



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB0446**

Introduced 1/26/2007, by Rep. Bill Mitchell - Ronald A. Wait -  
Ruth Munson

#### 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.

LRB095 03715 RLC 23742 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 95th General Assembly, the following:

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

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

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

1 imprisonment; ~~and~~

2 (iv) that a prisoner serving a sentence for  
3 aggravated discharge of a firearm, whether or not the  
4 conduct leading to conviction for the offense resulted  
5 in great bodily harm to the victim, shall receive no  
6 more than 4.5 days of good conduct credit for each  
7 month of his or her sentence of imprisonment; and -

8 (v) that a prisoner serving a sentence for a  
9 felony, when the court has made and entered a finding  
10 that the conduct leading to conviction for the offense  
11 was committed in furtherance of gang-related activity  
12 as defined in Section 10 of the Illinois Streetgang  
13 Terrorism Omnibus Prevention Act, shall receive no  
14 more than 4.5 days of good conduct credit for each  
15 month of his or her sentence of imprisonment.

16 (2.1) For all offenses, other than those enumerated in  
17 subdivision (a)(2)(i), (ii), or (iii) committed on or after  
18 June 19, 1998 or subdivision (a)(2)(iv) committed on or  
19 after June 23, 2005 (the effective date of Public Act  
20 94-71) or (a)(2)(v) committed on or after the effective  
21 date of this amendatory Act of the 95th General Assembly,  
22 and other than the offense of reckless homicide as defined  
23 in subsection (e) of Section 9-3 of the Criminal Code of  
24 1961 committed on or after January 1, 1999, or aggravated  
25 driving under the influence of alcohol, other drug or  
26 drugs, or intoxicating compound or compounds, or any

1 combination thereof as defined in subparagraph (F) of  
2 paragraph (1) of subsection (d) of Section 11-501 of the  
3 Illinois Vehicle Code, the rules and regulations shall  
4 provide that a prisoner who is serving a term of  
5 imprisonment shall receive one day of good conduct credit  
6 for each day of his or her sentence of imprisonment or  
7 recommitment under Section 3-3-9. Each day of good conduct  
8 credit shall reduce by one day the prisoner's period of  
9 imprisonment or recommitment under Section 3-3-9.

10 (2.2) A prisoner serving a term of natural life  
11 imprisonment or a prisoner who has been sentenced to death  
12 shall receive no good conduct credit.

13 (2.3) The rules and regulations on early release shall  
14 provide that a prisoner who is serving a sentence for  
15 reckless homicide as defined in subsection (e) of Section  
16 9-3 of the Criminal Code of 1961 committed on or after  
17 January 1, 1999, or aggravated driving under the influence  
18 of alcohol, other drug or drugs, or intoxicating compound  
19 or compounds, or any combination thereof as defined in  
20 subparagraph (F) of paragraph (1) of subsection (d) of  
21 Section 11-501 of the Illinois Vehicle Code, shall receive  
22 no more than 4.5 days of good conduct credit for each month  
23 of his or her sentence of imprisonment.

24 (2.4) The rules and regulations on early release shall  
25 provide with respect to the offenses of aggravated battery  
26 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

1 paragraph (1) of subsection (d) of Section 11-501 of the  
2 Illinois Vehicle Code, aggravated kidnapping, kidnapping,  
3 predatory criminal sexual assault of a child, aggravated  
4 criminal sexual assault, criminal sexual assault, deviate  
5 sexual assault, aggravated criminal sexual abuse,  
6 aggravated indecent liberties with a child, indecent  
7 liberties with a child, child pornography, heinous  
8 battery, aggravated battery of a spouse, aggravated  
9 battery of a spouse with a firearm, stalking, aggravated  
10 stalking, aggravated battery of a child, endangering the  
11 life or health of a child, cruelty to a child, or narcotic  
12 racketeering. Notwithstanding the foregoing, good conduct  
13 credit for meritorious service shall not be awarded on a  
14 sentence of imprisonment imposed for conviction of: (i) one  
15 of the offenses enumerated in subdivision (a)(2)(i), (ii),  
16 or (iii) when the offense is committed on or after June 19,  
17 1998 or subdivision (a)(2)(iv) when the offense is  
18 committed on or after June 23, 2005 (the effective date of  
19 Public Act 94-71) or (a)(2)(v) when the offense is  
20 committed on or after the effective date of this amendatory  
21 Act of the 95th General Assembly, (ii) reckless homicide as  
22 defined in subsection (e) of Section 9-3 of the Criminal  
23 Code of 1961 when the offense is 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

1           subparagraph (F) of paragraph (1) of subsection (d) of  
2           Section 11-501 of the Illinois Vehicle Code, (iii) one of  
3           the offenses enumerated in subdivision (a)(2.4) when the  
4           offense is committed on or after July 15, 1999 (the  
5           effective date of Public Act 91-121), or (iv) aggravated  
6           arson when the offense is committed on or after July 27,  
7           2001 (the effective date of Public Act 92-176).

8           (4) The rules and regulations shall also provide that  
9           the good conduct credit accumulated and retained under  
10          paragraph (2.1) of subsection (a) of this Section by any  
11          inmate during specific periods of time in which such inmate  
12          is engaged full-time in substance abuse programs,  
13          correctional industry assignments, or educational programs  
14          provided by the Department under this paragraph (4) and  
15          satisfactorily completes the assigned program as  
16          determined by the standards of the Department, shall be  
17          multiplied by a factor of 1.25 for program participation  
18          before August 11, 1993 and 1.50 for program participation  
19          on or after that date. However, no inmate shall be eligible  
20          for the additional good conduct credit under this paragraph  
21          (4) or (4.1) of this subsection (a) while assigned to a  
22          boot camp or electronic detention, or if convicted of an  
23          offense enumerated in subdivision (a)(2)(i), (ii), or  
24          (iii) of this Section that is committed on or after June  
25          19, 1998 or subdivision (a)(2)(iv) of this Section that is  
26          committed on or after June 23, 2005 (the effective date of



1 Public Act 94-71) or (a)(2)(v) when the offense is  
2 committed on or after the effective date of this amendatory  
3 Act of the 95th General Assembly, or if convicted of  
4 reckless homicide as defined in subsection (e) of Section  
5 9-3 of the Criminal Code of 1961 if the offense is  
6 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, or if convicted of an offense  
12 enumerated in paragraph (a)(2.4) of this Section that is  
13 committed on or after July 15, 1999 (the effective date of  
14 Public Act 91-121), or first degree murder, a Class X  
15 felony, criminal sexual assault, felony criminal sexual  
16 abuse, aggravated criminal sexual abuse, aggravated  
17 battery with a firearm, or any predecessor or successor  
18 offenses with the same or substantially the same elements,  
19 or any inchoate offenses relating to the foregoing  
20 offenses. No inmate shall be eligible for the additional  
21 good conduct credit under this paragraph (4) who (i) has  
22 previously received increased good conduct credit under  
23 this paragraph (4) and has subsequently been convicted of a  
24 felony, or (ii) has previously served more than one prior  
25 sentence of imprisonment for a felony in an adult  
26 correctional facility.

1 Educational, vocational, substance abuse and  
2 correctional industry programs under which good conduct  
3 credit may be increased under this paragraph (4) and  
4 paragraph (4.1) of this subsection (a) shall be evaluated  
5 by the Department on the basis of documented standards. The  
6 Department shall report the results of these evaluations to  
7 the Governor and the General Assembly by September 30th of  
8 each year. The reports shall include data relating to the  
9 recidivism rate among program participants.

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

22 (4.1) The rules and regulations shall also provide that  
23 an additional 60 days of good conduct credit shall be  
24 awarded to any prisoner who passes the high school level  
25 Test of General Educational Development (GED) while the  
26 prisoner is incarcerated. The good conduct credit awarded

1 under this paragraph (4.1) shall be in addition to, and  
2 shall not affect, the award of good conduct under any other  
3 paragraph of this Section, but shall also be pursuant to  
4 the guidelines and restrictions set forth in paragraph (4)  
5 of subsection (a) of this Section. The good conduct credit  
6 provided for in this paragraph shall be available only to  
7 those prisoners who have not previously earned a high  
8 school diploma or a GED. If, after an award of the GED good  
9 conduct credit has been made and the Department determines  
10 that the prisoner was not eligible, then the award shall be  
11 revoked.

12 (4.5) The rules and regulations on early release shall  
13 also provide that when the court's sentencing order  
14 recommends a prisoner for substance abuse treatment and the  
15 crime was committed on or after September 1, 2003 (the  
16 effective date of Public Act 93-354), the prisoner shall  
17 receive no good conduct credit awarded under clause (3) of  
18 this subsection (a) unless he or she participates in and  
19 completes a substance abuse treatment program. The  
20 Director may waive the requirement to participate in or  
21 complete a substance abuse treatment program and award the  
22 good conduct credit in specific instances if the prisoner  
23 is not a good candidate for a substance abuse treatment  
24 program for medical, programming, or operational reasons.  
25 Availability of substance abuse treatment shall be subject  
26 to the limits of fiscal resources appropriated by the

1 General Assembly for these purposes. If treatment is not  
2 available and the requirement to participate and complete  
3 the treatment has not been waived by the Director, the  
4 prisoner shall be placed on a waiting list under criteria  
5 established by the Department. The Director may allow a  
6 prisoner placed on a waiting list to participate in and  
7 complete a substance abuse education class or attend  
8 substance abuse self-help meetings in lieu of a substance  
9 abuse treatment program. A prisoner on a waiting list who  
10 is not placed in a substance abuse program prior to release  
11 may be eligible for a waiver and receive good conduct  
12 credit under clause (3) of this subsection (a) at the  
13 discretion of the Director.

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

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

25 (c) The Department shall prescribe rules and regulations  
26 for revoking good conduct credit, or suspending or reducing the

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

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

24 The Director of the Department of Corrections, in  
25 appropriate cases, may restore up to 30 days good conduct  
26 credits which have been revoked, suspended or reduced. Any

1 restoration of good conduct credits in excess of 30 days shall  
2 be subject to review by the Prisoner Review Board. However, the  
3 Board may not restore good conduct credit in excess of the  
4 amount requested by the Director.

5 Nothing contained in this Section shall prohibit the  
6 Prisoner Review Board from ordering, pursuant to Section  
7 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the  
8 sentence imposed by the court that was not served due to the  
9 accumulation of good conduct credit.

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

24 For purposes of this subsection (d):

25 (1) "Frivolous" means that a pleading, motion, or other  
26 filing which purports to be a legal document filed by a

1 prisoner in his or her lawsuit meets any or all of the  
2 following criteria:

3 (A) it lacks an arguable basis either in law or in  
4 fact;

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

8 (C) the claims, defenses, and other legal  
9 contentions therein are not warranted by existing law  
10 or by a nonfrivolous argument for the extension,  
11 modification, or reversal of existing law or the  
12 establishment of new law;

13 (D) the allegations and other factual contentions  
14 do not have evidentiary support or, if specifically so  
15 identified, are not likely to have evidentiary support  
16 after a reasonable opportunity for further  
17 investigation or discovery; or

18 (E) the denials of factual contentions are not  
19 warranted on the evidence, or if specifically so  
20 identified, are not reasonably based on a lack of  
21 information or belief.

22 (2) "Lawsuit" means a petition for post-conviction  
23 relief under Article 122 of the Code of Criminal Procedure  
24 of 1963, a motion pursuant to Section 116-3 of the Code of  
25 Criminal Procedure of 1963, a habeas corpus action under  
26 Article X of the Code of Civil Procedure or under federal

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

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

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