



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB1831

Introduced 2/25/2005, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-3-1
730 ILCS 5/3-6-3

from Ch. 38, par. 1003-3-1
from Ch. 38, par. 1003-6-3

Amends the Unified Code of Corrections. Provides that the Department of Corrections may revoke good conduct credit of prisoners only for specific rules violations that would constitute crimes if committed by persons in other than a correctional institution.

LRB094 11237 RLC 41966 b

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 1. Legislative purpose. The purpose of this
5 amendatory Act of the 94th General Assembly is to ensure that
6 the fiscal burden on the citizens of Illinois is not
7 unnecessarily increased through an increase in the amount of
8 time served by prisoners in Illinois, beyond the terms set by
9 the General Assembly and the courts, while providing the
10 Department of Corrections appropriate tools for enforcing
11 discipline in the State's prisons and punishing prisoners who
12 violate established rules.

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

15 (730 ILCS 5/3-3-1) (from Ch. 38, par. 1003-3-1)

16 Sec. 3-3-1. Establishment and Appointment of Prisoner
17 Review Board.

18 (a) There shall be a Prisoner Review Board independent of
19 the Department of Corrections which shall be:

20 (1) the paroling authority for persons sentenced under
21 the law in effect prior to the effective date of this
22 amendatory Act of 1977;

23 (2) the authority for hearing cases brought by the
24 Department of Corrections pursuant to subsection (c) of
25 Section 3-6-3 of this Code seeking the board of review for
26 ~~cases involving the revocation of good conduct credits or a~~
27 ~~suspension or reduction in the rate of accumulating such~~
28 ~~credit;~~

29 (3) the board of review and recommendation for the
30 exercise of executive clemency by the Governor;

31 (4) the authority for establishing release dates for

1 certain prisoners sentenced under the law in existence
2 prior to the effective date of this amendatory Act of 1977,
3 in accordance with Section 3-3-2.1 of this Code;

4 (5) the authority for setting conditions for parole and
5 mandatory supervised release under Section 5-8-1(a) of
6 this Code, and determining whether a violation of those
7 conditions warrant revocation of parole or mandatory
8 supervised release or the imposition of other sanctions.

9 (b) The Board shall consist of 15 persons appointed by the
10 Governor by and with the advice and consent of the Senate. One
11 member of the Board shall be designated by the Governor to be
12 Chairman and shall serve as Chairman at the pleasure of the
13 Governor. The members of the Board shall have had at least 5
14 years of actual experience in the fields of penology,
15 corrections work, law enforcement, sociology, law, education,
16 social work, medicine, psychology, other behavioral sciences,
17 or a combination thereof. At least 6 members so appointed must
18 have had at least 3 years experience in the field of juvenile
19 matters. No more than 8 Board members may be members of the
20 same political party.

21 Each member of the Board shall serve on a full-time basis
22 and shall not hold any other salaried public office, whether
23 elective or appointive, nor any other office or position of
24 profit, nor engage in any other business, employment, or
25 vocation. The Chairman of the Board shall receive \$35,000 a
26 year, or an amount set by the Compensation Review Board,
27 whichever is greater, and each other member \$30,000, or an
28 amount set by the Compensation Review Board, whichever is
29 greater.

30 (c) Notwithstanding any other provision of this Section,
31 the term of each member of the Board who was appointed by the
32 Governor and is in office on June 30, 2003 shall terminate at
33 the close of business on that date or when all of the successor
34 members to be appointed pursuant to this amendatory Act of the
35 93rd General Assembly have been appointed by the Governor,
36 whichever occurs later. As soon as possible, the Governor shall

1 appoint persons to fill the vacancies created by this
2 amendatory Act.

3 Of the initial members appointed under this amendatory Act
4 of the 93rd General Assembly, the Governor shall appoint 5
5 members whose terms shall expire on the third Monday in January
6 2005, 5 members whose terms shall expire on the third Monday in
7 January 2007, and 5 members whose terms shall expire on the
8 third Monday in January 2009. Their respective successors shall
9 be appointed for terms of 6 years from the third Monday in
10 January of the year of appointment. Each member shall serve
11 until his successor is appointed and qualified.

12 Any member may be removed by the Governor for incompetence,
13 neglect of duty, malfeasance or inability to serve.

14 (d) The Chairman of the Board shall be its chief executive
15 and administrative officer. The Board may have an Executive
16 Director; if so, the Executive Director shall be appointed by
17 the Governor with the advice and consent of the Senate. The
18 salary and duties of the Executive Director shall be fixed by
19 the Board.

20 (Source: P.A. 93-509, eff. 8-11-03.)

21 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)
22 Sec. 3-6-3. Rules and Regulations for Early Release.

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

27 (2) The rules and regulations on early release shall
28 provide, with respect to offenses committed on or after
29 June 19, 1998, the following:

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

34 (ii) that a prisoner serving a sentence for attempt
35 to commit first degree murder, solicitation of murder,

1 solicitation of murder for hire, intentional homicide
2 of an unborn child, predatory criminal sexual assault
3 of a child, aggravated criminal sexual assault,
4 criminal sexual assault, aggravated kidnapping,
5 aggravated battery with a firearm, heinous battery,
6 aggravated battery of a senior citizen, or aggravated
7 battery of a child shall receive no more than 4.5 days
8 of good conduct credit for each month of his or her
9 sentence of imprisonment; and

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

21 (2.1) For all offenses, other than those enumerated in
22 subdivision (a) (2) committed on or after June 19, 1998, and
23 other than the offense of reckless homicide as defined in
24 subsection (e) of Section 9-3 of the Criminal Code of 1961
25 committed on or after January 1, 1999, or aggravated
26 driving under the influence of alcohol, other drug or
27 drugs, or intoxicating compound or compounds, or any
28 combination thereof as defined in subparagraph (F) of
29 paragraph (1) of subsection (d) of Section 11-501 of the
30 Illinois Vehicle Code, the rules and regulations shall
31 provide that a prisoner who is serving a term of
32 imprisonment shall receive one day of good conduct credit
33 for each day served of his or her sentence of imprisonment
34 or recommitment under Section 3-3-9. Each day of good
35 conduct credit shall reduce by one day the prisoner's
36 period of imprisonment or recommitment under Section

1 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 earned and retained pursuant
36 to paragraph (2.1) of subsection (a), ~~or suspending or reducing~~

1 ~~the rate of accumulation of good conduct credit~~ for specific
2 rule violations, during imprisonment that would constitute
3 crimes if committed by persons in other than a correctional
4 institution. These rules and regulations shall provide that no
5 inmate may be penalized more than one year of good conduct
6 credit for any one infraction.

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

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

33 Nothing contained in this Section shall prohibit the
34 Prisoner Review Board from ordering, pursuant to Section
35 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
36 sentence imposed by the court that was not served due to the

1 accumulation of good conduct credit.

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

16 For purposes of this subsection (d):

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

21 (A) it lacks an arguable basis either in law or in
22 fact;

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

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

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

36 (E) the denials of factual contentions are not

1 warranted on the evidence, or if specifically so
2 identified, are not reasonably based on a lack of
3 information or belief.

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

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

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