



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0923

Introduced 2/2/2005, by Rep. Edward J. Acevedo

SYNOPSIS AS INTRODUCED:

720 ILCS 5/8-2
730 ILCS 5/3-6-3

from Ch. 38, par. 8-2
from Ch. 38, par. 1003-6-3

Amends the Criminal Code of 1961. Provides that conspiracy to commit treason, first degree murder, or aggravated kidnapping is a Class 1 (rather than a Class 2) felony. Provides that conspiracy to commit aggravated criminal sexual assault or predatory criminal sexual assault of a child is a Class 1 (rather than a Class 4) felony. Amends the Unified Code of Corrections. Provides that a prisoner serving a sentence for felony domestic battery or for aggravated domestic battery may receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment. Effective immediately.

LRB094 05103 RLC 38283 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 Criminal Code of 1961 is amended by changing
5 Section 8-2 as follows:

6 (720 ILCS 5/8-2) (from Ch. 38, par. 8-2)

7 Sec. 8-2. Conspiracy. (a) Elements of the offense. A person
8 commits conspiracy when, with intent that an offense be
9 committed, he agrees with another to the commission of that
10 offense. No person may be convicted of conspiracy to commit an
11 offense unless an act in furtherance of such agreement is
12 alleged and proved to have been committed by him or by a
13 co-conspirator.

14 (b) Co-conspirators.

15 It shall not be a defense to conspiracy that the person or
16 persons with whom the accused is alleged to have conspired:

- 17 (1) Has not been prosecuted or convicted, or
- 18 (2) Has been convicted of a different offense, or
- 19 (3) Is not amenable to justice, or
- 20 (4) Has been acquitted, or
- 21 (5) Lacked the capacity to commit an offense.

22 (c) Sentence.

23 A person convicted of conspiracy may be fined or imprisoned
24 or both not to exceed the maximum provided for the offense
25 which is the object of the conspiracy, except that if the
26 object is an offense prohibited by Sections 11-15, 11-16,
27 11-17, 11-19, 24-1 (a) (1), 24-1 (a) (7), 28-1, 28-3 and 28-4
28 of the "Criminal Code of 1961", approved July 28, 1961, as
29 amended, or prohibited by Sections 404 or 406 (b) of the
30 "Illinois Controlled Substances Act", enacted by the 77th
31 General Assembly, or an inchoate offense related to any of the
32 aforesaid principal offenses, the person convicted may be

1 sentenced for a Class 3 felony however, conspiracy to commit
2 treason, first degree murder, ~~or~~ aggravated kidnapping,
3 aggravated criminal sexual assault, or predatory criminal
4 sexual assault of a child is a Class 1 shall not be sentenced
5 in excess of a Class 2 felony, and conspiracy to commit any
6 offense other than those specified in this subsection, and
7 other than those set forth in Sections 401, 402, or 407 of the
8 Illinois Controlled Substances Act, shall not be sentenced in
9 excess of a Class 4 felony.

10 (Source: P.A. 86-809.)

11 Section 10. The Unified Code of Corrections is amended by
12 changing Section 3-6-3 as follows:

13 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

14 Sec. 3-6-3. Rules and Regulations for Early Release.

15 (a) (1) The Department of Corrections shall prescribe
16 rules and regulations for the early release on account of
17 good conduct of persons committed to the Department which
18 shall be subject to review by the Prisoner Review Board.

19 (2) The rules and regulations on early release shall
20 provide, with respect to offenses specified in clauses (i),
21 (ii), and (iii) committed on or after June 19, 1998 and
22 with respect to offenses specified in clause (iv) committed
23 on or after the effective date of this amendatory Act of
24 the 94th General Assembly, the following:

25 (i) that a prisoner who is serving a term of
26 imprisonment for first degree murder or for the offense
27 of terrorism shall receive no good conduct credit and
28 shall serve the entire sentence imposed by the court;

29 (ii) that a prisoner serving a sentence for attempt
30 to commit first degree murder, solicitation of murder,
31 solicitation of murder for hire, intentional homicide
32 of an unborn child, predatory criminal sexual assault
33 of a child, aggravated criminal sexual assault,
34 criminal sexual assault, aggravated kidnapping,

1 aggravated battery with a firearm, heinous battery,
2 aggravated battery of a senior citizen, or aggravated
3 battery of a child shall receive no more than 4.5 days
4 of good conduct credit for each month of his or her
5 sentence of imprisonment; ~~and~~

6 (iii) that a prisoner serving a sentence for home
7 invasion, armed robbery, aggravated vehicular
8 hijacking, aggravated discharge of a firearm, or armed
9 violence with a category I weapon or category II
10 weapon, when the court has made and entered a finding,
11 pursuant to subsection (c-1) of Section 5-4-1 of this
12 Code, that the conduct leading to conviction for the
13 enumerated offense resulted in great bodily harm to a
14 victim, shall receive no more than 4.5 days of good
15 conduct credit for each month of his or her sentence of
16 imprisonment; and

17 (iv) that a prisoner serving a sentence for felony
18 domestic battery or for aggravated domestic battery
19 shall receive no more than 4.5 days of good conduct
20 credit for each month of his or her sentence of
21 imprisonment.

22 (2.1) For all offenses, other than those enumerated in
23 subdivision (a)(2) committed on or after June 19, 1998, and
24 other than the offense of reckless homicide as defined in
25 subsection (e) of Section 9-3 of the Criminal Code of 1961
26 committed on or after January 1, 1999, or aggravated
27 driving under the influence of alcohol, other drug or
28 drugs, or intoxicating compound or compounds, or any
29 combination thereof as defined in subparagraph (F) of
30 paragraph (1) of subsection (d) of Section 11-501 of the
31 Illinois Vehicle Code, the rules and regulations shall
32 provide that a prisoner who is serving a term of
33 imprisonment shall receive one day of good conduct credit
34 for each day of his or her sentence of imprisonment or
35 recommitment under Section 3-3-9. Each day of good conduct
36 credit shall reduce by one day the prisoner's period of

1 imprisonment or recommitment under Section 3-3-9.

2 (2.2) A prisoner serving a term of natural life
3 imprisonment or a prisoner who has been sentenced to death
4 shall receive no good conduct credit.

5 (2.3) The rules and regulations on early release shall
6 provide that a prisoner who is serving a sentence for
7 reckless homicide as defined in subsection (e) of Section
8 9-3 of the Criminal Code of 1961 committed on or after
9 January 1, 1999, or aggravated driving under the influence
10 of alcohol, other drug or drugs, or intoxicating compound
11 or compounds, or any combination thereof as defined in
12 subparagraph (F) of paragraph (1) of subsection (d) of
13 Section 11-501 of the Illinois Vehicle Code, shall receive
14 no more than 4.5 days of good conduct credit for each month
15 of his or her sentence of imprisonment.

16 (2.4) The rules and regulations on early release shall
17 provide with respect to the offenses of aggravated battery
18 with a machine gun or a firearm equipped with any device or
19 attachment designed or used for silencing the report of a
20 firearm or aggravated discharge of a machine gun or a
21 firearm equipped with any device or attachment designed or
22 used for silencing the report of a firearm, committed on or
23 after July 15, 1999 (the effective date of Public Act
24 91-121) ~~this amendatory Act of 1999~~, that a prisoner
25 serving a sentence for any of these offenses shall receive
26 no more than 4.5 days of good conduct credit for each month
27 of his or her sentence of imprisonment.

28 (2.5) The rules and regulations on early release shall
29 provide that a prisoner who is serving a sentence for
30 aggravated arson committed on or after July 27, 2001 (the
31 effective date of Public Act 92-176) ~~this amendatory Act of~~
32 ~~the 92nd 93rd General Assembly~~ shall receive no more than
33 4.5 days of good conduct credit for each month of his or
34 her sentence of imprisonment.

35 (3) The rules and regulations shall also provide that
36 the Director may award up to 180 days additional good

1 conduct credit for meritorious service in specific
2 instances as the Director deems proper; except that no more
3 than 90 days of good conduct credit for meritorious service
4 shall be awarded to any prisoner who is serving a sentence
5 for conviction of first degree murder, reckless homicide
6 while under the influence of alcohol or any other drug, or
7 aggravated driving under the influence of alcohol, other
8 drug or drugs, or intoxicating compound or compounds, or
9 any combination thereof as defined in subparagraph (F) of
10 paragraph (1) of subsection (d) of Section 11-501 of the
11 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
12 predatory criminal sexual assault of a child, aggravated
13 criminal sexual assault, criminal sexual assault, deviate
14 sexual assault, aggravated criminal sexual abuse,
15 aggravated indecent liberties with a child, indecent
16 liberties with a child, child pornography, heinous
17 battery, aggravated battery of a spouse, aggravated
18 battery of a spouse with a firearm, stalking, aggravated
19 stalking, aggravated battery of a child, endangering the
20 life or health of a child, cruelty to a child, or narcotic
21 racketeering. Notwithstanding the foregoing, good conduct
22 credit for meritorious service shall not be awarded on a
23 sentence of imprisonment imposed for conviction of: (i) one
24 of the offenses enumerated in subdivision (a)(2) when the
25 offense is committed on or after June 19, 1998, (ii)
26 reckless homicide as defined in subsection (e) of Section
27 9-3 of the Criminal Code of 1961 when the offense is
28 committed on or after January 1, 1999, or aggravated
29 driving under the influence of alcohol, other drug or
30 drugs, or intoxicating compound or compounds, or any
31 combination thereof as defined in subparagraph (F) of
32 paragraph (1) of subsection (d) of Section 11-501 of the
33 Illinois Vehicle Code, (iii) one of the offenses enumerated
34 in subdivision (a)(2.4) when the offense is committed on or
35 after July 15, 1999 (the effective date of Public Act
36 91-121) ~~this amendatory Act of 1999~~, or (iv) aggravated

1 arson when the offense is committed on or after July 27,
2 2001 (the effective date of Public Act 92-176) ~~this~~
3 ~~amendatory Act of the 92nd 93rd General Assembly.~~

4 (4) The rules and regulations shall also provide that
5 the good conduct credit accumulated and retained under
6 paragraph (2.1) of subsection (a) of this Section by any
7 inmate during specific periods of time in which such inmate
8 is engaged full-time in substance abuse programs,
9 correctional industry assignments, or educational programs
10 provided by the Department under this paragraph (4) and
11 satisfactorily completes the assigned program as
12 determined by the standards of the Department, shall be
13 multiplied by a factor of 1.25 for program participation
14 before August 11, 1993 and 1.50 for program participation
15 on or after that date. However, no inmate shall be eligible
16 for the additional good conduct credit under this paragraph
17 (4) while assigned to a boot camp, mental health unit, or
18 electronic detention, or if convicted of an offense
19 enumerated in paragraph (a)(2) of this Section that is
20 committed on or after June 19, 1998, or if convicted of
21 reckless homicide as defined in subsection (e) of Section
22 9-3 of the Criminal Code of 1961 if the offense is
23 committed on or after January 1, 1999, or aggravated
24 driving under the influence of alcohol, other drug or
25 drugs, or intoxicating compound or compounds, or any
26 combination thereof as defined in subparagraph (F) of
27 paragraph (1) of subsection (d) of Section 11-501 of the
28 Illinois Vehicle Code, or if convicted of an offense
29 enumerated in paragraph (a)(2.4) of this Section that is
30 committed on or after July 15, 1999 (the effective date of
31 Public Act 91-121) ~~this amendatory Act of 1999~~, or first
32 degree murder, a Class X felony, criminal sexual assault,
33 felony criminal sexual abuse, aggravated criminal sexual
34 abuse, aggravated battery with a firearm, or any
35 predecessor or successor offenses with the same or
36 substantially the same elements, or any inchoate offenses

1 relating to the foregoing offenses. No inmate shall be
2 eligible for the additional good conduct credit under this
3 paragraph (4) who (i) has previously received increased
4 good conduct credit under this paragraph (4) and has
5 subsequently been convicted of a felony, or (ii) has
6 previously served more than one prior sentence of
7 imprisonment for a felony in an adult correctional
8 facility.

9 Educational, vocational, substance abuse and
10 correctional industry programs under which good conduct
11 credit may be increased under this paragraph (4) shall be
12 evaluated by the Department on the basis of documented
13 standards. The Department shall report the results of these
14 evaluations to the Governor and the General Assembly by
15 September 30th of each year. The reports shall include data
16 relating to the recidivism rate among program
17 participants.

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

30 (4.5) The rules and regulations on early release shall
31 also provide that a prisoner who is serving a sentence for
32 a crime committed as a result of the use of, abuse of, or
33 addiction to alcohol or a controlled substance and the
34 crime was committed on or after September 1, 2003 (the
35 effective date of Public Act 93-354) ~~this Amendatory Act of~~
36 ~~the 93rd General Assembly~~ shall receive no good conduct

1 credit until he or she participates in and completes a
2 substance abuse treatment program. Good conduct credit
3 awarded under clauses (2), (3), and (4) of this subsection
4 (a) for crimes committed on or after September 1, 2003 ~~the~~
5 ~~effective date of this amendatory Act of the 93rd General~~
6 ~~Assembly~~ is subject to the provisions of this clause (4.5).
7 If the prisoner completes a substance abuse treatment
8 program, the Department may award good conduct credit for
9 the time spent in treatment. 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, the prisoner shall
13 be placed on a waiting list under criteria established by
14 the Department. The Department may require a prisoner
15 placed on a waiting list to attend a substance abuse
16 education class or attend substance abuse self-help
17 meetings. A prisoner may not lose good conduct credit as a
18 result of being placed on a waiting list. A prisoner placed
19 on a waiting list remains eligible for increased good
20 conduct credit for participation in an educational,
21 vocational, or correctional industry program under clause
22 (4) of subsection (a) of this Section.

23 (5) Whenever the Department is to release any inmate
24 earlier than it otherwise would because of a grant of good
25 conduct credit for meritorious service given at any time
26 during the term, the Department shall give reasonable
27 advance notice of the impending release to the State's
28 Attorney of the county where the prosecution of the inmate
29 took place.

30 (b) Whenever a person is or has been committed under
31 several convictions, with separate sentences, the sentences
32 shall be construed under Section 5-8-4 in granting and
33 forfeiting of good time.

34 (c) The Department shall prescribe rules and regulations
35 for revoking good conduct credit, or suspending or reducing the
36 rate of accumulation of good conduct credit for specific rule

1 violations, during imprisonment. These rules and regulations
2 shall provide that no inmate may be penalized more than one
3 year of good conduct credit for any one infraction.

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

23 The Director of the Department of Corrections, in
24 appropriate cases, may restore up to 30 days good conduct
25 credits which have been revoked, suspended or reduced. Any
26 restoration of good conduct credits in excess of 30 days shall
27 be subject to review by the Prisoner Review Board. However, the
28 Board may not restore good conduct credit in excess of the
29 amount requested by the Director.

30 Nothing contained in this Section shall prohibit the
31 Prisoner Review Board from ordering, pursuant to Section
32 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
33 sentence imposed by the court that was not served due to the
34 accumulation of good conduct credit.

35 (d) If a lawsuit is filed by a prisoner in an Illinois or
36 federal court against the State, the Department of Corrections,

1 or the Prisoner Review Board, or against any of their officers
2 or employees, and the court makes a specific finding that a
3 pleading, motion, or other paper filed by the prisoner is
4 frivolous, the Department of Corrections shall conduct a
5 hearing to revoke up to 180 days of good conduct credit by
6 bringing charges against the prisoner sought to be deprived of
7 the good conduct credits before the Prisoner Review Board as
8 provided in subparagraph (a)(8) of Section 3-3-2 of this Code.
9 If the prisoner has not accumulated 180 days of good conduct
10 credit at the time of the finding, then the Prisoner Review
11 Board may revoke all good conduct credit accumulated by the
12 prisoner.

13 For purposes of this subsection (d):

14 (1) "Frivolous" means that a pleading, motion, or other
15 filing which purports to be a legal document filed by a
16 prisoner in his or her lawsuit meets any or all of the
17 following criteria:

18 (A) it lacks an arguable basis either in law or in
19 fact;

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

23 (C) the claims, defenses, and other legal
24 contentions therein are not warranted by existing law
25 or by a nonfrivolous argument for the extension,
26 modification, or reversal of existing law or the
27 establishment of new law;

28 (D) the allegations and other factual contentions
29 do not have evidentiary support or, if specifically so
30 identified, are not likely to have evidentiary support
31 after a reasonable opportunity for further
32 investigation or discovery; or

33 (E) the denials of factual contentions are not
34 warranted on the evidence, or if specifically so
35 identified, are not reasonably based on a lack of
36 information or belief.

1 (2) "Lawsuit" means a petition for post-conviction
2 relief under Article 122 of the Code of Criminal Procedure
3 of 1963, a motion pursuant to Section 116-3 of the Code of
4 Criminal Procedure of 1963, a habeas corpus action under
5 Article X of the Code of Civil Procedure or under federal
6 law (28 U.S.C. 2254), a petition for claim under the Court
7 of Claims Act or an action under the federal Civil Rights
8 Act (42 U.S.C. 1983).

9 (e) Nothing in Public Act 90-592 or 90-593 ~~this amendatory~~
10 ~~Act of 1998~~ affects the validity of Public Act 89-404.

11 (Source: P.A. 92-176, eff. 7-27-01; 92-854, eff. 12-5-02;
12 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; revised 10-15-03.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.