

# SB1561



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB1561

Introduced 2/9/2011, by Sen. Kirk W. Dillard

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-3

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

Amends the Unified Code of Corrections. Defines "meritorious service" in regards to the Director of Corrections' authority to award additional good conduct credit for meritorious service in specific instances. Effective immediately.

LRB097 07080 RLC 47173 b

A BILL FOR

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 offense listed in clause (vi) committed on  
19 or after June 1, 2008 (the effective date of Public Act  
20 95-625) or with respect to the offense of being an armed  
21 habitual criminal committed on or after August 2, 2005 (the  
22 effective date of Public Act 94-398) or with respect to the  
23 offenses listed in clause (v) of this paragraph (2)

1 committed on or after August 13, 2007 (the effective date  
2 of Public Act 95-134) or with respect to the offense of  
3 aggravated domestic battery committed on or after July 23,  
4 2010 (the effective date of Public Act 96-1224) ~~this~~  
5 ~~amendatory Act of the 96th General Assembly~~, the following:

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

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

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

1           pursuant to subsection (c-1) of Section 5-4-1 of this  
2           Code, that the conduct leading to conviction for the  
3           enumerated offense resulted in great bodily harm to a  
4           victim, 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           (iv) that a prisoner serving a sentence for  
8           aggravated discharge of a firearm, whether or not the  
9           conduct leading to conviction for the offense resulted  
10          in great bodily harm to the victim, 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          (v) that a person serving a sentence for  
14          gunrunning, narcotics racketeering, controlled  
15          substance trafficking, methamphetamine trafficking,  
16          drug-induced homicide, aggravated  
17          methamphetamine-related child endangerment, money  
18          laundering pursuant to clause (c) (4) or (5) of Section  
19          29B-1 of the Criminal Code of 1961, or a Class X felony  
20          conviction for delivery of a controlled substance,  
21          possession of a controlled substance with intent to  
22          manufacture or deliver, calculated criminal drug  
23          conspiracy, criminal drug conspiracy, street gang  
24          criminal drug conspiracy, participation in  
25          methamphetamine manufacturing, aggravated  
26          participation in methamphetamine manufacturing,

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

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

14 (vii) that a prisoner serving a sentence for  
15 aggravated domestic battery shall receive no more than  
16 4.5 days of good conduct credit for each month of his  
17 or her sentence of imprisonment.

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

1        (the effective date of Public Act 96-1224) ~~this amendatory~~  
2        ~~Act of the 96th General Assembly,~~ and other than the  
3        offense of aggravated driving under the influence of  
4        alcohol, other drug or drugs, or intoxicating compound or  
5        compounds, or any combination thereof as defined in  
6        subparagraph (F) of paragraph (1) of subsection (d) of  
7        Section 11-501 of the Illinois Vehicle Code, and other than  
8        the offense of aggravated driving under the influence of  
9        alcohol, other drug or drugs, or intoxicating compound or  
10       compounds, or any combination thereof as defined in  
11       subparagraph (C) of paragraph (1) of subsection (d) of  
12       Section 11-501 of the Illinois Vehicle Code committed on or  
13       after January 1, 2011 (the effective date of Public Act  
14       96-1230) ~~this amendatory Act of the 96th General Assembly,~~  
15       the rules and regulations shall provide that a prisoner who  
16       is serving a term of imprisonment shall receive one day of  
17       good conduct credit for each day of his or her sentence of  
18       imprisonment or recommitment under Section 3-3-9. Each day  
19       of good conduct credit shall reduce by one day the  
20       prisoner's period of imprisonment or recommitment under  
21       Section 3-3-9.

22            (2.2) A prisoner serving a term of natural life  
23       imprisonment or a prisoner who has been sentenced to death  
24       shall receive no good conduct credit.

25            (2.3) The rules and regulations on early release shall  
26       provide that a prisoner who is serving a sentence for

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

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

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

26          (2.6) The rules and regulations on early release shall

1 provide that a prisoner who is serving a sentence for  
2 aggravated driving under the influence of alcohol, other  
3 drug or drugs, or intoxicating compound or compounds, or  
4 any combination thereof as defined in subparagraph (C) of  
5 paragraph (1) of subsection (d) of Section 11-501 of the  
6 Illinois Vehicle Code committed on or after January 1, 2011  
7 (the effective date of Public Act 96-1230) ~~this amendatory~~  
8 ~~Act of the 96th General Assembly,~~ shall receive no more  
9 than 4.5 days of good conduct credit for each month of his  
10 or her sentence of imprisonment.

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



1 aggravated indecent liberties with a child, indecent  
2 liberties with a child, child pornography, heinous  
3 battery, aggravated battery of a spouse, aggravated  
4 battery of a spouse with a firearm, stalking, aggravated  
5 stalking, aggravated battery of a child, endangering the  
6 life or health of a child, or cruelty to a child.  
7 Notwithstanding the foregoing, good conduct credit for  
8 meritorious service shall not be awarded on a sentence of  
9 imprisonment imposed for conviction of: (i) one of the  
10 offenses enumerated in subdivision (a)(2)(i), (ii), or  
11 (iii) when the offense is committed on or after June 19,  
12 1998 or subdivision (a)(2)(iv) when the offense is  
13 committed on or after June 23, 2005 (the effective date of  
14 Public Act 94-71) or subdivision (a)(2)(v) when the offense  
15 is committed on or after August 13, 2007 (the effective  
16 date of Public Act 95-134) or subdivision (a)(2)(vi) when  
17 the offense is committed on or after June 1, 2008 (the  
18 effective date of Public Act 95-625) or subdivision  
19 (a)(2)(vii) when the offense is committed on or after July  
20 23, 2010 (the effective date of Public Act 96-1224) ~~this~~  
21 ~~amendatory Act of the 96th General Assembly~~, (ii)  
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, (iii) one of the offenses enumerated

1 in subdivision (a) (2.4) when the offense is committed on or  
2 after July 15, 1999 (the effective date of Public Act  
3 91-121), (iv) aggravated arson when the offense is  
4 committed on or after July 27, 2001 (the effective date of  
5 Public Act 92-176), ~~or~~ (v) offenses that may subject the  
6 offender to commitment under the Sexually Violent Persons  
7 Commitment Act, or (vi) ~~(v)~~ aggravated driving under the  
8 influence of alcohol, other drug or drugs, or intoxicating  
9 compound or compounds, or any combination thereof as  
10 defined in subparagraph (C) of paragraph (1) of subsection  
11 (d) of Section 11-501 of the Illinois Vehicle Code  
12 committed on or after January 1, 2011 (the effective date  
13 of Public Act 96-1230) ~~this amendatory Act of the 96th~~  
14 ~~General Assembly.~~

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

23 (A) is eligible for good conduct credit for  
24 meritorious service;

25 (B) has served a minimum of 60 days, or as close to  
26 60 days as the sentence will allow; and

1 (C) has met the eligibility criteria established  
2 by rule.

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

5 For the purposes of this paragraph (3), "meritorious  
6 service" means service or conduct by the committed person  
7 while in the custody of the Department of Corrections,  
8 including but not limited to:

9 (A) The committed person took beneficial action  
10 in:

11 (1) saving the life of or preventing bodily  
12 harm to an employee or other committed person;

13 (2) performing heroic service during a flood,  
14 tornado, fire, or other disaster;

15 (3) volunteering for an exceptionally  
16 hazardous or dangerous assignment; or

17 (4) assisting in maintaining order or control  
18 during a general disturbance.

19 (B) The committed person demonstrated a strong  
20 desire for rehabilitation by:

21 (1) satisfactory participation in an  
22 educational or rehabilitative program;

23 (2) attaining documented achievements; or

24 (3) satisfactory job performance.

25 (C) The committed person provided valuable  
26 assistance to another committed person or committed

1           persons in furtherance of a Department-recognized  
2           educational, vocational, or rehabilitative  
3           achievement.

4           (D) The committed person performed or carried out  
5           some other exceptional and notable service above and  
6           beyond the normal good behavior expected of a committed  
7           person.

8           Any good conduct credit for meritorious service  
9           awarded for service or conduct under subparagraph (D) or  
10           which is not covered by subparagraphs (A), (B), or (C) must  
11           only be awarded for service or conduct the Director deems  
12           proper and which has been approved by the Governor. The  
13           Governor's approval may be on a case-by-case basis or  
14           rendered through a general directive to the Director. For  
15           all awards of good conduct credit for meritorious service,  
16           the Director shall set forth in writing the service or  
17           conduct on which the award is based, but may use general  
18           terminology if safety or security concerns are present.

19           (4) The rules and regulations shall also provide that  
20           the good conduct credit accumulated and retained under  
21           paragraph (2.1) of subsection (a) of this Section by any  
22           inmate during specific periods of time in which such inmate  
23           is engaged full-time in substance abuse programs,  
24           correctional industry assignments, or educational programs  
25           provided by the Department under this paragraph (4) and  
26           satisfactorily completes the assigned program as

1 determined by the standards of the Department, shall be  
2 multiplied by a factor of 1.25 for program participation  
3 before August 11, 1993 and 1.50 for program participation  
4 on or after that date. However, no inmate shall be eligible  
5 for the additional good conduct credit under this paragraph  
6 (4) or (4.1) of this subsection (a) while assigned to a  
7 boot camp or electronic detention, or if convicted of an  
8 offense enumerated in subdivision (a)(2)(i), (ii), or  
9 (iii) of this Section that is committed on or after June  
10 19, 1998 or subdivision (a)(2)(iv) of this Section that is  
11 committed on or after June 23, 2005 (the effective date of  
12 Public Act 94-71) or subdivision (a)(2)(v) of this Section  
13 that is committed on or after August 13, 2007 (the  
14 effective date of Public Act 95-134) or subdivision  
15 (a)(2)(vi) when the offense is committed on or after June  
16 1, 2008 (the effective date of Public Act 95-625) or  
17 subdivision (a)(2)(vii) when the offense is committed on or  
18 after July 23, 2010 (the effective date of Public Act  
19 96-1224) ~~this amendatory Act of the 96th General Assembly,~~  
20 or if convicted of aggravated driving under the influence  
21 of alcohol, other drug or drugs, or intoxicating compound  
22 or compounds, or any combination thereof as defined in  
23 subparagraph (F) of paragraph (1) of subsection (d) of  
24 Section 11-501 of the Illinois Vehicle Code, or if  
25 convicted of aggravated driving under the influence of  
26 alcohol, other drug or drugs, or intoxicating compound or

1 compounds, or any combination thereof as defined in  
2 subparagraph (C) of paragraph (1) of subsection (d) of  
3 Section 11-501 of the Illinois Vehicle Code committed on or  
4 after January 1, 2011 (the effective date of Public Act  
5 96-1230) ~~this amendatory Act of the 96th General Assembly,~~  
6 or if convicted of an offense enumerated in paragraph  
7 (a)(2.4) of this Section that is committed on or after July  
8 15, 1999 (the effective date of Public Act 91-121), or  
9 first degree murder, a Class X felony, criminal sexual  
10 assault, felony criminal sexual abuse, aggravated criminal  
11 sexual abuse, aggravated battery with a firearm, or any  
12 predecessor or successor offenses with the same or  
13 substantially the same elements, or any inchoate offenses  
14 relating to the foregoing offenses. No inmate shall be  
15 eligible for the additional good conduct credit under this  
16 paragraph (4) who (i) has previously received increased  
17 good conduct credit under this paragraph (4) and has  
18 subsequently been convicted of a felony, or (ii) has  
19 previously served more than one prior sentence of  
20 imprisonment for a felony in an adult correctional  
21 facility.

22 Educational, vocational, substance abuse and  
23 correctional industry programs under which good conduct  
24 credit may be increased under this paragraph (4) and  
25 paragraph (4.1) of this subsection (a) shall be evaluated  
26 by the Department on the basis of documented standards. The

1 Department shall report the results of these evaluations to  
2 the Governor and the General Assembly by September 30th of  
3 each year. The reports shall include data relating to the  
4 recidivism rate among program participants.

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

17 (4.1) The rules and regulations shall also provide that  
18 an additional 60 days of good conduct credit shall be  
19 awarded to any prisoner who passes the high school level  
20 Test of General Educational Development (GED) while the  
21 prisoner is incarcerated. The good conduct credit awarded  
22 under this paragraph (4.1) shall be in addition to, and  
23 shall not affect, the award of good conduct under any other  
24 paragraph of this Section, but shall also be pursuant to  
25 the guidelines and restrictions set forth in paragraph (4)  
26 of subsection (a) of this Section. The good conduct credit

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

7 (4.5) The rules and regulations on early release shall  
8 also provide that when the court's sentencing order  
9 recommends a prisoner for substance abuse treatment and the  
10 crime was committed on or after September 1, 2003 (the  
11 effective date of Public Act 93-354), the prisoner shall  
12 receive no good conduct credit awarded under clause (3) of  
13 this subsection (a) unless he or she participates in and  
14 completes a substance abuse treatment program. The  
15 Director may waive the requirement to participate in or  
16 complete a substance abuse treatment program and award the  
17 good conduct credit in specific instances if the prisoner  
18 is not a good candidate for a substance abuse treatment  
19 program for medical, programming, or operational reasons.  
20 Availability of substance abuse treatment shall be subject  
21 to the limits of fiscal resources appropriated by the  
22 General Assembly for these purposes. If treatment is not  
23 available and the requirement to participate and complete  
24 the treatment has not been waived by the Director, the  
25 prisoner shall be placed on a waiting list under criteria  
26 established by the Department. The Director may allow a



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

9 (4.6) The rules and regulations on early release shall  
10 also provide that a prisoner who has been convicted of a  
11 sex offense as defined in Section 2 of the Sex Offender  
12 Registration Act shall receive no good conduct credit  
13 unless he or she either has successfully completed or is  
14 participating in sex offender treatment as defined by the  
15 Sex Offender Management Board. However, prisoners who are  
16 waiting to receive such treatment, but who are unable to do  
17 so due solely to the lack of resources on the part of the  
18 Department, may, at the Director's sole discretion, be  
19 awarded good conduct credit at such rate as the Director  
20 shall determine.

21 (5) Whenever the Department is to release any inmate  
22 earlier than it otherwise would because of a grant of good  
23 conduct credit for meritorious service given at any time  
24 during the term, the Department shall give reasonable  
25 notice of the impending release not less than 14 days prior  
26 to the date of the release to the State's Attorney of the

1 county where the prosecution of the inmate took place, and  
2 if applicable, the State's Attorney of the county into  
3 which the inmate will be released. The Department must also  
4 make identification information and a recent photo of the  
5 inmate being released accessible on the Internet by means  
6 of a hyperlink labeled "Community Notification of Inmate  
7 Early Release" on the Department's World Wide Web homepage.  
8 The identification information shall include the inmate's:  
9 name, any known alias, date of birth, physical  
10 characteristics, residence address, commitment offense and  
11 county where conviction was imposed. The identification  
12 information shall be placed on the website within 3 days of  
13 the inmate's release and the information may not be removed  
14 until either: completion of the first year of mandatory  
15 supervised release or return of the inmate to custody of  
16 the Department.

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

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

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

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

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

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

20           For purposes of this subsection (d):

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

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

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

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

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

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

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

1 subsequent petition for relief from judgment under Section  
2 2-1401 of the Code of Civil Procedure.

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

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

13 (Source: P.A. 95-134, eff. 8-13-07; 95-585, eff. 6-1-08;  
14 95-625, eff. 6-1-08; 95-640, eff. 6-1-08; 95-773, eff. 1-1-09;  
15 95-876, eff. 8-21-08; 96-860, eff. 1-15-10; 96-1110, eff.  
16 7-19-10; 96-1128, eff. 1-1-11; 96-1200, eff. 7-22-10; 96-1224,  
17 eff. 7-23-10; 96-1230, eff. 1-1-11; revised 9-16-10.)

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law.