois Department of  
8 Corrections and the Illinois Prisoner Review Board. In this  
9 case, assuming the defendant receives all of his or her  
10 sentence credit, the period of estimated actual custody is ...  
11 years and ... months, less up to 180 days additional earned  
12 sentence credit. If the defendant, because of his or her own  
13 misconduct or failure to comply with the institutional  
14 regulations, does not receive those credits, the actual time  
15 served in prison will be longer. The defendant may also receive  
16 an additional one-half day sentence credit for each day of  
17 participation in vocational, industry, substance abuse, and  
18 educational programs as provided for by Illinois statute."

19 When the sentence is imposed for one of the offenses  
20 enumerated in paragraph (a)(2) of Section 3-6-3, other than  
21 first degree murder, and the offense was committed on or after  
22 June 19, 1998, and when the sentence is imposed for reckless  
23 homicide as defined in subsection (e) of Section 9-3 of the  
24 Criminal Code of 1961 or the Criminal Code of 2012 if the  
25 offense was committed on or after January 1, 1999, and when the  
26 sentence is imposed for aggravated driving under the influence

1 of alcohol, other drug or drugs, or intoxicating compound or  
2 compounds, or any combination thereof as defined in  
3 subparagraph (F) of paragraph (1) of subsection (d) of Section  
4 11-501 of the Illinois Vehicle Code, and when the sentence is  
5 imposed for aggravated arson if the offense was committed on or  
6 after July 27, 2001 (the effective date of Public Act 92-176),  
7 and when the sentence is imposed for aggravated driving under  
8 the influence of alcohol, other drug or drugs, or intoxicating  
9 compound or compounds, or any combination thereof as defined in  
10 subparagraph (C) of paragraph (1) of subsection (d) of Section  
11 11-501 of the Illinois Vehicle Code committed on or after  
12 January 1, 2011 (the effective date of Public Act 96-1230), the  
13 judge's statement, to be given after pronouncing the sentence,  
14 shall include the following:

15 "The purpose of this statement is to inform the public of  
16 the actual period of time this defendant is likely to spend in  
17 prison as a result of this sentence. The actual period of  
18 prison time served is determined by the statutes of Illinois as  
19 applied to this sentence by the Illinois Department of  
20 Corrections and the Illinois Prisoner Review Board. In this  
21 case, the defendant is entitled to no more than 4 1/2 days of  
22 sentence credit for each month of his or her sentence of  
23 imprisonment. Therefore, this defendant will serve at least 85%  
24 of his or her sentence. Assuming the defendant receives 4 1/2  
25 days credit for each month of his or her sentence, the period  
26 of estimated actual custody is ... years and ... months. If the

1 defendant, because of his or her own misconduct or failure to  
2 comply with the institutional regulations receives lesser  
3 credit, the actual time served in prison will be longer."

4 When a sentence of imprisonment is imposed for first degree  
5 murder and the offense was committed on or after June 19, 1998,  
6 the judge's statement, to be given after pronouncing the  
7 sentence, shall include the following:

8 "The purpose of this statement is to inform the public of  
9 the actual period of time this defendant is likely to spend in  
10 prison as a result of this sentence. The actual period of  
11 prison time served is determined by the statutes of Illinois as  
12 applied to this sentence by the Illinois Department of  
13 Corrections and the Illinois Prisoner Review Board. In this  
14 case, the defendant is not entitled to sentence credit.  
15 Therefore, this defendant will serve 100% of his or her  
16 sentence."

17 When a sentence of imprisonment is imposed for predatory  
18 criminal sexual assault of a child, aggravated kidnapping under  
19 subdivision (a)(2) of Section 10-2 of the Criminal Code of  
20 2012, a second or subsequent offense of luring of a minor, or  
21 aggravated battery under subdivision (b)(1) of Section 12-3.05  
22 of the Criminal Code of 2012 and the offense was committed on  
23 or after the effective date of this amendatory Act of the 100th  
24 General Assembly, the judge's statement, to be given after  
25 pronouncing the sentence, shall include the following:

26 "The purpose of this statement is to inform the public of

1 the actual period of time this defendant is likely to spend in  
2 prison as a result of this sentence. The actual period of  
3 prison time served is determined by the statutes of Illinois as  
4 applied to this sentence by the Illinois Department of  
5 Corrections and the Illinois Prisoner Review Board. In this  
6 case, the defendant is not entitled to sentence credit.  
7 Therefore, this defendant will serve 100% of his or her  
8 sentence."

9       When the sentencing order recommends placement in a  
10 substance abuse program for any offense that results in  
11 incarceration in a Department of Corrections facility and the  
12 crime was committed on or after September 1, 2003 (the  
13 effective date of Public Act 93-354), the judge's statement, in  
14 addition to any other judge's statement required under this  
15 Section, to be given after pronouncing the sentence, shall  
16 include the following:

17       "The purpose of this statement is to inform the public of  
18 the actual period of time this defendant is likely to spend in  
19 prison as a result of this sentence. The actual period of  
20 prison time served is determined by the statutes of Illinois as  
21 applied to this sentence by the Illinois Department of  
22 Corrections and the Illinois Prisoner Review Board. In this  
23 case, the defendant shall receive no earned sentence credit  
24 under clause (3) of subsection (a) of Section 3-6-3 until he or  
25 she participates in and completes a substance abuse treatment  
26 program or receives a waiver from the Director of Corrections

1 pursuant to clause (4.5) of subsection (a) of Section 3-6-3."

2 (c-4) Before the sentencing hearing and as part of the  
3 presentence investigation under Section 5-3-1, the court shall  
4 inquire of the defendant whether the defendant is currently  
5 serving in or is a veteran of the Armed Forces of the United  
6 States. If the defendant is currently serving in the Armed  
7 Forces of the United States or is a veteran of the Armed Forces  
8 of the United States and has been diagnosed as having a mental  
9 illness by a qualified psychiatrist or clinical psychologist or  
10 physician, the court may:

11 (1) order that the officer preparing the presentence  
12 report consult with the United States Department of  
13 Veterans Affairs, Illinois Department of Veterans'  
14 Affairs, or another agency or person with suitable  
15 knowledge or experience for the purpose of providing the  
16 court with information regarding treatment options  
17 available to the defendant, including federal, State, and  
18 local programming; and

19 (2) consider the treatment recommendations of any  
20 diagnosing or treating mental health professionals  
21 together with the treatment options available to the  
22 defendant in imposing sentence.

23 For the purposes of this subsection (c-4), "qualified  
24 psychiatrist" means a reputable physician licensed in Illinois  
25 to practice medicine in all its branches, who has specialized  
26 in the diagnosis and treatment of mental and nervous disorders

1 for a period of not less than 5 years.

2 (c-6) In imposing a sentence, the trial judge shall  
3 specify, on the record, the particular evidence and other  
4 reasons which led to his or her determination that a motor  
5 vehicle was used in the commission of the offense.

6 (d) When the defendant is committed to the Department of  
7 Corrections, the State's Attorney shall and counsel for the  
8 defendant may file a statement with the clerk of the court to  
9 be transmitted to the department, agency or institution to  
10 which the defendant is committed to furnish such department,  
11 agency or institution with the facts and circumstances of the  
12 offense for which the person was committed together with all  
13 other factual information accessible to them in regard to the  
14 person prior to his commitment relative to his habits,  
15 associates, disposition and reputation and any other facts and  
16 circumstances which may aid such department, agency or  
17 institution during its custody of such person. The clerk shall  
18 within 10 days after receiving any such statements transmit a  
19 copy to such department, agency or institution and a copy to  
20 the other party, provided, however, that this shall not be  
21 cause for delay in conveying the person to the department,  
22 agency or institution to which he has been committed.

23 (e) The clerk of the court shall transmit to the  
24 department, agency or institution, if any, to which the  
25 defendant is committed, the following:

26 (1) the sentence imposed;

1           (2) any statement by the court of the basis for  
2 imposing the sentence;

3           (3) any presentence reports;

4           (3.5) any sex offender evaluations;

5           (3.6) any substance abuse treatment eligibility  
6 screening and assessment of the defendant by an agent  
7 designated by the State of Illinois to provide assessment  
8 services for the Illinois courts;

9           (4) the number of days, if any, which the defendant has  
10 been in custody and for which he is entitled to credit  
11 against the sentence, which information shall be provided  
12 to the clerk by the sheriff;

13           (4.1) any finding of great bodily harm made by the  
14 court with respect to an offense enumerated in subsection  
15 (c-1);

16           (5) all statements filed under subsection (d) of this  
17 Section;

18           (6) any medical or mental health records or summaries  
19 of the defendant;

20           (7) the municipality where the arrest of the offender  
21 or the commission of the offense has occurred, where such  
22 municipality has a population of more than 25,000 persons;

23           (8) all statements made and evidence offered under  
24 paragraph (7) of subsection (a) of this Section; and

25           (9) all additional matters which the court directs the  
26 clerk to transmit.



1           (f) In cases in which the court finds that a motor vehicle  
2 was used in the commission of the offense for which the  
3 defendant is being sentenced, the clerk of the court shall,  
4 within 5 days thereafter, forward a report of such conviction  
5 to the Secretary of State.

6           (Source: P.A. 99-861, eff. 1-1-17; 99-938, eff. 1-1-18.)