

# HB1132



## 98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1132

by Rep. Michael J. Zalewski

### SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-3

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

Amends the Unified Code of Corrections. Makes a technical change in a Section concerning rules and regulations for early release on account of good conduct of persons committed to the Department of Corrections.

LRB098 06264 RLC 36305 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 Sentence Credit.

8 (a) (1) The Department of Corrections shall ~~shall~~  
9 prescribe rules and regulations for awarding and revoking  
10 sentence credit for persons committed to the Department  
11 which shall be subject to review by the Prisoner Review  
12 Board.

13 (1.5) As otherwise provided by law, sentence credit may  
14 be awarded for the following:

15 (A) successful completion of programming while in  
16 custody of the Department or while in custody prior to  
17 sentencing;

18 (B) compliance with the rules and regulations of  
19 the Department; or

20 (C) service to the institution, service to a  
21 community, or service to the State.

22 (2) The rules and regulations on sentence credit shall  
23 provide, with respect to offenses listed in clause (i),

1 (ii), or (iii) of this paragraph (2) committed on or after  
2 June 19, 1998 or with respect to the offense listed in  
3 clause (iv) of this paragraph (2) committed on or after  
4 June 23, 2005 (the effective date of Public Act 94-71) or  
5 with respect to offense listed in clause (vi) committed on  
6 or after June 1, 2008 (the effective date of Public Act  
7 95-625) or with respect to the offense of being an armed  
8 habitual criminal committed on or after August 2, 2005 (the  
9 effective date of Public Act 94-398) or with respect to the  
10 offenses listed in clause (v) of this paragraph (2)  
11 committed on or after August 13, 2007 (the effective date  
12 of Public Act 95-134) or with respect to the offense of  
13 aggravated domestic battery committed on or after July 23,  
14 2010 (the effective date of Public Act 96-1224) or with  
15 respect to the offense of attempt to commit terrorism  
16 committed on or after the effective date of this amendatory  
17 Act of the 97th General Assembly, the following:

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

22 (ii) that a prisoner serving a sentence for attempt  
23 to commit terrorism, attempt to commit first degree  
24 murder, solicitation of murder, solicitation of murder  
25 for hire, intentional homicide of an unborn child,  
26 predatory criminal sexual assault of a child,

1 aggravated criminal sexual assault, criminal sexual  
2 assault, aggravated kidnapping, aggravated battery  
3 with a firearm as described in Section 12-4.2 or  
4 subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of  
5 Section 12-3.05, heinous battery as described in  
6 Section 12-4.1 or subdivision (a)(2) of Section  
7 12-3.05, being an armed habitual criminal, aggravated  
8 battery of a senior citizen as described in Section  
9 12-4.6 or subdivision (a)(4) of Section 12-3.05, or  
10 aggravated battery of a child as described in Section  
11 12-4.3 or subdivision (b)(1) of Section 12-3.05 shall  
12 receive no more than 4.5 days of sentence credit for  
13 each month of his or her sentence of imprisonment;

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

25 (iv) that a prisoner serving a sentence for  
26 aggravated discharge of a firearm, whether or not the

1           conduct leading to conviction for the offense resulted  
2           in great bodily harm to the victim, shall receive no  
3           more than 4.5 days of sentence credit for each month of  
4           his or her sentence of imprisonment;

5           (v) that a person serving a sentence for  
6           gunrunning, narcotics racketeering, controlled  
7           substance trafficking, methamphetamine trafficking,  
8           drug-induced homicide, aggravated  
9           methamphetamine-related child endangerment, money  
10          laundering pursuant to clause (c) (4) or (5) of Section  
11          29B-1 of the Criminal Code of 1961, or a Class X felony  
12          conviction for delivery of a controlled substance,  
13          possession of a controlled substance with intent to  
14          manufacture or deliver, calculated criminal drug  
15          conspiracy, criminal drug conspiracy, street gang  
16          criminal drug conspiracy, participation in  
17          methamphetamine manufacturing, aggravated  
18          participation in methamphetamine manufacturing,  
19          delivery of methamphetamine, possession with intent to  
20          deliver methamphetamine, aggravated delivery of  
21          methamphetamine, aggravated possession with intent to  
22          deliver methamphetamine, methamphetamine conspiracy  
23          when the substance containing the controlled substance  
24          or methamphetamine is 100 grams or more shall receive  
25          no more than 7.5 days sentence credit for each month of  
26          his or her sentence of imprisonment;

1           (vi) that a prisoner serving a sentence for a  
2 second or subsequent offense of luring a minor shall  
3 receive no more than 4.5 days of sentence credit for  
4 each month of his or her sentence of imprisonment; and

5           (vii) that a prisoner serving a sentence for  
6 aggravated domestic battery shall receive no more than  
7 4.5 days of sentence credit for each month of his or  
8 her sentence of imprisonment.

9           (2.1) For all offenses, other than those enumerated in  
10 subdivision (a)(2)(i), (ii), or (iii) committed on or after  
11 June 19, 1998 or subdivision (a)(2)(iv) committed on or  
12 after June 23, 2005 (the effective date of Public Act  
13 94-71) or subdivision (a)(2)(v) committed on or after  
14 August 13, 2007 (the effective date of Public Act 95-134)  
15 or subdivision (a)(2)(vi) committed on or after June 1,  
16 2008 (the effective date of Public Act 95-625) or  
17 subdivision (a)(2)(vii) committed on or after July 23, 2010  
18 (the effective date of Public Act 96-1224), and other than  
19 the offense of aggravated driving under the influence of  
20 alcohol, other drug or drugs, or intoxicating compound or  
21 compounds, or any combination thereof as defined in  
22 subparagraph (F) of paragraph (1) of subsection (d) of  
23 Section 11-501 of the Illinois Vehicle Code, and other than  
24 the offense of aggravated driving under the influence of  
25 alcohol, other drug or drugs, or intoxicating compound or  
26 compounds, or any combination thereof as defined in

1           subparagraph (C) of paragraph (1) of subsection (d) of  
2           Section 11-501 of the Illinois Vehicle Code committed on or  
3           after January 1, 2011 (the effective date of Public Act  
4           96-1230), the rules and regulations shall provide that a  
5           prisoner who is serving a term of imprisonment shall  
6           receive one day of sentence credit for each day of his or  
7           her sentence of imprisonment or recommitment under Section  
8           3-3-9. Each day of sentence credit shall reduce by one day  
9           the prisoner's period of imprisonment or recommitment  
10          under Section 3-3-9.

11           (2.2) A prisoner serving a term of natural life  
12          imprisonment or a prisoner who has been sentenced to death  
13          shall receive no sentence credit.

14           (2.3) The rules and regulations on sentence credit  
15          shall provide that a prisoner who is serving a sentence for  
16          aggravated driving under the influence of alcohol, other  
17          drug or drugs, or intoxicating compound or compounds, or  
18          any combination thereof as defined in subparagraph (F) of  
19          paragraph (1) of subsection (d) of Section 11-501 of the  
20          Illinois Vehicle Code, shall receive no more than 4.5 days  
21          of sentence credit for each month of his or her sentence of  
22          imprisonment.

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

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

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

15 (2.6) The rules and regulations on sentence credit  
16 shall provide that a prisoner who is serving a sentence for  
17 aggravated driving under the influence of alcohol, other  
18 drug or drugs, or intoxicating compound or compounds or any  
19 combination thereof as defined in subparagraph (C) of  
20 paragraph (1) of subsection (d) of Section 11-501 of the  
21 Illinois Vehicle Code committed on or after January 1, 2011  
22 (the effective date of Public Act 96-1230) shall receive no  
23 more than 4.5 days of sentence credit for each month of his  
24 or her sentence of imprisonment.

25 (3) The rules and regulations shall also provide that  
26 the Director may award up to 180 days additional sentence



1 credit for good conduct in specific instances as the  
2 Director deems proper. The good conduct may include, but is  
3 not limited to, compliance with the rules and regulations  
4 of the Department, service to the Department, service to a  
5 community, or service to the State. However, the Director  
6 shall not award more than 90 days of sentence credit for  
7 good conduct to any prisoner who is serving a sentence for  
8 conviction of first degree murder, reckless homicide while  
9 under the influence of alcohol or any other drug, or  
10 aggravated driving under the influence of alcohol, other  
11 drug or drugs, or intoxicating compound or compounds, or  
12 any combination thereof as defined in subparagraph (F) of  
13 paragraph (1) of subsection (d) of Section 11-501 of the  
14 Illinois Vehicle Code, aggravated kidnapping, kidnapping,  
15 predatory criminal sexual assault of a child, aggravated  
16 criminal sexual assault, criminal sexual assault, deviate  
17 sexual assault, aggravated criminal sexual abuse,  
18 aggravated indecent liberties with a child, indecent  
19 liberties with a child, child pornography, heinous battery  
20 as described in Section 12-4.1 or subdivision (a)(2) of  
21 Section 12-3.05, aggravated battery of a spouse,  
22 aggravated battery of a spouse with a firearm, stalking,  
23 aggravated stalking, aggravated battery of a child as  
24 described in Section 12-4.3 or subdivision (b)(1) of  
25 Section 12-3.05, endangering the life or health of a child,  
26 or cruelty to a child. Notwithstanding the foregoing,

1 sentence credit for good conduct shall not be awarded on a  
2 sentence of imprisonment imposed for conviction of: (i) one  
3 of the offenses enumerated in subdivision (a)(2)(i), (ii),  
4 or (iii) when the offense is committed on or after June 19,  
5 1998 or subdivision (a)(2)(iv) when the offense is  
6 committed on or after June 23, 2005 (the effective date of  
7 Public Act 94-71) or subdivision (a)(2)(v) when the offense  
8 is committed on or after August 13, 2007 (the effective  
9 date of Public Act 95-134) or subdivision (a)(2)(vi) when  
10 the offense is committed on or after June 1, 2008 (the  
11 effective date of Public Act 95-625) or subdivision  
12 (a)(2)(vii) when the offense is committed on or after July  
13 23, 2010 (the effective date of Public Act 96-1224), (ii)  
14 aggravated driving under the influence of alcohol, other  
15 drug or drugs, or intoxicating compound or compounds, or  
16 any combination thereof as defined in subparagraph (F) of  
17 paragraph (1) of subsection (d) of Section 11-501 of the  
18 Illinois Vehicle Code, (iii) one of the offenses enumerated  
19 in subdivision (a)(2.4) when the offense is committed on or  
20 after July 15, 1999 (the effective date of Public Act  
21 91-121), (iv) aggravated arson when the offense is  
22 committed on or after July 27, 2001 (the effective date of  
23 Public Act 92-176), (v) offenses that may subject the  
24 offender to commitment under the Sexually Violent Persons  
25 Commitment Act, or (vi) aggravated driving under the  
26 influence of alcohol, other drug or drugs, or intoxicating

1 compound or compounds or any combination thereof as defined  
2 in 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).

6 Eligible inmates for an award of sentence credit under this  
7 paragraph (3) may be selected to receive the credit at the  
8 Director's or his or her designee's sole discretion.  
9 Consideration may be based on, but not limited to, any  
10 available risk assessment analysis on the inmate, any history  
11 of conviction for violent crimes as defined by the Rights of  
12 Crime Victims and Witnesses Act, facts and circumstances of the  
13 inmate's holding offense or offenses, and the potential for  
14 rehabilitation.

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

22 (A) is eligible for the sentence credit;

23 (B) has served a minimum of 60 days, or as close to  
24 60 days as the sentence will allow; and

25 (C) has met the eligibility criteria established  
26 by rule.

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

3           (3.5) The Department shall provide annual written  
4           reports to the Governor and the General Assembly on the  
5           award of sentence credit for good conduct, with the first  
6           report due January 1, 2014. The Department must publish  
7           both reports on its website within 48 hours of transmitting  
8           the reports to the Governor and the General Assembly. The  
9           reports must include:

10                   (A) the number of inmates awarded sentence credit  
11                   for good conduct;

12                   (B) the average amount of sentence credit for good  
13                   conduct awarded;

14                   (C) the holding offenses of inmates awarded  
15                   sentence credit for good conduct; and

16                   (D) the number of sentence credit for good conduct  
17                   revocations.

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

1 program as determined by the standards of the Department,  
2 shall be multiplied by a factor of 1.25 for program  
3 participation before August 11, 1993 and 1.50 for program  
4 participation on or after that date. The rules and  
5 regulations shall also provide that sentence credit,  
6 subject to the same offense limits and multiplier provided  
7 in this paragraph, may be provided to an inmate who was  
8 held in pre-trial detention prior to his or her current  
9 commitment to the Department of Corrections and  
10 successfully completed a full-time, 60-day or longer  
11 substance abuse program, educational program, behavior  
12 modification program, life skills course, or re-entry  
13 planning provided by the county department of corrections  
14 or county jail. Calculation of this county program credit  
15 shall be done at sentencing as provided in Section  
16 5-4.5-100 of this Code and shall be included in the  
17 sentencing order. However, no inmate shall be eligible for  
18 the additional sentence credit under this paragraph (4) or  
19 (4.1) of this subsection (a) while assigned to a boot camp  
20 or electronic detention, or if convicted of an offense  
21 enumerated in subdivision (a)(2)(i), (ii), or (iii) of this  
22 Section that is committed on or after June 19, 1998 or  
23 subdivision (a)(2)(iv) of this Section that is committed on  
24 or after June 23, 2005 (the effective date of Public Act  
25 94-71) or subdivision (a)(2)(v) of this Section that is  
26 committed on or after August 13, 2007 (the effective date

1 of Public Act 95-134) or subdivision (a)(2)(vi) when the  
2 offense is committed on or after June 1, 2008 (the  
3 effective date of Public Act 95-625) or subdivision  
4 (a)(2)(vii) when the offense is committed on or after July  
5 23, 2010 (the effective date of Public Act 96-1224), or if  
6 convicted of aggravated driving under the influence of  
7 alcohol, other drug or drugs, or intoxicating compound or  
8 compounds or any combination thereof as defined in  
9 subparagraph (F) of paragraph (1) of subsection (d) of  
10 Section 11-501 of the Illinois Vehicle Code, or if  
11 convicted of aggravated driving under the influence of  
12 alcohol, other drug or drugs, or intoxicating compound or  
13 compounds or any combination thereof as defined in  
14 subparagraph (C) of paragraph (1) of subsection (d) of  
15 Section 11-501 of the Illinois Vehicle Code committed on or  
16 after January 1, 2011 (the effective date of Public Act  
17 96-1230), or if convicted of an offense enumerated in  
18 paragraph (a)(2.4) of this Section that is committed on or  
19 after July 15, 1999 (the effective date of Public Act  
20 91-121), or first degree murder, a Class X felony, criminal  
21 sexual assault, felony criminal sexual abuse, aggravated  
22 criminal sexual abuse, aggravated battery with a firearm as  
23 described in Section 12-4.2 or subdivision (e)(1), (e)(2),  
24 (e)(3), or (e)(4) of Section 12-3.05, or any predecessor or  
25 successor offenses with the same or substantially the same  
26 elements, or any inchoate offenses relating to the

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

8       Educational, vocational, substance abuse, behavior  
9       modification programs, life skills courses, re-entry  
10      planning, and correctional industry programs under which  
11      sentence credit may be increased under this paragraph (4)  
12      and paragraph (4.1) of this subsection (a) shall be  
13      evaluated by the Department on the basis of documented  
14      standards. The Department shall report the results of these  
15      evaluations to the Governor and the General Assembly by  
16      September 30th of each year. The reports shall include data  
17      relating to the recidivism rate among program  
18      participants.

19      Availability of these programs shall be subject to the  
20      limits of fiscal resources appropriated by the General  
21      Assembly for these purposes. Eligible inmates who are  
22      denied immediate admission shall be placed on a waiting  
23      list under criteria established by the Department. The  
24      inability of any inmate to become engaged in any such  
25      programs by reason of insufficient program resources or for  
26      any other reason established under the rules and

1 regulations of the Department shall not be deemed a cause  
2 of action under which the Department or any employee or  
3 agent of the Department shall be liable for damages to the  
4 inmate.

5 (4.1) The rules and regulations shall also provide that  
6 an additional 60 days of sentence credit shall be awarded  
7 to any prisoner who passes the high school level Test of  
8 General Educational Development (GED) while the prisoner  
9 is committed to the Department of Corrections. The sentence  
10 credit awarded under this paragraph (4.1) shall be in  
11 addition to, and shall not affect, the award of sentence  
12 credit under any other paragraph of this Section, but shall  
13 also be pursuant to the guidelines and restrictions set  
14 forth in paragraph (4) of subsection (a) of this Section.  
15 The sentence credit provided for in this paragraph shall be  
16 available only to those prisoners who have not previously  
17 earned a high school diploma or a GED. If, after an award  
18 of the GED sentence credit has been made and the Department  
19 determines that the prisoner was not eligible, then the  
20 award shall be revoked. The Department may also award 60  
21 days of sentence credit to any committed person who passed  
22 the high school level Test of General Educational  
23 Development (GED) while he or she was held in pre-trial  
24 detention prior to the current commitment to the Department  
25 of Corrections.

26 (4.5) The rules and regulations on sentence credit



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

1 of the Director.

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

14 (5) Whenever the Department is to release any inmate  
15 earlier than it otherwise would because of a grant of  
16 sentence credit for good conduct under paragraph (3) of  
17 subsection (a) of this Section given at any time during the  
18 term, the Department shall give reasonable notice of the  
19 impending release not less than 14 days prior to the date  
20 of the release to the State's Attorney of the county where  
21 the prosecution of the inmate took place, and if  
22 applicable, the State's Attorney of the county into which  
23 the inmate will be released. The Department must also make  
24 identification information and a recent photo of the inmate  
25 being released accessible on the Internet by means of a  
26 hyperlink labeled "Community Notification of Inmate Early

1           Release" on the Department's World Wide Web homepage. The  
2           identification information shall include the inmate's:  
3           name, any known alias, date of birth, physical  
4           characteristics, residence address, commitment offense and  
5           county where conviction was imposed. The identification  
6           information shall be placed on the website within 3 days of  
7           the inmate's release and the information may not be removed  
8           until either: completion of the first year of mandatory  
9           supervised release or return of the inmate to custody of  
10          the Department.

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

15          (c) The Department shall prescribe rules and regulations  
16          for revoking sentence credit, including revoking sentence  
17          credit awarded for good conduct under paragraph (3) of  
18          subsection (a) of this Section. The Department shall prescribe  
19          rules and regulations for suspending or reducing the rate of  
20          accumulation of sentence credit for specific rule violations,  
21          during imprisonment. These rules and regulations shall provide  
22          that no inmate may be penalized more than one year of sentence  
23          credit for any one infraction.

24          When the Department seeks to revoke, suspend or reduce the  
25          rate of accumulation of any sentence credits for an alleged  
26          infraction of its rules, it shall bring charges therefor

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

16 The Director of the Department of Corrections, in  
17 appropriate cases, may restore up to 30 days of sentence  
18 credits which have been revoked, suspended or reduced. Any  
19 restoration of sentence credits in excess of 30 days shall be  
20 subject to review by the Prisoner Review Board. However, the  
21 Board may not restore sentence credit in excess of the amount  
22 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 sentence 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 sentence credit by bringing  
9 charges against the prisoner sought to be deprived of the  
10 sentence credits before the Prisoner Review Board as provided  
11 in subparagraph (a)(8) of Section 3-3-2 of this Code. If the  
12 prisoner has not accumulated 180 days of sentence credit at the  
13 time of the finding, then the Prisoner Review Board may revoke  
14 all sentence credit accumulated by the prisoner.

15 For purposes of this subsection (d):

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

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

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

25 (C) the claims, defenses, and other legal  
26 contentions therein are not warranted by existing law

1 or by a nonfrivolous argument for the extension,  
2 modification, or reversal of existing law or the  
3 establishment of new law;

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

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

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

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

26 (f) Whenever the Department is to release any inmate who

1 has been convicted of a violation of an order of protection  
2 under Section 12-3.4 or 12-30 of the Criminal Code of 1961,  
3 earlier than it otherwise would because of a grant of sentence  
4 credit, the Department, as a condition of release, shall  
5 require that the person, upon release, be placed under  
6 electronic surveillance as provided in Section 5-8A-7 of this  
7 Code.

8 (Source: P.A. 96-860, eff. 1-15-10; 96-1110, eff. 7-19-10;  
9 96-1128, eff. 1-1-11; 96-1200, eff. 7-22-10; 96-1224, eff.  
10 7-23-10; 96-1230, eff. 1-1-11; 96-1551, eff. 7-1-11; 97-333,  
11 eff. 8-12-11; 97-697, eff. 6-22-12; 97-990, eff. 1-1-13;  
12 revised 8-23-12.)