



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5404

by Rep. Mark Batinick - Grant Wehrli

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-1
730 ILCS 5/3-6-3

from Ch. 38, par. 24-1
from Ch. 38, par. 1003-6-3

Amends the Criminal Code of 2012. Increases the penalty for unlawful use of weapons by selling, manufacturing, purchasing, possessing, or carrying a machine gun, other than in the passenger compartment of a motor vehicle or on one's person if the weapon is loaded, from a Class 2 felony, with a mandatory sentence of not less than 3 years and not more than 7 years imprisonment to a Class 1 felony, with a mandatory sentence of not less than 4 years and not more than 15 years imprisonment. Amends the Unified Code of Corrections. Provides that a person serving a sentence for this violation shall receive no more than 7.5 days sentence credit for each month of his or her sentence of imprisonment (rather than day for day sentence credit).

LRB101 15882 RLC 65239 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 Criminal Code of 2012 is amended by changing
5 Section 24-1 as follows:

6 (720 ILCS 5/24-1) (from Ch. 38, par. 24-1)

7 Sec. 24-1. Unlawful use of weapons.

8 (a) A person commits the offense of unlawful use of weapons
9 when he knowingly:

10 (1) Sells, manufactures, purchases, possesses or
11 carries any bludgeon, black-jack, slung-shot, sand-club,
12 sand-bag, metal knuckles or other knuckle weapon
13 regardless of its composition, throwing star, or any knife,
14 commonly referred to as a switchblade knife, which has a
15 blade that opens automatically by hand pressure applied to
16 a button, spring or other device in the handle of the
17 knife, or a ballistic knife, which is a device that propels
18 a knifelike blade as a projectile by means of a coil
19 spring, elastic material or compressed gas; or

20 (2) Carries or possesses with intent to use the same
21 unlawfully against another, a dagger, dirk, billy,
22 dangerous knife, razor, stiletto, broken bottle or other
23 piece of glass, stun gun or taser or any other dangerous or

1 deadly weapon or instrument of like character; or

2 (2.5) Carries or possesses with intent to use the same
3 unlawfully against another, any firearm in a church,
4 synagogue, mosque, or other building, structure, or place
5 used for religious worship; or

6 (3) Carries on or about his person or in any vehicle, a
7 tear gas gun projector or bomb or any object containing
8 noxious liquid gas or substance, other than an object
9 containing a non-lethal noxious liquid gas or substance
10 designed solely for personal defense carried by a person 18
11 years of age or older; or

12 (4) Carries or possesses in any vehicle or concealed on
13 or about his person except when on his land or in his own
14 abode, legal dwelling, or fixed place of business, or on
15 the land or in the legal dwelling of another person as an
16 invitee with that person's permission, any pistol,
17 revolver, stun gun or taser or other firearm, except that
18 this subsection (a) (4) does not apply to or affect
19 transportation of weapons that meet one of the following
20 conditions:

21 (i) are broken down in a non-functioning state; or

22 (ii) are not immediately accessible; or

23 (iii) are unloaded and enclosed in a case, firearm
24 carrying box, shipping box, or other container by a
25 person who has been issued a currently valid Firearm
26 Owner's Identification Card; or

1 (iv) are carried or possessed in accordance with
2 the Firearm Concealed Carry Act by a person who has
3 been issued a currently valid license under the Firearm
4 Concealed Carry Act; or

5 (5) Sets a spring gun; or

6 (6) Possesses any device or attachment of any kind
7 designed, used or intended for use in silencing the report
8 of any firearm; or

9 (7) Sells, manufactures, purchases, possesses or
10 carries:

11 (i) a machine gun, which shall be defined for the
12 purposes of this subsection as any weapon, which
13 shoots, is designed to shoot, or can be readily
14 restored to shoot, automatically more than one shot
15 without manually reloading by a single function of the
16 trigger, including the frame or receiver of any such
17 weapon, or sells, manufactures, purchases, possesses,
18 or carries any combination of parts designed or
19 intended for use in converting any weapon into a
20 machine gun, or any combination or parts from which a
21 machine gun can be assembled if such parts are in the
22 possession or under the control of a person;

23 (ii) any rifle having one or more barrels less than
24 16 inches in length or a shotgun having one or more
25 barrels less than 18 inches in length or any weapon
26 made from a rifle or shotgun, whether by alteration,

1 modification, or otherwise, if such a weapon as
2 modified has an overall length of less than 26 inches;
3 or

4 (iii) any bomb, bomb-shell, grenade, bottle or
5 other container containing an explosive substance of
6 over one-quarter ounce for like purposes, such as, but
7 not limited to, black powder bombs and Molotov
8 cocktails or artillery projectiles; or

9 (8) Carries or possesses any firearm, stun gun or taser
10 or other deadly weapon in any place which is licensed to
11 sell intoxicating beverages, or at any public gathering
12 held pursuant to a license issued by any governmental body
13 or any public gathering at which an admission is charged,
14 excluding a place where a showing, demonstration or lecture
15 involving the exhibition of unloaded firearms is
16 conducted.

17 This subsection (a) (8) does not apply to any auction or
18 raffle of a firearm held pursuant to a license or permit
19 issued by a governmental body, nor does it apply to persons
20 engaged in firearm safety training courses; or

21 (9) Carries or possesses in a vehicle or on or about
22 his or her person any pistol, revolver, stun gun or taser
23 or firearm or ballistic knife, when he or she is hooded,
24 robed or masked in such manner as to conceal his or her
25 identity; or

26 (10) Carries or possesses on or about his or her

1 person, upon any public street, alley, or other public
2 lands within the corporate limits of a city, village, or
3 incorporated town, except when an invitee thereon or
4 therein, for the purpose of the display of such weapon or
5 the lawful commerce in weapons, or except when on his land
6 or in his or her own abode, legal dwelling, or fixed place
7 of business, or on the land or in the legal dwelling of
8 another person as an invitee with that person's permission,
9 any pistol, revolver, stun gun, or taser or other firearm,
10 except that this subsection (a) (10) does not apply to or
11 affect transportation of weapons that meet one of the
12 following conditions:

13 (i) are broken down in a non-functioning state; or

14 (ii) are not immediately accessible; or

15 (iii) are unloaded and enclosed in a case, firearm
16 carrying box, shipping box, or other container by a
17 person who has been issued a currently valid Firearm
18 Owner's Identification Card; or

19 (iv) are carried or possessed in accordance with
20 the Firearm Concealed Carry Act by a person who has
21 been issued a currently valid license under the Firearm
22 Concealed Carry Act.

23 A "stun gun or taser", as used in this paragraph (a)
24 means (i) any device which is powered by electrical
25 charging units, such as, batteries, and which fires one or
26 several barbs attached to a length of wire and which, upon

1 hitting a human, can send out a current capable of
2 disrupting the person's nervous system in such a manner as
3 to render him incapable of normal functioning or (ii) any
4 device which is powered by electrical charging units, such
5 as batteries, and which, upon contact with a human or
6 clothing worn by a human, can send out current capable of
7 disrupting the person's nervous system in such a manner as
8 to render him incapable of normal functioning; or

9 (11) Sells, manufactures, or purchases any explosive
10 bullet. For purposes of this paragraph (a) "explosive
11 bullet" means the projectile portion of an ammunition
12 cartridge which contains or carries an explosive charge
13 which will explode upon contact with the flesh of a human
14 or an animal. "Cartridge" means a tubular metal case having
15 a projectile affixed at the front thereof and a cap or
16 primer at the rear end thereof, with the propellant
17 contained in such tube between the projectile and the cap;
18 or

19 (12) (Blank); or

20 (13) Carries or possesses on or about his or her person
21 while in a building occupied by a unit of government, a
22 billy club, other weapon of like character, or other
23 instrument of like character intended for use as a weapon.
24 For the purposes of this Section, "billy club" means a
25 short stick or club commonly carried by police officers
26 which is either telescopic or constructed of a solid piece

1 of wood or other man-made material.

2 (b) Sentence. A person convicted of a violation of
3 subsection 24-1(a)(1) through (5), subsection 24-1(a)(10),
4 subsection 24-1(a)(11), or subsection 24-1(a)(13) commits a
5 Class A misdemeanor. A person convicted of a violation of
6 subsection 24-1(a)(8) or 24-1(a)(9) commits a Class 4 felony; a
7 person convicted of a violation of subsection 24-1(a)(6) or
8 24-1(a)(7)(ii) or (iii) commits a Class 3 felony. A person
9 convicted of a violation of subsection 24-1(a)(7)(i) commits a
10 Class 1 ~~2~~ felony and shall be sentenced to a term of
11 imprisonment of not less than 4 ~~3~~ years and not more than 15 ~~7~~
12 years, unless the weapon is possessed in the passenger
13 compartment of a motor vehicle as defined in Section 1-146 of
14 the Illinois Vehicle Code, or on the person, while the weapon
15 is loaded, in which case it shall be a Class X felony. A person
16 convicted of a second or subsequent violation of subsection
17 24-1(a)(4), 24-1(a)(8), 24-1(a)(9), or 24-1(a)(10) commits a
18 Class 3 felony. A person convicted of a violation of subsection
19 24-1(a)(2.5) commits a Class 2 felony. The possession of each
20 weapon in violation of this Section constitutes a single and
21 separate violation.

22 (c) Violations in specific places.

23 (1) A person who violates subsection 24-1(a)(6) or
24 24-1(a)(7) (ii) or (iii) in any school, regardless of the
25 time of day or the time of year, in residential property
26 owned, operated or managed by a public housing agency or

1 leased by a public housing agency as part of a scattered
2 site or mixed-income development, in a public park, in a
3 courthouse, on the real property comprising any school,
4 regardless of the time of day or the time of year, on
5 residential property owned, operated or managed by a public
6 housing agency or leased by a public housing agency as part
7 of a scattered site or mixed-income development, on the
8 real property comprising any public park, on the real
9 property comprising any courthouse, in any conveyance
10 owned, leased or contracted by a school to transport
11 students to or from school or a school related activity, in
12 any conveyance owned, leased, or contracted by a public
13 transportation agency, or on any public way within 1,000
14 feet of the real property comprising any school, public
15 park, courthouse, public transportation facility, or
16 residential property owned, operated, or managed by a
17 public housing agency or leased by a public housing agency
18 as part of a scattered site or mixed-income development
19 commits a Class 2 felony and shall be sentenced to a term
20 of imprisonment of not less than 3 years and not more than
21 7 years.

22 (1.5) A person who violates subsection 24-1(a)(4),
23 24-1(a)(9), or 24-1(a)(10) in any school, regardless of the
24 time of day or the time of year, in residential property
25 owned, operated, or managed by a public housing agency or
26 leased by a public housing agency as part of a scattered

1 site or mixed-income development, in a public park, in a
2 courthouse, on the real property comprising any school,
3 regardless of the time of day or the time of year, on
4 residential property owned, operated, or managed by a
5 public housing agency or leased by a public housing agency
6 as part of a scattered site or mixed-income development, on
7 the real property comprising any public park, on the real
8 property comprising any courthouse, in any conveyance
9 owned, leased, or contracted by a school to transport
10 students to or from school or a school related activity, in
11 any conveyance owned, leased, or contracted by a public
12 transportation agency, or on any public way within 1,000
13 feet of the real property comprising any school, public
14 park, courthouse, public transportation facility, or
15 residential property owned, operated, or managed by a
16 public housing agency or leased by a public housing agency
17 as part of a scattered site or mixed-income development
18 commits a Class 3 felony.

19 (2) A person who violates subsection 24-1(a)(1),
20 24-1(a)(2), or 24-1(a)(3) in any school, regardless of the
21 time of day or the time of year, in residential property
22 owned, operated or managed by a public housing agency or
23 leased by a public housing agency as part of a scattered
24 site or mixed-income development, in a public park, in a
25 courthouse, on the real property comprising any school,
26 regardless of the time of day or the time of year, on

1 residential property owned, operated or managed by a public
2 housing agency or leased by a public housing agency as part
3 of a scattered site or mixed-income development, on the
4 real property comprising any public park, on the real
5 property comprising any courthouse, in any conveyance
6 owned, leased or contracted by a school to transport
7 students to or from school or a school related activity, in
8 any conveyance owned, leased, or contracted by a public
9 transportation agency, or on any public way within 1,000
10 feet of the real property comprising any school, public
11 park, courthouse, public transportation facility, or
12 residential property owned, operated, or managed by a
13 public housing agency or leased by a public housing agency
14 as part of a scattered site or mixed-income development
15 commits a Class 4 felony. "Courthouse" means any building
16 that is used by the Circuit, Appellate, or Supreme Court of
17 this State for the conduct of official business.

18 (3) Paragraphs (1), (1.5), and (2) of this subsection
19 (c) shall not apply to law enforcement officers or security
20 officers of such school, college, or university or to
21 students carrying or possessing firearms for use in
22 training courses, parades, hunting, target shooting on
23 school ranges, or otherwise with the consent of school
24 authorities and which firearms are transported unloaded
25 enclosed in a suitable case, box, or transportation
26 package.

1 (4) For the purposes of this subsection (c), "school"
2 means any public or private elementary or secondary school,
3 community college, college, or university.

4 (5) For the purposes of this subsection (c), "public
5 transportation agency" means a public or private agency
6 that provides for the transportation or conveyance of
7 persons by means available to the general public, except
8 for transportation by automobiles not used for conveyance
9 of the general public as passengers; and "public
10 transportation facility" means a terminal or other place
11 where one may obtain public transportation.

12 (d) The presence in an automobile other than a public
13 omnibus of any weapon, instrument or substance referred to in
14 subsection (a) (7) is prima facie evidence that it is in the
15 possession of, and is being carried by, all persons occupying
16 such automobile at the time such weapon, instrument or
17 substance is found, except under the following circumstances:
18 (i) if such weapon, instrument or instrumentality is found upon
19 the person of one of the occupants therein; or (ii) if such
20 weapon, instrument or substance is found in an automobile
21 operated for hire by a duly licensed driver in the due, lawful
22 and proper pursuit of his or her trade, then such presumption
23 shall not apply to the driver.

24 (e) Exemptions.

25 (1) Crossbows, Common or Compound bows and Underwater
26 Spearguns are exempted from the definition of ballistic

1 knife as defined in paragraph (1) of subsection (a) of this
2 Section.

3 (2) The provision of paragraph (1) of subsection (a) of
4 this Section prohibiting the sale, manufacture, purchase,
5 possession, or carrying of any knife, commonly referred to
6 as a switchblade knife, which has a blade that opens
7 automatically by hand pressure applied to a button, spring
8 or other device in the handle of the knife, does not apply
9 to a person who possesses a currently valid Firearm Owner's
10 Identification Card previously issued in his or her name by
11 the Department of State Police or to a person or an entity
12 engaged in the business of selling or manufacturing
13 switchblade knives.

14 (Source: P.A. 100-82, eff. 8-11-17; 101-223, eff. 1-1-20.)

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

17 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

18 Sec. 3-6-3. Rules and regulations for sentence credit.

19 (a) (1) The Department of Corrections shall prescribe rules
20 and regulations for awarding and revoking sentence credit for
21 persons committed to the Department which shall be subject to
22 review by the Prisoner Review Board.

23 (1.5) As otherwise provided by law, sentence credit may be
24 awarded for the following:

1 (A) successful completion of programming while in
2 custody of the Department or while in custody prior to
3 sentencing;

4 (B) compliance with the rules and regulations of the
5 Department; or

6 (C) service to the institution, service to a community,
7 or service to the State.

8 (2) Except as provided in paragraph (4.7) of this
9 subsection (a), the rules and regulations on sentence credit
10 shall provide, with respect to offenses listed in clause (i),
11 (ii), or (iii) of this paragraph (2) committed on or after June
12 19, 1998 or with respect to the offense listed in clause (iv)
13 of this paragraph (2) committed on or after June 23, 2005 (the
14 effective date of Public Act 94-71) or with respect to offense
15 listed in clause (vi) committed on or after June 1, 2008 (the
16 effective date of Public Act 95-625) or with respect to the
17 offense of being an armed habitual criminal committed on or
18 after August 2, 2005 (the effective date of Public Act 94-398)
19 or with respect to the offenses listed in clause (v) of this
20 paragraph (2) committed on or after August 13, 2007 (the
21 effective date of Public Act 95-134) or with respect to the
22 offense of aggravated domestic battery committed on or after
23 July 23, 2010 (the effective date of Public Act 96-1224) or
24 with respect to the offense of attempt to commit terrorism
25 committed on or after January 1, 2013 (the effective date of
26 Public Act 97-990) or with respect to the offense of unlawful

1 use of weapons under subparagraph (i) of paragraph (7) of
2 subsection (a) of Section 24-1 of the Criminal Code of 2012
3 committed on or after the effective date of this amendatory Act
4 of the 101st General Assembly, the following:

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

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

26 (iii) that a prisoner serving a sentence for home

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

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

16 (v) that a person serving a sentence for unlawful use
17 of weapons under subparagraph (i) of paragraph (7) of
18 subsection (a) of Section 24-1 of the Criminal Code of
19 2012, gunrunning, narcotics racketeering, controlled
20 substance trafficking, methamphetamine trafficking,
21 drug-induced homicide, aggravated methamphetamine-related
22 child endangerment, money laundering pursuant to clause
23 (c) (4) or (5) of Section 29B-1 of the Criminal Code of
24 1961 or the Criminal Code of 2012, or a Class X felony
25 conviction for delivery of a controlled substance,
26 possession of a controlled substance with intent to

1 manufacture or deliver, calculated criminal drug
2 conspiracy, criminal drug conspiracy, street gang criminal
3 drug conspiracy, participation in methamphetamine
4 manufacturing, aggravated participation in methamphetamine
5 manufacturing, delivery of methamphetamine, possession
6 with intent to deliver methamphetamine, aggravated
7 delivery of methamphetamine, aggravated possession with
8 intent to deliver methamphetamine, methamphetamine
9 conspiracy when the substance containing the controlled
10 substance or methamphetamine is 100 grams or more shall
11 receive no more than 7.5 days sentence credit for each
12 month of his or her sentence of imprisonment;

13 (vi) that a prisoner serving a sentence for a second or
14 subsequent offense of luring a minor shall receive no more
15 than 4.5 days of sentence credit for each month of his or
16 her sentence of imprisonment; and

17 (vii) that a prisoner serving a sentence for aggravated
18 domestic battery shall receive no more than 4.5 days of
19 sentence credit for each month of his or her sentence of
20 imprisonment.

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

1 offense of unlawful use of weapons under subparagraph (i) of
2 paragraph (7) of subsection (a) of Section 24-1 of the Criminal
3 Code of 2012) or subdivision (a)(2)(vi) committed on or after
4 June 1, 2008 (the effective date of Public Act 95-625) or
5 subdivision (a)(2)(vii) committed on or after July 23, 2010
6 (the effective date of Public Act 96-1224), and other than the
7 offense of aggravated driving under the influence of alcohol,
8 other drug or drugs, or intoxicating compound or compounds, or
9 any combination thereof as defined in subparagraph (F) of
10 paragraph (1) of subsection (d) of Section 11-501 of the
11 Illinois Vehicle Code, and other than the offense of aggravated
12 driving under the influence of alcohol, other drug or drugs, or
13 intoxicating compound or compounds, or any combination thereof
14 as defined in subparagraph (C) of paragraph (1) of subsection
15 (d) of Section 11-501 of the Illinois Vehicle Code committed on
16 or after January 1, 2011 (the effective date of Public Act
17 96-1230), and other than the offense of unlawful use of weapons
18 under subparagraph (i) of paragraph (7) of subsection (a) of
19 Section 24-1 of the Criminal Code of 2012 committed on or after
20 the effective date of this amendatory Act of the 101st General
21 Assembly, the rules and regulations shall provide that a
22 prisoner who is serving a term of imprisonment shall receive
23 one day of sentence credit for each day of his or her sentence
24 of imprisonment or recommitment under Section 3-3-9. Each day
25 of sentence credit shall reduce by one day the prisoner's
26 period of imprisonment or recommitment under Section 3-3-9.

1 (2.2) A prisoner serving a term of natural life
2 imprisonment or a prisoner who has been sentenced to death
3 shall receive no sentence credit.

4 (2.3) Except as provided in paragraph (4.7) of this
5 subsection (a), the rules and regulations on sentence credit
6 shall provide that a prisoner who is serving a sentence for
7 aggravated driving under the influence of alcohol, other drug
8 or drugs, or intoxicating compound or compounds, or any
9 combination thereof as defined in subparagraph (F) of paragraph
10 (1) of subsection (d) of Section 11-501 of the Illinois Vehicle
11 Code, shall receive no more than 4.5 days of sentence credit
12 for each month of his or her sentence of imprisonment.

13 (2.4) Except as provided in paragraph (4.7) of this
14 subsection (a), the rules and regulations on sentence credit
15 shall provide with respect to the offenses of aggravated
16 battery with a machine gun or a firearm equipped with any
17 device or attachment designed or used for silencing the report
18 of a firearm or aggravated discharge of a machine gun or a
19 firearm equipped with any device or attachment designed or used
20 for silencing the report of a firearm, committed on or after
21 July 15, 1999 (the effective date of Public Act 91-121), that a
22 prisoner serving a sentence for any of these offenses shall
23 receive no more than 4.5 days of sentence credit for each month
24 of his or her sentence of imprisonment.

25 (2.5) Except as provided in paragraph (4.7) of this
26 subsection (a), the rules and regulations on sentence credit

1 shall provide that a prisoner who is serving a sentence for
2 aggravated arson committed on or after July 27, 2001 (the
3 effective date of Public Act 92-176) shall receive no more than
4 4.5 days of sentence credit for each month of his or her
5 sentence of imprisonment.

6 (2.6) Except as provided in paragraph (4.7) of this
7 subsection (a), the rules and regulations on sentence credit
8 shall provide that a prisoner who is serving a sentence for
9 aggravated driving under the influence of alcohol, other drug
10 or drugs, or intoxicating compound or compounds or any
11 combination thereof as defined in subparagraph (C) of paragraph
12 (1) of subsection (d) of Section 11-501 of the Illinois Vehicle
13 Code committed on or after January 1, 2011 (the effective date
14 of Public Act 96-1230) shall receive no more than 4.5 days of
15 sentence credit for each month of his or her sentence of
16 imprisonment.

17 (3) In addition to the sentence credits earned under
18 paragraphs (2.1), (4), (4.1), and (4.7) of this subsection (a),
19 the rules and regulations shall also provide that the Director
20 may award up to 180 days of earned sentence credit for good
21 conduct in specific instances as the Director deems proper. The
22 good conduct may include, but is not limited to, compliance
23 with the rules and regulations of the Department, service to
24 the Department, service to a community, or service to the
25 State.

26 Eligible inmates for an award of earned sentence credit

1 under this paragraph (3) may be selected to receive the credit
2 at the Director's or his or her designee's sole discretion.
3 Eligibility for the additional earned sentence credit under
4 this paragraph (3) shall be based on, but is not limited to,
5 the results of any available risk/needs assessment or other
6 relevant assessments or evaluations administered by the
7 Department using a validated instrument, the circumstances of
8 the crime, any history of conviction for a forcible felony
9 enumerated in Section 2-8 of the Criminal Code of 2012, the
10 inmate's behavior and disciplinary history while incarcerated,
11 and the inmate's commitment to rehabilitation, including
12 participation in programming offered by the Department.

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 earned sentence credit;

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

23 (B-1) has received a risk/needs assessment or other
24 relevant evaluation or assessment administered by the
25 Department using a validated instrument; and

26 (C) has met the eligibility criteria established by

1 rule for earned sentence credit.

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

4 (3.5) The Department shall provide annual written reports
5 to the Governor and the General Assembly on the award of earned
6 sentence credit no later than February 1 of each year. The
7 Department must publish both reports on its website within 48
8 hours of transmitting the reports to the Governor and the
9 General Assembly. The reports must include:

10 (A) the number of inmates awarded earned sentence
11 credit;

12 (B) the average amount of earned sentence credit
13 awarded;

14 (C) the holding offenses of inmates awarded earned
15 sentence credit; and

16 (D) the number of earned sentence credit revocations.

17 (4) (A) Except as provided in paragraph (4.7) of this
18 subsection (a), the rules and regulations shall also provide
19 that the sentence credit accumulated and retained under
20 paragraph (2.1) of subsection (a) of this Section by any inmate
21 during specific periods of time in which such inmate is engaged
22 full-time in substance abuse programs, correctional industry
23 assignments, educational programs, behavior modification
24 programs, life skills courses, or re-entry planning provided by
25 the Department under this paragraph (4) and satisfactorily
26 completes the assigned program as determined by the standards

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

19 (B) The Department shall award sentence credit under this
20 paragraph (4) accumulated prior to the effective date of this
21 amendatory Act of the 101st General Assembly in an amount
22 specified in subparagraph (C) of this paragraph (4) to an
23 inmate serving a sentence for an offense committed prior to
24 June 19, 1998, if the Department determines that the inmate is
25 entitled to this sentence credit, based upon:

26 (i) documentation provided by the Department that the

1 inmate engaged in any full-time substance abuse programs,
2 correctional industry assignments, educational programs,
3 behavior modification programs, life skills courses, or
4 re-entry planning provided by the Department under this
5 paragraph (4) and satisfactorily completed the assigned
6 program as determined by the standards of the Department
7 during the inmate's current term of incarceration; or

8 (ii) the inmate's own testimony in the form of an
9 affidavit or documentation, or a third party's
10 documentation or testimony in the form of an affidavit that
11 the inmate likely engaged in any full-time substance abuse
12 programs, correctional industry assignments, educational
13 programs, behavior modification programs, life skills
14 courses, or re-entry planning provided by the Department
15 under paragraph (4) and satisfactorily completed the
16 assigned program as determined by the standards of the
17 Department during the inmate's current term of
18 incarceration.

19 (C) If the inmate can provide documentation that he or she
20 is entitled to sentence credit under subparagraph (B) in excess
21 of 45 days of participation in those programs, the inmate shall
22 receive 90 days of sentence credit. If the inmate cannot
23 provide documentation of more than 45 days of participation
24 those programs, the inmate shall receive 45 days of sentence
25 credit. In the event of a disagreement between the Department
26 and the inmate as to the amount of credit accumulated under

1 subparagraph (B), if the Department provides documented proof
2 of a lesser amount of days of participation in those programs,
3 that proof shall control. If the Department provides no
4 documentary proof, the inmate's proof as set forth in clause
5 (ii) of subparagraph (B) shall control as to the amount of
6 sentence credit provided.

7 (D) If the inmate has been convicted of a sex offense as
8 defined in Section 2 of the Sex Offender Registration Act,
9 sentencing credits under subparagraph (B) of this paragraph (4)
10 shall be awarded by the Department only if the conditions set
11 forth in paragraph (4.6) of subsection (a) are satisfied. No
12 inmate serving a term of natural life imprisonment shall
13 receive sentence credit under subparagraph (B) of this
14 paragraph (4).

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

25 Availability of these programs shall be subject to the
26 limits of fiscal resources appropriated by the General Assembly

1 for these purposes. Eligible inmates who are denied immediate
2 admission shall be placed on a waiting list under criteria
3 established by the Department. The inability of any inmate to
4 become engaged in any such programs by reason of insufficient
5 program resources or for any other reason established under the
6 rules and regulations of the Department shall not be deemed a
7 cause of action under which the Department or any employee or
8 agent of the Department shall be liable for damages to the
9 inmate.

10 (4.1) Except as provided in paragraph (4.7) of this
11 subsection (a), the rules and regulations shall also provide
12 that an additional 90 days of sentence credit shall be awarded
13 to any prisoner who passes high school equivalency testing
14 while the prisoner is committed to the Department of
15 Corrections. The sentence credit awarded under this paragraph
16 (4.1) shall be in addition to, and shall not affect, the award
17 of sentence credit under any other paragraph of this Section,
18 but shall also be pursuant to the guidelines and restrictions
19 set forth in paragraph (4) of subsection (a) of this Section.
20 The sentence credit provided for in this paragraph shall be
21 available only to those prisoners who have not previously
22 earned a high school diploma or a high school equivalency
23 certificate. If, after an award of the high school equivalency
24 testing sentence credit has been made, the Department
25 determines that the prisoner was not eligible, then the award
26 shall be revoked. The Department may also award 90 days of

1 sentence credit to any committed person who passed high school
2 equivalency testing while he or she was held in pre-trial
3 detention prior to the current commitment to the Department of
4 Corrections.

5 Except as provided in paragraph (4.7) of this subsection
6 (a), the rules and regulations shall provide that an additional
7 180 days of sentence credit shall be awarded to any prisoner
8 who obtains a bachelor's degree while the prisoner is committed
9 to the Department of Corrections. The sentence credit awarded
10 under this paragraph (4.1) shall be in addition to, and shall
11 not affect, the award of sentence credit under any other
12 paragraph of this Section, but shall also be under the
13 guidelines and restrictions set forth in paragraph (4) of this
14 subsection (a). The sentence credit provided for in this
15 paragraph shall be available only to those prisoners who have
16 not earned a bachelor's degree prior to the current commitment
17 to the Department of Corrections. If, after an award of the
18 bachelor's degree sentence credit has been made, the Department
19 determines that the prisoner was not eligible, then the award
20 shall be revoked. The Department may also award 180 days of
21 sentence credit to any committed person who earned a bachelor's
22 degree while he or she was held in pre-trial detention prior to
23 the current commitment to the Department of Corrections.

24 Except as provided in paragraph (4.7) of this subsection
25 (a), the rules and regulations shall provide that an additional
26 180 days of sentence credit shall be awarded to any prisoner

1 who obtains a master's or professional degree while the
2 prisoner is committed to the Department of Corrections. The
3 sentence credit awarded under this paragraph (4.1) shall be in
4 addition to, and shall not affect, the award of sentence credit
5 under any other paragraph of this Section, but shall also be
6 under the guidelines and restrictions set forth in paragraph
7 (4) of this subsection (a). The sentence credit provided for in
8 this paragraph shall be available only to those prisoners who
9 have not previously earned a master's or professional degree
10 prior to the current commitment to the Department of
11 Corrections. If, after an award of the master's or professional
12 degree sentence credit has been made, the Department determines
13 that the prisoner was not eligible, then the award shall be
14 revoked. The Department may also award 180 days of sentence
15 credit to any committed person who earned a master's or
16 professional degree while he or she was held in pre-trial
17 detention prior to the current commitment to the Department of
18 Corrections.

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

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

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

1 Director's sole discretion, be awarded sentence credit at a
2 rate as the Director shall determine.

3 (4.7) On or after the effective date of this amendatory Act
4 of the 100th General Assembly, sentence credit under paragraph
5 (3), (4), or (4.1) of this subsection (a) may be awarded to a
6 prisoner who is serving a sentence for an offense described in
7 paragraph (2), (2.3), (2.4), (2.5), or (2.6) for credit earned
8 on or after the effective date of this amendatory Act of the
9 100th General Assembly; provided, the award of the credits
10 under this paragraph (4.7) shall not reduce the sentence of the
11 prisoner to less than the following amounts:

12 (i) 85% of his or her sentence if the prisoner is
13 required to serve 85% of his or her sentence; or

14 (ii) 60% of his or her sentence if the prisoner is
15 required to serve 75% of his or her sentence, except if the
16 prisoner is serving a sentence for gunrunning his or her
17 sentence shall not be reduced to less than 75%.

18 (iii) 100% of his or her sentence if the prisoner is
19 required to serve 100% of his or her sentence.

20 (5) Whenever the Department is to release any inmate
21 earlier than it otherwise would because of a grant of earned
22 sentence credit under paragraph (3) of subsection (a) of this
23 Section given at any time during the term, the Department shall
24 give reasonable notice of the impending release not less than
25 14 days prior to the date of the release to the State's
26 Attorney of the county where the prosecution of the inmate took

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

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

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

1 infraction.

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

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

19 For purposes of this subsection (d):

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

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

26 (B) it is being presented for any improper purpose,

1 such as to harass or to cause unnecessary delay or
2 needless increase in the cost of litigation;

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

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

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

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

1 2-1401 of the Code of Civil Procedure.

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

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

12 (Source: P.A. 100-3, eff. 1-1-18; 100-575, eff. 1-8-18;
13 101-440, eff. 1-1-20.)