



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3467

Introduced 2/10/2010, by Sen. Michael Bond

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Sexually Violent Persons Commitment Act. Provides that a petition alleging that a person is a sexually violent person may also be filed, at the request of the agency with jurisdiction over the person, by: (1) the Attorney General, (2) the State's Attorney of the county in which the person was convicted of a sexually violent offense, adjudicated delinquent for a sexually violent offense or found not guilty of or not responsible for a sexually violent offense by reason of insanity, mental disease, or mental defect, or (3) the Attorney General and the State's Attorney jointly. Provides that the State has the right to have the person evaluated by experts chosen by the State. Provides that the agency with jurisdiction shall allow the expert reasonable access to the person for purposes of examination, to the person's records, and to past and present treatment providers and any other staff members relevant to the examination. Provides that any agency or officer, employee, or agent of an agency is immune from criminal or civil liability for acts or omissions as the result of a good faith effort to conduct an evaluation pursuant to the Act. Makes other changes. Amends the Unified Code of Corrections. Provides that good conduct credit for meritorious service shall not be awarded on a sentence of imprisonment imposed for conviction of offenses that may subject the offender to commitment under the Sexually Violent Persons Commitment Act.

LRB096 20615 RLC 36324 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL 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 Sexually Violent Persons Commitment Act is  
5 amended by changing Sections 15, 25, 30, 40, 60, and 65 as  
6 follows:

7 (725 ILCS 207/15)

8 Sec. 15. Sexually violent person petition; contents;  
9 filing.

10 (a) A petition alleging that a person is a sexually violent  
11 person must be filed before the release or discharge of the  
12 person or within 30 days of placement onto parole or mandatory  
13 supervised release for an offense enumerated in paragraph (e)  
14 of Section 5 of this Act. A petition may be filed by the  
15 following: ~~may be filed by:~~

16 (1) The Attorney General on his or her own motion,  
17 after consulting with and advising the State's Attorney of  
18 the county in which the person was convicted of a sexually  
19 violent offense, adjudicated delinquent for a sexually  
20 violent offense or found not guilty of or not responsible  
21 for a sexually violent offense by reason of insanity,  
22 mental disease, or mental defect; or, ~~at the request of the~~  
23 agency with jurisdiction over the person, as defined in

1 ~~subsection (a) of Section 10 of this Act, or on his or her~~  
2 ~~own motion. If the Attorney General, after consulting with~~  
3 ~~and advising the State's Attorney of the county referenced~~  
4 ~~in paragraph (a) (2) of this Section, decides to file a~~  
5 ~~petition under this Section, he or she shall file the~~  
6 ~~petition before the release or discharge of the person or~~  
7 ~~within 30 days of placement onto parole or mandatory~~  
8 ~~supervised release for an offense enumerated in paragraph~~  
9 ~~(e) of Section 5 of this Act.~~

10 (2) The State's Attorney of the county referenced in  
11 paragraph (1)(a)(1) of this Section, on his or her own  
12 motion; or ~~If the Attorney General does not file a petition~~  
13 ~~under this Section, the State's Attorney of the county in~~  
14 ~~which the person was convicted of a sexually violent~~  
15 ~~offense, adjudicated delinquent for a sexually violent~~  
16 ~~offense or found not guilty of or not responsible for a~~  
17 ~~sexually violent offense by reason of insanity, mental~~  
18 ~~disease, or mental defect may file a petition.~~

19 (3) The Attorney General and the State's Attorney of  
20 the county referenced in paragraph (1)(a)(1) of this  
21 Section may jointly file a petition on their own motion; or

22 (4) A petition may be filed at the request of the  
23 agency with jurisdiction over the person, as defined in  
24 subsection (a) of Section 10 of this Act, by:

25 (a) the Attorney General;

26 (b) the State's Attorney of the county referenced

1 in paragraph (1) (a) (1) of this Section; or

2 (c) the Attorney General and the State's Attorney  
3 jointly. ~~The Attorney General and the State's Attorney~~  
4 ~~referenced in paragraph (a) (2) of this Section~~  
5 ~~jointly.~~

6 (b) A petition filed under this Section shall allege that  
7 all of the following apply to the person alleged to be a  
8 sexually violent person:

9 (1) The person satisfies any of the following criteria:

10 (A) The person has been convicted of a sexually  
11 violent offense;

12 (B) The person has been found delinquent for a  
13 sexually violent offense; or

14 (C) The person has been found not guilty of a  
15 sexually violent offense by reason of insanity, mental  
16 disease, or mental defect.

17 (2) (Blank).

18 (3) (Blank).

19 (4) The person has a mental disorder.

20 (5) The person is dangerous to others because the  
21 person's mental disorder creates a substantial probability  
22 that he or she will engage in acts of sexual violence.

23 (b-5) The petition must be filed no more than 90 days  
24 before discharge or entry into mandatory supervised release  
25 from a Department of Corrections or the Department of Juvenile  
26 Justice correctional facility for a sentence that was imposed

1 upon a conviction for a sexually violent offense. For inmates  
2 sentenced under the law in effect prior to February 1, 1978,  
3 the petition shall be filed no more than 90 days after the  
4 Prisoner Review Board's order granting parole pursuant to  
5 Section 3-3-5 of the Unified Code of Corrections.

6 (b-6) The petition must be filed no more than 90 days  
7 before discharge or release:

8 (1) from a Department of Juvenile Justice juvenile  
9 correctional facility if the person was placed in the  
10 facility for being adjudicated delinquent under Section  
11 5-20 of the Juvenile Court Act of 1987 or found guilty  
12 under Section 5-620 of that Act on the basis of a sexually  
13 violent offense; or

14 (2) from a commitment order that was entered as a  
15 result of a sexually violent offense.

16 (b-7) A person convicted of a sexually violent offense  
17 remains eligible for commitment as a sexually violent person  
18 pursuant to this Act under the following circumstances: (1) the  
19 person is in custody for a sentence that is being served  
20 concurrently or consecutively with a sexually violent offense;  
21 (2) the person returns to the custody of the Illinois  
22 Department of Corrections or the Department of Juvenile Justice  
23 for any reason during the term of parole or mandatory  
24 supervised release being served for a sexually violent offense;  
25 or (3) the person is convicted or adjudicated delinquent for  
26 any offense committed during the term of parole or mandatory

1 supervised release being served for a sexually violent offense,  
2 regardless of whether that conviction or adjudication was for a  
3 sexually violent offense.

4 (c) A petition filed under this Section shall state with  
5 particularity essential facts to establish probable cause to  
6 believe the person is a sexually violent person. If the  
7 petition alleges that a sexually violent offense or act that is  
8 a basis for the allegation under paragraph (b)(1) of this  
9 Section was an act that was sexually motivated as provided  
10 under paragraph (e)(2) of Section 5 of this Act, the petition  
11 shall state the grounds on which the offense or act is alleged  
12 to be sexually motivated.

13 (d) A petition under this Section shall be filed in either  
14 of the following:

15 (1) The circuit court for the county in which the  
16 person was convicted of a sexually violent offense,  
17 adjudicated delinquent for a sexually violent offense or  
18 found not guilty of a sexually violent offense by reason of  
19 insanity, mental disease or mental defect.

20 (2) The circuit court for the county in which the  
21 person is in custody under a sentence, a placement to a  
22 Department of Corrections correctional facility or a  
23 Department of Juvenile Justice juvenile correctional  
24 facility, or a commitment order.

25 (e) The filing of a petition under this Act shall toll the  
26 running of the term of parole or mandatory supervised release

1 until:

2 (1) dismissal of the petition filed under this Act;

3 (2) a finding by a judge or jury that the respondent is  
4 not a sexually violent person; or

5 (3) the sexually violent person is discharged under  
6 Section 65 of this Act, unless the person has successfully  
7 completed a period of conditional release pursuant to  
8 Section 60 of this Act.

9 (f) The State has the right to have the person evaluated by  
10 experts chosen by the State. The agency with jurisdiction as  
11 defined in Section 10 of this Act shall allow the expert  
12 reasonable access to the person for purposes of examination, to  
13 the person's records, and to past and present treatment  
14 providers and any other staff members relevant to the  
15 examination.

16 (Source: P.A. 94-696, eff. 6-1-06; 94-992, eff. 1-1-07.)

17 (725 ILCS 207/25)

18 Sec. 25. Rights of persons subject to petition.

19 (a) Any person who is the subject of a petition filed under  
20 Section 15 of this Act shall be served with a copy of the  
21 petition in accordance with the Civil Practice Law.

22 (b) The circuit court in which a petition under Section 15  
23 of this Act is filed shall conduct all hearings under this Act.  
24 The court shall give the person who is the subject of the  
25 petition reasonable notice of the time and place of each such

1 hearing. The court may designate additional persons to receive  
2 these notices.

3 (c) Except as provided in paragraph (b)(1) of Section 65  
4 and Section 70 of this Act, at any hearing conducted under this  
5 Act, the person who is the subject of the petition has the  
6 right:

7 (1) To be present and to be represented by counsel. If  
8 the person is indigent, the court shall appoint counsel.

9 (2) To remain silent.

10 (3) To present and cross-examine witnesses.

11 (4) To have the hearing recorded by a court reporter.

12 (d) The person who is the subject of the petition, the  
13 person's attorney, the Attorney General or the State's Attorney  
14 may request that a trial under Section 35 of this Act be to a  
15 jury. A verdict of a jury under this Act is not valid unless it  
16 is unanimous.

17 (e) Whenever the person who is the subject of the petition  
18 is required to submit to an examination under this Act, he or  
19 she may retain experts or professional persons to perform an  
20 examination. The State has the right to have the person  
21 evaluated by an expert chosen by the State. All examiners  
22 retained by or appointed for any party ~~If the person retains a~~  
23 ~~qualified expert or professional person of his or her own~~  
24 ~~choice to conduct an examination, the examiner~~ shall have  
25 reasonable access to the person for the purpose of the  
26 examination, as well as to the person's past and present



1 treatment records and patient health care records. If the  
2 person is indigent, the court shall, upon the person's request,  
3 appoint a qualified and available expert or professional person  
4 to perform an examination. Upon the order of the circuit court,  
5 the county shall pay, as part of the costs of the action, the  
6 costs of a court-appointed expert or professional person to  
7 perform an examination and participate in the trial on behalf  
8 of an indigent person.

9 (Source: P.A. 93-616, eff. 1-1-04; 93-970, eff. 8-20-04.)

10 (725 ILCS 207/30)

11 Sec. 30. Detention; probable cause hearing; transfer for  
12 examination.

13 (a) Upon the filing of a petition under Section 15 of this  
14 Act, the court shall review the petition to determine whether  
15 to issue an order for detention of the person who is the  
16 subject of the petition. The person shall be detained only if  
17 there is cause to believe that the person is eligible for  
18 commitment under subsection (f) of Section 35 of this Act. A  
19 person detained under this Section shall be held in a facility  
20 approved by the Department. If the person is serving a sentence  
21 of imprisonment, is in a Department of Corrections correctional  
22 facility or juvenile correctional facility or is committed to  
23 institutional care, and the court orders detention under this  
24 Section, the court shall order that the person be transferred  
25 to a detention facility approved by the Department. A detention

1 order under this Section remains in effect until the person is  
2 discharged after a trial under Section 35 of this Act or until  
3 the effective date of a commitment order under Section 40 of  
4 this Act, whichever is applicable.

5 (b) Whenever a petition is filed under Section 15 of this  
6 Act, the court shall hold a hearing to determine whether there  
7 is probable cause to believe that the person named in the  
8 petition is a sexually violent person. If the person named in  
9 the petition is in custody, the court shall hold the probable  
10 cause hearing within 72 hours after the petition is filed,  
11 excluding Saturdays, Sundays and legal holidays. The court may  
12 grant a continuance of the probable cause hearing for no more  
13 than 7 additional days upon the motion of the respondent, for  
14 good cause. If the person named in the petition has been  
15 released, is on parole, is on mandatory supervised release, or  
16 otherwise is not in custody, the court shall hold the probable  
17 cause hearing within a reasonable time after the filing of the  
18 petition. At the probable cause hearing, the court shall admit  
19 and consider all relevant hearsay evidence.

20 (c) If the court determines after a hearing that there is  
21 probable cause to believe that the person named in the petition  
22 is a sexually violent person, the court shall order that the  
23 person be taken into custody if he or she is not in custody and  
24 shall order the person to be transferred within a reasonable  
25 time to an appropriate facility for an evaluation as to whether  
26 the person is a sexually violent person. If the person who is

1 named in the petition refuses to speak to, communicate with, or  
2 otherwise fails to cooperate with the examining evaluator from  
3 the Department of Human Services or the Department of  
4 Corrections, that person may only introduce evidence and  
5 testimony from any expert or professional person who is  
6 retained or court-appointed to conduct an examination of the  
7 person that results from a review of the records and may not  
8 introduce evidence resulting from an examination of the person.  
9 Any agency or officer, employee or agent of an agency is immune  
10 from criminal or civil liability for acts or omissions as the  
11 result of a good faith effort to conduct an evaluation pursuant  
12 to this Act. Notwithstanding the provisions of Section 10 of  
13 the Mental Health and Developmental Disabilities  
14 Confidentiality Act, all evaluations conducted pursuant to  
15 this Act and all Illinois Department of Corrections treatment  
16 records shall be admissible at all proceedings held pursuant to  
17 this Act, including the probable cause hearing and the trial.

18 If the court determines that probable cause does not exist  
19 to believe that the person is a sexually violent person, the  
20 court shall dismiss the petition.

21 (d) The Department shall promulgate rules that provide the  
22 qualifications for persons conducting evaluations under  
23 subsection (c) of this Section.

24 (e) If the person named in the petition claims or appears  
25 to be indigent, the court shall, prior to the probable cause  
26 hearing under subsection (b) of this Section, appoint counsel.

1 (Source: P.A. 92-415, eff. 8-17-01; 93-616, eff. 1-1-04;  
2 93-970, eff. 8-20-04.)

3 (725 ILCS 207/40)

4 Sec. 40. Commitment.

5 (a) If a court or jury determines that the person who is  
6 the subject of a petition under Section 15 of this Act is a  
7 sexually violent person, the court shall order the person to be  
8 committed to the custody of the Department for control, care  
9 and treatment until such time as the person is no longer a  
10 sexually violent person.

11 (b) (1) The court shall enter an initial commitment order  
12 under this Section pursuant to a hearing held as soon as  
13 practicable after the judgment is entered that the person  
14 who is the subject of a petition under Section 15 is a  
15 sexually violent person. If the court lacks sufficient  
16 information to make the determination required by  
17 paragraph (b)(2) of this Section immediately after trial,  
18 it may adjourn the hearing and order the Department to  
19 conduct a predisposition investigation or a supplementary  
20 mental examination, or both, to assist the court in framing  
21 the commitment order. If the Department's examining  
22 evaluator previously rendered an opinion that the person  
23 who is the subject of a petition under Section 15 does not  
24 meet the criteria to be found a sexually violent person,  
25 then another evaluator shall conduct the predisposition

1       investigation and/or supplementary mental examination. A  
2       supplementary mental examination under this Section shall  
3       be conducted in accordance with Section 3-804 of the Mental  
4       Health and Developmental Disabilities Code. The State has  
5       the right to have the person evaluated by experts chosen by  
6       the State.

7               (2) An order for commitment under this Section shall  
8       specify either institutional care in a secure facility, as  
9       provided under Section 50 of this Act, or conditional  
10      release. In determining whether commitment shall be for  
11      institutional care in a secure facility or for conditional  
12      release, the court shall consider the nature and  
13      circumstances of the behavior that was the basis of the  
14      allegation in the petition under paragraph (b)(1) of  
15      Section 15, the person's mental history and present mental  
16      condition, ~~where the person will live, how the person will~~  
17      ~~support himself or herself,~~ and what arrangements are  
18      available to ensure that the person has access to and will  
19      participate in necessary treatment. All treatment, whether  
20      in institutional care, in a secure facility, or while on  
21      conditional release, shall be conducted in conformance  
22      with the standards developed under the Sex Offender  
23      Management Board Act and conducted by a treatment provider  
24      approved by the Board. The Department shall arrange for  
25      control, care and treatment of the person in the least  
26      restrictive manner consistent with the requirements of the

1 person and in accordance with the court's commitment order.

2 (3) If the court finds that the person is appropriate  
3 for conditional release, the court shall notify the  
4 Department. The Department shall prepare a plan that  
5 identifies the treatment and services, if any, that the  
6 person will receive in the community. The plan shall  
7 address the person's need, if any, for supervision,  
8 counseling, medication, community support services,  
9 residential services, vocational services, and alcohol or  
10 other drug abuse treatment. The Department may contract  
11 with a county health department, with another public agency  
12 or with a private agency to provide the treatment and  
13 services identified in the plan. The plan shall specify who  
14 will be responsible for providing the treatment and  
15 services identified in the plan. The plan shall be  
16 presented to the court for its approval within 60 days  
17 after the court finding that the person is appropriate for  
18 conditional release, unless the Department and the person  
19 to be released request additional time to develop the plan.  
20 The conditional release program operated under this  
21 Section is not subject to the provisions of the Mental  
22 Health and Developmental Disabilities Confidentiality Act.

23 (4) An order for conditional release places the person  
24 in the custody and control of the Department. A person on  
25 conditional release is subject to the conditions set by the  
26 court and to the rules of the Department. Before a person

1 is placed on conditional release by the court under this  
2 Section, the court shall so notify the municipal police  
3 department and county sheriff for the municipality and  
4 county in which the person will be residing. The  
5 notification requirement under this Section does not apply  
6 if a municipal police department or county sheriff submits  
7 to the court a written statement waiving the right to be  
8 notified. Notwithstanding any other provision in the Act,  
9 the person being supervised on conditional release shall  
10 not reside at the same street address as another sex  
11 offender being supervised on conditional release under  
12 this Act, mandatory supervised release, parole, probation,  
13 or any other manner of supervision. If the Department  
14 alleges that a released person has violated any condition  
15 or rule, or that the safety of others requires that  
16 conditional release be revoked, he or she may be taken into  
17 custody under the rules of the Department.

18 At any time during which the person is on conditional  
19 release, if the Department determines that the person has  
20 violated any condition or rule, or that the safety of  
21 others requires that conditional release be revoked, the  
22 Department may request the Attorney General or State's  
23 Attorney to request the court to issue an emergency ex  
24 parte order directing any law enforcement officer to take  
25 the person into custody and transport the person to the  
26 county jail. The Department may request, or the Attorney

1           General or State's Attorney may request independently of  
2           the Department, that a petition to revoke conditional  
3           release be filed. When a petition is filed, the court may  
4           order the Department to issue a notice to the person to be  
5           present at the Department or other agency designated by the  
6           court, order a summons to the person to be present, or  
7           order a body attachment for all law enforcement officers to  
8           take the person into custody and transport him or her to  
9           the county jail, hospital, or treatment facility. The  
10          Department shall submit a statement showing probable cause  
11          of the detention and a petition to revoke the order for  
12          conditional release to the committing court within 48 hours  
13          after the detention. The court shall hear the petition  
14          within 30 days, unless the hearing or time deadline is  
15          waived by the detained person. Pending the revocation  
16          hearing, the Department may detain the person in a jail, in  
17          a hospital or treatment facility. The State has the burden  
18          of proving by clear and convincing evidence that any rule  
19          or condition of release has been violated, or that the  
20          safety of others requires that the conditional release be  
21          revoked. If the court determines after hearing that any  
22          rule or condition of release has been violated, or that the  
23          safety of others requires that conditional release be  
24          revoked, it may revoke the order for conditional release  
25          and order that the released person be placed in an  
26          appropriate institution until the person is discharged



1 from the commitment under Section 65 of this Act or until  
2 again placed on conditional release under Section 60 of  
3 this Act.

4 (5) An order for conditional release places the person  
5 in the custody, care, and control of the Department. The  
6 court shall order the person be subject to the following  
7 rules of conditional release, in addition to any other  
8 conditions ordered, and the person shall be given a  
9 certificate setting forth the conditions of conditional  
10 release. These conditions shall be that the person:

11 (A) not violate any criminal statute of any  
12 jurisdiction;

13 (B) report to or appear in person before such  
14 person or agency as directed by the court and the  
15 Department;

16 (C) refrain from possession of a firearm or other  
17 dangerous weapon;

18 (D) not leave the State without the consent of the  
19 court or, in circumstances in which the reason for the  
20 absence is of such an emergency nature, that prior  
21 consent by the court is not possible without the prior  
22 notification and approval of the Department;

23 (E) at the direction of the Department, notify  
24 third parties of the risks that may be occasioned by  
25 his or her criminal record or sexual offending history  
26 or characteristics, and permit the supervising officer

1 or agent to make the notification requirement;

2 (F) attend and fully participate in assessment,  
3 treatment, and behavior monitoring including, but not  
4 limited to, medical, psychological or psychiatric  
5 treatment specific to sexual offending, drug  
6 addiction, or alcoholism, to the extent appropriate to  
7 the person based upon the recommendation and findings  
8 made in the Department evaluation or based upon any  
9 subsequent recommendations by the Department;

10 (G) waive confidentiality allowing the court and  
11 Department access to assessment or treatment results  
12 or both;

13 (H) work regularly at a Department approved  
14 occupation or pursue a course of study or vocational  
15 training and notify the Department within 72 hours of  
16 any change in employment, study, or training;

17 (I) not be employed or participate in any volunteer  
18 activity that involves contact with children, except  
19 under circumstances approved in advance and in writing  
20 by the Department officer;

21 (J) submit to the search of his or her person,  
22 residence, vehicle, or any personal or real property  
23 under his or her control at any time by the Department;

24 (K) financially support his or her dependents and  
25 provide the Department access to any requested  
26 financial information;

1           (L) serve a term of home confinement, the  
2 conditions of which shall be that the person:

3                 (i) remain within the interior premises of the  
4 place designated for his or her confinement during  
5 the hours designated by the Department;

6                 (ii) admit any person or agent designated by  
7 the Department into the offender's place of  
8 confinement at any time for purposes of verifying  
9 the person's compliance with the condition of his  
10 or her confinement;

11                (iii) if deemed necessary by the Department,  
12 be placed on an electronic monitoring device;

13           (M) comply with the terms and conditions of an  
14 order of protection issued by the court pursuant to the  
15 Illinois Domestic Violence Act of 1986. A copy of the  
16 order of protection shall be transmitted to the  
17 Department by the clerk of the court;

18           (N) refrain from entering into a designated  
19 geographic area except upon terms the Department finds  
20 appropriate. The terms may include consideration of  
21 the purpose of the entry, the time of day, others  
22 accompanying the person, and advance approval by the  
23 Department;

24           (O) refrain from having any contact, including  
25 written or oral communications, directly or  
26 indirectly, with certain specified persons including,

1 but not limited to, the victim or the victim's family,  
2 and report any incidental contact with the victim or  
3 the victim's family to the Department within 72 hours;  
4 refrain from entering onto the premises of, traveling  
5 past, or loitering near the victim's residence, place  
6 of employment, or other places frequented by the  
7 victim;

8 (P) refrain from having any contact, including  
9 written or oral communications, directly or  
10 indirectly, with particular types of persons,  
11 including but not limited to members of street gangs,  
12 drug users, drug dealers, or prostitutes;

13 (Q) refrain from all contact, direct or indirect,  
14 personally, by telephone, letter, or through another  
15 person, with minor children without prior  
16 identification and approval of the Department;

17 (R) refrain from having in his or her body the  
18 presence of alcohol or any illicit drug prohibited by  
19 the Cannabis Control Act, the Illinois Controlled  
20 Substances Act, or the Methamphetamine Control and  
21 Community Protection Act, unless prescribed by a  
22 physician, and submit samples of his or her breath,  
23 saliva, blood, or urine for tests to determine the  
24 presence of alcohol or any illicit drug;

25 (S) not establish a dating, intimate, or sexual  
26 relationship with a person without prior written

1 notification to the Department;

2 (T) neither possess or have under his or her  
3 control any material that is pornographic, sexually  
4 oriented, or sexually stimulating, or that depicts or  
5 alludes to sexual activity or depicts minors under the  
6 age of 18, including but not limited to visual,  
7 auditory, telephonic, electronic media, or any matter  
8 obtained through access to any computer or material  
9 linked to computer access use;

10 (U) not patronize any business providing sexually  
11 stimulating or sexually oriented entertainment nor  
12 utilize "900" or adult telephone numbers or any other  
13 sex-related telephone numbers;

14 (V) not reside near, visit, or be in or about  
15 parks, schools, day care centers, swimming pools,  
16 beaches, theaters, or any other places where minor  
17 children congregate without advance approval of the  
18 Department and report any incidental contact with  
19 minor children to the Department within 72 hours;

20 (W) not establish any living arrangement or  
21 residence without prior approval of the Department;

22 (X) not publish any materials or print any  
23 advertisements without providing a copy of the  
24 proposed publications to the Department officer and  
25 obtaining permission prior to publication;

26 (Y) not leave the county except with prior

1 permission of the Department and provide the  
2 Department officer or agent with written travel routes  
3 to and from work and any other designated destinations;

4 (Z) not possess or have under his or her control  
5 certain specified items of contraband related to the  
6 incidence of sexually offending items including video  
7 or still camera items or children's toys;

8 (AA) provide a written daily log of activities as  
9 directed by the Department;

10 (BB) comply with all other special conditions that  
11 the Department may impose that restrict the person from  
12 high-risk situations and limit access or potential  
13 victims.

14 (6) A person placed on conditional release and who  
15 during the term undergoes mandatory drug or alcohol testing  
16 or is assigned to be placed on an approved electronic  
17 monitoring device may be ordered to pay all costs  
18 incidental to the mandatory drug or alcohol testing and all  
19 costs incidental to the approved electronic monitoring in  
20 accordance with the person's ability to pay those costs.  
21 The Department may establish reasonable fees for the cost  
22 of maintenance, testing, and incidental expenses related  
23 to the mandatory drug or alcohol testing and all costs  
24 incidental to approved electronic monitoring.

25 (Source: P.A. 93-616, eff. 1-1-04; 94-556, eff. 9-11-05.)

1 (725 ILCS 207/60)

2 Sec. 60. Petition for conditional release.

3 (a) Any person who is committed for institutional care in a  
4 secure facility or other facility under Section 40 of this Act  
5 may petition the committing court to modify its order by  
6 authorizing conditional release if at least 6 months have  
7 elapsed since the initial commitment order was entered, an  
8 order continuing commitment was entered pursuant to Section 65,  
9 the most recent release petition was denied or the most recent  
10 order for conditional release was revoked. The director of the  
11 facility at which the person is placed may file a petition  
12 under this Section on the person's behalf at any time. If the  
13 evaluator on behalf of the Department recommends that the  
14 committed person is appropriate for conditional release, then  
15 the director shall, within 30 days of receipt of the  
16 evaluator's report, file with the committing court notice of  
17 his or her intention to petition for conditional release on the  
18 committed person's behalf.

19 (b) If the person files a timely petition without counsel,  
20 the court shall serve a copy of the petition on the Attorney  
21 General or State's Attorney, whichever is applicable and,  
22 subject to paragraph (c)(1) of Section 25 of this Act, appoint  
23 counsel. If the person petitions through counsel, his or her  
24 attorney shall serve the Attorney General or State's Attorney,  
25 whichever is applicable.

26 (c) Within 20 days after receipt of the petition, upon the

1 request of the committed person or on the court's own motion,  
2 the court may ~~shall~~ appoint an examiner ~~one or more examiners~~  
3 having the specialized knowledge determined by the court to be  
4 appropriate, who shall examine the mental condition of the  
5 person and furnish a written report of the examination to the  
6 court within 30 days after appointment. The examiners shall  
7 have reasonable access to the person for purposes of  
8 examination and to the person's past and present treatment  
9 records and patient health care records. If any such examiner  
10 believes that the person is appropriate for conditional  
11 release, the examiner shall report on the type of treatment and  
12 services that the person may need while in the community on  
13 conditional release. The State has the right to have the person  
14 evaluated by experts chosen by the State. Any examination or  
15 evaluation conducted under this Section shall be in conformance  
16 with the standards developed under the Sex Offender Management  
17 Board Act and conducted by an evaluator approved by the Board.  
18 The court shall set a probable cause hearing as soon as  
19 practical after the examiners' reports are ~~examiner's report is~~  
20 filed. The probable cause hearing shall consist of a review of  
21 the examining evaluators' reports and arguments on behalf of  
22 the parties. If the court determines at the probable cause  
23 hearing that cause exists to believe that it is not  
24 substantially probable that the person will engage in acts of  
25 sexual violence if on release or conditional release, the court  
26 shall set a hearing on the issue.



1 (d) The court, without a jury, shall hear the petition as  
2 soon as practical ~~within 30 days~~ after the reports ~~report~~ of  
3 all examiners are ~~the court appointed examiner is~~ filed with  
4 the court, ~~unless the petitioner waives this time limit.~~ The  
5 court shall grant the petition unless the State proves by clear  
6 and convincing evidence that the person has not made sufficient  
7 progress to be conditionally released. In making a decision  
8 under this subsection, the court must consider the nature and  
9 circumstances of the behavior that was the basis of the  
10 allegation in the petition under paragraph (b) (1) of Section 15  
11 of this Act, the person's mental history and present mental  
12 condition, ~~where the person will live, how the person will~~  
13 ~~support himself or herself~~ and what arrangements are available  
14 to ensure that the person has access to and will participate in  
15 necessary treatment.

16 (e) Before the court may enter an order directing  
17 conditional release to a less restrictive alternative it must  
18 find the following: (1) the person will be treated by a  
19 Department approved treatment provider, (2) the treatment  
20 provider has presented a specific course of treatment and has  
21 agreed to assume responsibility for the treatment and will  
22 report progress to the Department on a regular basis, and will  
23 report violations immediately to the Department, consistent  
24 with treatment and supervision needs of the respondent, (3)  
25 housing exists that is sufficiently secure to protect the  
26 community, and the person or agency providing housing to the

1 conditionally released person has agreed in writing to accept  
2 the person, to provide the level of security required by the  
3 court, and immediately to report to the Department if the  
4 person leaves the housing to which he or she has been assigned  
5 without authorization, (4) the person is willing to or has  
6 agreed to comply with the treatment provider, the Department,  
7 and the court, and (5) the person has agreed or is willing to  
8 agree to comply with the behavioral monitoring requirements  
9 imposed by the court and the Department.

10 (f) If the court finds that the person is appropriate for  
11 conditional release, the court shall notify the Department. The  
12 Department shall prepare a plan that identifies the treatment  
13 and services, if any, that the person will receive in the  
14 community. The plan shall address the person's need, if any,  
15 for supervision, counseling, medication, community support  
16 services, residential services, vocational services, and  
17 alcohol or other drug abuse treatment. The Department may  
18 contract with a county health department, with another public  
19 agency or with a private agency to provide the treatment and  
20 services identified in the plan. The plan shall specify who  
21 will be responsible for providing the treatment and services  
22 identified in the plan. The plan shall be presented to the  
23 court for its approval within 60 days after the court finding  
24 that the person is appropriate for conditional release, unless  
25 the Department and the person to be released request additional  
26 time to develop the plan.

1 (g) The provisions of paragraphs (b) (4), (b) (5), and (b) (6)  
2 of Section 40 of this Act apply to an order for conditional  
3 release issued under this Section.

4 (Source: P.A. 92-415, eff. 8-17-01; 93-616, eff. 1-1-04;  
5 93-885, eff. 8-6-04.)

6 (725 ILCS 207/65)

7 Sec. 65. Petition for discharge; procedure.

8 (a) (1) If the Secretary determines at any time that a  
9 person committed under this Act is no longer a sexually violent  
10 person, the Secretary shall authorize the person to petition  
11 the committing court for discharge. If the evaluator on behalf  
12 of the Department recommends that the committed person is no  
13 longer a sexually violent person, then the Secretary shall,  
14 within 30 days of receipt of the evaluator's report, file with  
15 the committing court notice of his or her determination to  
16 authorize the committed person to petition the committing court  
17 for discharge. The person shall file the petition with the  
18 court and serve a copy upon the Attorney General or the State's  
19 Attorney's office that filed the petition under subsection (a)  
20 of Section 15 of this Act, whichever is applicable. The court,  
21 upon receipt of the petition for discharge, shall order a  
22 hearing to be held as soon as practical ~~within 45 days~~ after  
23 the date of receipt of the petition.

24 (2) At a hearing under this subsection, the Attorney  
25 General or State's Attorney, whichever filed the original

1 petition, shall represent the State and shall have the right to  
2 have the petitioner examined by an expert or professional  
3 person of his or her choice. The examination shall be conducted  
4 in conformance with the standards developed under the Sex  
5 Offender Management Board Act and by an evaluator approved by  
6 the Board. The committed person or the State may elect to have  
7 the hearing before a jury. The State has the burden of proving  
8 by clear and convincing evidence that the petitioner is still a  
9 sexually violent person.

10 (3) If the court or jury is satisfied that the State has  
11 not met its burden of proof under paragraph (a)(2) of this  
12 Section, the petitioner shall be discharged from the custody or  
13 supervision of the Department. If the court is satisfied that  
14 the State has met its burden of proof under paragraph (a)(2),  
15 the court may proceed under Section 40 of this Act to determine  
16 whether to modify the petitioner's existing commitment order.

17 (b)(1) A person may petition the committing court for  
18 discharge from custody or supervision without the Secretary's  
19 approval. At the time of an examination under subsection (a) of  
20 Section 55 of this Act, the Secretary shall provide the  
21 committed person with a written notice of the person's right to  
22 petition the court for discharge over the Secretary's  
23 objection. The notice shall contain a waiver of rights. The  
24 Secretary shall forward the notice and waiver form to the court  
25 with the report of the Department's examination under Section  
26 55 of this Act. If the person does not affirmatively waive the

1 right to petition, the court shall set a probable cause hearing  
2 to determine whether facts exist that warrant a hearing on  
3 whether the person is still a sexually violent person. If a  
4 person does not file a petition for discharge, yet fails to  
5 waive the right to petition under this Section, then the  
6 probable cause hearing consists only of a review of the  
7 reexamination reports and arguments on behalf of the parties.  
8 The committed person has a right to have an attorney represent  
9 him or her at the probable cause hearing, but the person is not  
10 entitled to be present at the probable cause hearing. The  
11 probable cause hearing under this Section must be held as soon  
12 as practical after ~~within 45 days of~~ the filing of the  
13 reexamination report under Section 55 of this Act.

14 (2) If the court determines at the probable cause hearing  
15 under paragraph (b)(1) of this Section that probable cause  
16 exists to believe that the committed person is no longer a  
17 sexually violent person, then the court shall set a hearing on  
18 the issue. At a hearing under this Section, the committed  
19 person is entitled to be present and to the benefit of the  
20 protections afforded to the person under Section 25 of this  
21 Act. The committed person or the State may elect to have a  
22 hearing under this Section before a jury. A verdict of a jury  
23 under this Section is not valid unless it is unanimous. The  
24 Attorney General or State's Attorney, whichever filed the  
25 original petition, shall represent the State at a hearing under  
26 this Section. The State has the right to have the committed

1 person evaluated by experts chosen by the State. The  
2 examination shall be conducted in conformance with the  
3 standards developed under the Sex Offender Management Board Act  
4 and by an evaluator approved by the Board. At the hearing, the  
5 State has the burden of proving by clear and convincing  
6 evidence that the committed person is still a sexually violent  
7 person.

8 (3) If the court or jury is satisfied that the State has  
9 not met its burden of proof under paragraph (b)(2) of this  
10 Section, the person shall be discharged from the custody or  
11 supervision of the Department. If the court or jury is  
12 satisfied that the State has met its burden of proof under  
13 paragraph (b)(2) of this Section, the court may proceed under  
14 Section 40 of this Act to determine whether to modify the  
15 person's existing commitment order.

16 (Source: P.A. 92-415, eff. 8-17-01; 93-616, eff. 1-1-04.)

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

19 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

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

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

1           (2) The rules and regulations on early release shall  
2 provide, with respect to offenses listed in clause (i),  
3 (ii), or (iii) of this paragraph (2) committed on or after  
4 June 19, 1998 or with respect to the offense listed in  
5 clause (iv) of this paragraph (2) committed on or after  
6 June 23, 2005 (the effective date of Public Act 94-71) or  
7 with respect to offense listed in clause (vi) committed on  
8 or after June 1, 2008 (the effective date of Public Act  
9 95-625) or with respect to the offense of being an armed  
10 habitual criminal committed on or after August 2, 2005 (the  
11 effective date of Public Act 94-398) or with respect to the  
12 offenses listed in clause (v) of this paragraph (2)  
13 committed on or after August 13, 2007 (the effective date  
14 of Public Act 95-134), the following:

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

19           (ii) that a prisoner serving a sentence for attempt  
20 to commit first degree murder, solicitation of murder,  
21 solicitation of murder for hire, intentional homicide  
22 of an unborn child, predatory criminal sexual assault  
23 of a child, aggravated criminal sexual assault,  
24 criminal sexual assault, aggravated kidnapping,  
25 aggravated battery with a firearm, heinous battery,  
26 being an armed habitual criminal, aggravated battery

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

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

16 (iv) that a prisoner serving a sentence for  
17 aggravated discharge of a firearm, whether or not the  
18 conduct leading to conviction for the offense resulted  
19 in great bodily harm to the victim, shall receive no  
20 more than 4.5 days of good conduct credit for each  
21 month of his or her sentence of imprisonment;

22 (v) that a person serving a sentence for  
23 gunrunning, narcotics racketeering, controlled  
24 substance trafficking, methamphetamine trafficking,  
25 drug-induced homicide, aggravated  
26 methamphetamine-related child endangerment, money



1           laundering pursuant to clause (c) (4) or (5) of Section  
2           29B-1 of the Criminal Code of 1961, or a Class X felony  
3           conviction for delivery of a controlled substance,  
4           possession of a controlled substance with intent to  
5           manufacture or deliver, calculated criminal drug  
6           conspiracy, criminal drug conspiracy, street gang  
7           criminal drug conspiracy, participation in  
8           methamphetamine manufacturing, aggravated  
9           participation in methamphetamine manufacturing,  
10          delivery of methamphetamine, possession with intent to  
11          deliver methamphetamine, aggravated delivery of  
12          methamphetamine, aggravated possession with intent to  
13          deliver methamphetamine, methamphetamine conspiracy  
14          when the substance containing the controlled substance  
15          or methamphetamine is 100 grams or more shall receive  
16          no more than 7.5 days good conduct credit for each  
17          month of his or her sentence of imprisonment; and

18                 (vi) that a prisoner serving a sentence for a  
19                 second or subsequent offense of luring a minor shall  
20                 receive no more than 4.5 days of good conduct credit  
21                 for each month of his or her sentence of imprisonment.

22                 (2.1) For all offenses, other than those enumerated in  
23                 subdivision (a) (2) (i), (ii), or (iii) committed on or after  
24                 June 19, 1998 or subdivision (a) (2) (iv) committed on or  
25                 after June 23, 2005 (the effective date of Public Act  
26                 94-71) or subdivision (a) (2) (v) committed on or after

1 August 13, 2007 (the effective date of Public Act 95-134)  
2 or subdivision (a)(2)(vi) committed on or after June 1,  
3 2008 (the effective date of Public Act 95-625), and other  
4 than the offense of reckless homicide as defined in  
5 subsection (e) of Section 9-3 of the Criminal Code of 1961  
6 committed on or after January 1, 1999, or aggravated  
7 driving under the influence of alcohol, other drug or  
8 drugs, or intoxicating compound or compounds, or any  
9 combination thereof as defined in subparagraph (F) of  
10 paragraph (1) of subsection (d) of Section 11-501 of the  
11 Illinois Vehicle Code, the rules and regulations shall  
12 provide that a prisoner who is serving a term of  
13 imprisonment shall receive one day of good conduct credit  
14 for each day of his or her sentence of imprisonment or  
15 recommitment under Section 3-3-9. Each day of good conduct  
16 credit shall reduce by one day the prisoner's period of  
17 imprisonment or recommitment under Section 3-3-9.

18 (2.2) A prisoner serving a term of natural life  
19 imprisonment or a prisoner who has been sentenced to death  
20 shall receive no good conduct credit.

21 (2.3) The rules and regulations on early release shall  
22 provide that a prisoner who is serving a sentence for  
23 reckless homicide as defined in subsection (e) of Section  
24 9-3 of the Criminal Code of 1961 committed on or after  
25 January 1, 1999, or aggravated driving under the influence  
26 of alcohol, other drug or drugs, or intoxicating compound

1 or compounds, or any combination thereof as defined in  
2 subparagraph (F) of paragraph (1) of subsection (d) of  
3 Section 11-501 of the Illinois Vehicle Code, shall receive  
4 no more than 4.5 days of good conduct credit for each month  
5 of his or her sentence of imprisonment.

6 (2.4) The rules and regulations on early release shall  
7 provide with respect to the offenses of aggravated battery  
8 with a machine gun or a firearm equipped with any device or  
9 attachment designed or used for silencing the report of a  
10 firearm or aggravated discharge of a machine gun or a  
11 firearm equipped with any device or attachment designed or  
12 used for silencing the report of a firearm, committed on or  
13 after July 15, 1999 (the effective date of Public Act  
14 91-121), that a prisoner serving a sentence for any of  
15 these offenses shall receive no more than 4.5 days of good  
16 conduct credit for each month of his or her sentence of  
17 imprisonment.

18 (2.5) The rules and regulations on early release shall  
19 provide that a prisoner who is serving a sentence for  
20 aggravated arson committed on or after July 27, 2001 (the  
21 effective date of Public Act 92-176) shall receive no more  
22 than 4.5 days of good conduct credit for each month of his  
23 or her sentence of imprisonment.

24 (3) The rules and regulations shall also provide that  
25 the Director may award up to 180 days additional good  
26 conduct credit for meritorious service in specific

1 instances as the Director deems proper; except that no more  
2 than 90 days of good conduct credit for meritorious service  
3 shall be awarded to any prisoner who is serving a sentence  
4 for conviction of first degree murder, reckless homicide  
5 while under the influence of alcohol or any other drug, or  
6 aggravated driving under the influence of alcohol, other  
7 drug or drugs, or intoxicating compound or compounds, or  
8 any combination thereof as defined in subparagraph (F) of  
9 paragraph (1) of subsection (d) of Section 11-501 of the  
10 Illinois Vehicle Code, aggravated kidnapping, kidnapping,  
11 predatory criminal sexual assault of a child, aggravated  
12 criminal sexual assault, criminal sexual assault, deviate  
13 sexual assault, aggravated criminal sexual abuse,  
14 aggravated indecent liberties with a child, indecent  
15 liberties with a child, child pornography, heinous  
16 battery, aggravated battery of a spouse, aggravated  
17 battery of a spouse with a firearm, stalking, aggravated  
18 stalking, aggravated battery of a child, endangering the  
19 life or health of a child, or cruelty to a child.  
20 Notwithstanding the foregoing, good conduct credit for  
21 meritorious service shall not be awarded on a sentence of  
22 imprisonment imposed for conviction of: (i) one of the  
23 offenses enumerated in subdivision (a)(2)(i), (ii), or  
24 (iii) when the offense is committed on or after June 19,  
25 1998 or subdivision (a)(2)(iv) when the offense is  
26 committed on or after June 23, 2005 (the effective date of

1 Public Act 94-71) or subdivision (a) (2) (v) when the offense  
2 is committed on or after August 13, 2007 (the effective  
3 date of Public Act 95-134) or subdivision (a) (2) (vi) when  
4 the offense is committed on or after June 1, 2008 (the  
5 effective date of Public Act 95-625), (ii) reckless  
6 homicide as defined in subsection (e) of Section 9-3 of the  
7 Criminal Code of 1961 when the offense is committed on or  
8 after January 1, 1999, or aggravated driving under the  
9 influence of alcohol, other drug or drugs, or intoxicating  
10 compound or compounds, or any combination thereof as  
11 defined in subparagraph (F) of paragraph (1) of subsection  
12 (d) of Section 11-501 of the Illinois Vehicle Code, (iii)  
13 one of the offenses enumerated in subdivision (a) (2.4) when  
14 the offense is committed on or after July 15, 1999 (the  
15 effective date of Public Act 91-121), ~~or~~ (iv) aggravated  
16 arson when the offense is committed on or after July 27,  
17 2001 (the effective date of Public Act 92-176), or (v)  
18 offenses that may subject the offender to commitment under  
19 the Sexually Violent Persons Commitment Act.

20 The Director shall not award good conduct credit for  
21 meritorious service under this paragraph (3) to an inmate  
22 unless the inmate has served a minimum of 60 days of the  
23 sentence; except nothing in this paragraph shall be  
24 construed to permit the Director to extend an inmate's  
25 sentence beyond that which was imposed by the court. Prior  
26 to awarding credit under this paragraph (3), the Director

1 shall make a written determination that the inmate:

2 (A) is eligible for good conduct credit for  
3 meritorious service;

4 (B) has served a minimum of 60 days, or as close to  
5 60 days as the sentence will allow; and

6 (C) has met the eligibility criteria established  
7 by rule.

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

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

1 19, 1998 or subdivision (a) (2) (iv) of this Section that is  
2 committed on or after June 23, 2005 (the effective date of  
3 Public Act 94-71) or subdivision (a) (2) (v) of this Section  
4 that is committed on or after August 13, 2007 (the  
5 effective date of Public Act 95-134) or subdivision  
6 (a) (2) (vi) when the offense is committed on or after June  
7 1, 2008 (the effective date of Public Act 95-625), or if  
8 convicted of reckless homicide as defined in subsection (e)  
9 of Section 9-3 of the Criminal Code of 1961 if the offense  
10 is committed on or after January 1, 1999, or aggravated  
11 driving under the influence of alcohol, other drug or  
12 drugs, or intoxicating compound or compounds, or any  
13 combination thereof as defined in subparagraph (F) of  
14 paragraph (1) of subsection (d) of Section 11-501 of the  
15 Illinois Vehicle Code, or if convicted of an offense  
16 enumerated in paragraph (a) (2.4) of this Section that is  
17 committed on or after July 15, 1999 (the effective date of  
18 Public Act 91-121), or first degree murder, a Class X  
19 felony, criminal sexual assault, felony criminal sexual  
20 abuse, aggravated criminal sexual abuse, aggravated  
21 battery with a firearm, or any predecessor or successor  
22 offenses with the same or substantially the same elements,  
23 or any inchoate offenses relating to the foregoing  
24 offenses. No inmate shall be eligible for the additional  
25 good conduct credit under this paragraph (4) who (i) has  
26 previously received increased good conduct credit under

1           this paragraph (4) and has subsequently been convicted of a  
2           felony, or (ii) has previously served more than one prior  
3           sentence of imprisonment for a felony in an adult  
4           correctional facility.

5           Educational, vocational, substance abuse and  
6           correctional industry programs under which good conduct  
7           credit may be increased under this paragraph (4) and  
8           paragraph (4.1) of this subsection (a) shall be evaluated  
9           by the Department on the basis of documented standards. The  
10          Department shall report the results of these evaluations to  
11          the Governor and the General Assembly by September 30th of  
12          each year. The reports shall include data relating to the  
13          recidivism rate among program participants.

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

26                 (4.1) The rules and regulations shall also provide that



1 an additional 60 days of good conduct credit shall be  
2 awarded to any prisoner who passes the high school level  
3 Test of General Educational Development (GED) while the  
4 prisoner is incarcerated. The good conduct credit awarded  
5 under this paragraph (4.1) shall be in addition to, and  
6 shall not affect, the award of good conduct under any other  
7 paragraph of this Section, but shall also be pursuant to  
8 the guidelines and restrictions set forth in paragraph (4)  
9 of subsection (a) of this Section. The good conduct credit  
10 provided for in this paragraph shall be available only to  
11 those prisoners who have not previously earned a high  
12 school diploma or a GED. If, after an award of the GED good  
13 conduct credit has been made and the Department determines  
14 that the prisoner was not eligible, then the award shall be  
15 revoked.

16 (4.5) The rules and regulations on early release shall  
17 also provide that when the court's sentencing order  
18 recommends a prisoner for substance abuse treatment and the  
19 crime was committed on or after September 1, 2003 (the  
20 effective date of Public Act 93-354), the prisoner shall  
21 receive no good conduct credit awarded under clause (3) of  
22 this subsection (a) unless he or she participates in and  
23 completes a substance abuse treatment program. The  
24 Director may waive the requirement to participate in or  
25 complete a substance abuse treatment program and award the  
26 good conduct credit in specific instances if the prisoner

1 is not a good candidate for a substance abuse treatment  
2 program for medical, programming, or operational reasons.  
3 Availability of substance abuse treatment shall be subject  
4 to the limits of fiscal resources appropriated by the  
5 General Assembly for these purposes. If treatment is not  
6 available and the requirement to participate and complete  
7 the treatment has not been waived by the Director, the  
8 prisoner shall be placed on a waiting list under criteria  
9 established by the Department. The Director may allow a  
10 prisoner placed on a waiting list to participate in and  
11 complete a substance abuse education class or attend  
12 substance abuse self-help meetings in lieu of a substance  
13 abuse treatment program. A prisoner on a waiting list who  
14 is not placed in a substance abuse program prior to release  
15 may be eligible for a waiver and receive good conduct  
16 credit under clause (3) of this subsection (a) at the  
17 discretion of the Director.

18 (4.6) The rules and regulations on early release shall  
19 also provide that a prisoner who has been convicted of a  
20 sex offense as defined in Section 2 of the Sex Offender  
21 Registration Act shall receive no good conduct credit  
22 unless he or she either has successfully completed or is  
23 participating in sex offender treatment as defined by the  
24 Sex Offender Management Board. However, prisoners who are  
25 waiting to receive such treatment, but who are unable to do  
26 so due solely to the lack of resources on the part of the

1 Department, may, at the Director's sole discretion, be  
2 awarded good conduct credit at such rate as the Director  
3 shall determine.

4 (5) Whenever the Department is to release any inmate  
5 earlier than it otherwise would because of a grant of good  
6 conduct credit for meritorious service given at any time  
7 during the term, the Department shall give reasonable  
8 notice of the impending release not less than 14 days prior  
9 to the date of the release to the State's Attorney of the  
10 county where the prosecution of the inmate took place, and  
11 if applicable, the State's Attorney of the county into  
12 which the inmate will be released.

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

17 (c) The Department shall prescribe rules and regulations  
18 for revoking good conduct credit, or suspending or reducing the  
19 rate of accumulation of good conduct credit for specific rule  
20 violations, during imprisonment. These rules and regulations  
21 shall provide that no inmate may be penalized more than one  
22 year of good conduct credit for any one infraction.

23 When the Department seeks to revoke, suspend or reduce the  
24 rate of accumulation of any good conduct credits for an alleged  
25 infraction of its rules, it shall bring charges therefor  
26 against the prisoner sought to be so deprived of good conduct

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

16 The Director of the Department of Corrections, in  
17 appropriate cases, may restore up to 30 days good conduct  
18 credits which have been revoked, suspended or reduced. Any  
19 restoration of good conduct credits in excess of 30 days shall  
20 be subject to review by the Prisoner Review Board. However, the  
21 Board may not restore good conduct credit in excess of the  
22 amount requested by the Director.

23 Nothing contained in this Section shall prohibit the  
24 Prisoner Review Board from ordering, pursuant to Section  
25 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the  
26 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

1 contentions therein are not warranted by existing law  
2 or by a nonfrivolous argument for the extension,  
3 modification, or reversal of existing law or the  
4 establishment of new law;

5 (D) the allegations and other factual contentions  
6 do not have evidentiary support or, if specifically so  
7 identified, are not likely to have evidentiary support  
8 after a reasonable opportunity for further  
9 investigation or discovery; or

10 (E) the denials of factual contentions are not  
11 warranted on the evidence, or if specifically so  
12 identified, are not reasonably based on a lack of  
13 information or belief.

14 (2) "Lawsuit" means a motion pursuant to Section 116-3  
15 of the Code of Criminal Procedure of 1963, a habeas corpus  
16 action under Article X of the Code of Civil Procedure or  
17 under federal law (28 U.S.C. 2254), a petition for claim  
18 under the Court of Claims Act, an action under the federal  
19 Civil Rights Act (42 U.S.C. 1983), or a second or  
20 subsequent petition for post-conviction relief under  
21 Article 122 of the Code of Criminal Procedure of 1963  
22 whether filed with or without leave of court or a second or  
23 subsequent petition for relief from judgment under Section  
24 2-1401 of the Code of Civil Procedure.

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

1           (f) Whenever the Department is to release any inmate who  
2 has been convicted of a violation of an order of protection  
3 under Section 12-30 of the Criminal Code of 1961, earlier than  
4 it otherwise would because of a grant of good conduct credit,  
5 the Department, as a condition of such early release, shall  
6 require that the person, upon release, be placed under  
7 electronic surveillance as provided in Section 5-8A-7 of this  
8 Code.

9           (Source: P.A. 95-134, eff. 8-13-07; 95-585, eff. 6-1-08;  
10 95-625, eff. 6-1-08; 95-640, eff. 6-1-08; 95-773, eff. 1-1-09;  
11 95-876, eff. 8-21-08; 96-860, eff. 1-15-10.)

1 INDEX

2 Statutes amended in order of appearance

3 725 ILCS 207/15

4 725 ILCS 207/25

5 725 ILCS 207/30

6 725 ILCS 207/40

7 725 ILCS 207/60

8 725 ILCS 207/65

9 730 ILCS 5/3-6-3 from Ch. 38, par. 1003-6-3