



Rep. Ronald A. Wait

Filed: 2/14/2006

09400HB4398ham001

LRB094 16039 RLC 55304 a

1 AMENDMENT TO HOUSE BILL 4398

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4398 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Unified Code of Corrections is amended by  
5 changing Section 3-6-3 as follows:

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

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

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

12 (2) The rules and regulations on early release shall  
13 provide, with respect to offenses listed in clause (i),  
14 (ii), or (iii) of this paragraph (2) committed on or after  
15 June 19, 1998 or with respect to the offense listed in  
16 clause (iv) of this paragraph (2) committed on or after  
17 June 23, 2005 (the effective date of Public Act 94-71) ~~this~~  
18 ~~amendatory Act of the 94th General Assembly~~ or with respect  
19 to the offense of being an armed habitual criminal  
20 committed on or after August 2, 2005 (the effective date of  
21 Public Act 94-398) or with respect to the offense of  
22 aggravated battery under subsection (a) of Section 12-4 of  
23 the Criminal Code of 1961 when the prisoner knew the  
24 individual harmed to be a peace officer engaged in the

1 execution of any of his or her official duties, or the  
2 battery is to prevent the officer from performing his or  
3 her official duties, or in retaliation for the officer  
4 performing his or her official duties and the offense was  
5 committed on or after the effective date of this amendatory  
6 Act of the 94th General Assembly ~~this amendatory Act of the~~  
7 ~~94th General Assembly~~, the following:

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

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

24 (iii) that a prisoner serving a sentence for home  
25 invasion, armed robbery, aggravated vehicular  
26 hijacking, aggravated discharge of a firearm, or armed  
27 violence with a category I weapon or category II  
28 weapon, when the court has made and entered a finding,  
29 pursuant to subsection (c-1) of Section 5-4-1 of this  
30 Code, that the conduct leading to conviction for the  
31 enumerated offense resulted in great bodily harm to a  
32 victim, shall receive no more than 4.5 days of good  
33 conduct credit for each month of his or her sentence of  
34 imprisonment; ~~and~~

1 (iv) that a prisoner serving a sentence for  
2 aggravated discharge of a firearm, whether or not the  
3 conduct leading to conviction for the offense resulted  
4 in great bodily harm to the victim, shall receive no  
5 more than 4.5 days of good conduct credit for each  
6 month of his or her sentence of imprisonment; and

7 (v) that a prisoner serving a sentence for  
8 aggravated battery under subsection (a) of Section  
9 12-4 of the Criminal Code of 1961 when the prisoner  
10 knew the individual harmed to be a peace officer  
11 engaged in the execution of any of his or her official  
12 duties, or the battery is to prevent the officer from  
13 performing his or her official duties, or in  
14 retaliation for the officer performing his or her  
15 official duties and the offense was committed on or  
16 after the effective date of this amendatory Act of the  
17 94th General Assembly, shall receive no more than 4.5  
18 days of good conduct credit for each month of his or  
19 her sentence of imprisonment.

20 (2.1) For all offenses, other than those enumerated in  
21 subdivision (a)(2)(i), (ii), or (iii) committed on or after  
22 June 19, 1998 or subdivision (a)(2)(iv) committed on or  
23 after June 23, 2005 (the effective date of Public Act  
24 94-71) ~~this amendatory Act of the 94th General Assembly,~~  
25 and other than the offense of reckless homicide as defined  
26 in subsection (e) of Section 9-3 of the Criminal Code of  
27 1961 committed on or after January 1, 1999, or aggravated  
28 driving under the influence of alcohol, other drug or  
29 drugs, or intoxicating compound or compounds, or any  
30 combination thereof as defined in subparagraph (F) of  
31 paragraph (1) of subsection (d) of Section 11-501 of the  
32 Illinois Vehicle Code, the rules and regulations shall  
33 provide that a prisoner who is serving a term of  
34 imprisonment shall receive one day of good conduct credit

1 for each day of his or her sentence of imprisonment or  
2 recommitment under Section 3-3-9. Each day of good conduct  
3 credit shall reduce by one day the prisoner's period of  
4 imprisonment or recommitment under Section 3-3-9.

5 (2.2) A prisoner serving a term of natural life  
6 imprisonment or a prisoner who has been sentenced to death  
7 shall receive no good conduct credit.

8 (2.3) The rules and regulations on early release shall  
9 provide that a prisoner who is serving a sentence for  
10 reckless homicide as defined in subsection (e) of Section  
11 9-3 of the Criminal Code of 1961 committed on or after  
12 January 1, 1999, or aggravated driving under the influence  
13 of alcohol, other drug or drugs, or intoxicating compound  
14 or compounds, or any combination thereof as defined in  
15 subparagraph (F) of paragraph (1) of subsection (d) of  
16 Section 11-501 of the Illinois Vehicle Code, shall receive  
17 no more than 4.5 days of good conduct credit for each month  
18 of his or her sentence of imprisonment.

19 (2.4) The rules and regulations on early release shall  
20 provide with respect to the offenses of aggravated battery  
21 with a machine gun or a firearm equipped with any device or  
22 attachment designed or used for silencing the report of a  
23 firearm or aggravated discharge of a machine gun or a  
24 firearm equipped with any device or attachment designed or  
25 used for silencing the report of a firearm, committed on or  
26 after July 15, 1999 (the effective date of Public Act  
27 91-121), that a prisoner serving a sentence for any of  
28 these offenses shall receive no more than 4.5 days of good  
29 conduct credit for each month of his or her sentence of  
30 imprisonment.

31 (2.5) The rules and regulations on early release shall  
32 provide that a prisoner who is serving a sentence for  
33 aggravated arson committed on or after July 27, 2001 (the  
34 effective date of Public Act 92-176) shall receive no more

1 than 4.5 days of good conduct credit for each month of his  
2 or her sentence of imprisonment.

3 (3) The rules and regulations shall also provide that  
4 the Director may award up to 180 days additional good  
5 conduct credit for meritorious service in specific  
6 instances as the Director deems proper; except that no more  
7 than 90 days of good conduct credit for meritorious service  
8 shall be awarded to any prisoner who is serving a sentence  
9 for conviction of first degree murder, reckless homicide  
10 while under the influence of alcohol or any other drug, or  
11 aggravated driving under the influence of alcohol, other  
12 drug or drugs, or intoxicating compound or compounds, or  
13 any combination thereof as defined in subparagraph (F) of  
14 paragraph (1) of subsection (d) of Section 11-501 of the  
15 Illinois Vehicle Code, aggravated kidnapping, kidnapping,  
16 predatory criminal sexual assault of a child, aggravated  
17 criminal sexual assault, criminal sexual assault, deviate  
18 sexual assault, aggravated criminal sexual abuse,  
19 aggravated indecent liberties with a child, indecent  
20 liberties with a child, child pornography, heinous  
21 battery, aggravated battery of a spouse, aggravated  
22 battery of a spouse with a firearm, stalking, aggravated  
23 stalking, aggravated battery of a child, endangering the  
24 life or health of a child, cruelty to a child, or narcotic  
25 racketeering. Notwithstanding the foregoing, good conduct  
26 credit for meritorious service shall not be awarded on a  
27 sentence of imprisonment imposed for conviction of: (i) one  
28 of the offenses enumerated in subdivision (a)(2)(i), (ii),  
29 or (iii) when the offense is committed on or after June 19,  
30 1998 or subdivision (a)(2)(iv) when the offense is  
31 committed on or after June 23, 2005 (the effective date of  
32 Public Act 94-71) ~~this amendatory Act of the 94th General~~  
33 ~~Assembly~~, (ii) reckless homicide as defined in subsection  
34 (e) of Section 9-3 of the Criminal Code of 1961 when the

1 offense is committed on or after January 1, 1999, or  
2 aggravated driving under the influence of alcohol, other  
3 drug or drugs, or intoxicating compound or compounds, or  
4 any combination thereof as defined in subparagraph (F) of  
5 paragraph (1) of subsection (d) of Section 11-501 of the  
6 Illinois Vehicle Code, (iii) one of the offenses enumerated  
7 in subdivision (a)(2.4) when the offense is committed on or  
8 after July 15, 1999 (the effective date of Public Act  
9 91-121), ~~or~~ (iv) aggravated arson when the offense is  
10 committed on or after July 27, 2001 (the effective date of  
11 Public Act 92-176), or (v) aggravated battery under  
12 subsection (a) of Section 12-4 of the Criminal Code of 1961  
13 when the prisoner knew the individual harmed to be a peace  
14 officer engaged in the execution of any of his or her  
15 official duties, or the battery is to prevent the officer  
16 from performing his or her official duties, or in  
17 retaliation for the officer performing his or her official  
18 duties and the offense was committed on or after the  
19 effective date of this amendatory Act of the 94th General  
20 Assembly.

21 (4) The rules and regulations shall also provide that  
22 the good conduct credit accumulated and retained under  
23 paragraph (2.1) of subsection (a) of this Section by any  
24 inmate during specific periods of time in which such inmate  
25 is engaged full-time in substance abuse programs,  
26 correctional industry assignments, or educational programs  
27 provided by the Department under this paragraph (4) and  
28 satisfactorily completes the assigned program as  
29 determined by the standards of the Department, shall be  
30 multiplied by a factor of 1.25 for program participation  
31 before August 11, 1993 and 1.50 for program participation  
32 on or after that date. However, no inmate shall be eligible  
33 for the additional good conduct credit under this paragraph  
34 (4) or (4.1) of this subsection (a) while assigned to a

1 boot camp~~7~~ or electronic detention, or if convicted of an  
2 offense enumerated in subdivision (a)(2)(i), (ii), or  
3 (iii) of this Section that is committed on or after June  
4 19, 1998 or subdivision (a)(2)(iv) of this Section that is  
5 committed on or after June 23, 2005 (the effective date of  
6 Public Act 94-71) ~~this amendatory Act of the 94th General~~  
7 ~~Assembly~~, or if convicted of reckless homicide as defined  
8 in subsection (e) of Section 9-3 of the Criminal Code of  
9 1961 if the offense is committed on or after January 1,  
10 1999, or aggravated driving under the influence of alcohol,  
11 other drug or drugs, or intoxicating compound or compounds,  
12 or any combination thereof as defined in subparagraph (F)  
13 of paragraph (1) of subsection (d) of Section 11-501 of the  
14 Illinois Vehicle Code, or if convicted of an offense  
15 enumerated in paragraph (a)(2.4) of this Section that is  
16 committed on or after July 15, 1999 (the effective date of  
17 Public Act 91-121), or first degree murder, a Class X  
18 felony, criminal sexual assault, felony criminal sexual  
19 abuse, aggravated criminal sexual abuse, aggravated  
20 battery with a firearm, aggravated battery under  
21 subsection (a) of Section 12-4 of the Criminal Code of 1961  
22 when the prisoner knew the individual harmed to be a peace  
23 officer engaged in the execution of any of his or her  
24 official duties, or the battery is to prevent the officer  
25 from performing his or her official duties, or in  
26 retaliation for the officer performing his or her official  
27 duties and the offense was committed on or after the  
28 effective date of this amendatory Act of the 94th General  
29 Assembly, or any predecessor or successor offenses with the  
30 same or substantially the same elements, or any inchoate  
31 offenses relating to the foregoing offenses. No inmate  
32 shall be eligible for the additional good conduct credit  
33 under this paragraph (4) who (i) has previously received  
34 increased good conduct credit under this paragraph (4) and

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

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

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

26 (4.1) The rules and regulations shall also provide that  
27 an additional 60 days of good conduct credit shall be  
28 awarded to any prisoner who passes the high school level  
29 Test of General Educational Development (GED) and receives  
30 a GED certificate while the prisoner is incarcerated. The  
31 good conduct credit awarded under this paragraph (4.1)  
32 shall be in addition to, and shall not affect, the award of  
33 good conduct under any other paragraph of this Section, but  
34 shall also be pursuant to the guidelines and restrictions



1 set forth in paragraph (4) of subsection (a) of this  
2 Section.

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

31 (5) Whenever the Department is to release any inmate  
32 earlier than it otherwise would because of a grant of good  
33 conduct credit for meritorious service given at any time  
34 during the term, the Department shall give reasonable

1 advance notice of the impending release to the State's  
2 Attorney of the county where the prosecution of the inmate  
3 took place.

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

8 (c) The Department shall prescribe rules and regulations  
9 for revoking good conduct credit, or suspending or reducing the  
10 rate of accumulation of good conduct credit for specific rule  
11 violations, during imprisonment. These rules and regulations  
12 shall provide that no inmate may be penalized more than one  
13 year of good conduct credit for any one infraction.

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

33 The Director of the Department of Corrections, in  
34 appropriate cases, may restore up to 30 days good conduct

1 credits which have been revoked, suspended or reduced. Any  
2 restoration of good conduct credits in excess of 30 days shall  
3 be subject to review by the Prisoner Review Board. However, the  
4 Board may not restore good conduct credit in excess of the  
5 amount requested by the Director.

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

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

25 For purposes of this subsection (d):

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

30 (A) it lacks an arguable basis either in law or in  
31 fact;

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

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

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

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

15           (2) "Lawsuit" means a petition for post-conviction  
16 relief under Article 122 of the Code of Criminal Procedure  
17 of 1963, a motion pursuant to Section 116-3 of the Code of  
18 Criminal Procedure of 1963, a habeas corpus action under  
19 Article X of the Code of Civil Procedure or under federal  
20 law (28 U.S.C. 2254), a petition for claim under the Court  
21 of Claims Act or an action under the federal Civil Rights  
22 Act (42 U.S.C. 1983).

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

25           (Source: P.A. 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; 94-71,  
26 eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398,  
27 eff. 8-2-05; 94-491, eff. 8-8-05; revised 8-19-05.)".