



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB0035

Introduced 12/15/2004, by Rep. 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.

LRB094 03642 RLC 33647 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 94th 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 94th
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 94th 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 94th 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.