



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0451

Introduced 1/26/2007, by Rep. Linda Chapa LaVia

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-3

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

Amends the Unified Code of Corrections. Provides that a prisoner serving a sentence for controlled substance trafficking, cannabis trafficking, or a gang-related felony shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment. Effective January 1, 2008.

LRB095 06237 RLC 26331 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 Section 3-6-3 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 Early Release.

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

12 (2) The rules and regulations on early release shall
13 provide, with respect to offenses listed in clause (i),
14 (ii), or (iii) of this paragraph (2) committed on or after
15 June 19, 1998 or with respect to the offense listed in
16 clause (iv) of this paragraph (2) committed on or after
17 June 23, 2005 (the effective date of Public Act 94-71) or
18 with respect to the offense of being an armed habitual
19 criminal committed on or after August 2, 2005 (the
20 effective date of Public Act 94-398), or with respect to
21 the offenses listed in clause (v) of this paragraph (2)
22 committed on or after the effective date of this amendatory
23 Act of the 95th General Assembly, the following:

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

5 (ii) that a prisoner serving a sentence for attempt
6 to commit first degree murder, solicitation of murder,
7 solicitation of murder for hire, intentional homicide
8 of an unborn child, predatory criminal sexual assault
9 of a child, aggravated criminal sexual assault,
10 criminal sexual assault, aggravated kidnapping,
11 aggravated battery with a firearm, heinous battery,
12 being an armed habitual criminal, aggravated battery
13 of a senior citizen, or aggravated battery of a child
14 shall receive no more than 4.5 days of good conduct
15 credit for each month of his or her sentence of
16 imprisonment;

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

1 imprisonment; ~~and~~

2 (iv) that a prisoner serving a sentence for
3 aggravated discharge of a firearm, whether or not the
4 conduct leading to conviction for the offense resulted
5 in great bodily harm to the victim, shall receive no
6 more than 4.5 days of good conduct credit for each
7 month of his or her sentence of imprisonment; and -

8 (v) that a prisoner serving a sentence for
9 controlled substance trafficking, cannabis
10 trafficking, or a gang-related felony shall receive no
11 more than 4.5 days of good conduct credit for each
12 month of his or her sentence of imprisonment.

13 (2.1) For all offenses, other than those enumerated in
14 subdivision (a) (2) (i), (ii), or (iii) committed on or after
15 June 19, 1998 or subdivision (a) (2) (iv) committed on or
16 after June 23, 2005 (the effective date of Public Act
17 94-71) or subdivision (a) (2) (v) committed on or after the
18 effective date of this amendatory Act of the 95th General
19 Assembly, and other than the offense of reckless homicide
20 as defined in subsection (e) of Section 9-3 of the Criminal
21 Code of 1961 committed on or after January 1, 1999, ~~or~~
22 aggravated driving under the influence of alcohol, other
23 drug or drugs, or intoxicating compound or compounds, or
24 any combination thereof as defined in subparagraph (F) of
25 paragraph (1) of subsection (d) of Section 11-501 of the
26 Illinois Vehicle Code, the rules and regulations shall

1 provide that a prisoner who is serving a term of
2 imprisonment shall receive one day of good conduct credit
3 for each day of his or her sentence of imprisonment or
4 recommitment under Section 3-3-9. Each day of good conduct
5 credit shall reduce by one day the prisoner's period of
6 imprisonment or recommitment under Section 3-3-9.

7 (2.2) A prisoner serving a term of natural life
8 imprisonment or a prisoner who has been sentenced to death
9 shall receive no good conduct credit.

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

21 (2.4) The rules and regulations on early release shall
22 provide with respect to the offenses of aggravated battery
23 with a machine gun or a firearm equipped with any device or
24 attachment designed or used for silencing the report of a
25 firearm or aggravated discharge of a machine gun or a
26 firearm equipped with any device or attachment designed or

1 used for silencing the report of a firearm, committed on or
2 after July 15, 1999 (the effective date of Public Act
3 91-121), that a prisoner serving a sentence for any of
4 these offenses shall receive no more than 4.5 days of good
5 conduct credit for each month of his or her sentence of
6 imprisonment.

7 (2.5) The rules and regulations on early release shall
8 provide that a prisoner who is serving a sentence for
9 aggravated arson committed on or after July 27, 2001 (the
10 effective date of Public Act 92-176) shall receive no more
11 than 4.5 days of good conduct credit for each month of his
12 or her sentence of imprisonment.

13 (3) The rules and regulations shall also provide that
14 the Director may award up to 180 days additional good
15 conduct credit for meritorious service in specific
16 instances as the Director deems proper; except that no more
17 than 90 days of good conduct credit for meritorious service
18 shall be awarded to any prisoner who is serving a sentence
19 for conviction of first degree murder, reckless homicide
20 while under the influence of alcohol or any other drug, or
21 aggravated driving under the influence of alcohol, other
22 drug or drugs, or intoxicating compound or compounds, or
23 any combination thereof as defined in subparagraph (F) of
24 paragraph (1) of subsection (d) of Section 11-501 of the
25 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
26 predatory criminal sexual assault of a child, aggravated

1 criminal sexual assault, criminal sexual assault, deviate
2 sexual assault, aggravated criminal sexual abuse,
3 aggravated indecent liberties with a child, indecent
4 liberties with a child, child pornography, heinous
5 battery, aggravated battery of a spouse, aggravated
6 battery of a spouse with a firearm, stalking, aggravated
7 stalking, aggravated battery of a child, endangering the
8 life or health of a child, cruelty to a child, or narcotic
9 racketeering. Notwithstanding the foregoing, good conduct
10 credit for meritorious service shall not be awarded on a
11 sentence of imprisonment imposed for conviction of: (i) one
12 of the offenses enumerated in subdivision (a)(2)(i), (ii),
13 or (iii) when the offense is committed on or after June 19,
14 1998 or subdivision (a)(2)(iv) when the offense is
15 committed on or after June 23, 2005 (the effective date of
16 Public Act 94-71) or subdivision (a)(2)(v) when the offense
17 is committed on or after the effective date of this
18 amendatory Act of the 95th General Assembly, (ii) reckless
19 homicide as defined in subsection (e) of Section 9-3 of the
20 Criminal Code of 1961 when the offense is committed on or
21 after January 1, 1999, or aggravated driving under the
22 influence of alcohol, other drug or drugs, or intoxicating
23 compound or compounds, or any combination thereof as
24 defined in subparagraph (F) of paragraph (1) of subsection
25 (d) of Section 11-501 of the Illinois Vehicle Code, (iii)
26 one of the offenses enumerated in subdivision (a)(2.4) when

1 the offense is committed on or after July 15, 1999 (the
2 effective date of Public Act 91-121), or (iv) aggravated
3 arson when the offense is committed on or after July 27,
4 2001 (the effective date of Public Act 92-176).

5 (4) The rules and regulations shall also provide that
6 the good conduct credit accumulated and retained under
7 paragraph (2.1) of subsection (a) of this Section by any
8 inmate during specific periods of time in which such inmate
9 is engaged full-time in substance abuse programs,
10 correctional industry assignments, or educational programs
11 provided by the Department under this paragraph (4) and
12 satisfactorily completes the assigned program as
13 determined by the standards of the Department, shall be
14 multiplied by a factor of 1.25 for program participation
15 before August 11, 1993 and 1.50 for program participation
16 on or after that date. However, no inmate shall be eligible
17 for the additional good conduct credit under this paragraph
18 (4) or (4.1) of this subsection (a) while assigned to a
19 boot camp or electronic detention, or if convicted of an
20 offense enumerated in subdivision (a)(2)(i), (ii), or
21 (iii) of this Section that is committed on or after June
22 19, 1998 or subdivision (a)(2)(iv) of this Section that is
23 committed on or after June 23, 2005 (the effective date of
24 Public Act 94-71) or subdivision (a)(2)(v) of this Section
25 that is committed on or after the effective date of this
26 amendatory Act of the 95th General Assembly, or if

1 convicted of reckless homicide as defined in subsection (e)
2 of Section 9-3 of the Criminal Code of 1961 if the offense
3 is committed on or after January 1, 1999, or aggravated
4 driving under the influence of alcohol, other drug or
5 drugs, or intoxicating compound or compounds, or any
6 combination thereof as defined in subparagraph (F) of
7 paragraph (1) of subsection (d) of Section 11-501 of the
8 Illinois Vehicle Code, or if convicted of an offense
9 enumerated in paragraph (a)(2.4) of this Section that is
10 committed on or after July 15, 1999 (the effective date of
11 Public Act 91-121), or first degree murder, a Class X
12 felony, criminal sexual assault, felony criminal sexual
13 abuse, aggravated criminal sexual abuse, aggravated
14 battery with a firearm, or any predecessor or successor
15 offenses with the same or substantially the same elements,
16 or any inchoate offenses relating to the foregoing
17 offenses. No inmate shall be eligible for the additional
18 good conduct credit under this paragraph (4) who (i) has
19 previously received increased good conduct credit under
20 this paragraph (4) and has subsequently been convicted of a
21 felony, or (ii) has previously served more than one prior
22 sentence of imprisonment for a felony in an adult
23 correctional facility.

24 Educational, vocational, substance abuse and
25 correctional industry programs under which good conduct
26 credit may be increased under this paragraph (4) and

1 paragraph (4.1) of this subsection (a) shall be evaluated
2 by the Department on the basis of documented standards. The
3 Department shall report the results of these evaluations to
4 the Governor and the General Assembly by September 30th of
5 each year. The reports shall include data relating to the
6 recidivism rate among program participants.

7 Availability of these programs shall be subject to the
8 limits of fiscal resources appropriated by the General
9 Assembly for these purposes. Eligible inmates who are
10 denied immediate admission shall be placed on a waiting
11 list under criteria established by the Department. The
12 inability of any inmate to become engaged in any such
13 programs by reason of insufficient program resources or for
14 any other reason established under the rules and
15 regulations of the Department shall not be deemed a cause
16 of action under which the Department or any employee or
17 agent of the Department shall be liable for damages to the
18 inmate.

19 (4.1) The rules and regulations shall also provide that
20 an additional 60 days of good conduct credit shall be
21 awarded to any prisoner who passes the high school level
22 Test of General Educational Development (GED) while the
23 prisoner is incarcerated. The good conduct credit awarded
24 under this paragraph (4.1) shall be in addition to, and
25 shall not affect, the award of good conduct under any other
26 paragraph of this Section, but shall also be pursuant to

1 the guidelines and restrictions set forth in paragraph (4)
2 of subsection (a) of this Section. The good conduct credit
3 provided for in this paragraph shall be available only to
4 those prisoners who have not previously earned a high
5 school diploma or a GED. If, after an award of the GED good
6 conduct credit has been made and the Department determines
7 that the prisoner was not eligible, then the award shall be
8 revoked.

9 (4.5) The rules and regulations on early release shall
10 also provide that when the court's sentencing order
11 recommends a prisoner for substance abuse treatment and the
12 crime was committed on or after September 1, 2003 (the
13 effective date of Public Act 93-354), the prisoner shall
14 receive no good conduct credit awarded under clause (3) of
15 this subsection (a) unless he or she participates in and
16 completes a substance abuse treatment program. The
17 Director may waive the requirement to participate in or
18 complete a substance abuse treatment program and award the
19 good conduct credit in specific instances if the prisoner
20 is not a good candidate for a substance abuse treatment
21 program for medical, programming, or operational reasons.
22 Availability of substance abuse treatment shall be subject
23 to the limits of fiscal resources appropriated by the
24 General Assembly for these purposes. If treatment is not
25 available and the requirement to participate and complete
26 the treatment has not been waived by the Director, the

1 prisoner shall be placed on a waiting list under criteria
2 established by the Department. The Director may allow a
3 prisoner placed on a waiting list to participate in and
4 complete a substance abuse education class or attend
5 substance abuse self-help meetings in lieu of a substance
6 abuse treatment program. A prisoner on a waiting list who
7 is not placed in a substance abuse program prior to release
8 may be eligible for a waiver and receive good conduct
9 credit under clause (3) of this subsection (a) at the
10 discretion of the Director.

11 (5) Whenever the Department is to release any inmate
12 earlier than it otherwise would because of a grant of good
13 conduct credit for meritorious service given at any time
14 during the term, the Department shall give reasonable
15 advance notice of the impending release to the State's
16 Attorney of the county where the prosecution of the inmate
17 took place.

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

22 (c) The Department shall prescribe rules and regulations
23 for revoking good conduct credit, or suspending or reducing the
24 rate of accumulation of good conduct credit for specific rule
25 violations, during imprisonment. These rules and regulations
26 shall provide that no inmate may be penalized more than one

1 year of good conduct credit for any one infraction.

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

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

1 amount requested by the Director.

2 Nothing contained in this Section shall prohibit the
3 Prisoner Review Board from ordering, pursuant to Section
4 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
5 sentence imposed by the court that was not served due to the
6 accumulation of good conduct credit.

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

21 For purposes of this subsection (d):

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

26 (A) it lacks an arguable basis either in law or in

1 fact;

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

5 (C) the claims, defenses, and other legal
6 contentions therein are not warranted by existing law
7 or by a nonfrivolous argument for the extension,
8 modification, or reversal of existing law or the
9 establishment of new law;

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

15 (E) the denials of factual contentions are not
16 warranted on the evidence, or if specifically so
17 identified, are not reasonably based on a lack of
18 information or belief.

19 (2) "Lawsuit" means a petition for post-conviction
20 relief under Article 122 of the Code of Criminal Procedure
21 of 1963, a motion pursuant to Section 116-3 of the Code of
22 Criminal Procedure of 1963, a habeas corpus action under
23 Article X of the Code of Civil Procedure or under federal
24 law (28 U.S.C. 2254), a petition for claim under the Court
25 of Claims Act or an action under the federal Civil Rights
26 Act (42 U.S.C. 1983).

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

3 (Source: P.A. 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; 94-71,
4 eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398,
5 eff. 8-2-05; 94-491, eff. 8-8-05; 94-744, eff. 5-8-06.)

6 Section 99. Effective date. This Act takes effect January
7 1, 2008.