- 1 AN ACT concerning corrections.
- 2 Be it enacted by the People of the State of Illinois,
- 3 represented in the General Assembly:
- 4 Section 5. The Unified Code of Corrections is amended by
- 5 changing Sections 3-6-3 and 5-4-1 as follows:
- 6 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)
- 7 Sec. 3-6-3. Rules and Regulations for Early Release.
- 8 (a) (1) The Department of Corrections shall
 9 prescribe rules and regulations for the early release on
 10 account of good conduct of persons committed to the
 11 Department which shall be subject to review by the
 12 Prisoner Review Board.
- 13 (2) The rules and regulations on early release 14 shall provide, with respect to offenses committed on or

after June 19, 1998, the following:

- (i) that a prisoner who is serving a term of imprisonment for first degree murder shall receive no good conduct credit and shall serve the entire
- sentence imposed by the court;
- 20 (ii) that a prisoner serving a sentence for attempt to commit first degree murder, solicitation 21 22 murder, solicitation of murder for hire, intentional homicide of an unborn child, predatory 23 criminal sexual assault of a child, aggravated 24 criminal sexual assault, criminal sexual assault, 25 26 aggravated kidnapping, aggravated battery with a 27 firearm, heinous battery, aggravated battery of a senior citizen, or aggravated battery of a child 28 29 shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of 30 31 imprisonment; and

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

(2.1) For all offenses, other than those enumerated in subdivision (a)(2) committed on or after June 19, 1998, and other than the offense of reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 committed on or after January 1, 1999, the rules and regulations shall provide that a prisoner who is serving a term of imprisonment shall receive one day of good conduct credit for each day of his or her sentence of imprisonment or recommitment under Section 3-3-9. Each day of good conduct credit shall reduce by one day the prisoner's period of imprisonment or recommitment under Section 3-3-9.

- (2.2) A prisoner serving a term of natural life imprisonment or a prisoner who has been sentenced to death shall receive no good conduct credit.
- (2.3) The rules and regulations on early release shall provide that a prisoner who is serving a sentence for reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 committed on or after January 1, 1999 shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.
- (2.4) The rules and regulations on early release

shall provide with respect to the offenses of aggravated battery with a machine gun or a firearm equipped with any device or attachment designed or used for silencing the report of a firearm or aggravated discharge of a machine gun or a firearm equipped with any device or attachment designed or used for silencing the report of a firearm, committed on or after the effective date of this amendatory Act of 1999, that a prisoner serving a sentence for any of these offenses shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

shall provide that a prisoner who is serving a sentence for compelling organization membership of persons under Section 12-6.1 of the Criminal Code of 1961, if the organization that the person is solicited or caused to join or is deterred from leaving is a gang as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act and the offense is committed on or after the effective date of this amendatory Act of the 92nd General Assembly, shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

that the Director may award up to 180 days additional good conduct credit for meritorious service in specific instances as the Director deems proper; except that no more than 90 days of good conduct credit for meritorious service shall be awarded to any prisoner who is serving a sentence for conviction of first degree murder, reckless homicide while under the influence of alcohol or any other drug, aggravated kidnapping, kidnapping, predatory criminal sexual assault, criminal sexual assault, deviate sexual

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assault, aggravated criminal sexual abuse, aggravated indecent liberties with a child, indecent liberties with a child, child pornography, heinous battery, aggravated battery of a spouse, aggravated battery of a spouse with a firearm, stalking, aggravated stalking, aggravated battery of a child, endangering the life or health of a child, cruelty to a child, or narcotic racketeering. Notwithstanding the foregoing, good conduct credit for meritorious service shall not be awarded on a sentence of imprisonment imposed for conviction of: (i) one of the offenses enumerated in subdivision (a)(2) when t.he offense is committed on or after June 19, 1998, (ii) reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 when the offense committed on or after January 1, 1999, or (iii) for eenvietien--ef one of the offenses enumerated subdivision (a)(2.4) when the offense is committed on or after the effective date of this amendatory Act of 1999, or (iv) the offense enumerated in subdivision (a)(2.5) when the offense is committed on or after the effective date of this amendatory Act of the 92nd General Assembly.

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

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credit under this paragraph (4) while assigned to a boot camp, mental health unit, or electronic detention, or if convicted of an offense enumerated in paragraph (a)(2) of this Section that is committed on or after June 19, 1998, or if convicted of reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 if the offense is committed on or after January 1, 1999, or if convicted of an offense enumerated in paragraph (a)(2.4) of this Section that is committed on or after the effective date of this amendatory Act of 1999, or if convicted of an offense enumerated in paragraph (a)(2.5) of this Section that is committed on or after the effective date of this amendatory Act of the 92nd General Assembly, or first degree murder, a Class X felony, criminal sexual assault, felony criminal sexual aggravated criminal sexual abuse, aggravated battery with a firearm, or any predecessor or successor the same or substantially the same offenses with elements, or any inchoate offenses relating to the foregoing offenses. No inmate shall be eligible for the additional good conduct credit under this paragraph (4) who (i) has previously received increased good conduct credit under this paragraph (4) and has subsequently been convicted of a felony, or (ii) has previously served more than one prior sentence of imprisonment for a felony in an adult correctional facility.

Educational, vocational, substance abuse and correctional industry programs under which good conduct credit may be increased under this paragraph (4) shall be evaluated by the Department on the basis of documented standards. The Department shall report the results of these evaluations to the Governor and the General Assembly by September 30th of each year. The reports shall include data relating to the recidivism rate among

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1 program participants.

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

- (5) Whenever the Department is to release any inmate earlier than it otherwise would because of a grant of good conduct credit for meritorious service given at any time during the term, the Department shall give reasonable advance notice of the impending release to the State's Attorney of the county where the prosecution of the inmate took place.
- 21 (b) Whenever a person is or has been committed under 22 several convictions, with separate sentences, the sentences 23 shall be construed under Section 5-8-4 in granting and 24 forfeiting of good time.
- 25 (c) The Department shall prescribe rules and regulations
 26 for revoking good conduct credit, or suspending or reducing
 27 the rate of accumulation of good conduct credit for specific
 28 rule violations, during imprisonment. These rules and
 29 regulations shall provide that no inmate may be penalized
 30 more than one year of good conduct credit for any one
 31 infraction.
- When the Department seeks to revoke, suspend or reduce the rate of accumulation of any good conduct credits for an alleged infraction of its rules, it shall bring charges

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2 good conduct credits before the Prisoner Review Board as

therefor against the prisoner sought to be so deprived of

3 provided in subparagraph (a)(4) of Section 3-3-2 of this

4 Code, if the amount of credit at issue exceeds 30 days or

when during any 12 month period, the cumulative amount of

6 credit revoked exceeds 30 days except where the infraction is

7 committed or discovered within 60 days of scheduled release.

8 In those cases, the Department of Corrections may revoke up

9 to 30 days of good conduct credit. The Board may subsequently

10 approve the revocation of additional good conduct credit, if

11 the Department seeks to revoke good conduct credit in excess

of 30 days. However, the Board shall not be empowered to

review the Department's decision with respect to the loss of

30 days of good conduct credit within any calendar year for

any prisoner or to increase any penalty beyond the length

16 requested by the Department.

17 The Director of the Department of Corrections, in

appropriate cases, may restore up to 30 days good conduct

19 credits which have been revoked, suspended or reduced. Any

restoration of good conduct credits in excess of 30 days

21 shall be subject to review by the Prisoner Review Board.

However, the Board may not restore good conduct credit in

excess of the amount requested by the Director.

Nothing contained in this Section shall prohibit the

25 Prisoner Review Board from ordering, pursuant to Section

3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of

27 the sentence imposed by the court that was not served due to

the accumulation of good conduct credit.

29 (d) If a lawsuit is filed by a prisoner in an Illinois

or federal court against the State, the Department of

Corrections, or the Prisoner Review Board, or against any of

32 their officers or employees, and the court makes a specific

finding that a pleading, motion, or other paper filed by the

34 prisoner is frivolous, the Department of Corrections shall

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- 1 conduct a hearing to revoke up to 180 days of good conduct
- 2 credit by bringing charges against the prisoner sought to be
- 3 deprived of the good conduct credits before the Prisoner
- 4 Review Board as provided in subparagraph (a)(8) of Section
- 5 3-3-2 of this Code. If the prisoner has not accumulated 180
- 6 days of good conduct credit at the time of the finding, then
- 7 the Prisoner Review Board may revoke all good conduct credit
- 8 accumulated by the prisoner.
- 9 For purposes of this subsection (d):
- 10 (1) "Frivolous" means that a pleading, motion, or 11 other filing which purports to be a legal document filed 12 by a prisoner in his or her lawsuit meets any or all of 13 the following criteria:
 - (A) it lacks an arguable basis either in law
 or in fact;
 - (B) it is being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
 - (C) the claims, defenses, and other legal contentions therein are not warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
 - (D) the allegations and other factual contentions do not have evidentiary support or, if specifically so identified, are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; or
 - (E) the denials of factual contentions are not warranted on the evidence, or if specifically so identified, are not reasonably based on a lack of information or belief.
- 34 (2) "Lawsuit" means a petition for post-conviction

- 1 relief under Article 122 of the Code of Criminal
- 2 Procedure of 1963, a motion pursuant to Section 116-3 of
- 3 the Code of Criminal Procedure of 1963, a habeas corpus
- 4 action under Article X of the Code of Civil Procedure or
- 5 under federal law (28 U.S.C. 2254), a petition for claim
- 6 under the Court of Claims Act or an action under the
- federal Civil Rights Act (42 U.S.C. 1983).
- 8 (e) Nothing in this amendatory Act of 1998 affects the
- 9 validity of Public Act 89-404.
- 10 (Source: P.A. 90-141, eff. 1-1-98; 90-505, eff. 8-19-97;
- 11 90-592, eff. 6-19-98; 90-593, eff. 6-19-98; 90-655, eff.
- 7-30-98; 90-740, eff. 1-1-99; 91-121, eff. 7-15-99; 91-357,
- 13 eff. 7-29-99.)
- 14 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)
- Sec. 5-4-1. Sentencing Hearing.
- 16 (a) Except when the death penalty is sought under
- 17 hearing procedures otherwise specified, after a determination
- 18 of guilt, a hearing shall be held to impose the sentence.
- 19 However, prior to the imposition of sentence on an individual
- 20 being sentenced for an offense based upon a charge for a
- violation of Section 11-501 of the Illinois Vehicle Code or a
- 22 similar provision of a local ordinance, the individual must
- 23 undergo a professional evaluation to determine if an alcohol
- or other drug abuse problem exists and the extent of such a
- 25 problem. Programs conducting these evaluations shall be
- licensed by the Department of Human Services. However, if
- 27 the individual is not a resident of Illinois, the court may,
- in its discretion, accept an evaluation from a program in the
- 29 state of such individual's residence. The court may in its
- 30 sentencing order approve an eligible defendant for placement
- 31 in a Department of Corrections impact incarceration program
- 32 as provided in Section 5-8-1.1. At the hearing the court
- 33 shall:

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- 1 (1) consider the evidence, if any, received upon 2 the trial;
 - (2) consider any presentence reports;
 - (3) consider the financial impact of incarceration based on the financial impact statement filed with the clerk of the court by the Department of Corrections;
 - (4) consider evidence and information offered by the parties in aggravation and mitigation;
 - (5) hear arguments as to sentencing alternatives;
 - (6) afford the defendant the opportunity to make a statement in his own behalf;
 - (7) afford the victim of a violent crime or a violation of Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, or a qualified individual affected by a violation of Section 405, 405.1, 405.2, or 407 of the Illinois Controlled Substances Act, committed by the defendant the opportunity to make a statement concerning the impact on the victim and to offer evidence in aggravation or mitigation; provided that the statement and evidence offered in aggravation or mitigation must first be prepared in writing in conjunction with the State's Attorney before it may be presented orally at the hearing. Any sworn testimony offered by the victim is subject to the defendant's right to cross-examine. All statements and evidence offered under this paragraph (7) shall become part of the record of the court. For the purpose of this paragraph (7), "qualified individual" means any person who (i) lived or worked within the territorial jurisdiction where the offense took place when the offense took place; and (ii) is familiar with various public places within the territorial jurisdiction where the offense took place when the offense took place. For the purposes of this paragraph (7), "qualified

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- individual" includes any peace officer, or any member of any duly organized State, county, or municipal peace unit assigned to the territorial jurisdiction where the offense took place when the offense took place; and
 - (8) in cases of reckless homicide afford the victim's spouse, guardians, parents or other immediate family members an opportunity to make oral statements.
- 8 All sentences shall be imposed by the judge based 9 upon his independent assessment of the elements specified 10 above and any agreement as to sentence reached by the 11 parties. The judge who presided at the trial or the judge who accepted the plea of guilty shall impose the sentence 12 13 unless he is no longer sitting as a judge in that court. Where the judge does not impose sentence at the same time on 14 15 all defendants who are convicted as a result of being 16 involved in the same offense, the defendant or the State's Attorney may advise the sentencing court of the disposition 17 of any other defendants who have been sentenced. 18
 - (c) In imposing a sentence for a violent crime or for an offense of operating or being in physical control of a vehicle while under the influence of alcohol, any other drug or any combination thereof, or a similar provision of a local ordinance, when such offense resulted in the personal injury to someone other than the defendant, the trial judge shall specify on the record the particular evidence, information, factors in mitigation and aggravation or other reasons that led to his sentencing determination. The full verbatim record of the sentencing hearing shall be filed with the clerk of the court and shall be a public record.
- 30 (c-1) In imposing a sentence for the offense of 31 aggravated kidnapping for ransom, home invasion, armed 32 robbery, aggravated vehicular hijacking, aggravated discharge 33 of a firearm, or armed violence with a category I weapon or 34 category II weapon, the trial judge shall make a finding as

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the defendant on appeal.

1 to whether the conduct leading to conviction for the offense

2 resulted in great bodily harm to a victim, and shall enter

that finding and the basis for that finding in the record. 3

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

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

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

1 programs as provided for by Illinois statute."

2 When the sentence is imposed for one of the offenses enumerated in paragraph (a)(3) of Section 3-6-3, other than 3 4 when the sentence is imposed for one of the offenses enumerated in paragraph (a)(2) of Section 3-6-3 committed on 5 б or after June 19, 1998, and other than when the sentence is 7 imposed for reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 if the offense was 8 9 committed on or after January 1, 1999, and other than when the sentence is imposed for the offense enumerated in 10 11 paragraph (a)(2.5) of Section 3-6-3 committed on or after the effective date of this amendatory Act of the 92nd General 12 13 Assembly, the judge's statement, to be given after pronouncing the sentence, shall include the following: 14 15 "The purpose of this statement is to inform the public of 16 the actual period of time this defendant is likely to spend in prison as a result of this sentence. The actual period of 17 prison time served is determined by the statutes of Illinois 18 19 as applied to this sentence by the Illinois Department of Corrections and the Illinois Prisoner Review Board. In this 20 21 case, assuming the defendant receives all of his or her good conduct credit, the period of estimated actual custody is ... 22 23 years and ... months, less up to 90 days additional good conduct credit for meritorious service. If the defendant, 24 25 because of his or her own misconduct or failure to comply with the institutional regulations, does not receive those 26 27 credits, the actual time served in prison will be longer. The defendant may also receive an additional one-half day 28 29 conduct credit for each day of participation in 30 vocational, industry, substance abuse, and educational programs as provided for by Illinois statute." 31 32 When the sentence is imposed for one of the offenses 33 enumerated in paragraph (a)(2) of Section 3-6-3, other than

first degree murder, and the offense was committed on or

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1 after June 19, 1998, and when the sentence is imposed for

2 reckless homicide as defined in subsection (e) of Section 9-3

3 of the Criminal Code of 1961 if the offense was committed on

4 or after January 1, 1999, and when the sentence is imposed

5 for the offense enumerated in paragraph (a)(2.5) of Section

6 <u>3-6-3 committed on or after the effective date of this</u>

7 <u>amendatory Act of the 92nd General Assembly</u>, the judge's

8 statement, to be given after pronouncing the sentence, shall

9 include the following:

"The purpose of this statement is to inform the public of 10 11 the actual period of time this defendant is likely to spend in prison as a result of this sentence. The actual period of 12 prison time served is determined by the statutes of Illinois 13 as applied to this sentence by the Illinois Department of 14 15 Corrections and the Illinois Prisoner Review Board. 16 case, the defendant is entitled to no more than 4 1/2 days of good conduct credit for each month of his or her sentence of 17 imprisonment. Therefore, this defendant will serve at least 18 19 85% of his or her sentence. Assuming the defendant receives 4 1/2 days credit for each month of his or her sentence, the 20 period of estimated actual custody is ... years and ... 21 22 If the defendant, because of his or her own 23 misconduct or failure to comply with the institutional regulations receives lesser credit, the actual time served in 24 25 prison will be longer."

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

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

- 1 Corrections and the Illinois Prisoner Review Board. In this
- 2 case, the defendant is not entitled to good conduct credit.
- 3 Therefore, this defendant will serve 100% of his or her
- 4 sentence."
- 5 (d) When the defendant is committed to the Department of
- 6 Corrections, the State's Attorney shall and counsel for the
- 7 defendant may file a statement with the clerk of the court to
- 8 be transmitted to the department, agency or institution to
- 9 which the defendant is committed to furnish such department,
- 10 agency or institution with the facts and circumstances of the
- offense for which the person was committed together with all
- 12 other factual information accessible to them in regard to the
- 13 person prior to his commitment relative to his habits,
- 14 associates, disposition and reputation and any other facts
- 15 and circumstances which may aid such department, agency or
- 16 institution during its custody of such person. The clerk
- 17 shall within 10 days after receiving any such statements
- 18 transmit a copy to such department, agency or institution and
- 19 a copy to the other party, provided, however, that this shall
- 20 not be cause for delay in conveying the person to the
- 21 department, agency or institution to which he has been
- 22 committed.
- 23 (e) The clerk of the court shall transmit to the
- 24 department, agency or institution, if any, to which the
- defendant is committed, the following:
- 26 (1) the sentence imposed;
- 27 (2) any statement by the court of the basis for 28 imposing the sentence;
- 29 (3) any presentence reports;
- 30 (4) the number of days, if any, which the defendant 31 has been in custody and for which he is entitled to
- 32 credit against the sentence, which information shall be
- provided to the clerk by the sheriff;
- 34 (4.1) any finding of great bodily harm made by the

1	court	with	respect	to	an	offense	${\tt enumerated}$	in	subsection
2	(c-1)	;							

- 3 (5) all statements filed under subsection (d) of this Section;
- 5 (6) any medical or mental health records or 6 summaries of the defendant;
- 7 (7) the municipality where the arrest of the 8 offender or the commission of the offense has occurred, 9 where such municipality has a population of more than 10 25,000 persons;
- 11 (8) all statements made and evidence offered under 12 paragraph (7) of subsection (a) of this Section; and
- (9) all additional matters which the court directs the clerk to transmit.
- 15 (Source: P.A. 90-592, eff. 6-19-98; 90-593, eff. 6-19-98;
- 16 90-740, eff. 1-1-99; 91-357, eff. 7-29-99; 91-899, eff.
- 17 1-1-01.)