

HB3817



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB3817

Introduced 2/25/2005, by Rep. Richard P. Myers

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 prisoner who is serving a term of imprisonment for aggravated battery of a law enforcement officer engaged in the performance of his or her official duties shall receive no good conduct credit and shall serve the entire sentence imposed by the court.

LRB094 08654 RXD 38863 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

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; and ~~and~~

9 (iv) that a prisoner who is serving a term of
10 imprisonment for aggravated battery of a law
11 enforcement officer engaged in the performance of his
12 or her official duties shall receive no good conduct
13 credit and shall serve the entire sentence imposed by
14 the court.

15 (2.1) For all offenses, other than those enumerated in
16 subdivision (a)(2) committed on or after June 19, 1998, and
17 other than the offense of reckless homicide as defined in
18 subsection (e) of Section 9-3 of the Criminal Code of 1961
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, the rules and regulations shall
25 provide that a prisoner who is serving a term of
26 imprisonment shall receive one day of good conduct credit
27 for each day of his or her sentence of imprisonment or
28 recommitment under Section 3-3-9. Each day of good conduct
29 credit shall reduce by one day the prisoner's period of
30 imprisonment or recommitment under Section 3-3-9.

31 (2.2) A prisoner serving a term of natural life
32 imprisonment or a prisoner who has been sentenced to death
33 shall receive no good conduct credit.

34 (2.3) The rules and regulations on early release shall
35 provide that a prisoner who is serving a sentence for
36 reckless homicide as defined in subsection (e) of Section

1 9-3 of the Criminal Code of 1961 committed on or after
2 January 1, 1999, or aggravated driving under the influence
3 of alcohol, other drug or drugs, or intoxicating compound
4 or compounds, or any combination thereof as defined in
5 subparagraph (F) of paragraph (1) of subsection (d) of
6 Section 11-501 of the Illinois Vehicle Code, shall receive
7 no more than 4.5 days of good conduct credit for each month
8 of his or her sentence of imprisonment.

9 (2.4) The rules and regulations on early release shall
10 provide with respect to the offenses of aggravated battery
11 with a machine gun or a firearm equipped with any device or
12 attachment designed or used for silencing the report of a
13 firearm or aggravated discharge of a machine gun or a
14 firearm equipped with any device or attachment designed or
15 used for silencing the report of a firearm, committed on or
16 after July 15, 1999 (the effective date of Public Act
17 91-121) ~~this amendatory Act of 1999~~, that a prisoner
18 serving a sentence for any of these offenses shall receive
19 no more than 4.5 days of good conduct credit for each month
20 of his or her sentence of imprisonment.

21 (2.5) The rules and regulations on early release shall
22 provide that a prisoner who is serving a sentence for
23 aggravated arson committed on or after July 27, 2001 (the
24 effective date of Public Act 92-176) ~~this amendatory Act of~~
25 ~~the 92nd 93rd General Assembly~~ shall receive no more than
26 4.5 days of good conduct credit for each month of his or
27 her sentence of imprisonment.

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

1 drug or drugs, or intoxicating compound or compounds, or
2 any combination thereof as defined in subparagraph (F) of
3 paragraph (1) of subsection (d) of Section 11-501 of the
4 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
5 predatory criminal sexual assault of a child, aggravated
6 criminal sexual assault, criminal sexual assault, deviate
7 sexual assault, aggravated criminal sexual abuse,
8 aggravated indecent liberties with a child, indecent
9 liberties with a child, child pornography, heinous
10 battery, aggravated battery of a spouse, aggravated
11 battery of a spouse with a firearm, stalking, aggravated
12 stalking, aggravated battery of a child, endangering the
13 life or health of a child, cruelty to a child, or narcotic
14 racketeering. Notwithstanding the foregoing, good conduct
15 credit for meritorious service shall not be awarded on a
16 sentence of imprisonment imposed for conviction of: (i) one
17 of the offenses enumerated in subdivision (a)(2) when the
18 offense is committed on or after June 19, 1998, (ii)
19 reckless homicide as defined in subsection (e) of Section
20 9-3 of the Criminal Code of 1961 when the offense is
21 committed on or after January 1, 1999, or aggravated
22 driving under the influence of alcohol, other drug or
23 drugs, or intoxicating compound or compounds, or any
24 combination thereof as defined in subparagraph (F) of
25 paragraph (1) of subsection (d) of Section 11-501 of the
26 Illinois Vehicle Code, (iii) one of the offenses enumerated
27 in subdivision (a)(2.4) when the offense is committed on or
28 after July 15, 1999 (the effective date of Public Act
29 91-121) ~~this amendatory Act of 1999~~, or (iv) aggravated
30 arson when the offense is committed on or after July 27,
31 2001 (the effective date of Public Act 92-176) ~~this~~
32 ~~amendatory Act of the 92nd 93rd General Assembly.~~

33 (4) The rules and regulations shall also provide that
34 the good conduct credit accumulated and retained under
35 paragraph (2.1) of subsection (a) of this Section by any
36 inmate during specific periods of time in which such inmate

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

1 facility.

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

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

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

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

16 (5) Whenever the Department is to release any inmate
17 earlier than it otherwise would because of a grant of good
18 conduct credit for meritorious service given at any time
19 during the term, the Department shall give reasonable
20 advance notice of the impending release to the State's
21 Attorney of the county where the prosecution of the inmate
22 took place.

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

27 (c) The Department shall prescribe rules and regulations
28 for revoking good conduct credit, or suspending or reducing the
29 rate of accumulation of good conduct credit for specific rule
30 violations, during imprisonment. These rules and regulations
31 shall provide that no inmate may be penalized more than one
32 year of good conduct credit for any one infraction.

33 When the Department seeks to revoke, suspend or reduce the
34 rate of accumulation of any good conduct credits for an alleged
35 infraction of its rules, it shall bring charges therefor
36 against the prisoner sought to be so deprived of good conduct

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

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

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

28 (d) If a lawsuit is filed by a prisoner in an Illinois or
29 federal court against the State, the Department of Corrections,
30 or the Prisoner Review Board, or against any of their officers
31 or employees, and the court makes a specific finding that a
32 pleading, motion, or other paper filed by the prisoner is
33 frivolous, the Department of Corrections shall conduct a
34 hearing to revoke up to 180 days of good conduct credit by
35 bringing charges against the prisoner sought to be deprived of
36 the good conduct credits before the Prisoner Review Board as

1 provided in subparagraph (a) (8) of Section 3-3-2 of this Code.
2 If the prisoner has not accumulated 180 days of good conduct
3 credit at the time of the finding, then the Prisoner Review
4 Board may revoke all good conduct credit accumulated by the
5 prisoner.

6 For purposes of this subsection (d):

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

11 (A) it lacks an arguable basis either in law or in
12 fact;

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

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

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

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

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

1 Act (42 U.S.C. 1983).

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

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