

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 Criminal Code of 1961 is amended by adding
5 Section 24-1.7 as follows:

6 (720 ILCS 5/24-1.7 new)

7 Sec. 24-1.7. Armed habitual criminal.

8 (a) A person commits the offense of being an armed habitual
9 criminal if he or she receives, sells, possesses, or transfers
10 any firearm after having been convicted a total of 2 or more
11 times of any combination of the following offenses:

12 (1) a forcible felony as defined in Section 2-8 of this
13 Code;

14 (2) unlawful use of a weapon by a felon; aggravated
15 unlawful use of a weapon; aggravated discharge of a
16 firearm; vehicular hijacking; aggravated vehicular
17 hijacking; aggravated battery of a child; intimidation;
18 aggravated intimidation; gunrunning; home invasion; or
19 aggravated battery with a firearm; or

20 (3) any violation of the Illinois Controlled
21 Substances Act or the Cannabis Control Act that is
22 punishable as a Class 3 felony or higher.

23 (b) Sentence. Being an armed habitual criminal is a Class X
24 felony.

25 Section 10. The Unified Code of Corrections is amended by
26 changing Section 3-6-3 as follows:

27 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

28 Sec. 3-6-3. Rules and Regulations for Early Release.

29 (a) (1) The Department of Corrections shall prescribe
30 rules and regulations for the early release on account of

1 good conduct of persons committed to the Department which
2 shall be subject to review by the Prisoner Review Board.

3 (2) The rules and regulations on early release shall
4 provide, with respect to offenses committed on or after
5 June 19, 1998 or with respect to the offense of being an
6 armed habitual criminal committed on or after the effective
7 date of this amendatory Act of the 93rd General Assembly,
8 the following:

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

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

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

36 (2.1) For all offenses, other than those enumerated in

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

16 (2.2) A prisoner serving a term of natural life
17 imprisonment or a prisoner who has been sentenced to death
18 shall receive no good conduct credit.

19 (2.3) The rules and regulations on early release shall
20 provide that a prisoner who is serving a sentence for
21 reckless homicide as defined in subsection (e) of Section
22 9-3 of the Criminal Code of 1961 committed on or after
23 January 1, 1999, or aggravated driving under the influence
24 of alcohol, other drug or drugs, or intoxicating compound
25 or compounds, or any combination thereof as defined in
26 subparagraph (F) of paragraph (1) of subsection (d) of
27 Section 11-501 of the Illinois Vehicle Code, shall receive
28 no more than 4.5 days of good conduct credit for each month
29 of his or her sentence of imprisonment.

30 (2.4) The rules and regulations on early release shall
31 provide with respect to the offenses of aggravated battery
32 with a machine gun or a firearm equipped with any device or
33 attachment designed or used for silencing the report of a
34 firearm or aggravated discharge of a machine gun or a
35 firearm equipped with any device or attachment designed or
36 used for silencing the report of a firearm, committed on or

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

6 (2.5) The rules and regulations on early release shall
7 provide that a prisoner who is serving a sentence for
8 aggravated arson committed on or after July 27, 2001 (the
9 effective date of Public Act 92-176) ~~this amendatory Act of~~
10 ~~the 92nd 93rd General Assembly~~ shall receive no more than
11 4.5 days of good conduct credit for each month of his or
12 her sentence of imprisonment.

13 (3) The rules and regulations shall also provide that
14 the Director may award up to 180 days additional good
15 conduct credit for meritorious service in specific
16 instances as the Director deems proper; except that no more
17 than 90 days of good conduct credit for meritorious service
18 shall be awarded to any prisoner who is serving a sentence
19 for conviction of first degree murder, reckless homicide
20 while under the influence of alcohol or any other drug, or
21 aggravated driving under the influence of alcohol, other
22 drug or drugs, or intoxicating compound or compounds, or
23 any combination thereof as defined in subparagraph (F) of
24 paragraph (1) of subsection (d) of Section 11-501 of the
25 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
26 predatory criminal sexual assault of a child, aggravated
27 criminal sexual assault, criminal sexual assault, deviate
28 sexual assault, aggravated criminal sexual abuse,
29 aggravated indecent liberties with a child, indecent
30 liberties with a child, child pornography, heinous
31 battery, aggravated battery of a spouse, aggravated
32 battery of a spouse with a firearm, stalking, aggravated
33 stalking, aggravated battery of a child, endangering the
34 life or health of a child, cruelty to a child, or narcotic
35 racketeering. Notwithstanding the foregoing, good conduct
36 credit for meritorious service shall not be awarded on a

1 sentence of imprisonment imposed for conviction of: (i) one
2 of the offenses enumerated in subdivision (a)(2) when the
3 offense is committed on or after June 19, 1998, (ii)
4 reckless homicide as defined in subsection (e) of Section
5 9-3 of the Criminal Code of 1961 when the offense is
6 committed on or after January 1, 1999, or aggravated
7 driving under the influence of alcohol, other drug or
8 drugs, or intoxicating compound or compounds, or any
9 combination thereof as defined in subparagraph (F) of
10 paragraph (1) of subsection (d) of Section 11-501 of the
11 Illinois Vehicle Code, (iii) one of the offenses enumerated
12 in subdivision (a)(2.4) when the offense is committed on or
13 after July 15, 1999 (the effective date of Public Act
14 91-121) ~~this amendatory Act of 1999~~, or (iv) aggravated
15 arson when the offense is committed on or after July 27,
16 2001 (the effective date of Public Act 92-176) ~~this~~
17 ~~amendatory Act of the 92nd 93rd General Assembly.~~

18 (4) The rules and regulations shall also provide that
19 the good conduct credit accumulated and retained under
20 paragraph (2.1) of subsection (a) of this Section by any
21 inmate during specific periods of time in which such inmate
22 is engaged full-time in substance abuse programs,
23 correctional industry assignments, or educational programs
24 provided by the Department under this paragraph (4) and
25 satisfactorily completes the assigned program as
26 determined by the standards of the Department, shall be
27 multiplied by a factor of 1.25 for program participation
28 before August 11, 1993 and 1.50 for program participation
29 on or after that date. However, no inmate shall be eligible
30 for the additional good conduct credit under this paragraph
31 (4) while assigned to a boot camp, mental health unit, or
32 electronic detention, or if convicted of an offense
33 enumerated in paragraph (a)(2) of this Section that is
34 committed on or after June 19, 1998, or if convicted of
35 reckless homicide as defined in subsection (e) of Section
36 9-3 of the Criminal Code of 1961 if the offense is

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

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

32 Availability of these programs shall be subject to the
33 limits of fiscal resources appropriated by the General
34 Assembly for these purposes. Eligible inmates who are
35 denied immediate admission shall be placed on a waiting
36 list under criteria established by the Department. The

1 inability of any inmate to become engaged in any such
2 programs by reason of insufficient program resources or for
3 any other reason established under the rules and
4 regulations of the Department shall not be deemed a cause
5 of action under which the Department or any employee or
6 agent of the Department shall be liable for damages to the
7 inmate.

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

1 (5) Whenever the Department is to release any inmate
2 earlier than it otherwise would because of a grant of good
3 conduct credit for meritorious service given at any time
4 during the term, the Department shall give reasonable
5 advance notice of the impending release to the State's
6 Attorney of the county where the prosecution of the inmate
7 took place.

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

12 (c) The Department shall prescribe rules and regulations
13 for revoking good conduct credit, or suspending or reducing the
14 rate of accumulation of good conduct credit for specific rule
15 violations, during imprisonment. These rules and regulations
16 shall provide that no inmate may be penalized more than one
17 year of good conduct credit for any one infraction.

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

1 The Director of the Department of Corrections, in
2 appropriate cases, may restore up to 30 days good conduct
3 credits which have been revoked, suspended or reduced. Any
4 restoration of good conduct credits in excess of 30 days shall
5 be subject to review by the Prisoner Review Board. However, the
6 Board may not restore good conduct credit in excess of the
7 amount requested by the Director.

8 Nothing contained in this Section shall prohibit the
9 Prisoner Review Board from ordering, pursuant to Section
10 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
11 sentence imposed by the court that was not served due to the
12 accumulation of good conduct credit.

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

27 For purposes of this subsection (d):

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

32 (A) it lacks an arguable basis either in law or in
33 fact;

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

1 (C) the claims, defenses, and other legal
2 contentions therein are not warranted by existing law
3 or by a nonfrivolous argument for the extension,
4 modification, or reversal of existing law or the
5 establishment of new law;

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

11 (E) the denials of factual contentions are not
12 warranted on the evidence, or if specifically so
13 identified, are not reasonably based on a lack of
14 information or belief.

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

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

25 (Source: P.A. 92-176, eff. 7-27-01; 92-854, eff. 12-5-02;
26 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; revised 10-15-03.)

27 Section 99. Effective date. This Act takes effect upon
28 becoming law.