

1 AMENDMENT TO SENATE BILL 108

2 AMENDMENT NO. _____. Amend Senate Bill 108, AS AMENDED,
3 as follows:
4 by replacing everything after the enacting clause with the
5 following:

6 "Section 5. The Unified Code of Corrections is amended
7 by changing Section 3-3-2.1 and adding Section 3-3-2.2 as
8 follows:

9 (730 ILCS 5/3-3-2.1) (from Ch. 38, par. 1003-3-2.1)
10 Sec. 3-3-2.1. Prisoner Review Board - Release Date. (a)
11 Except as provided in subsection (b), the Prisoner Review
12 Board shall, no later than 7 days following a prisoner's next
13 parole hearing after the effective date of this Amendatory
14 Act of 1977, provide each prisoner sentenced under the law in
15 effect prior to the effective date of this amendatory Act of
16 1977, with a fixed release date.

17 (b) No release date under this Section shall be set for
18 any person sentenced to an indeterminate sentence under the
19 law in effect prior to the effective date of this amendatory
20 Act of 1977 in which the minimum term of such sentence is 20
21 years or more.

22 (c) The Prisoner Review Board shall notify each eligible

1 offender of his or her release date in a form substantially
2 as follows:

3 Date of Notice

4 "To (Name of offender):

5 Under a recent change in the law you are provided with
6 this choice:

7 (1) You may remain under your present indeterminate
8 sentence and continue to be eligible for parole; or (2) you
9 may waive your right to parole and accept the release date
10 which has been set for you. From this release date will be
11 deducted any good conduct credit you may earn.

12 If you accept the release date established by the Board,
13 you will no longer be eligible for parole.

14 Your release date from prison has been set for: (release
15 date) , subject to a term of mandatory supervised release
16 as provided by law.

17 If you accumulate the maximum amount of good conduct
18 credit as allowed by law recently enacted, you can be
19 released on: , subject to a term of mandatory supervised
20 release as provided by law.

21 Should you choose not to accept the release date, your
22 next parole hearing will be: .

23 The Board has based its determination of your release
24 date on the following:

25 (1) The material that normally would be examined in
26 connection with your parole hearing, as set forth in
27 paragraph (d) of Section 3-3-4 of the Unified Code of
28 Corrections:

29 (2) the intent of the court in imposing sentence on you;

30 (3) the present schedule of sentences for similar
31 offenses provided by Sections 5-8-1 and 5-8-2 of the Unified
32 Code of Corrections, as amended;

33 (4) the factors in mitigation and aggravation provided
34 by Sections 5-5-3.1 and 5-5-3.2 of the Unified Code of

1 Corrections, as amended;

2 (5) The rate of accumulating good conduct credits
3 provided by Section 3-6-3 of the Unified Code of Corrections,
4 as amended;

5 (6) your behavior since commitment.

6 You now have 60 days in which to decide whether to remain
7 under your indeterminate sentence and continue to be eligible
8 for parole or waive your right to parole and accept the
9 release date established for you by the Board. If you do
10 nothing within 60 days, you will remain under the parole
11 system.

12 If you accept the release date, you may accumulate good
13 conduct credit at the maximum rate provided under the law
14 recently enacted.

15 If you feel that the release date set for you is unfair
16 or is not based on complete information required to be
17 considered by the Board, you may request that the Board
18 reconsider the date. In your request you must set forth
19 specific reasons why you feel the Board's release date is
20 unfair and you may submit relevant material in support of
21 your request.

22 The Department of Corrections is obligated to assist you
23 in that effort, if you ask it to do so.

24 The Board will notify you within 60 days whether or not
25 it will reconsider its decision. The Board's decision with
26 respect to reconsidering your release date is final and
27 cannot be appealed to any court.

28 If the Board decides not to reconsider your case you will
29 have 60 days in which to decide whether to accept the release
30 date and waive your right to parole or to continue under the
31 parole system. If you do nothing within 60 days after you
32 receive notification of the Board's decision you will remain
33 under the parole system.

34 If the Board decides to reconsider its decision with

1 respect to your release date, the Board will schedule a date
2 for reconsideration as soon as practicable, but no later than
3 60 days from the date it receives your request, and give you
4 at least 30 days notice. You may submit material to the
5 Board which you believe will be helpful in deciding a proper
6 date for your release. The Department of Corrections is
7 obligated to assist you in that effort, if you ask it to do
8 so.

9 Neither you nor your lawyer has the right to be present
10 on the date of reconsideration, nor the right to call
11 witnesses. However, the Board may ask you or your lawyer to
12 appear or may ask to hear witnesses. The Board will base its
13 determination on the same data on which it made its earlier
14 determination, plus any new information which may be
15 available to it.

16 When the Board has made its decision you will be informed
17 of the release date. In no event will it be longer than the
18 release date originally determined. From this date you may
19 continue to accumulate good conduct credits at the maximum
20 rate. You will not be able to appeal the Board's decision to
21 a court.

22 Following the Board's reconsideration and upon being
23 notified of your release date you will have 60 days in which
24 to decide whether to accept the release date and waive your
25 right to parole or to continue under the parole system. If
26 you do nothing within 60 days after notification of the
27 Board's decision you will remain under the parole system."

28 (d) The Board shall provide each eligible offender with
29 a form substantially as follows:

30 "I (name of offender) am fully aware of my right to
31 choose between parole eligibility and a fixed release date.
32 I know that if I accept the release date established, I will
33 give up my right to seek parole. I have read and understood
34 the Prisoner Review Board's letter, and I know how and under

1 what circumstances the Board has set my release date. I know
2 that I will be released on that date and will be released
3 earlier if I accumulate good conduct credit. I know that the
4 date set by the Board is final, and can't be appealed to a
5 court.

6 Fully aware of all the implications, I expressly and
7 knowingly waive my right to seek parole and accept the
8 release date as established by the Prisoner Review Board."

9 (e) The Board shall use the following information and
10 standards in establishing a release date for each eligible
11 offender who requests that a date be set:

12 (1) Such information as would be considered in a parole
13 hearing under Section 3-3-4 of this Code;

14 (2) The intent of the court in imposing the offender's
15 sentence;

16 (3) The present schedule for similar offenses provided
17 by Sections 5-8-1 and 5-8-2 of this Code;

18 (4) Factors in aggravation and mitigation of sentence as
19 provided in Sections 5-5-3.1 and 5-5-3.2 of this Code;

20 (5) The rate of accumulating good conduct credits
21 provided by Section 3-6-3 of this Code;

22 (6) The offender's behavior since commitment to the
23 Department.

24 (f) After the release date is set by the Board, the
25 offender can accumulate good conduct credits in accordance
26 with Section 3-6-3 of this Code.

27 (g) The release date established by the Board shall not
28 be sooner than the earliest date that the offender would have
29 been eligible for release under the sentence imposed on him
30 by the court, less time credit previously earned for good
31 behavior, nor shall it be later than the latest date at which
32 the offender would have been eligible for release under such
33 sentence, less time credit previously earned for good
34 behavior.

1 (h) (1) Except as provided in subsection (b), each
2 prisoner appearing at his next parole hearing subsequent to
3 the effective date of the amendatory Act of 1977, shall be
4 notified within 7 days of the hearing that he will either be
5 released on parole or that a release date has been set by the
6 Board. The notice and waiver form provided for in
7 subsections (c) and (d) shall be presented to eligible
8 prisoners no later than 7 days following their parole
9 hearing. A written statement of the basis for the decision
10 with regard to the release date set shall be given to such
11 prisoners no later than 14 days following the parole hearing.

12 (2) Each prisoner upon notification of his release date
13 shall have 60 days to choose whether to remain under the
14 parole system or to accept the release date established by
15 the Board. No release date shall be effective unless the
16 prisoner waives his right to parole in writing. If no choice
17 is made by such prisoner within 60 days from the date of his
18 notification of a release date, such prisoner shall remain
19 under the parole system.

20 (3) Within the 60 day period as provided in paragraph
21 (2) of this subsection, a prisoner may request that the Board
22 reconsider its decision with regard to such prisoner's
23 release date. No later than 60 days following receipt of
24 such request for reconsideration, the Board shall notify the
25 prisoner as to whether or not it will reconsider such
26 prisoner's release date. No court shall have jurisdiction to
27 review the Board's decision. No prisoner shall be entitled to
28 more than one request for reconsideration of his release
29 date.

30 (A) If the Board decides not to reconsider the release
31 date, the prisoner shall have 60 days to choose whether to
32 remain under the parole system or to accept the release date
33 established by the Board. No release date shall be effective
34 unless the prisoner waives his right to parole in writing.

1 If no choice is made by such prisoner within 60 days from the
2 date of the notification by the Board refusing to reconsider
3 his release date, such prisoner shall remain under the parole
4 system.

5 (B) If the Board decides to reconsider its decision with
6 respect to such release date, the Board shall schedule a date
7 for reconsideration as soon as practicable, but no later than
8 60 days from the date of the prisoner's request, and give
9 such prisoner at least 30 days notice. Such prisoner may
10 submit any relevant material to the Board which would aid in
11 ascertaining a proper release date. The Department of
12 Corrections shall assist any such prisoner if asked to do so.

13 Neither the prisoner nor his lawyer has the right to be
14 present on the date of reconsideration, nor the right to call
15 witnesses. However, the Board may ask such prisoner or his
16 or her lawyer to appear or may ask to hear witnesses. The
17 Board shall base its determination on the factors specified
18 in subsection (e), plus any new information which may be
19 available to it.

20 (C) When the Board has made its decision, the prisoner
21 shall be informed of the release date as provided for in
22 subsection (c) no later than 7 days following the
23 reconsideration. In no event shall such release date be
24 longer than the release date originally determined. The
25 decision of the Board is final. No court shall have
26 jurisdiction to review the Board's decision.

27 Following the Board's reconsideration and its
28 notification to the prisoner of his or her release date, such
29 prisoner shall have 60 days from the date of such notice in
30 which to decide whether to accept the release date and waive
31 his or her right to parole or to continue under the parole
32 system. If such prisoner does nothing within 60 days after
33 notification of the Board's decision, he or she shall remain
34 under the parole system.

1 (i) This Section does not apply to a person who chooses
2 a fixed sentence under Section 3-3-2.2.

3 (Source: P.A. 80-1387.)

4 (730 ILCS 5/3-3-2.2 new)

5 Sec. 3-3-2.2. Prisoner Review Board - fixed sentence.

6 (a) Except as provided in subsection (b), the Prisoner Review
7 Board shall, no later than 7 days following a prisoner's next
8 parole hearing after the effective date of this amendatory
9 Act of the 93rd General Assembly, provide each prisoner
10 sentenced under the law in effect prior to February 1, 1978,
11 with a fixed sentence.

12 (b) A fixed sentence shall be set for any person
13 sentenced to an indeterminate sentence under any law in
14 effect prior to February 1, 1978.

15 (c) The Prisoner Review Board shall notify each eligible
16 offender of his or her fixed sentence in a form substantially
17 as follows:

18 Date of Notice

19 "To (Name of offender):

20 Under a recent change in the law you are provided with
21 this choice:

22 (1) You may remain under your present indeterminate
23 sentence and continue to be eligible for parole; or (2) you
24 may waive your right to parole and accept the fixed sentence
25 which has been set for you. From this fixed sentence will be
26 deducted any good conduct credit you may earn.

27 If you accept the fixed sentence established by the
28 Board, you will no longer be eligible for parole.

29 Your fixed sentence from prison has been set for:
30 (release date) _____, subject to a term of mandatory supervised
31 release as provided by law.

32 If you accumulate the maximum amount of good conduct
33 credit as allowed by law recently enacted, you can be

1 released on:, subject to a term of mandatory
2 supervised release as provided by law.

3 Should you choose not to accept the fixed sentence, your
4 next parole hearing will be:.....

5 The Board has based its determination of your fixed
6 sentence on the following:

7 (1) The material that normally would be examined in
8 connection with your parole hearing, as set forth in
9 paragraph (d) of Section 3-3-4 of the Unified Code of
10 Corrections;

11 (2) the intent of the court in imposing sentence on you;

12 (3) the present schedule of sentences for similar
13 offenses provided by Sections 5-8-1 and 5-8-2 of the Unified
14 Code of Corrections;

15 (4) the factors in mitigation and aggravation provided
16 by Sections 5-5-3.1 and 5-5-3.2 of the Unified Code of
17 Corrections;

18 (5) The rate of accumulating good conduct credits
19 provided by Section 3-6-3 of the Unified Code of Corrections
20 as amended;

21 (6) your behavior since commitment.

22 You now have 60 days in which to decide whether to remain
23 under your indeterminate sentence and continue to be eligible
24 for parole or waive your right to parole and accept the fixed
25 sentence established for you by the Board. If you do nothing
26 within 60 days, you will remain under the parole system.

27 If you accept the fixed sentence, you may accumulate good
28 conduct credit at the maximum rate provided under the law
29 recently enacted.

30 If you feel that the fixed sentence set for you is unfair
31 or is not based on complete information required to be
32 considered by the Board, you may request that the Board
33 reconsider the sentence. In your request you must set forth
34 specific reasons why you feel the Board's fixed sentence is

1 unfair and you may submit relevant material in support of
2 your request.

3 The Department of Corrections is obligated to assist you
4 in that effort, if you ask it to do so.

5 The Board will notify you within 60 days whether or not
6 it will reconsider its decision. The Board's decision with
7 respect to reconsidering your fixed sentence is final and
8 cannot be appealed to any court.

9 If the Board decides not to reconsider your case you will
10 have 60 days in which to decide whether to accept the fixed
11 sentence and waive your right to parole or to continue under
12 the parole system. If you do nothing within 60 days after
13 you receive notification of the Board's decision you will
14 remain under the parole system.

15 If the Board decides to reconsider its decision with
16 respect to your fixed sentence, the Board will schedule a
17 date for reconsideration as soon as practicable, but no later
18 than 60 days from the date it receives your request, and give
19 you at least 30 days notice. You may submit material to the
20 Board which you believe will be helpful in deciding a proper
21 fixed sentence. The Department of Corrections is obligated
22 to assist you in that effort, if you ask it to do so.

23 Neither you nor your lawyer has the right to be present
24 on the date of reconsideration, nor the right to call
25 witnesses. However, the Board may ask you or your lawyer to
26 appear or may ask to hear witnesses. The Board will base its
27 determination on the same data on which it made its earlier
28 determination, plus any new information which may be
29 available to it.

30 When the Board has made its decision you will be informed
31 of the fixed sentence. In no event will it be longer than
32 the fixed sentence originally determined. From this date you
33 may continue to accumulate good conduct credits at the
34 maximum rate. You will not be able to appeal the Board's

1 decision to a court.

2 Following the Board's reconsideration and upon being
3 notified of your fixed sentence you will have 60 days in
4 which to decide whether to accept the fixed sentence and
5 waive your right to parole or to continue under the parole
6 system. If you do nothing within 60 days after notification
7 of the Board's decision you will remain under the parole
8 system."

9 (d) The Board shall provide each eligible offender with
10 a form substantially as follows:

11 "I (name of offender) am fully aware of my right to
12 choose between parole eligibility and a fixed sentence. I
13 know that if I accept the fixed sentence established, I will
14 give up my right to seek parole. I have read and understood
15 the Prisoner Review Board's letter, and I know how and under
16 what circumstances the Board has set my fixed sentence. I
17 know that I will be released on that date and will be
18 released earlier if I accumulate good conduct credit. I know
19 that the date set by the Board is final, and can't be
20 appealed to a court.

21 Fully aware of all the implications, I expressly and
22 knowingly waive my right to seek parole and accept the fixed
23 date as established by the Prisoner Review Board."

24 (e) The cases of all persons sentenced to an
25 indeterminate sentence under any law in effect prior to
26 February 1, 1978 shall be returned to the circuit court in
27 which they were sentenced for the purpose of imposing a fixed
28 sentence which shall be the equivalent of the sentence which
29 would be imposed for the same crime under Public Act 80-1099.
30 In making this determination, the circuit court shall
31 consider the following factors:

32 (1) The presumptive sentence shall be the median
33 sentence in the range of sentences established by the law
34 in effect on the date Public Act 80-1099 became

1 effective;

2 (2) The presumptive sentence may be reduced based
3 upon any of the mitigating factors provided for by the
4 law in effect on the date Public Act 80-1099 became
5 effective; and

6 (3) The presumptive sentence may be increased, up
7 to the maximum sentence established for the crime by
8 Public Act 80-1099, based upon any of the aggravating
9 factors provided for by the law in effect on the date
10 Public Act 80-1099 became effective which are established
11 in the record in accordance with currently applicable
12 principles of due process.

13 (f) After the fixed sentence is set by the Board, the
14 offender will continue to accumulate good conduct credits
15 under the formula or formulae heretofore applicable.

16 (g) (1) The clerks of the respective circuit courts
17 shall notify each prisoner of his or her fixed sentence
18 within one year of the effective date of this amendatory Act
19 of the 93rd General Assembly.

20 (2) Each prisoner upon notification of his or her fixed
21 sentence shall have 60 days to choose whether to remain under
22 the parole system or to accept the fixed sentence established
23 by the circuit court. No fixed sentence shall be effective
24 unless the prisoner waives his right to parole in writing.
25 If no choice is made by such prisoner within 60 days from the
26 date of his or her notification of a fixed sentence, such
27 prisoner shall remain under the parole system.

28 (3) Within the 60 day period as provided in paragraph
29 (2) of this subsection, a prisoner may request that the
30 circuit court reconsider its decision with regard to such
31 prisoner's fixed sentence. No later than 60 days following
32 receipt of such request for reconsideration, the circuit
33 court shall notify the prisoner as to whether or not it will
34 reconsider such prisoner's fixed sentence. No other court

1 shall have jurisdiction to review the circuit court's
2 decision. No prisoner shall be entitled to more than one
3 request for reconsideration of his or her fixed sentence.

4 (A) If the circuit court decides not to reconsider the
5 fixed sentence, the prisoner shall have 60 days to choose
6 whether to remain under the parole system or to accept the
7 fixed sentence established by the circuit court. No fixed
8 sentence shall be effective unless the prisoner waives his or
9 her right to parole in writing. If no choice is made by such
10 prisoner within 60 days from the date of the notification by
11 the circuit court refusing to reconsider his or her fixed
12 sentence, such prisoner shall remain under the parole system.

13 (B) If the circuit court decides to reconsider its
14 decision with respect to such fixed sentence, the circuit
15 court shall schedule a date for reconsideration as soon as
16 practicable, but no later than 60 days from the date of the
17 prisoner's request, and give such prisoner at least 30 days
18 notice. Such prisoner may submit any relevant material to the
19 circuit court which would aid in ascertaining a proper fixed
20 sentence. The Department of Corrections shall assist any
21 such prisoner if asked to do so.

22 Neither the prisoner nor his or her lawyer has the right
23 to be present on the date of reconsideration, nor the right
24 to call witnesses. However, the circuit court may ask such
25 prisoner or his or her lawyer to appear or may ask to hear
26 witnesses. The circuit court shall base its determination on
27 the factors specified in subsection (e), plus any new
28 information which may be available to it.

29 (C) When the circuit court has made its decision, the
30 prisoner shall be informed of the fixed sentence as provided
31 for in subsection (c) no later than 7 days following the
32 reconsideration. In no event shall such release date be
33 longer than the fixed sentence originally determined. The
34 decision of the circuit court is final. No other court shall

1 have jurisdiction to review the circuit court's decision.

2 Following the circuit court's reconsideration and its
3 notification to the prisoner of his or her fixed sentence,
4 such prisoner shall have 60 days from the date of such notice
5 in which to decide whether to accept the fixed sentence and
6 waive his or her right to parole or to continue under the
7 parole system. If such prisoner does nothing within 60 days
8 after notification of the circuit court's decision, he or she
9 shall remain under the parole system."