



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB5804

Introduced 07/19/06, by Rep. Bill Mitchell

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 serving a sentence for a felony, when the court has made and entered a finding that the conduct leading to conviction for the offense was committed in furtherance of gang-related activity, shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

LRB094 21093 RLC 59421 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
17 June 23, 2005 (the effective date of Public Act 94-71) or
18 with respect to the offense of being an armed habitual
19 criminal committed on or after August 2, 2005 (the
20 effective date of Public Act 94-398) or with respect to the
21 offenses listed in clause (v) of this paragraph (2)
22 committed on or after the effective date of this amendatory
23 Act of the 94th General Assembly, the following:

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

28 (ii) that a prisoner serving a sentence for attempt
29 to commit first degree murder, solicitation of murder,
30 solicitation of murder for hire, intentional homicide
31 of an unborn child, predatory criminal sexual assault
32 of a child, aggravated criminal sexual assault,

1 criminal sexual assault, aggravated kidnapping,
2 aggravated battery with a firearm, heinous battery,
3 being an armed habitual criminal, aggravated battery
4 of a senior citizen, or aggravated battery of a child
5 shall receive no more than 4.5 days of good conduct
6 credit for each month of his or her sentence of
7 imprisonment;

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

19 (iv) that a prisoner serving a sentence for
20 aggravated discharge of a firearm, whether or not the
21 conduct leading to conviction for the offense resulted
22 in great bodily harm to the victim, shall receive no
23 more than 4.5 days of good conduct credit for each
24 month of his or her sentence of imprisonment; and -

25 (v) that a prisoner serving a sentence for a
26 felony, when the court has made and entered a finding
27 that the conduct leading to conviction for the offense
28 was committed in furtherance of gang-related activity
29 as defined in Section 10 of the Illinois Streetgang
30 Terrorism Omnibus Prevention Act, 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
35 June 19, 1998 or subdivision (a)(2)(iv) committed on or
36 after June 23, 2005 (the effective date of Public Act

1 94-71) or (a)(2)(v) committed on or after the effective
2 date of this amendatory Act of the 94th General Assembly,
3 and other than the offense of reckless homicide as defined
4 in subsection (e) of Section 9-3 of the Criminal Code of
5 1961 committed on or after January 1, 1999, or aggravated
6 driving under the influence of alcohol, other drug or
7 drugs, or intoxicating compound or compounds, or any
8 combination thereof as defined in subparagraph (F) of
9 paragraph (1) of subsection (d) of Section 11-501 of the
10 Illinois Vehicle Code, the rules and regulations shall
11 provide that a prisoner who is serving a term of
12 imprisonment shall receive one day of good conduct credit
13 for each day of his or her sentence of imprisonment or
14 recommitment under Section 3-3-9. Each day of good conduct
15 credit shall reduce by one day the prisoner's period of
16 imprisonment or recommitment under Section 3-3-9.

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

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

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

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

7 (2.5) The rules and regulations on early release shall
8 provide that a prisoner who is serving a sentence for
9 aggravated arson committed on or after July 27, 2001 (the
10 effective date of Public Act 92-176) shall receive no more
11 than 4.5 days of good conduct credit for each month of his
12 or 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)(i), (ii),
3 or (iii) when the offense is committed on or after June 19,
4 1998 or subdivision (a)(2)(iv) when the offense is
5 committed on or after June 23, 2005 (the effective date of
6 Public Act 94-71) or (a)(2)(v) when the offense is
7 committed on or after the effective date of this amendatory
8 Act of the 94th General Assembly, (ii) reckless homicide as
9 defined in subsection (e) of Section 9-3 of the Criminal
10 Code of 1961 when the offense is committed on or after
11 January 1, 1999, or aggravated driving under the influence
12 of alcohol, other drug or drugs, or intoxicating compound
13 or compounds, or any combination thereof as defined in
14 subparagraph (F) of paragraph (1) of subsection (d) of
15 Section 11-501 of the Illinois Vehicle Code, (iii) one of
16 the offenses enumerated in subdivision (a)(2.4) when the
17 offense is committed on or after July 15, 1999 (the
18 effective date of Public Act 91-121), or (iv) aggravated
19 arson when the offense is committed on or after July 27,
20 2001 (the effective date of Public Act 92-176).

21 (4) The rules and regulations shall also provide that
22 the good conduct credit accumulated and retained under
23 paragraph (2.1) of subsection (a) of this Section by any
24 inmate during specific periods of time in which such inmate
25 is engaged full-time in substance abuse programs,
26 correctional industry assignments, or educational programs
27 provided by the Department under this paragraph (4) and
28 satisfactorily completes the assigned program as
29 determined by the standards of the Department, shall be
30 multiplied by a factor of 1.25 for program participation
31 before August 11, 1993 and 1.50 for program participation
32 on or after that date. However, no inmate shall be eligible
33 for the additional good conduct credit under this paragraph
34 (4) or (4.1) of this subsection (a) while assigned to a
35 boot camp or electronic detention, or if convicted of an
36 offense enumerated in subdivision (a)(2)(i), (ii), or

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

30 Educational, vocational, substance abuse and
31 correctional industry programs under which good conduct
32 credit may be increased under this paragraph (4) and
33 paragraph (4.1) of this subsection (a) shall be evaluated
34 by the Department on the basis of documented standards. The
35 Department shall report the results of these evaluations to
36 the Governor and the General Assembly by September 30th of

1 each year. The reports shall include data relating to the
2 recidivism rate among program participants.

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

15 (4.1) The rules and regulations shall also provide that
16 an additional 60 days of good conduct credit shall be
17 awarded to any prisoner who passes the high school level
18 Test of General Educational Development (GED) while the
19 prisoner is incarcerated. The good conduct credit awarded
20 under this paragraph (4.1) shall be in addition to, and
21 shall not affect, the award of good conduct under any other
22 paragraph of this Section, but shall also be pursuant to
23 the guidelines and restrictions set forth in paragraph (4)
24 of subsection (a) of this Section. The good conduct credit
25 provided for in this paragraph shall be available only to
26 those prisoners who have not previously earned a high
27 school diploma or a GED. If, after an award of the GED good
28 conduct credit has been made and the Department determines
29 that the prisoner was not eligible, then the award shall be
30 revoked.

31 (4.5) The rules and regulations on early release shall
32 also provide that when the court's sentencing order
33 recommends a prisoner for substance abuse treatment and the
34 crime was committed on or after September 1, 2003 (the
35 effective date of Public Act 93-354), the prisoner shall
36 receive no good conduct credit awarded under clause (3) of

1 this subsection (a) unless he or she participates in and
2 completes a substance abuse treatment program. The
3 Director may waive the requirement to participate in or
4 complete a substance abuse treatment program and award the
5 good conduct credit in specific instances if the prisoner
6 is not a good candidate for a substance abuse treatment
7 program for medical, programming, or operational reasons.
8 Availability of substance abuse treatment shall be subject
9 to the limits of fiscal resources appropriated by the
10 General Assembly for these purposes. If treatment is not
11 available and the requirement to participate and complete
12 the treatment has not been waived by the Director, the
13 prisoner shall be placed on a waiting list under criteria
14 established by the Department. The Director may allow a
15 prisoner placed on a waiting list to participate in and
16 complete a substance abuse education class or attend
17 substance abuse self-help meetings in lieu of a substance
18 abuse treatment program. A prisoner on a waiting list who
19 is not placed in a substance abuse program prior to release
20 may be eligible for a waiver and receive good conduct
21 credit under clause (3) of this subsection (a) at the
22 discretion of the Director.

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

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

34 (c) The Department shall prescribe rules and regulations
35 for revoking good conduct credit, or suspending or reducing the
36 rate of accumulation of good conduct credit for specific rule

1 violations, during imprisonment. These rules and regulations
2 shall provide that no inmate may be penalized more than one
3 year of good conduct credit for any one infraction.

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

23 The Director of the Department of Corrections, in
24 appropriate cases, may restore up to 30 days good conduct
25 credits which have been revoked, suspended or reduced. Any
26 restoration of good conduct credits in excess of 30 days shall
27 be subject to review by the Prisoner Review Board. However, the
28 Board may not restore good conduct credit in excess of the
29 amount requested by the Director.

30 Nothing contained in this Section shall prohibit the
31 Prisoner Review Board from ordering, pursuant to Section
32 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
33 sentence imposed by the court that was not served due to the
34 accumulation of good conduct credit.

35 (d) If a lawsuit is filed by a prisoner in an Illinois or
36 federal court against the State, the Department of Corrections,

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

13 For purposes of this subsection (d):

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

18 (A) it lacks an arguable basis either in law or in
19 fact;

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

23 (C) the claims, defenses, and other legal
24 contentions therein are not warranted by existing law
25 or by a nonfrivolous argument for the extension,
26 modification, or reversal of existing law or the
27 establishment of new law;

28 (D) the allegations and other factual contentions
29 do not have evidentiary support or, if specifically so
30 identified, are not likely to have evidentiary support
31 after a reasonable opportunity for further
32 investigation or discovery; or

33 (E) the denials of factual contentions are not
34 warranted on the evidence, or if specifically so
35 identified, are not reasonably based on a lack of
36 information or belief.

1 (2) "Lawsuit" means a petition for post-conviction
2 relief under Article 122 of the Code of Criminal Procedure
3 of 1963, a motion pursuant to Section 116-3 of the Code of
4 Criminal Procedure of 1963, a habeas corpus action under
5 Article X of the Code of Civil Procedure or under federal
6 law (28 U.S.C. 2254), a petition for claim under the Court
7 of Claims Act or an action under the federal Civil Rights
8 Act (42 U.S.C. 1983).

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

11 (Source: P.A. 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; 94-71,
12 eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398,
13 eff. 8-2-05; 94-491, eff. 8-8-05; 94-744, eff. 5-8-06.)