



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB0326

Introduced 2/15/2005, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-3

from Ch. 38, par. 1003-6-3

730 ILCS 5/3-6-8 new

Amends the Unified Code of Corrections. Provides that the rules and regulations for the early release of a prisoner on account of good conduct shall also provide that an additional 60 days of good conduct credit shall be awarded to any prisoner who earns a high school diploma or passes the high school level Test of General Educational Development (GED) and receives a GED certificate while the prisoner is incarcerated. Provides that the Department of Corrections shall develop and establish a program designed to increase the number of committed persons enrolled in programs to obtain a high school diploma or to pass the high school level Test of General Educational Development (GED) and receive GED certificates by at least 100% over the 4-year period following the effective date of this amendatory Act. Provides that pursuant to the program, each institution and facility shall report annually to the Director of Corrections on the number of committed persons enrolled in high school education programs and those who pass the high school level Test of General Educational Development (GED) and receive GED certificates, and the number of committed persons who are on waiting lists for those educational programs. Effective immediately.

LRB094 06191 RLC 36260 b

FISCAL 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 and by adding Section 3-6-8 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.

9 (2.1) For all offenses, other than those enumerated in
10 subdivision (a)(2) committed on or after June 19, 1998, and
11 other than the offense of reckless homicide as defined in
12 subsection (e) of Section 9-3 of the Criminal Code of 1961
13 committed on or after January 1, 1999, or aggravated
14 driving under the influence of alcohol, other drug or
15 drugs, or intoxicating compound or compounds, or any
16 combination thereof as defined in subparagraph (F) of
17 paragraph (1) of subsection (d) of Section 11-501 of the
18 Illinois Vehicle Code, the rules and regulations shall
19 provide that a prisoner who is serving a term of
20 imprisonment shall receive one day of good conduct credit
21 for each day of his or her sentence of imprisonment or
22 recommitment under Section 3-3-9. Each day of good conduct
23 credit shall reduce by one day the prisoner's period of
24 imprisonment or recommitment under Section 3-3-9.

25 (2.2) A prisoner serving a term of natural life
26 imprisonment or a prisoner who has been sentenced to death
27 shall receive no good conduct credit.

28 (2.3) The rules and regulations on early release shall
29 provide that a prisoner who is serving a sentence for
30 reckless homicide as defined in subsection (e) of Section
31 9-3 of the Criminal Code of 1961 committed on or after
32 January 1, 1999, or aggravated driving under the influence
33 of alcohol, other drug or drugs, or intoxicating compound
34 or compounds, or any combination thereof as defined in
35 subparagraph (F) of paragraph (1) of subsection (d) of
36 Section 11-501 of the Illinois Vehicle Code, shall receive

1 no more than 4.5 days of good conduct credit for each month
2 of his or her sentence of imprisonment.

3 (2.4) The rules and regulations on early release shall
4 provide with respect to the offenses of aggravated battery
5 with a machine gun or a firearm equipped with any device or
6 attachment designed or used for silencing the report of a
7 firearm or aggravated discharge of a machine gun or a
8 firearm equipped with any device or attachment designed or
9 used for silencing the report of a firearm, committed on or
10 after July 15, 1999 (the effective date of Public Act
11 91-121) ~~this amendatory Act of 1999~~, that a prisoner
12 serving a sentence for any of these offenses 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 (2.5) The rules and regulations on early release shall
16 provide that a prisoner who is serving a sentence for
17 aggravated arson committed on or after July 27, 2001 (the
18 effective date of Public Act 92-176) ~~this amendatory Act of~~
19 ~~the 92nd 93rd General Assembly~~ shall receive no more than
20 4.5 days of good conduct credit for each month of his or
21 her sentence of imprisonment.

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

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

27 (4) The rules and regulations shall also provide that
28 the good conduct credit accumulated and retained under
29 paragraph (2.1) of subsection (a) of this Section by any
30 inmate during specific periods of time in which such inmate
31 is engaged full-time in substance abuse programs,
32 correctional industry assignments, or educational programs
33 provided by the Department under this paragraph (4) and
34 satisfactorily completes the assigned program as
35 determined by the standards of the Department, shall be
36 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) while assigned to a boot camp, mental health unit, or
5 electronic detention, or if convicted of an offense
6 enumerated in paragraph (a)(2) of this Section that is
7 committed on or after June 19, 1998, or if convicted of
8 reckless homicide as defined in subsection (e) of Section
9 9-3 of the Criminal Code of 1961 if the offense is
10 committed on or after January 1, 1999, or aggravated
11 driving under the influence of alcohol, other drug or
12 drugs, or intoxicating compound or compounds, or any
13 combination thereof as defined in subparagraph (F) of
14 paragraph (1) of subsection (d) of Section 11-501 of the
15 Illinois Vehicle Code, or if convicted of an offense
16 enumerated in paragraph (a)(2.4) of this Section that is
17 committed on or after July 15, 1999 (the effective date of
18 Public Act 91-121) ~~this amendatory Act of 1999~~, or first
19 degree murder, a Class X felony, criminal sexual assault,
20 felony criminal sexual abuse, aggravated criminal sexual
21 abuse, aggravated battery with a firearm, or any
22 predecessor or successor offenses with the same or
23 substantially the same elements, or any inchoate offenses
24 relating to the foregoing offenses. No inmate shall be
25 eligible for the additional good conduct credit under this
26 paragraph (4) who (i) has previously received increased
27 good conduct credit under this paragraph (4) and has
28 subsequently been convicted of a felony, or (ii) has
29 previously served more than one prior sentence of
30 imprisonment for a felony in an adult correctional
31 facility.

32 Educational, vocational, substance abuse and
33 correctional industry programs under which good conduct
34 credit may be increased under this paragraph (4) shall be
35 evaluated by the Department on the basis of documented
36 standards. The Department shall report the results of these

1 evaluations to the Governor and the General Assembly by
2 September 30th of each year. The reports shall include data
3 relating to the recidivism rate among program
4 participants.

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

17 (4.1) The rules and regulations shall also provide that
18 an additional 60 days of good conduct credit shall be
19 awarded to any prisoner who earns a high school diploma or
20 passes the high school level Test of General Educational
21 Development (GED) and receives a GED certificate while the
22 prisoner is incarcerated. The good conduct credit awarded
23 under this paragraph (4.1) shall be in addition to, and
24 shall not affect, the award of good conduct under any other
25 paragraph of this Section.

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

1 ~~effective date of this amendatory Act of the 93rd General~~
2 ~~Assembly~~ is subject to the provisions of this clause (4.5).

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

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

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

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

36 When the Department seeks to revoke, suspend or reduce the

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

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

26 Nothing contained in this Section shall prohibit the
27 Prisoner Review Board from ordering, pursuant to Section
28 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
29 sentence imposed by the court that was not served due to the
30 accumulation of good conduct credit.

31 (d) If a lawsuit is filed by a prisoner in an Illinois or
32 federal court against the State, the Department of Corrections,
33 or the Prisoner Review Board, or against any of their officers
34 or employees, and the court makes a specific finding that a
35 pleading, motion, or other paper filed by the prisoner is
36 frivolous, the Department of Corrections shall conduct a

1 hearing to revoke up to 180 days of good conduct credit by
2 bringing charges against the prisoner sought to be deprived of
3 the good conduct credits before the Prisoner Review Board as
4 provided in subparagraph (a) (8) of Section 3-3-2 of this Code.
5 If the prisoner has not accumulated 180 days of good conduct
6 credit at the time of the finding, then the Prisoner Review
7 Board may revoke all good conduct credit accumulated by the
8 prisoner.

9 For purposes of this subsection (d):

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

14 (A) it lacks an arguable basis either in law or in
15 fact;

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

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

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

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

33 (2) "Lawsuit" means a petition for post-conviction
34 relief under Article 122 of the Code of Criminal Procedure
35 of 1963, a motion pursuant to Section 116-3 of the Code of
36 Criminal Procedure of 1963, a habeas corpus action under

1 Article X of the Code of Civil Procedure or under federal
2 law (28 U.S.C. 2254), a petition for claim under the Court
3 of Claims Act or an action under the federal Civil Rights
4 Act (42 U.S.C. 1983).

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

7 (Source: P.A. 92-176, eff. 7-27-01; 92-854, eff. 12-5-02;
8 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; revised 10-15-03.)

9 (730 ILCS 5/3-6-8 new)

10 Sec. 3-6-8. High school educational programs. The
11 Department of Corrections shall develop and establish a program
12 designed to increase the number of committed persons enrolled
13 in programs to obtain a high school diploma or to pass the high
14 school level Test of General Educational Development (GED) and
15 receive GED certificates by at least 100% over the 4-year
16 period following the effective date of this amendatory Act of
17 the 94th General Assembly. Pursuant to the program, each
18 institution and facility shall report annually to the Director
19 of Corrections on the number of committed persons enrolled in
20 high school education programs and those who pass the high
21 school level Test of General Educational Development (GED) and
22 receive GED certificates, and the number of committed persons
23 who are on waiting lists for those educational programs.

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.