



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 02/05/04, by Timothy L. Schmitz

**SYNOPSIS AS INTRODUCED:**

730 ILCS 5/3-6-3

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

Amends the Unified Code of Corrections. Provides that a person convicted of aggravated discharge of a firearm, whether or not the conduct leading to conviction for the offense resulted in great bodily harm to the victim, may only receive a maximum of 4.5 days of good conduct credit for each month of his or her sentence of imprisonment. Effective immediately.

LRB093 15683 RLC 46784 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

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

4 Section 5. The Unified Code of Corrections is amended by  
5 changing 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 the  
17 effective date of this amendatory Act of the 93rd General  
18 Assembly, the following:

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

23 (ii) that a prisoner serving a sentence for attempt  
24 to commit first degree murder, solicitation of murder,  
25 solicitation of murder for hire, intentional homicide  
26 of an unborn child, predatory criminal sexual assault  
27 of a child, aggravated criminal sexual assault,  
28 criminal sexual assault, aggravated kidnapping,  
29 aggravated battery with a firearm, heinous battery,  
30 aggravated battery of a senior citizen, or aggravated  
31 battery of a child shall receive no more than 4.5 days  
32 of good conduct credit for each month of his or her

1 sentence of imprisonment; ~~and~~

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

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

19 (2.1) For all offenses, other than those enumerated in  
20 subdivision (a) (2) (i), (ii), or (iii) committed on or after  
21 June 19, 1998 or subdivision (a) (2) (iv) committed on or  
22 after the effective date of this amendatory Act of the 93rd  
23 General Assembly, and other than the offense of reckless  
24 homicide as defined in subsection (e) of Section 9-3 of the  
25 Criminal Code of 1961 committed on or after January 1,  
26 1999, or aggravated driving under the influence of alcohol,  
27 other drug or drugs, or intoxicating compound or compounds,  
28 or any combination thereof as defined in subparagraph (F)  
29 of paragraph (1) of subsection (d) of Section 11-501 of the  
30 Illinois Vehicle Code, the rules and regulations shall  
31 provide that a prisoner who is serving a term of  
32 imprisonment shall receive one day of good conduct credit  
33 for each day of his or her sentence of imprisonment or  
34 recommitment under Section 3-3-9. Each day of good conduct  
35 credit shall reduce by one day the prisoner's period of  
36 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 good conduct credit.

4 (2.3) The rules and regulations on early release shall  
5 provide that a prisoner who is serving a sentence for  
6 reckless homicide as defined in subsection (e) of Section  
7 9-3 of the Criminal Code of 1961 committed on or after  
8 January 1, 1999, or aggravated driving under the influence  
9 of alcohol, other drug or drugs, or intoxicating compound  
10 or compounds, or any combination thereof as defined in  
11 subparagraph (F) of paragraph (1) of subsection (d) of  
12 Section 11-501 of the Illinois Vehicle Code, shall receive  
13 no more than 4.5 days of good conduct credit for each month  
14 of his or her sentence of imprisonment.

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

27 (2.5) The rules and regulations on early release shall  
28 provide that a prisoner who is serving a sentence for  
29 aggravated arson committed on or after July 27, 2001 (the  
30 effective date of Public Act 92-176) ~~this amendatory Act of~~  
31 ~~the 92nd 93rd General Assembly~~ shall receive no more than  
32 4.5 days of good conduct credit for each month of his or  
33 her sentence of imprisonment.

34 (3) The rules and regulations shall also provide that  
35 the Director may award up to 180 days additional good  
36 conduct credit for meritorious service in specific

1 instances as the Director deems proper; except that no more  
2 than 90 days of good conduct credit for meritorious service  
3 shall be awarded to any prisoner who is serving a sentence  
4 for conviction of first degree murder, reckless homicide  
5 while under the influence of alcohol or any other drug, or  
6 aggravated driving under the influence of alcohol, other  
7 drug or drugs, or intoxicating compound or compounds, or  
8 any combination thereof as defined in subparagraph (F) of  
9 paragraph (1) of subsection (d) of Section 11-501 of the  
10 Illinois Vehicle Code, aggravated kidnapping, kidnapping,  
11 predatory criminal sexual assault of a child, aggravated  
12 criminal sexual assault, criminal sexual assault, deviate  
13 sexual assault, aggravated criminal sexual abuse,  
14 aggravated indecent liberties with a child, indecent  
15 liberties with a child, child pornography, heinous  
16 battery, aggravated battery of a spouse, aggravated  
17 battery of a spouse with a firearm, stalking, aggravated  
18 stalking, aggravated battery of a child, endangering the  
19 life or health of a child, cruelty to a child, or narcotic  
20 racketeering. Notwithstanding the foregoing, good conduct  
21 credit for meritorious service shall not be awarded on a  
22 sentence of imprisonment imposed for conviction of: (i) one  
23 of the offenses enumerated in subdivision (a) (2) (i), (ii),  
24 or (iii) when the offense is committed on or after June 19,  
25 1998 or subdivision (a) (2) (iv) when the offense is  
26 committed on or after the effective date of this amendatory  
27 Act of the 93rd General Assembly, (ii) reckless homicide as  
28 defined in subsection (e) of Section 9-3 of the Criminal  
29 Code of 1961 when the offense is committed on or after  
30 January 1, 1999, or aggravated driving under the influence  
31 of alcohol, other drug or drugs, or intoxicating compound  
32 or compounds, or any combination thereof as defined in  
33 subparagraph (F) of paragraph (1) of subsection (d) of  
34 Section 11-501 of the Illinois Vehicle Code, (iii) one of  
35 the offenses enumerated in subdivision (a) (2.4) when the  
36 offense is committed on or after July 15, 1999 (the

1 effective date of Public Act 91-121 ~~this amendatory Act of~~  
2 ~~1999~~, or (iv) aggravated arson when the offense is  
3 committed on or after July 27, 2001 (the effective date of  
4 Public Act 92-176) ~~this amendatory Act of the 92nd 93rd~~  
5 ~~General Assembly~~.

6 (4) The rules and regulations shall also provide that  
7 the good conduct credit accumulated and retained under  
8 paragraph (2.1) of subsection (a) of this Section by any  
9 inmate during specific periods of time in which such inmate  
10 is engaged full-time in substance abuse programs,  
11 correctional industry assignments, or educational programs  
12 provided by the Department under this paragraph (4) and  
13 satisfactorily completes the assigned program as  
14 determined by the standards of the Department, shall be  
15 multiplied by a factor of 1.25 for program participation  
16 before August 11, 1993 and 1.50 for program participation  
17 on or after that date. However, no inmate shall be eligible  
18 for the additional good conduct credit under this paragraph  
19 (4) while assigned to a boot camp, mental health unit, or  
20 electronic detention, or if convicted of an offense  
21 enumerated in subdivision paragraph (a)(2)(i), (ii), or  
22 (iii) of this Section that is committed on or after June  
23 19, 1998 or subdivision (a)(2)(iv) of this Section that is  
24 committed on or after the effective date of this amendatory  
25 Act of the 93rd general Assembly, or if convicted of  
26 reckless homicide as defined in subsection (e) of Section  
27 9-3 of the Criminal Code of 1961 if the offense is  
28 committed on or after January 1, 1999, or aggravated  
29 driving under the influence of alcohol, other drug or  
30 drugs, or intoxicating compound or compounds, or any  
31 combination thereof as defined in subparagraph (F) of  
32 paragraph (1) of subsection (d) of Section 11-501 of the  
33 Illinois Vehicle Code, or if convicted of an offense  
34 enumerated in paragraph (a)(2.4) of this Section that is  
35 committed on or after July 15, 1999 (the effective date of  
36 Public Act 91-121) ~~this amendatory Act of 1999~~, or first

1 degree murder, a Class X felony, criminal sexual assault,  
2 felony criminal sexual abuse, aggravated criminal sexual  
3 abuse, aggravated battery with a firearm, or any  
4 predecessor or successor offenses with the same or  
5 substantially the same elements, or any inchoate offenses  
6 relating to the foregoing offenses. No inmate shall be  
7 eligible for the additional good conduct credit under this  
8 paragraph (4) who (i) has previously received increased  
9 good conduct credit under this paragraph (4) and has  
10 subsequently been convicted of a felony, or (ii) has  
11 previously served more than one prior sentence of  
12 imprisonment for a felony in an adult correctional  
13 facility.

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

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

35 (4.5) The rules and regulations on early release shall  
36 also provide that a prisoner who is serving a sentence for

1 a crime committed as a result of the use of, abuse of, or  
2 addiction to alcohol or a controlled substance and the  
3 crime was committed on or after September 1, 2003 (the  
4 effective date of Public Act 93-354) ~~this Amendatory Act of~~  
5 ~~the 93rd General Assembly~~ shall receive no good conduct  
6 credit until he or she participates in and completes a  
7 substance abuse treatment program. Good conduct credit  
8 awarded under clauses (2), (3), and (4) of this subsection  
9 (a) for crimes committed on or after September 1, 2003 ~~the~~  
10 ~~effective date of this amendatory Act of the 93rd General~~  
11 ~~Assembly~~ is subject to the provisions of this clause (4.5).  
12 If the prisoner completes a substance abuse treatment  
13 program, the Department may award good conduct credit for  
14 the time spent in treatment. Availability of substance  
15 abuse treatment shall be subject to the limits of fiscal  
16 resources appropriated by the General Assembly for these  
17 purposes. If treatment is not available, the prisoner shall  
18 be placed on a waiting list under criteria established by  
19 the Department. The Department may require a prisoner  
20 placed on a waiting list to attend a substance abuse  
21 education class or attend substance abuse self-help  
22 meetings. A prisoner may not lose good conduct credit as a  
23 result of being placed on a waiting list. A prisoner placed  
24 on a waiting list remains eligible for increased good  
25 conduct credit for participation in an educational,  
26 vocational, or correctional industry program under clause  
27 (4) of subsection (a) of this Section.

28 (5) Whenever the Department is to release any inmate  
29 earlier than it otherwise would because of a grant of good  
30 conduct credit for meritorious service given at any time  
31 during the term, the Department shall give reasonable  
32 advance notice of the impending release to the State's  
33 Attorney of the county where the prosecution of the inmate  
34 took place.

35 (b) Whenever a person is or has been committed under  
36 several convictions, with separate sentences, the sentences



1 shall be construed under Section 5-8-4 in granting and  
2 forfeiting of good time.

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

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

28 The Director of the Department of Corrections, in  
29 appropriate cases, may restore up to 30 days good conduct  
30 credits which have been revoked, suspended or reduced. Any  
31 restoration of good conduct credits in excess of 30 days shall  
32 be subject to review by the Prisoner Review Board. However, the  
33 Board may not restore good conduct credit in excess of the  
34 amount requested by the Director.

35 Nothing contained in this Section shall prohibit the  
36 Prisoner Review Board from ordering, pursuant to Section

1 3-3-9(a) (3) (i) (B), that a prisoner serve up to one year of the  
2 sentence imposed by the court that was not served due to the  
3 accumulation of good conduct credit.

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

18 For purposes of this subsection (d):

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

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

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

28 (C) the claims, defenses, and other legal  
29 contentions therein are not warranted by existing law  
30 or by a nonfrivolous argument for the extension,  
31 modification, or reversal of existing law or the  
32 establishment of new law;

33 (D) the allegations and other factual contentions  
34 do not have evidentiary support or, if specifically so  
35 identified, are not likely to have evidentiary support  
36 after a reasonable opportunity for further

1 investigation or discovery; or

2 (E) the denials of factual contentions are not  
3 warranted on the evidence, or if specifically so  
4 identified, are not reasonably based on a lack of  
5 information or belief.

6 (2) "Lawsuit" means a petition for post-conviction  
7 relief under Article 122 of the Code of Criminal Procedure  
8 of 1963, a motion pursuant to Section 116-3 of the Code of  
9 Criminal Procedure of 1963, a habeas corpus action under  
10 Article X of the Code of Civil Procedure or under federal  
11 law (28 U.S.C. 2254), a petition for claim under the Court  
12 of Claims Act or an action under the federal Civil Rights  
13 Act (42 U.S.C. 1983).

14 (e) Nothing in Public Act 90-592 or 90-593 ~~this amendatory~~  
15 ~~Act of 1998~~ affects the validity of Public Act 89-404.

16 (Source: P.A. 92-176, eff. 7-27-01; 92-854, eff. 12-5-02;  
17 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; revised 10-15-03.)

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law.