



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1293

Introduced 2/20/2007, by Rep. Constance A. Howard

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-3

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

Amends the Unified Code of Corrections. Provides that 90 days of early release from parole shall be awarded to any parolee who passes the high school level Test of General Educational Development (GED) while the parolee is on parole. Provides that the early release from parole awarded shall be in addition to, and shall not be affected by, the award of good conduct under any other provision, but shall not be pursuant to the guidelines and restrictions set forth for prisoners engaged in full-time educational programs provided by the Department of Corrections. Provides that the early release from parole shall be available only to parolees who have not yet previously earned a high school diploma or a GED.

LRB095 09598 RLC 29798 b

FISCAL 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 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), the following:

21 (i) that a prisoner who is serving a term of
22 imprisonment for first degree murder or for the offense
23 of terrorism shall receive no good conduct credit and

1 shall serve the entire sentence imposed by the court;

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

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

25 (iv) that a prisoner serving a sentence for
26 aggravated discharge of a firearm, whether or not the

1 conduct leading to conviction for the offense resulted
2 in great bodily harm to the victim, shall receive no
3 more than 4.5 days of good conduct credit for each
4 month of his or her sentence of imprisonment.

5 (2.1) For all offenses, other than those enumerated in
6 subdivision (a)(2)(i), (ii), or (iii) committed on or after
7 June 19, 1998 or subdivision (a)(2)(iv) committed on or
8 after June 23, 2005 (the effective date of Public Act
9 94-71), and other than the offense of reckless homicide as
10 defined in subsection (e) of Section 9-3 of the Criminal
11 Code of 1961 committed on or after January 1, 1999, or
12 aggravated driving under the influence of alcohol, other
13 drug or drugs, or intoxicating compound or compounds, or
14 any combination thereof as defined in subparagraph (F) of
15 paragraph (1) of subsection (d) of Section 11-501 of the
16 Illinois Vehicle Code, the rules and regulations shall
17 provide that a prisoner who is serving a term of
18 imprisonment shall receive one day of good conduct credit
19 for each day of his or her sentence of imprisonment or
20 recommitment under Section 3-3-9. Each day of good conduct
21 credit shall reduce by one day the prisoner's period of
22 imprisonment or recommitment under Section 3-3-9.

23 (2.2) A prisoner serving a term of natural life
24 imprisonment or a prisoner who has been sentenced to death
25 shall receive no good conduct credit.

26 (2.3) The rules and regulations on early release shall

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

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

23 (2.5) The rules and regulations on early release shall
24 provide that a prisoner who is serving a sentence for
25 aggravated arson committed on or after July 27, 2001 (the
26 effective date of Public Act 92-176) shall receive no more

1 than 4.5 days of good conduct credit for each month of his
2 or her sentence of imprisonment.

3 (3) The rules and regulations shall also provide that
4 the Director may award up to 180 days additional good
5 conduct credit for meritorious service in specific
6 instances as the Director deems proper; except that no more
7 than 90 days of good conduct credit for meritorious service
8 shall be awarded to any prisoner who is serving a sentence
9 for conviction of first degree murder, reckless homicide
10 while under the influence of alcohol or any other drug, or
11 aggravated driving under the influence of alcohol, other
12 drug or drugs, or intoxicating compound or compounds, or
13 any combination thereof as defined in subparagraph (F) of
14 paragraph (1) of subsection (d) of Section 11-501 of the
15 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
16 predatory criminal sexual assault of a child, aggravated
17 criminal sexual assault, criminal sexual assault, deviate
18 sexual assault, aggravated criminal sexual abuse,
19 aggravated indecent liberties with a child, indecent
20 liberties with a child, child pornography, heinous
21 battery, aggravated battery of a spouse, aggravated
22 battery of a spouse with a firearm, stalking, aggravated
23 stalking, aggravated battery of a child, endangering the
24 life or health of a child, cruelty to a child, or narcotic
25 racketeering. Notwithstanding the foregoing, good conduct
26 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), (ii) reckless homicide as defined in
7 subsection (e) of Section 9-3 of the Criminal Code of 1961
8 when the offense is committed on or after January 1, 1999,
9 or aggravated driving under the influence of alcohol, other
10 drug or drugs, or intoxicating compound or compounds, or
11 any combination thereof as defined in subparagraph (F) of
12 paragraph (1) of subsection (d) of Section 11-501 of the
13 Illinois Vehicle Code, (iii) one of the offenses enumerated
14 in subdivision (a)(2.4) when the offense is committed on or
15 after July 15, 1999 (the effective date of Public Act
16 91-121), or (iv) aggravated arson when the offense is
17 committed on or after July 27, 2001 (the effective date of
18 Public Act 92-176).

19 (4) The rules and regulations shall also provide that
20 the good conduct credit accumulated and retained under
21 paragraph (2.1) of subsection (a) of this Section by any
22 inmate during specific periods of time in which such inmate
23 is engaged full-time in substance abuse programs,
24 correctional industry assignments, or educational programs
25 provided by the Department under this paragraph (4) and
26 satisfactorily completes the assigned program as

1 determined by the standards of the Department, shall be
2 multiplied by a factor of 1.25 for program participation
3 before August 11, 1993 and 1.50 for program participation
4 on or after that date. However, no inmate shall be eligible
5 for the additional good conduct credit under this paragraph
6 (4) or (4.1) of this subsection (a) while assigned to a
7 boot camp or electronic detention, or if convicted of an
8 offense enumerated in subdivision (a)(2)(i), (ii), or
9 (iii) of this Section that is committed on or after June
10 19, 1998 or subdivision (a)(2)(iv) of this Section that is
11 committed on or after June 23, 2005 (the effective date of
12 Public Act 94-71), or if convicted of reckless homicide as
13 defined in subsection (e) of Section 9-3 of the Criminal
14 Code of 1961 if the offense is committed on or after
15 January 1, 1999, or aggravated driving under the influence
16 of alcohol, other drug or drugs, or intoxicating compound
17 or compounds, or any combination thereof as defined in
18 subparagraph (F) of paragraph (1) of subsection (d) of
19 Section 11-501 of the Illinois Vehicle Code, or if
20 convicted of an offense enumerated in paragraph (a)(2.4) of
21 this Section that is committed on or after July 15, 1999
22 (the effective date of Public Act 91-121), or first degree
23 murder, a Class X felony, criminal sexual assault, felony
24 criminal sexual abuse, aggravated criminal sexual abuse,
25 aggravated battery with a firearm, or any predecessor or
26 successor offenses with the same or substantially the same

1 elements, or any inchoate offenses relating to the
2 foregoing offenses. No inmate shall be eligible for the
3 additional good conduct credit under this paragraph (4) who
4 (i) has previously received increased good conduct credit
5 under this paragraph (4) and has subsequently been
6 convicted of a felony, or (ii) has previously served more
7 than one prior sentence of imprisonment for a felony in an
8 adult correctional facility.

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

18 Availability of these programs shall be subject to the
19 limits of fiscal resources appropriated by the General
20 Assembly for these purposes. Eligible inmates who are
21 denied immediate admission shall be placed on a waiting
22 list under criteria established by the Department. The
23 inability of any inmate to become engaged in any such
24 programs by reason of insufficient program resources or for
25 any other reason established under the rules and
26 regulations of the Department shall not be deemed a cause

1 of action under which the Department or any employee or
2 agent of the Department shall be liable for damages to the
3 inmate.

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

20 (4.5) The rules and regulations on early release shall
21 also provide that when the court's sentencing order
22 recommends a prisoner for substance abuse treatment and the
23 crime was committed on or after September 1, 2003 (the
24 effective date of Public Act 93-354), the prisoner shall
25 receive no good conduct credit awarded under clause (3) of
26 this subsection (a) unless he or she participates in and

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

22 (4.6) Due to the importance of education on recidivism,
23 the rules and regulations shall also provide that 90 days
24 of early release from parole shall be awarded to any
25 parolee who passes the high school level Test of General
26 Educational Development (GED) while the parolee is on

1 parole. The early release from parole awarded under this
2 paragraph (4.6) shall be in addition to, and shall not be
3 affected by, the award of good conduct under any other
4 paragraph of this Section, but shall not be pursuant to the
5 guidelines and restrictions set forth in paragraph (4) of
6 this subsection (a). The early release from parole provided
7 for in this paragraph shall be available only to parolees
8 who have not yet previously earned a high school diploma or
9 a GED.

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

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

21 (c) The Department shall prescribe rules and regulations
22 for revoking good conduct credit, or suspending or reducing the
23 rate of accumulation of good conduct credit for specific rule
24 violations, during imprisonment. These rules and regulations
25 shall provide that no inmate may be penalized more than one
26 year of good conduct credit for any one infraction.

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

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

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

4 (C) the claims, defenses, and other legal
5 contentions therein are not warranted by existing law
6 or by a nonfrivolous argument for the extension,
7 modification, or reversal of existing law or the
8 establishment of new law;

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

14 (E) the denials of factual contentions are not
15 warranted on the evidence, or if specifically so
16 identified, are not reasonably based on a lack of
17 information or belief.

18 (2) "Lawsuit" means a petition for post-conviction
19 relief under Article 122 of the Code of Criminal Procedure
20 of 1963, a motion pursuant to Section 116-3 of the Code of
21 Criminal Procedure of 1963, a habeas corpus action under
22 Article X of the Code of Civil Procedure or under federal
23 law (28 U.S.C. 2254), a petition for claim under the Court
24 of Claims Act or an action under the federal Civil Rights
25 Act (42 U.S.C. 1983).

26 (e) Nothing in Public Act 90-592 or 90-593 affects the

1 validity of Public Act 89-404.

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