



Sen. Cheryl Axley

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LRB094 18261 RLC 57735 a

1 AMENDMENT TO HOUSE BILL 5216

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5216 on page 3, by  
3 inserting immediately below line 9 the following:

4 "Section 10. 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  
17 June 23, 2005 (the effective date of Public Act 94-71) ~~this~~  
18 ~~amendatory Act of the 94th General Assembly~~ or with respect  
19 to the offense of being an armed habitual criminal  
20 committed on or after August 2, 2005 (the effective date of  
21 Public Act 94-398) ~~this amendatory Act of the 94th General~~  
22 ~~Assembly~~, the following:

23 (i) that a prisoner who is serving a term of  
24 imprisonment for first degree murder, for being an

1           armed habitual criminal, or for the offense of  
2 terrorism shall receive no good conduct credit and  
3 shall serve the entire sentence imposed by the court;

4           (ii) that a prisoner serving a sentence for attempt  
5 to commit first degree murder, solicitation of murder,  
6 solicitation of murder for hire, intentional homicide  
7 of an unborn child, predatory criminal sexual assault  
8 of a child, aggravated criminal sexual assault,  
9 criminal sexual assault, aggravated kidnapping,  
10 aggravated battery with a firearm, heinous battery,  
11 ~~being an armed habitual criminal~~, aggravated battery  
12 of a senior citizen, or aggravated battery of a child  
13 shall receive no more than 4.5 days of good conduct  
14 credit for each month of his or her sentence of  
15 imprisonment;

16           (iii) that a prisoner serving a sentence for home  
17 invasion, armed robbery, aggravated vehicular  
18 hijacking, aggravated discharge of a firearm, or armed  
19 violence with a category I weapon or category II  
20 weapon, when the court has made and entered a finding,  
21 pursuant to subsection (c-1) of Section 5-4-1 of this  
22 Code, that the conduct leading to conviction for the  
23 enumerated offense resulted in great bodily harm to a  
24 victim, shall receive no more than 4.5 days of good  
25 conduct credit for each month of his or her sentence of  
26 imprisonment; and

27           (iv) that a prisoner serving a sentence for  
28 aggravated discharge of a firearm, whether or not the  
29 conduct leading to conviction for the offense resulted  
30 in great bodily harm to the victim, shall receive no  
31 more than 4.5 days of good conduct credit for each  
32 month of his or her sentence of imprisonment.

33           (2.1) For all offenses, other than those enumerated in  
34 subdivision (a) (2) (i), (ii), or (iii) committed on or after

1 June 19, 1998 or subdivision (a)(2)(iv) committed on or  
2 after June 23, 2005 (the effective date of Public Act  
3 94-71) ~~this amendatory Act of the 94th General Assembly,~~  
4 and other than the offense of reckless homicide as defined  
5 in subsection (e) of Section 9-3 of the Criminal Code of  
6 1961 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, the rules and regulations shall  
12 provide that a prisoner who is serving a term of  
13 imprisonment shall receive one day of good conduct credit  
14 for each day of his or her sentence of imprisonment or  
15 recommitment under Section 3-3-9. Each day of good conduct  
16 credit shall reduce by one day the prisoner's period of  
17 imprisonment or recommitment under Section 3-3-9.

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

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

32 (2.4) The rules and regulations on early release shall  
33 provide with respect to the offenses of aggravated battery  
34 with a machine gun or a firearm equipped with any device or

1 attachment designed or used for silencing the report of a  
2 firearm or aggravated discharge of a machine gun or a  
3 firearm equipped with any device or attachment designed or  
4 used for silencing the report of a firearm, committed on or  
5 after July 15, 1999 (the effective date of Public Act  
6 91-121), that a prisoner serving a sentence for any of  
7 these offenses shall receive no more than 4.5 days of good  
8 conduct credit for each month of his or her sentence of  
9 imprisonment.

10 (2.5) The rules and regulations on early release shall  
11 provide that a prisoner who is serving a sentence for  
12 aggravated arson committed on or after July 27, 2001 (the  
13 effective date of Public Act 92-176) shall receive no more  
14 than 4.5 days of good conduct credit for each month of his  
15 or her sentence of imprisonment.

16 (3) The rules and regulations shall also provide that  
17 the Director may award up to 180 days additional good  
18 conduct credit for meritorious service in specific  
19 instances as the Director deems proper; except that no more  
20 than 90 days of good conduct credit for meritorious service  
21 shall be awarded to any prisoner who is serving a sentence  
22 for conviction of first degree murder, reckless homicide  
23 while under the influence of alcohol or any other drug, or  
24 aggravated driving under the influence of alcohol, other  
25 drug or drugs, or intoxicating compound or compounds, or  
26 any combination thereof as defined in subparagraph (F) of  
27 paragraph (1) of subsection (d) of Section 11-501 of the  
28 Illinois Vehicle Code, aggravated kidnapping, kidnapping,  
29 predatory criminal sexual assault of a child, aggravated  
30 criminal sexual assault, criminal sexual assault, deviate  
31 sexual assault, aggravated criminal sexual abuse,  
32 aggravated indecent liberties with a child, indecent  
33 liberties with a child, child pornography, heinous  
34 battery, aggravated battery of a spouse, aggravated

1 battery of a spouse with a firearm, stalking, aggravated  
2 stalking, aggravated battery of a child, endangering the  
3 life or health of a child, cruelty to a child, or narcotic  
4 racketeering. Notwithstanding the foregoing, good conduct  
5 credit for meritorious service shall not be awarded on a  
6 sentence of imprisonment imposed for conviction of: (i) one  
7 of the offenses enumerated in subdivision (a)(2)(i), (ii),  
8 or (iii) when the offense is committed on or after June 19,  
9 1998 or subdivision (a)(2)(iv) when the offense is  
10 committed on or after June 23, 2005 (the effective date of  
11 Public Act 94-71) ~~this amendatory Act of the 94th General~~  
12 ~~Assembly~~, (ii) reckless homicide as defined in subsection  
13 (e) of Section 9-3 of the Criminal Code of 1961 when the  
14 offense is committed on or after January 1, 1999, or  
15 aggravated driving under the influence of alcohol, other  
16 drug or drugs, or intoxicating compound or compounds, or  
17 any combination thereof as defined in subparagraph (F) of  
18 paragraph (1) of subsection (d) of Section 11-501 of the  
19 Illinois Vehicle Code, (iii) one of the offenses enumerated  
20 in subdivision (a)(2.4) when the offense is committed on or  
21 after July 15, 1999 (the effective date of Public Act  
22 91-121), or (iv) aggravated arson when the offense is  
23 committed on or after July 27, 2001 (the effective date of  
24 Public Act 92-176).

25 (4) The rules and regulations shall also provide that  
26 the good conduct credit accumulated and retained under  
27 paragraph (2.1) of subsection (a) of this Section by any  
28 inmate during specific periods of time in which such inmate  
29 is engaged full-time in substance abuse programs,  
30 correctional industry assignments, or educational programs  
31 provided by the Department under this paragraph (4) and  
32 satisfactorily completes the assigned program as  
33 determined by the standards of the Department, shall be  
34 multiplied by a factor of 1.25 for program participation

1 before August 11, 1993 and 1.50 for program participation  
2 on or after that date. However, no inmate shall be eligible  
3 for the additional good conduct credit under this paragraph  
4 (4) or (4.1) of this subsection (a) while assigned to a  
5 boot camp~~7~~ or electronic detention, or if convicted of an  
6 offense enumerated in subdivision (a)(2)(i), (ii), or  
7 (iii) of this Section that is committed on or after June  
8 19, 1998 or subdivision (a)(2)(iv) of this Section that is  
9 committed on or after June 23, 2005 (the effective date of  
10 Public Act 94-71) ~~this amendatory Act of the 94th General~~  
11 ~~Assembly~~, or if convicted of reckless homicide as defined  
12 in subsection (e) of Section 9-3 of the Criminal Code of  
13 1961 if the offense is committed on or after January 1,  
14 1999, or aggravated driving under the influence of alcohol,  
15 other drug or drugs, or intoxicating compound or compounds,  
16 or any combination thereof as defined in subparagraph (F)  
17 of paragraph (1) of subsection (d) of Section 11-501 of the  
18 Illinois Vehicle Code, or if convicted of an offense  
19 enumerated in paragraph (a)(2.4) of this Section that is  
20 committed on or after July 15, 1999 (the effective date of  
21 Public Act 91-121), or first degree murder, a Class X  
22 felony, criminal sexual assault, felony criminal sexual  
23 abuse, aggravated criminal sexual abuse, aggravated  
24 battery with a firearm, or any predecessor or successor  
25 offenses with the same or substantially the same elements,  
26 or any inchoate offenses relating to the foregoing  
27 offenses. No inmate shall be eligible for the additional  
28 good conduct credit under this paragraph (4) who (i) has  
29 previously received increased good conduct credit under  
30 this paragraph (4) and has subsequently been convicted of a  
31 felony, or (ii) has previously served more than one prior  
32 sentence of imprisonment for a felony in an adult  
33 correctional facility.

34 Educational, vocational, substance abuse and

1 correctional industry programs under which good conduct  
2 credit may be increased under this paragraph (4) and  
3 paragraph (4.1) of this subsection (a) shall be evaluated  
4 by the Department on the basis of documented standards. The  
5 Department shall report the results of these evaluations to  
6 the Governor and the General Assembly by September 30th of  
7 each year. The reports shall include data relating to the  
8 recidivism rate among program 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 (4.1) The rules and regulations shall also provide that  
22 an additional 60 days of good conduct credit shall be  
23 awarded to any prisoner who passes the high school level  
24 Test of General Educational Development (GED) and receives  
25 a GED certificate while the prisoner is incarcerated. The  
26 good conduct credit awarded under this paragraph (4.1)  
27 shall be in addition to, and shall not affect, the award of  
28 good conduct under any other paragraph of this Section, but  
29 shall also be pursuant to the guidelines and restrictions  
30 set forth in paragraph (4) of subsection (a) of this  
31 Section.

32 (4.5) The rules and regulations on early release shall  
33 also provide that when the court's sentencing order  
34 recommends a prisoner for substance abuse treatment and the

1 crime was committed on or after September 1, 2003 (the  
2 effective date of Public Act 93-354), the prisoner shall  
3 receive no good conduct credit awarded under clause (3) of  
4 this subsection (a) unless he or she participates in and  
5 completes a substance abuse treatment program. The  
6 Director may waive the requirement to participate in or  
7 complete a substance abuse treatment program and award the  
8 good conduct credit in specific instances if the prisoner  
9 is not a good candidate for a substance abuse treatment  
10 program for medical, programming, or operational reasons.  
11 Availability of substance abuse treatment shall be subject  
12 to the limits of fiscal resources appropriated by the  
13 General Assembly for these purposes. If treatment is not  
14 available and the requirement to participate and complete  
15 the treatment has not been waived by the Director, the  
16 prisoner shall be placed on a waiting list under criteria  
17 established by the Department. The Director may allow a  
18 prisoner placed on a waiting list to participate in and  
19 complete a substance abuse education class or attend  
20 substance abuse self-help meetings in lieu of a substance  
21 abuse treatment program. A prisoner on a waiting list who  
22 is not placed in a substance abuse program prior to release  
23 may be eligible for a waiver and receive good conduct  
24 credit under clause (3) of this subsection (a) at the  
25 discretion of the Director.

26 (5) Whenever the Department is to release any inmate  
27 earlier than it otherwise would because of a grant of good  
28 conduct credit for meritorious service given at any time  
29 during the term, the Department shall give reasonable  
30 advance notice of the impending release to the State's  
31 Attorney of the county where the prosecution of the inmate  
32 took place.

33 (b) Whenever a person is or has been committed under  
34 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.

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

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

20           For purposes of this subsection (d):

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

25                   (A) it lacks an arguable basis either in law or in  
26 fact;

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

30                   (C) the claims, defenses, and other legal  
31 contentions therein are not warranted by existing law  
32 or by a nonfrivolous argument for the extension,  
33 modification, or reversal of existing law or the  
34 establishment of new law;

1           (D) the allegations and other factual contentions  
2 do not have evidentiary support or, if specifically so  
3 identified, are not likely to have evidentiary support  
4 after a reasonable opportunity for further  
5 investigation or discovery; or

6           (E) the denials of factual contentions are not  
7 warranted on the evidence, or if specifically so  
8 identified, are not reasonably based on a lack of  
9 information or belief.

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

18          (e) Nothing in Public Act 90-592 or 90-593 affects the  
19 validity of Public Act 89-404.

20          (Source: P.A. 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; 94-71,  
21 eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398,  
22 eff. 8-2-05; 94-491, eff. 8-8-05; revised 8-19-05.)".