



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3496

by Rep. Jerry Lee Long

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-3

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

730 ILCS 5/5-4-1

from Ch. 38, par. 1005-4-1

Amends the Unified Code of Corrections. For offenses committed on or after the effective date of the amendatory Act, provides that a prisoner who is serving a sentence for predatory criminal sexual assault of a child, aggravated kidnapping or aggravated battery when the victim is a child under the age of 13 years or a person with a severe or profound intellectual disability, or a second or subsequent offense of luring of a minor shall receive no sentence credit and shall serve the entire sentence imposed by the court.

LRB100 10515 RLC 20730 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by
5 changing Sections 3-6-3 and 5-4-1 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 prescribe rules
9 and regulations for awarding and revoking sentence credit for
10 persons committed to the Department which shall be subject to
11 review by the Prisoner Review Board.

12 (1.5) As otherwise provided by law, sentence credit may be
13 awarded for the following:

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

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

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

21 (2) The rules and regulations on sentence credit shall
22 provide, with respect to offenses listed in clause (i), (ii),
23 or (iii) of this paragraph (2) committed on or after June 19,

1 1998 or with respect to the offense listed in clause (iv) of
2 this paragraph (2) committed on or after June 23, 2005 (the
3 effective date of Public Act 94-71) or with respect to offense
4 listed in clause (vi) committed on or after June 1, 2008 (the
5 effective date of Public Act 95-625) or with respect to the
6 offense of being an armed habitual criminal committed on or
7 after August 2, 2005 (the effective date of Public Act 94-398)
8 or with respect to the offenses listed in clause (v) of this
9 paragraph (2) committed on or after August 13, 2007 (the
10 effective date of Public Act 95-134) or with respect to the
11 offense of aggravated domestic battery committed on or after
12 July 23, 2010 (the effective date of Public Act 96-1224) or
13 with respect to the offense of attempt to commit terrorism
14 committed on or after January 1, 2013 (the effective date of
15 Public Act 97-990) or with respect to the offenses listed in
16 clause (i-5) of this paragraph (2) committed on or after the
17 effective date of this amendatory Act of the 100th General
18 Assembly, the following:

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

23 (i-5) that a prisoner who is serving a sentence for
24 predatory criminal sexual assault of a child, aggravated
25 kidnapping under subdivision (a) (2) of Section 10-2 of the
26 Criminal Code of 2012, a second or subsequent offense of

1 luring of a minor, or aggravated battery under subdivision
2 (b)(1) of Section 12-3.05 of the Criminal Code of 2012
3 shall receive no sentence credit and shall serve the entire
4 sentence imposed by the court;

5 (ii) that a prisoner serving a sentence for attempt to
6 commit terrorism, attempt to commit first degree murder,
7 solicitation of murder, solicitation of murder for hire,
8 intentional homicide of an unborn child, predatory
9 criminal sexual assault of a child, aggravated criminal
10 sexual assault, criminal sexual assault, aggravated
11 kidnapping, aggravated battery with a firearm as described
12 in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or
13 (e)(4) of Section 12-3.05, heinous battery as described in
14 Section 12-4.1 or subdivision (a)(2) of Section 12-3.05,
15 being an armed habitual criminal, aggravated battery of a
16 senior citizen as described in Section 12-4.6 or
17 subdivision (a)(4) of Section 12-3.05, or aggravated
18 battery of a child as described in Section 12-4.3 or
19 subdivision (b)(1) of Section 12-3.05 shall receive no more
20 than 4.5 days of sentence credit for each month of his or
21 her sentence of imprisonment;

22 (iii) that a prisoner serving a sentence for home
23 invasion, armed robbery, aggravated vehicular hijacking,
24 aggravated discharge of a firearm, or armed violence with a
25 category I weapon or category II weapon, when the court has
26 made and entered a finding, pursuant to subsection (c-1) of

1 Section 5-4-1 of this Code, that the conduct leading to
2 conviction for the enumerated offense resulted in great
3 bodily harm to a victim, shall receive no more than 4.5
4 days of sentence credit for each month of his or her
5 sentence of imprisonment;

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

12 (v) that a person serving a sentence for gunrunning,
13 narcotics racketeering, controlled substance trafficking,
14 methamphetamine trafficking, drug-induced homicide,
15 aggravated methamphetamine-related child endangerment,
16 money laundering pursuant to clause (c) (4) or (5) of
17 Section 29B-1 of the Criminal Code of 1961 or the Criminal
18 Code of 2012, or a Class X felony conviction for delivery
19 of a controlled substance, possession of a controlled
20 substance with intent to manufacture or deliver,
21 calculated criminal drug conspiracy, criminal drug
22 conspiracy, street gang criminal drug conspiracy,
23 participation in methamphetamine manufacturing, aggravated
24 participation in methamphetamine manufacturing, delivery
25 of methamphetamine, possession with intent to deliver
26 methamphetamine, aggravated delivery of methamphetamine,

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

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

11 (vii) that a prisoner serving a sentence for aggravated
12 domestic battery shall receive no more than 4.5 days of
13 sentence credit for each month of his or her sentence of
14 imprisonment.

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

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

15 (2.2) A prisoner serving a term of natural life
16 imprisonment or a prisoner who has been sentenced to death
17 shall receive no sentence credit.

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

26 (2.4) The rules and regulations on sentence credit shall

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

11 (2.5) The rules and regulations on sentence credit shall
12 provide that a prisoner who is serving a sentence for
13 aggravated arson committed on or after July 27, 2001 (the
14 effective date of Public Act 92-176) shall receive no more than
15 4.5 days of sentence credit for each month of his or her
16 sentence of imprisonment.

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

1 (3) The rules and regulations shall also provide that the
2 Director may award up to 180 days additional sentence credit
3 for good conduct in specific instances as the Director deems
4 proper. The good conduct may include, but is not limited to,
5 compliance with the rules and regulations of the Department,
6 service to the Department, service to a community, or service
7 to the State. However, the Director shall not award more than
8 90 days of sentence credit for good conduct to any prisoner who
9 is serving a sentence for conviction of first degree murder,
10 reckless homicide while under the influence of alcohol or any
11 other drug, or 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 (F) of paragraph (1) of subsection (d) of Section
15 11-501 of the Illinois Vehicle Code, aggravated kidnapping,
16 kidnapping, predatory criminal sexual assault of a child,
17 aggravated criminal sexual assault, criminal sexual assault,
18 deviate sexual assault, aggravated criminal sexual abuse,
19 aggravated indecent liberties with a child, indecent liberties
20 with a child, child pornography, heinous battery as described
21 in Section 12-4.1 or subdivision (a)(2) of Section 12-3.05,
22 aggravated battery of a spouse, aggravated battery of a spouse
23 with a firearm, stalking, aggravated stalking, aggravated
24 battery of a child as described in Section 12-4.3 or
25 subdivision (b)(1) of Section 12-3.05, endangering the life or
26 health of a child, or cruelty to a child. Notwithstanding the

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

1 paragraph (1) of subsection (d) of Section 11-501 of the
2 Illinois Vehicle Code committed on or after January 1, 2011
3 (the effective date of Public Act 96-1230).

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

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

20 (A) is eligible for the sentence credit;

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

23 (C) has met the eligibility criteria established by
24 rule.

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

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

7 (A) the number of inmates awarded sentence credit for
8 good conduct;

9 (B) the average amount of sentence credit for good
10 conduct awarded;

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

13 (D) the number of sentence credit for good conduct
14 revocations.

15 (4) The rules and regulations shall also provide that the
16 sentence credit accumulated and retained under paragraph (2.1)
17 of subsection (a) of this Section by any inmate during specific
18 periods of time in which such inmate is engaged full-time in
19 substance abuse programs, correctional industry assignments,
20 educational programs, behavior modification programs, life
21 skills courses, or re-entry planning provided by the Department
22 under this paragraph (4) and satisfactorily completes the
23 assigned program as determined by the standards of the
24 Department, shall be multiplied by a factor of 1.25 for program
25 participation before August 11, 1993 and 1.50 for program
26 participation on or after that date. The rules and regulations

1 shall also provide that sentence credit, subject to the same
2 offense limits and multiplier provided in this paragraph, may
3 be provided to an inmate who was held in pre-trial detention
4 prior to his or her current commitment to the Department of
5 Corrections and successfully completed a full-time, 60-day or
6 longer substance abuse program, educational program, behavior
7 modification program, life skills course, or re-entry planning
8 provided by the county department of corrections or county
9 jail. Calculation of this county program credit shall be done
10 at sentencing as provided in Section 5-4.5-100 of this Code and
11 shall be included in the sentencing order. However, no inmate
12 shall be eligible for the additional sentence credit under this
13 paragraph (4) or (4.1) of this subsection (a) while assigned to
14 a boot camp or electronic detention, or if convicted of an
15 offense enumerated in subdivision (a)(2)(i), (ii), or (iii) of
16 this Section that is committed on or after June 19, 1998 or
17 subdivision (a)(2)(iv) of this Section that is committed on or
18 after June 23, 2005 (the effective date of Public Act 94-71) or
19 subdivision (a)(2)(v) of this Section that is committed on or
20 after August 13, 2007 (the effective date of Public Act 95-134)
21 or subdivision (a)(2)(vi) when the offense is committed on or
22 after June 1, 2008 (the effective date of Public Act 95-625) or
23 subdivision (a)(2)(vii) when the offense is committed on or
24 after July 23, 2010 (the effective date of Public Act 96-1224),
25 or if 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 subparagraph
2 (F) of paragraph (1) of subsection (d) of Section 11-501 of the
3 Illinois Vehicle Code, or if convicted of aggravated driving
4 under the influence of alcohol, other drug or drugs, or
5 intoxicating compound or compounds or any combination thereof
6 as defined in subparagraph (C) of paragraph (1) of subsection
7 (d) of Section 11-501 of the Illinois Vehicle Code committed on
8 or after January 1, 2011 (the effective date of Public Act
9 96-1230), or if convicted of an offense enumerated in paragraph
10 (a) (2.4) of this Section that is committed on or after July 15,
11 1999 (the effective date of Public Act 91-121), or first degree
12 murder, a Class X felony, criminal sexual assault, felony
13 criminal sexual abuse, aggravated criminal sexual abuse,
14 aggravated battery with a firearm as described in Section
15 12-4.2 or subdivision (e) (1), (e) (2), (e) (3), or (e) (4) of
16 Section 12-3.05, or any predecessor or successor offenses with
17 the same or substantially the same elements, or any inchoate
18 offenses relating to the foregoing offenses. No inmate shall be
19 eligible for the additional good conduct credit under this
20 paragraph (4) who (i) has previously received increased good
21 conduct credit under this paragraph (4) and has subsequently
22 been convicted of a felony, or (ii) has previously served more
23 than one prior sentence of imprisonment for a felony in an
24 adult correctional facility.

25 Educational, vocational, substance abuse, behavior
26 modification programs, life skills courses, re-entry planning,

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

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

20 (4.1) The rules and regulations shall also provide that an
21 additional 90 days of sentence credit shall be awarded to any
22 prisoner who passes high school equivalency testing while the
23 prisoner is committed to the Department of Corrections. The
24 sentence credit awarded under this paragraph (4.1) shall be in
25 addition to, and shall not affect, the award of sentence credit
26 under any other paragraph of this Section, but shall also be

1 pursuant to the guidelines and restrictions set forth in
2 paragraph (4) of subsection (a) of this Section. The sentence
3 credit provided for in this paragraph shall be available only
4 to those prisoners who have not previously earned a high school
5 diploma or a high school equivalency certificate. If, after an
6 award of the high school equivalency testing sentence credit
7 has been made, the Department determines that the prisoner was
8 not eligible, then the award shall be revoked. The Department
9 may also award 90 days of sentence credit to any committed
10 person who passed high school equivalency testing while he or
11 she was held in pre-trial detention prior to the current
12 commitment to the Department of Corrections.

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

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

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

24 (5) Whenever the Department is to release any inmate
25 earlier than it otherwise would because of a grant of sentence
26 credit for good conduct under paragraph (3) of subsection (a)

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

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

23 (c) The Department shall prescribe rules and regulations
24 for revoking sentence credit, including revoking sentence
25 credit awarded for good conduct under paragraph (3) of
26 subsection (a) of this Section. The Department shall prescribe

1 rules and regulations for suspending or reducing the rate of
2 accumulation of sentence credit for specific rule violations,
3 during imprisonment. These rules and regulations shall provide
4 that no inmate may be penalized more than one year of sentence
5 credit for any one infraction.

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

24 The Director of the Department of Corrections, in
25 appropriate cases, may restore up to 30 days of sentence
26 credits which have been revoked, suspended or reduced. Any

1 restoration of sentence credits in excess of 30 days shall be
2 subject to review by the Prisoner Review Board. However, the
3 Board may not restore sentence credit in excess of the amount
4 requested by the Director.

5 Nothing contained in this Section shall prohibit the
6 Prisoner Review Board from ordering, pursuant to Section
7 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
8 sentence imposed by the court that was not served due to the
9 accumulation of sentence credit.

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

23 For purposes of this subsection (d):

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

1 following criteria:

2 (A) it lacks an arguable basis either in law or in
3 fact;

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

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

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

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

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

1 subsequent petition for post-conviction relief under
2 Article 122 of the Code of Criminal Procedure of 1963
3 whether filed with or without leave of court or a second or
4 subsequent petition for relief from judgment under Section
5 2-1401 of the Code of Civil Procedure.

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

8 (f) Whenever the Department is to release any inmate who
9 has been convicted of a violation of an order of protection
10 under Section 12-3.4 or 12-30 of the Criminal Code of 1961 or
11 the Criminal Code of 2012, earlier than it otherwise would
12 because of a grant of sentence credit, the Department, as a
13 condition of release, shall require that the person, upon
14 release, be placed under electronic surveillance as provided in
15 Section 5-8A-7 of this Code.

16 (Source: P.A. 98-718, eff. 1-1-15; 99-241, eff. 1-1-16; 99-275,
17 eff. 1-1-16; 99-642, eff. 7-28-16.)

18 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

19 Sec. 5-4-1. Sentencing Hearing.

20 (a) Except when the death penalty is sought under hearing
21 procedures otherwise specified, after a determination of
22 guilt, a hearing shall be held to impose the sentence. However,
23 prior to the imposition of sentence on an individual being
24 sentenced for an offense based upon a charge for a violation of
25 Section 11-501 of the Illinois Vehicle Code or a similar

1 provision of a local ordinance, the individual must undergo a
2 professional evaluation to determine if an alcohol or other
3 drug abuse problem exists and the extent of such a problem.
4 Programs conducting these evaluations shall be licensed by the
5 Department of Human Services. However, if the individual is not
6 a resident of Illinois, the court may, in its discretion,
7 accept an evaluation from a program in the state of such
8 individual's residence. The court may in its sentencing order
9 approve an eligible defendant for placement in a Department of
10 Corrections impact incarceration program as provided in
11 Section 5-8-1.1 or 5-8-1.3. The court may in its sentencing
12 order recommend a defendant for placement in a Department of
13 Corrections substance abuse treatment program as provided in
14 paragraph (a) of subsection (1) of Section 3-2-2 conditioned
15 upon the defendant being accepted in a program by the
16 Department of Corrections. At the hearing the court shall:

17 (1) consider the evidence, if any, received upon the
18 trial;

19 (2) consider any presentence reports;

20 (3) consider the financial impact of incarceration
21 based on the financial impact statement filed with the
22 clerk of the court by the Department of Corrections;

23 (4) consider evidence and information offered by the
24 parties in aggravation and mitigation;

25 (4.5) consider substance abuse treatment, eligibility
26 screening, and an assessment, if any, of the defendant by

1 an agent designated by the State of Illinois to provide
2 assessment services for the Illinois courts;

3 (5) hear arguments as to sentencing alternatives;

4 (6) afford the defendant the opportunity to make a
5 statement in his own behalf;

6 (7) afford the victim of a violent crime or a violation
7 of Section 11-501 of the Illinois Vehicle Code, or a
8 similar provision of a local ordinance, or a qualified
9 individual affected by: (i) a violation of Section 405,
10 405.1, 405.2, or 407 of the Illinois Controlled Substances
11 Act or a violation of Section 55 or Section 65 of the
12 Methamphetamine Control and Community Protection Act, or
13 (ii) a Class 4 felony violation of Section 11-14, 11-14.3
14 except as described in subdivisions (a)(2)(A) and
15 (a)(2)(B), 11-15, 11-17, 11-18, 11-18.1, or 11-19 of the
16 Criminal Code of 1961 or the Criminal Code of 2012,
17 committed by the defendant the opportunity to make a
18 statement concerning the impact on the victim and to offer
19 evidence in aggravation or mitigation; provided that the
20 statement and evidence offered in aggravation or
21 mitigation must first be prepared in writing in conjunction
22 with the State's Attorney before it may be presented orally
23 at the hearing. Any sworn testimony offered by the victim
24 is subject to the defendant's right to cross-examine. All
25 statements and evidence offered under this paragraph (7)
26 shall become part of the record of the court. For the

1 purpose of this paragraph (7), "qualified individual"
2 means any person who (i) lived or worked within the
3 territorial jurisdiction where the offense took place when
4 the offense took place; and (ii) is familiar with various
5 public places within the territorial jurisdiction where
6 the offense took place when the offense took place. For the
7 purposes of this paragraph (7), "qualified individual"
8 includes any peace officer, or any member of any duly
9 organized State, county, or municipal peace unit assigned
10 to the territorial jurisdiction where the offense took
11 place when the offense took place;

12 (8) in cases of reckless homicide afford the victim's
13 spouse, guardians, parents or other immediate family
14 members an opportunity to make oral statements;

15 (9) in cases involving a felony sex offense as defined
16 under the Sex Offender Management Board Act, consider the
17 results of the sex offender evaluation conducted pursuant
18 to Section 5-3-2 of this Act; and

19 (10) make a finding of whether a motor vehicle was used
20 in the commission of the offense for which the defendant is
21 being sentenced.

22 (b) All sentences shall be imposed by the judge based upon
23 his independent assessment of the elements specified above and
24 any agreement as to sentence reached by the parties. The judge
25 who presided at the trial or the judge who accepted the plea of
26 guilty shall impose the sentence unless he is no longer sitting

1 as a judge in that court. Where the judge does not impose
2 sentence at the same time on all defendants who are convicted
3 as a result of being involved in the same offense, the
4 defendant or the State's Attorney may advise the sentencing
5 court of the disposition of any other defendants who have been
6 sentenced.

7 (b-1) In imposing a sentence of imprisonment or periodic
8 imprisonment for a Class 3 or Class 4 felony for which a
9 sentence of probation or conditional discharge is an available
10 sentence, if the defendant has no prior sentence of probation
11 or conditional discharge and no prior conviction for a violent
12 crime, the defendant shall not be sentenced to imprisonment
13 before review and consideration of a presentence report and
14 determination and explanation of why the particular evidence,
15 information, factor in aggravation, factual finding, or other
16 reasons support a sentencing determination that one or more of
17 the factors under subsection (a) of Section 5-6-1 of this Code
18 apply and that probation or conditional discharge is not an
19 appropriate sentence.

20 (c) In imposing a sentence for a violent crime or for an
21 offense of operating or being in physical control of a vehicle
22 while under the influence of alcohol, any other drug or any
23 combination thereof, or a similar provision of a local
24 ordinance, when such offense resulted in the personal injury to
25 someone other than the defendant, the trial judge shall specify
26 on the record the particular evidence, information, factors in

1 mitigation and aggravation or other reasons that led to his
2 sentencing determination. The full verbatim record of the
3 sentencing hearing shall be filed with the clerk of the court
4 and shall be a public record.

5 (c-1) In imposing a sentence for the offense of aggravated
6 kidnapping for ransom, home invasion, armed robbery,
7 aggravated vehicular hijacking, aggravated discharge of a
8 firearm, or armed violence with a category I weapon or category
9 II weapon, the trial judge shall make a finding as to whether
10 the conduct leading to conviction for the offense resulted in
11 great bodily harm to a victim, and shall enter that finding and
12 the basis for that finding in the record.

13 (c-2) If the defendant is sentenced to prison, other than
14 when a sentence of natural life imprisonment or a sentence of
15 death is imposed, at the time the sentence is imposed the judge
16 shall state on the record in open court the approximate period
17 of time the defendant will serve in custody according to the
18 then current statutory rules and regulations for sentence
19 credit found in Section 3-6-3 and other related provisions of
20 this Code. This statement is intended solely to inform the
21 public, has no legal effect on the defendant's actual release,
22 and may not be relied on by the defendant on appeal.

23 The judge's statement, to be given after pronouncing the
24 sentence, other than when the sentence is imposed for one of
25 the offenses enumerated in paragraph (a) (3) of Section 3-6-3,
26 shall include the following:

1 "The purpose of this statement is to inform the public of
2 the actual period of time this defendant is likely to spend in
3 prison as a result of this sentence. The actual period of
4 prison time served is determined by the statutes of Illinois as
5 applied to this sentence by the Illinois Department of
6 Corrections and the Illinois Prisoner Review Board. In this
7 case, assuming the defendant receives all of his or her
8 sentence credit, the period of estimated actual custody is ...
9 years and ... months, less up to 180 days additional sentence
10 credit for good conduct. If the defendant, because of his or
11 her own misconduct or failure to comply with the institutional
12 regulations, does not receive those credits, the actual time
13 served in prison will be longer. The defendant may also receive
14 an additional one-half day sentence credit for each day of
15 participation in vocational, industry, substance abuse, and
16 educational programs as provided for by Illinois statute."

17 When the sentence is imposed for one of the offenses
18 enumerated in paragraph (a)(3) of Section 3-6-3, other than
19 when the sentence is imposed for one of the offenses enumerated
20 in paragraph (a)(2) of Section 3-6-3 committed on or after June
21 19, 1998, and other than when the sentence is imposed for
22 reckless homicide as defined in subsection (e) of Section 9-3
23 of the Criminal Code of 1961 or the Criminal Code of 2012 if
24 the offense was committed on or after January 1, 1999, and
25 other than when the sentence is imposed for aggravated arson if
26 the offense was committed on or after July 27, 2001 (the

1 effective date of Public Act 92-176), and other than when the
2 sentence is imposed for aggravated driving under the influence
3 of alcohol, other drug or drugs, or intoxicating compound or
4 compounds, or any combination thereof as defined in
5 subparagraph (C) of paragraph (1) of subsection (d) of Section
6 11-501 of the Illinois Vehicle Code committed on or after
7 January 1, 2011 (the effective date of Public Act 96-1230), the
8 judge's statement, to be given after pronouncing the sentence,
9 shall include the following:

10 "The purpose of this statement is to inform the public of
11 the actual period of time this defendant is likely to spend in
12 prison as a result of this sentence. The actual period of
13 prison time served is determined by the statutes of Illinois as
14 applied to this sentence by the Illinois Department of
15 Corrections and the Illinois Prisoner Review Board. In this
16 case, assuming the defendant receives all of his or her
17 sentence credit, the period of estimated actual custody is ...
18 years and ... months, less up to 90 days additional sentence
19 credit for good conduct. If the defendant, because of his or
20 her own misconduct or failure to comply with the institutional
21 regulations, does not receive those credits, the actual time
22 served in prison will be longer. The defendant may also receive
23 an additional one-half day sentence credit for each day of
24 participation in vocational, industry, substance abuse, and
25 educational programs as provided for by Illinois statute."

26 When the sentence is imposed for one of the offenses

1 enumerated in paragraph (a)(2) of Section 3-6-3, other than
2 first degree murder, and the offense was committed on or after
3 June 19, 1998, and when the sentence is imposed for reckless
4 homicide as defined in subsection (e) of Section 9-3 of the
5 Criminal Code of 1961 or the Criminal Code of 2012 if the
6 offense was committed on or after January 1, 1999, and when the
7 sentence is imposed for aggravated driving under the influence
8 of alcohol, other drug or drugs, or intoxicating compound or
9 compounds, or any combination thereof as defined in
10 subparagraph (F) of paragraph (1) of subsection (d) of Section
11 11-501 of the Illinois Vehicle Code, and when the sentence is
12 imposed for aggravated arson if the offense was committed on or
13 after July 27, 2001 (the effective date of Public Act 92-176),
14 and when the sentence is imposed for aggravated driving under
15 the influence of alcohol, other drug or drugs, or intoxicating
16 compound or compounds, or any combination thereof as defined in
17 subparagraph (C) of paragraph (1) of subsection (d) of Section
18 11-501 of the Illinois Vehicle Code committed on or after
19 January 1, 2011 (the effective date of Public Act 96-1230), the
20 judge's statement, to be given after pronouncing the sentence,
21 shall include the following:

22 "The purpose of this statement is to inform the public of
23 the actual period of time this defendant is likely to spend in
24 prison as a result of this sentence. The actual period of
25 prison time served is determined by the statutes of Illinois as
26 applied to this sentence by the Illinois Department of

1 Corrections and the Illinois Prisoner Review Board. In this
2 case, the defendant is entitled to no more than 4 1/2 days of
3 sentence credit for each month of his or her sentence of
4 imprisonment. Therefore, this defendant will serve at least 85%
5 of his or her sentence. Assuming the defendant receives 4 1/2
6 days credit for each month of his or her sentence, the period
7 of estimated actual custody is ... years and ... months. If the
8 defendant, because of his or her own misconduct or failure to
9 comply with the institutional regulations receives lesser
10 credit, the actual time served in prison will be longer."

11 When a sentence of imprisonment is imposed for first degree
12 murder and the offense was committed on or after June 19, 1998,
13 the judge's statement, to be given after pronouncing the
14 sentence, shall include the following:

15 "The purpose of this statement is to inform the public of
16 the actual period of time this defendant is likely to spend in
17 prison as a result of this sentence. The actual period of
18 prison time served is determined by the statutes of Illinois as
19 applied to this sentence by the Illinois Department of
20 Corrections and the Illinois Prisoner Review Board. In this
21 case, the defendant is not entitled to sentence credit.
22 Therefore, this defendant will serve 100% of his or her
23 sentence."

24 When a sentence of imprisonment is imposed for predatory
25 criminal sexual assault of a child, aggravated kidnapping under
26 subdivision (a)(2) of Section 10-2 of the Criminal Code of

1 2012, a second or subsequent offense of luring of a minor, or
2 aggravated battery under subdivision (b)(1) of Section 12-3.05
3 of the Criminal Code of 2012 and the offense was committed on
4 or after the effective date of this amendatory Act of the 100th
5 General Assembly, the judge's statement, to be given after
6 pronouncing the sentence, shall include the following:

7 "The purpose of this statement is to inform the public of
8 the actual period of time this defendant is likely to spend in
9 prison as a result of this sentence. The actual period of
10 prison time served is determined by the statutes of Illinois as
11 applied to this sentence by the Illinois Department of
12 Corrections and the Illinois Prisoner Review Board. In this
13 case, the defendant is not entitled to sentence credit.
14 Therefore, this defendant will serve 100% of his or her
15 sentence."

16 When the sentencing order recommends placement in a
17 substance abuse program for any offense that results in
18 incarceration in a Department of Corrections facility and the
19 crime was committed on or after September 1, 2003 (the
20 effective date of Public Act 93-354), the judge's statement, in
21 addition to any other judge's statement required under this
22 Section, to be given after pronouncing the sentence, shall
23 include the following:

24 "The purpose of this statement is to inform the public of
25 the actual period of time this defendant is likely to spend in
26 prison as a result of this sentence. The actual period of

1 prison time served is determined by the statutes of Illinois as
2 applied to this sentence by the Illinois Department of
3 Corrections and the Illinois Prisoner Review Board. In this
4 case, the defendant shall receive no sentence credit for good
5 conduct under clause (3) of subsection (a) of Section 3-6-3
6 until he or she participates in and completes a substance abuse
7 treatment program or receives a waiver from the Director of
8 Corrections pursuant to clause (4.5) of subsection (a) of
9 Section 3-6-3."

10 (c-4) Before the sentencing hearing and as part of the
11 presentence investigation under Section 5-3-1, the court shall
12 inquire of the defendant whether the defendant is currently
13 serving in or is a veteran of the Armed Forces of the United
14 States. If the defendant is currently serving in the Armed
15 Forces of the United States or is a veteran of the Armed Forces
16 of the United States and has been diagnosed as having a mental
17 illness by a qualified psychiatrist or clinical psychologist or
18 physician, the court may:

19 (1) order that the officer preparing the presentence
20 report consult with the United States Department of
21 Veterans Affairs, Illinois Department of Veterans'
22 Affairs, or another agency or person with suitable
23 knowledge or experience for the purpose of providing the
24 court with information regarding treatment options
25 available to the defendant, including federal, State, and
26 local programming; and

1 (2) consider the treatment recommendations of any
2 diagnosing or treating mental health professionals
3 together with the treatment options available to the
4 defendant in imposing sentence.

5 For the purposes of this subsection (c-4), "qualified
6 psychiatrist" means a reputable physician licensed in Illinois
7 to practice medicine in all its branches, who has specialized
8 in the diagnosis and treatment of mental and nervous disorders
9 for a period of not less than 5 years.

10 (c-6) In imposing a sentence, the trial judge shall
11 specify, on the record, the particular evidence and other
12 reasons which led to his or her determination that a motor
13 vehicle was used in the commission of the offense.

14 (d) When the defendant is committed to the Department of
15 Corrections, the State's Attorney shall and counsel for the
16 defendant may file a statement with the clerk of the court to
17 be transmitted to the department, agency or institution to
18 which the defendant is committed to furnish such department,
19 agency or institution with the facts and circumstances of the
20 offense for which the person was committed together with all
21 other factual information accessible to them in regard to the
22 person prior to his commitment relative to his habits,
23 associates, disposition and reputation and any other facts and
24 circumstances which may aid such department, agency or
25 institution during its custody of such person. The clerk shall
26 within 10 days after receiving any such statements transmit a

1 copy to such department, agency or institution and a copy to
2 the other party, provided, however, that this shall not be
3 cause for delay in conveying the person to the department,
4 agency or institution to which he has been committed.

5 (e) The clerk of the court shall transmit to the
6 department, agency or institution, if any, to which the
7 defendant is committed, the following:

8 (1) the sentence imposed;

9 (2) any statement by the court of the basis for
10 imposing the sentence;

11 (3) any presentence reports;

12 (3.5) any sex offender evaluations;

13 (3.6) any substance abuse treatment eligibility
14 screening and assessment of the defendant by an agent
15 designated by the State of Illinois to provide assessment
16 services for the Illinois courts;

17 (4) the number of days, if any, which the defendant has
18 been in custody and for which he is entitled to credit
19 against the sentence, which information shall be provided
20 to the clerk by the sheriff;

21 (4.1) any finding of great bodily harm made by the
22 court with respect to an offense enumerated in subsection
23 (c-1);

24 (5) all statements filed under subsection (d) of this
25 Section;

26 (6) any medical or mental health records or summaries

1 of the defendant;

2 (7) the municipality where the arrest of the offender
3 or the commission of the offense has occurred, where such
4 municipality has a population of more than 25,000 persons;

5 (8) all statements made and evidence offered under
6 paragraph (7) of subsection (a) of this Section; and

7 (9) all additional matters which the court directs the
8 clerk to transmit.

9 (f) In cases in which the court finds that a motor vehicle
10 was used in the commission of the offense for which the
11 defendant is being sentenced, the clerk of the court shall,
12 within 5 days thereafter, forward a report of such conviction
13 to the Secretary of State.

14 (Source: P.A. 99-861, eff. 1-1-17.)