



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1695

Introduced 2/22/2007, by Rep. Robert S. Molaro

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-3-3

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

730 ILCS 5/3-6-3

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

Amends the Unified Code of Corrections. Provides that a person who has been sentenced to life without possibility of parole for a crime committed when he or she was under 18 years of age may, after serving 20 years of his or her sentence, submit an Application for Review and Assessment. Provides that the application shall be submitted to the applicant's Illinois Department of Corrections counselor, who shall forward the application to the Prisoner Review Board together with the applicant's criminal history sheet, mittimus, disciplinary history, supplementary program considerations, mental health evaluations, social evaluations, and any other documents the counselor considers relevant. Provides that the Prisoner Review Board, acting through a committee of at least 3 members, shall undertake a review and assessment of the applicant and shall determine, by majority vote, whether the applicant should be certified as eligible to seek release to parole from the Prisoner Review Board. Provides that the Prisoner Review Board may require a prisoner who has satisfactorily met the conditions for release to serve any parole term it deems necessary. Provides that the Application for Review and Assessment shall be formulated by the Prisoner Review Board. Provides that the application may be submitted annually.

LRB095 08451 RLC 28628 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 Sections 3-3-3 and 3-6-3 as follows:

6 (730 ILCS 5/3-3-3) (from Ch. 38, par. 1003-3-3)

7 Sec. 3-3-3. Eligibility for Parole or Release.

8 (a) Except for those offenders who accept the fixed release
9 date established by the Prisoner Review Board under Section
10 3-3-2.1, every person serving a term of imprisonment under the
11 law in effect prior to the effective date of this amendatory
12 Act of 1977 shall be eligible for parole when he has served:

13 (1) the minimum term of an indeterminate sentence less
14 time credit for good behavior, or 20 years less time credit
15 for good behavior, whichever is less; or

16 (2) 20 years of a life sentence less time credit for
17 good behavior; or

18 (3) 20 years or one-third of a determinate sentence,
19 whichever is less, less time credit for good behavior.

20 (b) No person sentenced under this amendatory Act of 1977
21 or who accepts a release date under Section 3-3-2.1 shall be
22 eligible for parole.

23 (c) Except for those sentenced to a term of natural life

1 imprisonment, every person sentenced to imprisonment under
2 this amendatory Act of 1977 or given a release date under
3 Section 3-3-2.1 of this Act shall serve the full term of a
4 determinate sentence less time credit for good behavior and
5 shall then be released under the mandatory supervised release
6 provisions of paragraph (d) of Section 5-8-1 of this Code.

7 (d) No person serving a term of natural life imprisonment
8 may be paroled or released except through executive clemency,
9 and except as provided in paragraph (2.2-1) of subsection (a)
10 of Section 3-6-3 of this Code.

11 (e) Every person committed to the Department of Juvenile
12 Justice under Section 5-10 of the Juvenile Court Act or Section
13 5-750 of the Juvenile Court Act of 1987 or Section 5-8-6 of
14 this Code and confined in the State correctional institutions
15 or facilities if such juvenile has not been tried as an adult
16 shall be eligible for parole without regard to the length of
17 time the person has been confined or whether the person has
18 served any minimum term imposed. However, if a juvenile has
19 been tried as an adult he shall only be eligible for parole or
20 mandatory supervised release as an adult under this Section.

21 (Source: P.A. 94-696, eff. 6-1-06.)

22 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

23 Sec. 3-6-3. Rules and Regulations for Early Release.

24 (a) (1) The Department of Corrections shall prescribe
25 rules and regulations for the early release on account of

1 good conduct of persons committed to the Department which
2 shall be subject to review by the Prisoner Review Board.

3 (2) The rules and regulations on early release shall
4 provide, with respect to offenses listed in clause (i),
5 (ii), or (iii) of this paragraph (2) committed on or after
6 June 19, 1998 or with respect to the offense listed in
7 clause (iv) of this paragraph (2) committed on or after
8 June 23, 2005 (the effective date of Public Act 94-71) or
9 with respect to the offense of being an armed habitual
10 criminal committed on or after August 2, 2005 (the
11 effective date of Public Act 94-398), the following:

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

16 (ii) that a prisoner serving a sentence for attempt
17 to commit first degree murder, solicitation of murder,
18 solicitation of murder for hire, intentional homicide
19 of an unborn child, predatory criminal sexual assault
20 of a child, aggravated criminal sexual assault,
21 criminal sexual assault, aggravated kidnapping,
22 aggravated battery with a firearm, heinous battery,
23 being an armed habitual criminal, aggravated battery
24 of a senior citizen, or aggravated battery of a child
25 shall receive no more than 4.5 days of good conduct
26 credit for each month of his or her sentence of

1 imprisonment;

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

13 (iv) that a prisoner serving a sentence for
14 aggravated discharge of a firearm, whether or not the
15 conduct leading to conviction for the offense resulted
16 in great bodily harm to the victim, shall receive no
17 more than 4.5 days of good conduct credit for each
18 month of his or her sentence of imprisonment.

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

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

11 (2.2) A prisoner serving a term of natural life
12 imprisonment or a prisoner who has been sentenced to death
13 shall receive no good conduct credit, except as provided in
14 paragraph (2.2-1) of this subsection (a).

15 (2.2-1) Notwithstanding anything else to the contrary
16 in this Section, a person who has been sentenced to life
17 without possibility of parole for a crime committed when he
18 or she was under 18 years of age, may, after serving 20
19 years of his or her sentence, submit an Application for
20 Review and Assessment. The application shall be submitted
21 to the applicant's Illinois Department of Corrections
22 counselor, who shall forward the application to the
23 Prisoner Review Board together with the applicant's
24 criminal history sheet, mittimus, disciplinary history,
25 supplementary program considerations, mental health
26 evaluations, social evaluations pursuant to Section 3-8-2

1 and any other documents the counselor considers relevant.
2 The Prisoner Review Board, acting through a committee of at
3 least 3 members, shall undertake a review and assessment of
4 the applicant and shall determine, by majority vote,
5 whether the applicant should be certified as eligible to
6 seek release to parole from the Prisoner Review Board. In
7 determining whether the applicant should be certified as
8 eligible to seek release to parole under this paragraph
9 (2.2-1), the committee shall consider the following: (i)
10 the applicant's age and level of maturity at the time of
11 the offense; (ii) the nature and severity of the offense;
12 (iii) the applicant's degree of participation in the
13 offense; (iv) the applicant's prior juvenile or criminal
14 history: (v) the applicant's overall record of behavior
15 while incarcerated, including disciplinary history,
16 participation in educational and vocational programs,
17 demonstration of remorse, and extent of cooperation with
18 staff, as documented in counselors' and other staff
19 members' reports; (vi) the applicant's likelihood to
20 commit further offenses; and (vii) any other information
21 the committee considers relevant. If the committee
22 certifies the applicant as eligible for release to parole
23 under this paragraph, the Prisoner Review Board shall set
24 the matter for a hearing and shall consider the applicant
25 for release under conditions set by the Prisoner Review
26 Board, pursuant to the procedures used in considering the

1 parole of prisoners convicted of crimes committed before
2 1978; provided that no member of the committee that makes
3 the review and assessment of the applicant shall conduct
4 the institutional hearing. The Prisoner Review Board may
5 require a prisoner who it finds has satisfactorily met the
6 conditions for release to serve any parole term it deems
7 necessary. The Application for Review and Assessment shall
8 be formulated by the Prisoner Review Board. The application
9 may be submitted annually.

10 (2.3) The rules and regulations on early release shall
11 provide that a prisoner who is serving a sentence for
12 reckless homicide as defined in subsection (e) of Section
13 9-3 of the Criminal Code of 1961 committed on or after
14 January 1, 1999, or aggravated driving under the influence
15 of alcohol, other drug or drugs, or intoxicating compound
16 or compounds, or any combination thereof as defined in
17 subparagraph (F) of paragraph (1) of subsection (d) of
18 Section 11-501 of the Illinois Vehicle Code, shall receive
19 no more than 4.5 days of good conduct credit for each month
20 of his or her sentence of imprisonment.

21 (2.4) The rules and regulations on early release shall
22 provide with respect to the offenses of aggravated battery
23 with a machine gun or a firearm equipped with any device or
24 attachment designed or used for silencing the report of a
25 firearm or aggravated discharge of a machine gun or a
26 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

1 criminal sexual assault, criminal sexual assault, deviate
2 sexual assault, aggravated criminal sexual abuse,
3 aggravated indecent liberties with a child, indecent
4 liberties with a child, child pornography, heinous
5 battery, aggravated battery of a spouse, aggravated
6 battery of a spouse with a firearm, stalking, aggravated
7 stalking, aggravated battery of a child, endangering the
8 life or health of a child, cruelty to a child, or narcotic
9 racketeering. Notwithstanding the foregoing, good conduct
10 credit for meritorious service shall not be awarded on a
11 sentence of imprisonment imposed for conviction of: (i) one
12 of the offenses enumerated in subdivision (a)(2)(i), (ii),
13 or (iii) when the offense is committed on or after June 19,
14 1998 or subdivision (a)(2)(iv) when the offense is
15 committed on or after June 23, 2005 (the effective date of
16 Public Act 94-71), (ii) reckless homicide as defined in
17 subsection (e) of Section 9-3 of the Criminal Code of 1961
18 when the offense is committed on or after January 1, 1999,
19 or aggravated driving under the influence of alcohol, other
20 drug or drugs, or intoxicating compound or compounds, or
21 any combination thereof as defined in subparagraph (F) of
22 paragraph (1) of subsection (d) of Section 11-501 of the
23 Illinois Vehicle Code, (iii) one of the offenses enumerated
24 in subdivision (a)(2.4) when the offense is committed on or
25 after July 15, 1999 (the effective date of Public Act
26 91-121), or (iv) aggravated arson when the offense is

1 committed on or after July 27, 2001 (the effective date of
2 Public Act 92-176).

3 (4) The rules and regulations shall also provide that
4 the good conduct credit accumulated and retained under
5 paragraph (2.1) of subsection (a) of this Section by any
6 inmate during specific periods of time in which such inmate
7 is engaged full-time in substance abuse programs,
8 correctional industry assignments, or educational programs
9 provided by the Department under this paragraph (4) and
10 satisfactorily completes the assigned program as
11 determined by the standards of the Department, shall be
12 multiplied by a factor of 1.25 for program participation
13 before August 11, 1993 and 1.50 for program participation
14 on or after that date. However, no inmate shall be eligible
15 for the additional good conduct credit under this paragraph
16 (4) or (4.1) of this subsection (a) while assigned to a
17 boot camp or electronic detention, or if convicted of an
18 offense enumerated in subdivision (a)(2)(i), (ii), or
19 (iii) of this Section that is committed on or after June
20 19, 1998 or subdivision (a)(2)(iv) of this Section that is
21 committed on or after June 23, 2005 (the effective date of
22 Public Act 94-71), or if convicted of reckless homicide as
23 defined in subsection (e) of Section 9-3 of the Criminal
24 Code of 1961 if the offense is committed on or after
25 January 1, 1999, or aggravated driving under the influence
26 of alcohol, other drug or drugs, or intoxicating compound

1 or compounds, or any combination thereof as defined in
2 subparagraph (F) of paragraph (1) of subsection (d) of
3 Section 11-501 of the Illinois Vehicle Code, or if
4 convicted of an offense enumerated in paragraph (a)(2.4) of
5 this Section that is committed on or after July 15, 1999
6 (the effective date of Public Act 91-121), or first degree
7 murder, a Class X felony, criminal sexual assault, felony
8 criminal sexual abuse, aggravated criminal sexual abuse,
9 aggravated battery with a firearm, or any predecessor or
10 successor offenses with the same or substantially the same
11 elements, or any inchoate offenses relating to the
12 foregoing offenses. No inmate shall be eligible for the
13 additional good conduct credit under this paragraph (4) who
14 (i) has previously received increased good conduct credit
15 under this paragraph (4) and has subsequently been
16 convicted of a felony, or (ii) has previously served more
17 than one prior sentence of imprisonment for a felony in an
18 adult correctional facility.

19 Educational, vocational, substance abuse and
20 correctional industry programs under which good conduct
21 credit may be increased under this paragraph (4) and
22 paragraph (4.1) of this subsection (a) shall be evaluated
23 by the Department on the basis of documented standards. The
24 Department shall report the results of these evaluations to
25 the Governor and the General Assembly by September 30th of
26 each year. The reports shall include data relating to the

1 recidivism rate among program participants.

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

14 (4.1) The rules and regulations shall also provide that
15 an additional 60 days of good conduct credit shall be
16 awarded to any prisoner who passes the high school level
17 Test of General Educational Development (GED) while the
18 prisoner is incarcerated. The good conduct credit awarded
19 under this paragraph (4.1) shall be in addition to, and
20 shall not affect, the award of good conduct under any other
21 paragraph of this Section, but shall also be pursuant to
22 the guidelines and restrictions set forth in paragraph (4)
23 of subsection (a) of this Section. The good conduct credit
24 provided for in this paragraph shall be available only to
25 those prisoners who have not previously earned a high
26 school diploma or a GED. If, after an award of the GED good

1 conduct credit has been made and the Department determines
2 that the prisoner was not eligible, then the award shall be
3 revoked.

4 (4.5) The rules and regulations on early release shall
5 also provide that when the court's sentencing order
6 recommends a prisoner for substance abuse treatment and the
7 crime was committed on or after September 1, 2003 (the
8 effective date of Public Act 93-354), the prisoner shall
9 receive no good conduct credit awarded under clause (3) of
10 this subsection (a) unless he or she participates in and
11 completes a substance abuse treatment program. The
12 Director may waive the requirement to participate in or
13 complete a substance abuse treatment program and award the
14 good conduct credit in specific instances if the prisoner
15 is not a good candidate for a substance abuse treatment
16 program for medical, programming, or operational reasons.
17 Availability of substance abuse treatment shall be subject
18 to the limits of fiscal resources appropriated by the
19 General Assembly for these purposes. If treatment is not
20 available and the requirement to participate and complete
21 the treatment has not been waived by the Director, the
22 prisoner shall be placed on a waiting list under criteria
23 established by the Department. The Director may allow a
24 prisoner placed on a waiting list to participate in and
25 complete a substance abuse education class or attend
26 substance abuse self-help meetings in lieu of a substance

1 abuse treatment program. A prisoner on a waiting list who
2 is not placed in a substance abuse program prior to release
3 may be eligible for a waiver and receive good conduct
4 credit under clause (3) of this subsection (a) at the
5 discretion of the Director.

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

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

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

23 When the Department seeks to revoke, suspend or reduce the
24 rate of accumulation of any good conduct credits for an alleged
25 infraction of its rules, it shall bring charges therefor
26 against the prisoner sought to be so deprived of good conduct

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

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

23 Nothing contained in this Section shall prohibit the
24 Prisoner Review Board from ordering, pursuant to Section
25 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
26 sentence imposed by the court that was not served due to the

1 accumulation of good conduct credit.

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

16 For purposes of this subsection (d):

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

21 (A) it lacks an arguable basis either in law or in
22 fact;

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

26 (C) the claims, defenses, and other legal

1 contentions therein are not warranted by existing law
2 or by a nonfrivolous argument for the extension,
3 modification, or reversal of existing law or the
4 establishment of new law;

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

10 (E) the denials of factual contentions are not
11 warranted on the evidence, or if specifically so
12 identified, are not reasonably based on a lack of
13 information or belief.

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

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

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