



## 93RD GENERAL ASSEMBLY

### State of Illinois

2003 and 2004

HB7332

Introduced 9/29/2004, by Rep. William B. Black

#### 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 a third or subsequent violation for driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment. Effective July 1, 2005.

LRB093 23487 RLC 53482 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 committed on or after  
14 June 19, 1998, the following:

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

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

30 (iii) that a prisoner serving a sentence for home  
31 invasion, armed robbery, aggravated vehicular  
32 hijacking, aggravated discharge of a firearm, or armed

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

9 (2.1) For all offenses, other than those enumerated in  
10 subdivision (a)(2) committed on or after June 19, 1998, and  
11 other than the offense of reckless homicide as defined in  
12 subsection (e) of Section 9-3 of the Criminal Code of 1961  
13 committed on or after January 1, 1999, or aggravated  
14 driving under the influence of alcohol, other drug or  
15 drugs, or intoxicating compound or compounds, or any  
16 combination thereof as defined in subparagraph (F) of  
17 paragraph (1) of subsection (d) of Section 11-501 of the  
18 Illinois Vehicle Code, the rules and regulations shall  
19 provide that a prisoner who is serving a term of  
20 imprisonment shall receive one day of good conduct credit  
21 for each day of his or her sentence of imprisonment or  
22 recommitment under Section 3-3-9. Each day of good conduct  
23 credit shall reduce by one day the prisoner's period of  
24 imprisonment or recommitment under Section 3-3-9.

25 (2.2) A prisoner serving a term of natural life  
26 imprisonment or a prisoner who has been sentenced to death  
27 shall receive no good conduct credit.

28 (2.3) The rules and regulations on early release shall  
29 provide that a prisoner who is serving a sentence for  
30 reckless homicide as defined in subsection (e) of Section  
31 9-3 of the Criminal Code of 1961 committed on or after  
32 January 1, 1999, or aggravated driving under the influence  
33 of alcohol, other drug or drugs, or intoxicating compound  
34 or compounds, or any combination thereof as defined in  
35 subparagraph (F) of paragraph (1) of subsection (d) of  
36 Section 11-501 of the Illinois Vehicle Code, or a third or

1 subsequent conviction for driving under the influence of  
2 alcohol, other drug or drugs, or intoxicating compound or  
3 compounds, or any combination thereof as defined in Section  
4 11-501 of the Illinois Vehicle Code shall receive no more  
5 than 4.5 days of good conduct credit for each month of his  
6 or her sentence of imprisonment.

7 (2.4) The rules and regulations on early release shall  
8 provide with respect to the offenses of aggravated battery  
9 with a machine gun or a firearm equipped with any device or  
10 attachment designed or used for silencing the report of a  
11 firearm or aggravated discharge of a machine gun or a  
12 firearm equipped with any device or attachment designed or  
13 used for silencing the report of a firearm, committed on or  
14 after July 15, 1999 (the effective date of Public Act  
15 91-121) ~~this amendatory Act of 1999~~, that a prisoner  
16 serving a sentence for any of these offenses 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 (2.5) The rules and regulations on early release shall  
20 provide that a prisoner who is serving a sentence for  
21 aggravated arson committed on or after July 27, 2001 (the  
22 effective date of Public Act 92-176) ~~this amendatory Act of~~  
23 ~~the 92nd 93rd General Assembly~~ shall receive no more than  
24 4.5 days of good conduct credit for each month of his or  
25 her sentence of imprisonment.

26 (3) The rules and regulations shall also provide that  
27 the Director may award up to 180 days additional good  
28 conduct credit for meritorious service in specific  
29 instances as the Director deems proper; except that no more  
30 than 90 days of good conduct credit for meritorious service  
31 shall be awarded to any prisoner who is serving a sentence  
32 for conviction of first degree murder, reckless homicide  
33 while under the influence of alcohol or any other drug, or  
34 aggravated driving under the influence of alcohol, other  
35 drug or drugs, or intoxicating compound or compounds, or  
36 any combination thereof as defined in subparagraph (F) of

1 paragraph (1) of subsection (d) of Section 11-501 of the  
2 Illinois Vehicle Code, aggravated kidnapping, kidnapping,  
3 predatory criminal sexual assault of a child, aggravated  
4 criminal sexual assault, criminal sexual assault, deviate  
5 sexual assault, aggravated criminal sexual abuse,  
6 aggravated indecent liberties with a child, indecent  
7 liberties with a child, child pornography, heinous  
8 battery, aggravated battery of a spouse, aggravated  
9 battery of a spouse with a firearm, stalking, aggravated  
10 stalking, aggravated battery of a child, endangering the  
11 life or health of a child, cruelty to a child, or narcotic  
12 racketeering. Notwithstanding the foregoing, good conduct  
13 credit for meritorious service shall not be awarded on a  
14 sentence of imprisonment imposed for conviction of: (i) one  
15 of the offenses enumerated in subdivision (a)(2) when the  
16 offense is committed on or after June 19, 1998, (ii)  
17 reckless homicide as defined in subsection (e) of Section  
18 9-3 of the Criminal Code of 1961 when the offense is  
19 committed on or after January 1, 1999, or aggravated  
20 driving under the influence of alcohol, other drug or  
21 drugs, or intoxicating compound or compounds, or any  
22 combination thereof as defined in subparagraph (F) of  
23 paragraph (1) of subsection (d) of Section 11-501 of the  
24 Illinois Vehicle Code, (iii) one of the offenses enumerated  
25 in subdivision (a)(2.4) when the offense is committed on or  
26 after July 15, 1999 (the effective date of Public Act  
27 91-121) ~~this amendatory Act of 1999~~, or (iv) aggravated  
28 arson when the offense is committed on or after July 27,  
29 2001 (the effective date of Public Act 92-176) ~~this~~  
30 ~~amendatory Act of the 92nd 93rd General Assembly.~~

31 (4) The rules and regulations shall also provide that  
32 the good conduct credit accumulated and retained under  
33 paragraph (2.1) of subsection (a) of this Section by any  
34 inmate during specific periods of time in which such inmate  
35 is engaged full-time in substance abuse programs,  
36 correctional industry assignments, or educational programs

1 provided by the Department under this paragraph (4) and  
2 satisfactorily completes the assigned program as  
3 determined by the standards of the Department, shall be  
4 multiplied by a factor of 1.25 for program participation  
5 before August 11, 1993 and 1.50 for program participation  
6 on or after that date. However, no inmate shall be eligible  
7 for the additional good conduct credit under this paragraph  
8 (4) while assigned to a boot camp, mental health unit, or  
9 electronic detention, or if convicted of an offense  
10 enumerated in paragraph (a)(2) of this Section that is  
11 committed on or after June 19, 1998, or if convicted of  
12 reckless homicide as defined in subsection (e) of Section  
13 9-3 of the Criminal Code of 1961 if the offense is  
14 committed on or after January 1, 1999, or aggravated  
15 driving under the influence of alcohol, other drug or  
16 drugs, or intoxicating compound or compounds, or any  
17 combination thereof as defined in subparagraph (F) of  
18 paragraph (1) of subsection (d) of Section 11-501 of the  
19 Illinois Vehicle Code, or if convicted of an offense  
20 enumerated in paragraph (a)(2.4) of this Section that is  
21 committed on or after July 15, 1999 (the effective date of  
22 Public Act 91-121) ~~this amendatory Act of 1999~~, or first  
23 degree murder, a Class X felony, criminal sexual assault,  
24 felony criminal sexual abuse, aggravated criminal sexual  
25 abuse, aggravated battery with a firearm, or any  
26 predecessor or successor offenses with the same or  
27 substantially the same elements, or any inchoate offenses  
28 relating to the foregoing offenses. No inmate shall be  
29 eligible for the additional good conduct credit under this  
30 paragraph (4) who (i) has previously received increased  
31 good conduct credit under this paragraph (4) and has  
32 subsequently been convicted of a felony, or (ii) has  
33 previously served more than one prior sentence of  
34 imprisonment for a felony in an adult correctional  
35 facility.

36 Educational, vocational, substance abuse and

1 correctional industry programs under which good conduct  
2 credit may be increased under this paragraph (4) shall be  
3 evaluated by the Department on the basis of documented  
4 standards. The Department shall report the results of these  
5 evaluations to the Governor and the General Assembly by  
6 September 30th of each year. The reports shall include data  
7 relating to the recidivism rate among program  
8 participants.

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

21 (4.5) The rules and regulations on early release shall  
22 also provide that a prisoner who is serving a sentence for  
23 a crime committed as a result of the use of, abuse of, or  
24 addiction to alcohol or a controlled substance and the  
25 crime was committed on or after September 1, 2003 (the  
26 effective date of Public Act 93-354) ~~this Amendatory Act of~~  
27 ~~the 93rd General Assembly~~ shall receive no good conduct  
28 credit until he or she participates in and completes a  
29 substance abuse treatment program. Good conduct credit  
30 awarded under clauses (2), (3), and (4) of this subsection  
31 (a) for crimes committed on or after September 1, 2003 ~~the~~  
32 ~~effective date of this amendatory Act of the 93rd General~~  
33 ~~Assembly~~ is subject to the provisions of this clause (4.5).  
34 If the prisoner completes a substance abuse treatment  
35 program, the Department may award good conduct credit for  
36 the time spent in treatment. Availability of substance

1 abuse treatment shall be subject to the limits of fiscal  
2 resources appropriated by the General Assembly for these  
3 purposes. If treatment is not available, the prisoner shall  
4 be placed on a waiting list under criteria established by  
5 the Department. The Department may require a prisoner  
6 placed on a waiting list to attend a substance abuse  
7 education class or attend substance abuse self-help  
8 meetings. A prisoner may not lose good conduct credit as a  
9 result of being placed on a waiting list. A prisoner placed  
10 on a waiting list remains eligible for increased good  
11 conduct credit for participation in an educational,  
12 vocational, or correctional industry program under clause  
13 (4) of subsection (a) of this Section.

14 (5) Whenever the Department is to release any inmate  
15 earlier than it otherwise would because of a grant of good  
16 conduct credit for meritorious service given at any time  
17 during the term, the Department shall give reasonable  
18 advance notice of the impending release to the State's  
19 Attorney of the county where the prosecution of the inmate  
20 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 the  
27 rate of accumulation of good conduct credit for specific rule  
28 violations, during imprisonment. These rules and regulations  
29 shall provide that no inmate may be penalized more than one  
30 year of good conduct credit for any one infraction.

31 When the Department seeks to revoke, suspend or reduce the  
32 rate of accumulation of any good conduct credits for an alleged  
33 infraction of its rules, it shall bring charges therefor  
34 against the prisoner sought to be so deprived of good conduct  
35 credits before the Prisoner Review Board as provided in  
36 subparagraph (a)(4) of Section 3-3-2 of this Code, if the



1 amount of credit at issue exceeds 30 days or when during any 12  
2 month period, the cumulative amount of credit revoked exceeds  
3 30 days except where the infraction is committed or discovered  
4 within 60 days of scheduled release. In those cases, the  
5 Department of Corrections may revoke up to 30 days of good  
6 conduct credit. The Board may subsequently approve the  
7 revocation of additional good conduct credit, if the Department  
8 seeks to revoke good conduct credit in excess of 30 days.  
9 However, the Board shall not be empowered to review the  
10 Department's decision with respect to the loss of 30 days of  
11 good conduct credit within any calendar year for any prisoner  
12 or to increase any penalty beyond the length requested by the  
13 Department.

14 The Director of the Department of Corrections, in  
15 appropriate cases, may restore up to 30 days good conduct  
16 credits which have been revoked, suspended or reduced. Any  
17 restoration of good conduct credits in excess of 30 days shall  
18 be subject to review by the Prisoner Review Board. However, the  
19 Board may not restore good conduct credit in excess of the  
20 amount requested by the Director.

21 Nothing contained in this Section shall prohibit the  
22 Prisoner Review Board from ordering, pursuant to Section  
23 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the  
24 sentence imposed by the court that was not served due to the  
25 accumulation of good conduct credit.

26 (d) If a lawsuit is filed by a prisoner in an Illinois or  
27 federal court against the State, the Department of Corrections,  
28 or the Prisoner Review Board, or against any of their officers  
29 or employees, and the court makes a specific finding that a  
30 pleading, motion, or other paper filed by the prisoner is  
31 frivolous, the Department of Corrections shall conduct a  
32 hearing to revoke up to 180 days of good conduct credit by  
33 bringing charges against the prisoner sought to be deprived of  
34 the good conduct credits before the Prisoner Review Board as  
35 provided in subparagraph (a)(8) of Section 3-3-2 of this Code.  
36 If the prisoner has not accumulated 180 days of good conduct

1 credit at the time of the finding, then the Prisoner Review  
2 Board may revoke all good conduct credit accumulated by the  
3 prisoner.

4 For purposes of this subsection (d):

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

9 (A) it lacks an arguable basis either in law or in  
10 fact;

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

14 (C) the claims, defenses, and other legal  
15 contentions therein are not warranted by existing law  
16 or by a nonfrivolous argument for the extension,  
17 modification, or reversal of existing law or the  
18 establishment of new law;

19 (D) the allegations and other factual contentions  
20 do not have evidentiary support or, if specifically so  
21 identified, are not likely to have evidentiary support  
22 after a reasonable opportunity for further  
23 investigation or discovery; or

24 (E) the denials of factual contentions are not  
25 warranted on the evidence, or if specifically so  
26 identified, are not reasonably based on a lack of  
27 information or belief.

28 (2) "Lawsuit" means a petition for post-conviction  
29 relief under Article 122 of the Code of Criminal Procedure  
30 of 1963, a motion pursuant to Section 116-3 of the Code of  
31 Criminal Procedure of 1963, a habeas corpus action under  
32 Article X of the Code of Civil Procedure or under federal  
33 law (28 U.S.C. 2254), a petition for claim under the Court  
34 of Claims Act or an action under the federal Civil Rights  
35 Act (42 U.S.C. 1983).

36 (e) Nothing in Public Act 90-592 or 90-593 ~~this amendatory~~

1 ~~Act of 1998~~ affects the validity of Public Act 89-404.

2 (Source: P.A. 92-176, eff. 7-27-01; 92-854, eff. 12-5-02;

3 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; revised 10-15-03.)

4 Section 99. Effective date. This Act takes effect July 1,

5 2005.