



Sen. Bill Brady

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09500SB1397sam005

LRB095 11053 RLC 34682 a

1 AMENDMENT TO SENATE BILL 1397

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1397, AS AMENDED,  
3 with reference to page and line numbers of Senate Amendment No.  
4 2, on page 8, line 9, by replacing "Section 3-3-7" with  
5 "Sections 3-3-7 and 3-6-3"; and

6 on page 16, by inserting immediately below line 17 the  
7 following:

8 "(730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)  
9 Sec. 3-6-3. Rules and Regulations for Early Release.

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

14 (2) The rules and regulations on early release shall  
15 provide, with respect to offenses listed in clause (i),  
16 (ii), or (iii) of this paragraph (2) committed on or after

1 June 19, 1998 or with respect to the offense listed in  
2 clause (iv) of this paragraph (2) committed on or after  
3 June 23, 2005 (the effective date of Public Act 94-71) or  
4 with respect to the offense of being an armed habitual  
5 criminal committed on or after August 2, 2005 (the  
6 effective date of Public Act 94-398), the following:

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

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

23 (iii) that a prisoner serving a sentence for home  
24 invasion, armed robbery, aggravated vehicular  
25 hijacking, aggravated discharge of a firearm, or armed  
26 violence with a category I weapon or category II

1           weapon, when the court has made and entered a finding,  
2           pursuant to subsection (c-1) of Section 5-4-1 of this  
3           Code, that the conduct leading to conviction for the  
4           enumerated offense resulted in great bodily harm to a  
5           victim, shall receive no more than 4.5 days of good  
6           conduct credit for each month of his or her sentence of  
7           imprisonment; and

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

14          (2.1) For all offenses, other than those enumerated in  
15          subdivision (a)(2)(i), (ii), or (iii) committed on or after  
16          June 19, 1998 or subdivision (a)(2)(iv) committed on or  
17          after June 23, 2005 (the effective date of Public Act  
18          94-71), and other than the offense of reckless homicide as  
19          defined in subsection (e) of Section 9-3 of the Criminal  
20          Code of 1961 committed on or after January 1, 1999, or  
21          aggravated driving under the influence of alcohol, other  
22          drug or drugs, or intoxicating compound or compounds, or  
23          any combination thereof as defined in subparagraph (F) of  
24          paragraph (1) of subsection (d) of Section 11-501 of the  
25          Illinois Vehicle Code, the rules and regulations shall  
26          provide that a prisoner who is serving a term of

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

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

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

20 (2.4) The rules and regulations on early release shall  
21 provide with respect to the offenses of aggravated battery  
22 with a machine gun or a firearm equipped with any device or  
23 attachment designed or used for silencing the report of a  
24 firearm or aggravated discharge of a machine gun or a  
25 firearm equipped with any device or attachment designed or  
26 used for silencing the report of a firearm, committed on or

1 after July 15, 1999 (the effective date of Public Act  
2 91-121), that a prisoner serving a sentence for any of  
3 these offenses shall receive no more than 4.5 days of good  
4 conduct credit for each month of his or her sentence of  
5 imprisonment.

6 (2.5) The rules and regulations on early release shall  
7 provide that a prisoner who is serving a sentence for  
8 aggravated arson committed on or after July 27, 2001 (the  
9 effective date of Public Act 92-176) shall receive no more  
10 than 4.5 days of good conduct credit for each month of his  
11 or her sentence of imprisonment.

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

1 sexual assault, aggravated criminal sexual abuse,  
2 aggravated indecent liberties with a child, indecent  
3 liberties with a child, child pornography, heinous  
4 battery, aggravated battery of a spouse, aggravated  
5 battery of a spouse with a firearm, stalking, aggravated  
6 stalking, aggravated battery of a child, endangering the  
7 life or health of a child, cruelty to a child, or narcotic  
8 racketeering. Notwithstanding the foregoing, good conduct  
9 credit for meritorious service shall not be awarded on a  
10 sentence of imprisonment imposed for conviction of: (i) one  
11 of the offenses enumerated in subdivision (a)(2)(i), (ii),  
12 or (iii) when the offense is committed on or after June 19,  
13 1998 or subdivision (a)(2)(iv) when the offense is  
14 committed on or after June 23, 2005 (the effective date of  
15 Public Act 94-71), (ii) reckless homicide as defined in  
16 subsection (e) of Section 9-3 of the Criminal Code of 1961  
17 when the offense is committed on or after January 1, 1999,  
18 or aggravated driving under the influence of alcohol, other  
19 drug or drugs, or intoxicating compound or compounds, or  
20 any combination thereof as defined in subparagraph (F) of  
21 paragraph (1) of subsection (d) of Section 11-501 of the  
22 Illinois Vehicle Code, (iii) one of the offenses enumerated  
23 in subdivision (a)(2.4) when the offense is committed on or  
24 after July 15, 1999 (the effective date of Public Act  
25 91-121), or (iv) aggravated arson when the offense is  
26 committed on or after July 27, 2001 (the effective date of

1 Public Act 92-176).

2 (4) The rules and regulations shall also provide that  
3 the good conduct credit accumulated and retained under  
4 paragraph (2.1) of subsection (a) of this Section by any  
5 inmate during specific periods of time in which such inmate  
6 is engaged full-time in substance abuse programs,  
7 correctional industry assignments, or educational programs  
8 provided by the Department under this paragraph (4) and  
9 satisfactorily completes the assigned program as  
10 determined by the standards of the Department, shall be  
11 multiplied by a factor of 1.25 for program participation  
12 before August 11, 1993 and 1.50 for program participation  
13 on or after that date. However, no inmate shall be eligible  
14 for the additional good conduct credit under this paragraph  
15 (4) or (4.1) of this subsection (a) while assigned to a  
16 boot camp or electronic detention, or if convicted of an  
17 offense enumerated in subdivision (a)(2)(i), (ii), or  
18 (iii) of this Section that is committed on or after June  
19 19, 1998 or subdivision (a)(2)(iv) of this Section that is  
20 committed on or after June 23, 2005 (the effective date of  
21 Public Act 94-71), or if convicted of reckless homicide as  
22 defined in subsection (e) of Section 9-3 of the Criminal  
23 Code of 1961 if the offense is committed on or after  
24 January 1, 1999, or aggravated driving under the influence  
25 of alcohol, other drug or drugs, or intoxicating compound  
26 or compounds, or any combination thereof as defined in

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

18       Educational, vocational, substance abuse and  
19       correctional industry programs under which good conduct  
20       credit may be increased under this paragraph (4) and  
21       paragraph (4.1) of this subsection (a) shall be evaluated  
22       by the Department on the basis of documented standards. The  
23       Department shall report the results of these evaluations to  
24       the Governor and the General Assembly by September 30th of  
25       each year. The reports shall include data relating to the  
26       recidivism rate among program participants.



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

13           (4.1) The rules and regulations shall also provide that  
14          an additional 60 days of good conduct credit shall be  
15          awarded to any prisoner who passes the high school level  
16          Test of General Educational Development (GED) while the  
17          prisoner is incarcerated. The good conduct credit awarded  
18          under this paragraph (4.1) shall be in addition to, and  
19          shall not affect, the award of good conduct under any other  
20          paragraph of this Section, but shall also be pursuant to  
21          the guidelines and restrictions set forth in paragraph (4)  
22          of subsection (a) of this Section. The good conduct credit  
23          provided for in this paragraph shall be available only to  
24          those prisoners who have not previously earned a high  
25          school diploma or a GED. If, after an award of the GED good  
26          conduct credit has been made and the Department determines

1 that the prisoner was not eligible, then the award shall be  
2 revoked.

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

1 is not placed in a substance abuse program prior to release  
2 may be eligible for a waiver and receive good conduct  
3 credit under clause (3) of this subsection (a) at the  
4 discretion of the Director.

5 (4.6) The rules and regulations on early release shall  
6 also provide that a prisoner who has been convicted of a  
7 sex offense as defined in Section 2 of the Sex Offender  
8 Registration Act shall receive no good conduct credit until  
9 he or she has successfully completed sex offender  
10 counseling.

11 (5) Whenever the Department is to release any inmate  
12 earlier than it otherwise would because of a grant of good  
13 conduct credit for meritorious service given at any time  
14 during the term, the Department shall give reasonable  
15 advance notice of the impending release to the State's  
16 Attorney of the county where the prosecution of the inmate  
17 took place.

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

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

1 year of good conduct credit for any one infraction.

2 When the Department seeks to revoke, suspend or reduce the  
3 rate of accumulation of any good conduct credits for an alleged  
4 infraction of its rules, it shall bring charges therefor  
5 against the prisoner sought to be so deprived of good conduct  
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 good  
13 conduct credit. The Board may subsequently approve the  
14 revocation of additional good conduct credit, if the Department  
15 seeks to revoke good conduct credit in excess of 30 days.  
16 However, the Board shall not be empowered to review the  
17 Department's decision with respect to the loss of 30 days of  
18 good conduct credit within any calendar year for any prisoner  
19 or to increase any penalty beyond the length requested by the  
20 Department.

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

1 amount requested by the Director.

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

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

21 For purposes of this subsection (d):

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

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

1 fact;

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

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

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

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

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

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

3           (Source: P.A. 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; 94-71,  
4 eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398,  
5 eff. 8-2-05; 94-491, eff. 8-8-05; 94-744, eff. 5-8-06.)".