



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4384

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 10 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, within 30 days after receipt of the application, 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, evidence of physical abuse and drug abuse prior to the offense, 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, after consideration of information from the State's Attorney, may require a prisoner who has satisfactorily met the conditions for release to serve a reasonable parole term. Provides that the Application for Review and Assessment shall be prescribed by the Prisoner Review Board. Provides that the application may be submitted every 2 years.

LRB095 15304 RLC 41292 b

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 (Text of Section after amendment by P.A. 95-585, 95-625,
24 and 95-640)

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

1 (a) (1) The Department of Corrections shall prescribe
2 rules and regulations for the early release on account of
3 good conduct of persons committed to the Department which
4 shall be subject to review by the Prisoner Review Board.

5 (2) The rules and regulations on early release shall
6 provide, with respect to offenses listed in clause (i),
7 (ii), or (iii) of this paragraph (2) committed on or after
8 June 19, 1998 or with respect to the offense listed in
9 clause (iv) of this paragraph (2) committed on or after
10 June 23, 2005 (the effective date of Public Act 94-71) or
11 with respect to offense listed in clause (vi) ~~(v)~~ committed
12 on or after June 1, 2008 (the effective date of Public Act
13 95-625) ~~this amendatory Act of the 95th General Assembly~~ or
14 with respect to the offense of being an armed habitual
15 criminal committed on or after August 2, 2005 (the
16 effective date of Public Act 94-398) or with respect to the
17 offenses listed in clause (v) of this paragraph (2)
18 committed on or after August 13, 2007 (the effective date
19 of Public Act 95-134) ~~this amendatory Act of the 95th~~
20 ~~General Assembly~~, 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
24 shall serve the entire sentence imposed by the court;

25 (ii) that a prisoner serving a sentence for attempt
26 to commit first degree murder, solicitation of murder,

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

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

22 (iv) that a prisoner serving a sentence for
23 aggravated discharge of a firearm, whether or not the
24 conduct leading to conviction for the offense resulted
25 in great bodily harm to the victim, shall receive no
26 more than 4.5 days of good conduct credit for each

1 month of his or her sentence of imprisonment; ~~and~~

2 (v) that a person serving a sentence for
3 gunrunning, narcotics racketeering, controlled
4 substance trafficking, methamphetamine trafficking,
5 drug-induced homicide, aggravated
6 methamphetamine-related child endangerment, money
7 laundering pursuant to clause (c) (4) or (5) of Section
8 29B-1 of the Criminal Code of 1961, or a Class X felony
9 conviction for delivery of a controlled substance,
10 possession of a controlled substance with intent to
11 manufacture or deliver, calculated criminal drug
12 conspiracy, criminal drug conspiracy, street gang
13 criminal drug conspiracy, participation in
14 methamphetamine manufacturing, aggravated
15 participation in methamphetamine manufacturing,
16 delivery of methamphetamine, possession with intent to
17 deliver methamphetamine, aggravated delivery of
18 methamphetamine, aggravated possession with intent to
19 deliver methamphetamine, methamphetamine conspiracy
20 when the substance containing the controlled substance
21 or methamphetamine is 100 grams or more shall receive
22 no more than 7.5 days good conduct credit for each
23 month of his or her sentence of imprisonment; ~~and-~~

24 (vi) ~~(v)~~ that a prisoner serving a sentence for a
25 second or subsequent offense of luring a minor shall
26 receive no more than 4.5 days of good conduct credit

1 for each month of his or her sentence of imprisonment.

2 (2.1) For all offenses, other than those enumerated in
3 subdivision (a)(2)(i), (ii), or (iii) committed on or after
4 June 19, 1998 or subdivision (a)(2)(iv) committed on or
5 after June 23, 2005 (the effective date of Public Act
6 94-71) or subdivision (a)(2)(v) committed on or after
7 August 13, 2007 (the effective date of Public Act 95-134)
8 ~~this amendatory Act of the 95th General Assembly~~ or
9 subdivision (a)(2) (vi) ~~(v)~~ committed on or after June 1,
10 2008 (the effective date of Public Act 95-625) ~~this~~
11 ~~amendatory Act of the 95th General Assembly~~, and other than
12 the offense of reckless homicide as defined in subsection
13 (e) of Section 9-3 of the Criminal Code of 1961 committed
14 on or after January 1, 1999, or aggravated driving under
15 the influence of alcohol, other drug or drugs, or
16 intoxicating compound or compounds, or any combination
17 thereof as defined in subparagraph (F) of paragraph (1) of
18 subsection (d) of Section 11-501 of the Illinois Vehicle
19 Code, the rules and regulations shall provide that a
20 prisoner who is serving a term of imprisonment shall
21 receive one day of good conduct credit for each day of his
22 or her sentence of imprisonment or recommitment under
23 Section 3-3-9. Each day of good conduct credit shall reduce
24 by one day the prisoner's period of imprisonment or
25 recommitment under Section 3-3-9.

26 (2.2) A prisoner serving a term of natural life

1 imprisonment or a prisoner who has been sentenced to death
2 shall receive no good conduct credit, except as provided in
3 paragraph (2.2-1) of this subsection (a).

4 (2.2-1) (A) Notwithstanding anything else to the
5 contrary in this Section, a person who has been sentenced
6 to life without possibility of parole for a crime committed
7 when he or she was under 18 years of age, may, after
8 -serving 10 years of his or her sentence, submit an
9 Application for Review and Assessment. The application may
10 be submitted every 2 years.

11 (B) The application shall be submitted to the
12 applicant's Illinois Department of Corrections counselor,
13 who shall, within 30 days after receipt of the application,
14 forward the application to the Prisoner Review Board
15 together with the applicant's criminal history sheet,
16 mittimus, disciplinary history, supplementary program
17 considerations, mental health evaluations, social
18 evaluations pursuant to Section 3-8-2, evidence of
19 physical abuse and drug abuse prior to the offense, and any
20 other documents the counselor considers relevant. After a
21 prisoner submits his or her initial application,
22 subsequent applications require that the Illinois
23 Department of Corrections update information submitted to
24 the Prisoner Review Board. The Prisoner Review Board,
25 acting through a committee of at least 3 members, shall
26 undertake a review and assessment of the applicant and

1 shall determine, by majority vote, whether the applicant
2 should be certified as eligible to seek release to parole
3 from the Prisoner Review Board. In determining whether the
4 applicant should be certified as eligible to seek release
5 to parole under this paragraph (2.2-1), the committee shall
6 consider the following: (i) the applicant's age and level
7 of maturity at the time of the offense; (ii) the
8 applicant's susceptibility to outside pressure, including
9 peer pressure or negative influences; (iii) the
10 applicant's potential for rehabilitation; (iv) the nature
11 and severity of the offense; (v) the applicant's degree of
12 participation in the offense; (vi) the applicant's prior
13 juvenile or criminal history; (vii) the applicant's
14 overall record of behavior while incarcerated, including
15 disciplinary history, participation in educational and
16 vocational programs, including, but not limited to
17 participation in a restorative justice program, and extent
18 of cooperation with staff, as documented in counselors' and
19 other staff members' reports; (viii) the applicant's
20 likelihood to commit further offenses; and (ix) any other
21 information the committee considers relevant. If the
22 committee certifies the applicant as eligible for release
23 to parole under this paragraph, the Prisoner Review Board
24 shall set the matter for a hearing and shall consider the
25 applicant for release under conditions set by the Prisoner
26 Review Board, pursuant to the procedures used in

1 considering the parole of prisoners convicted of crimes
2 committed before 1978, pursuant to Section 3-3-4,
3 including but not limited to:

4 (I) providing the prosecuting State's Attorney's
5 office reasonable written notice not less than 15 days
6 prior to the parole hearing and permitting that office
7 to submit relevant information in writing, or on film,
8 video tape or other electronic means or in the form of
9 a recording to the Board for its consideration. The
10 State's Attorney may waive the written notice;

11 (II) providing the victim or victims of the violent
12 crime for which the prisoner has been sentenced notice
13 of a parole hearing as provided in paragraph (4) of
14 subsection (d) of Section 4.5 of the Rights of Crime
15 Victims and Witnesses Act;

16 provided that no member of the committee that makes the
17 review and assessment of the applicant shall conduct the
18 institutional hearing. The Prisoner Review Board, after
19 consideration of information from the State's Attorney,
20 may require a prisoner who it finds has satisfactorily met
21 the conditions for release to serve a reasonable parole
22 term. The Application for Review and Assessment shall be
23 prescribed by the Prisoner Review Board.

24 (2.3) The rules and regulations on early release shall
25 provide that a prisoner who is serving a sentence for
26 reckless homicide as defined in subsection (e) of Section

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

9 (2.4) The rules and regulations on early release shall
10 provide with respect to the offenses of aggravated battery
11 with a machine gun or a firearm equipped with any device or
12 attachment designed or used for silencing the report of a
13 firearm or aggravated discharge of a machine gun or a
14 firearm equipped with any device or attachment designed or
15 used for silencing the report of a firearm, committed on or
16 after July 15, 1999 (the effective date of Public Act
17 91-121), that a prisoner serving a sentence for any of
18 these offenses shall receive no more than 4.5 days of good
19 conduct credit for each month of his or her sentence of
20 imprisonment.

21 (2.5) The rules and regulations on early release shall
22 provide that a prisoner who is serving a sentence for
23 aggravated arson committed on or after July 27, 2001 (the
24 effective date of Public Act 92-176) shall receive no more
25 than 4.5 days of good conduct credit for each month of his
26 or her sentence of imprisonment.

1 (3) The rules and regulations shall also provide that
2 the Director may award up to 180 days additional good
3 conduct credit for meritorious service in specific
4 instances as the Director deems proper; except that no more
5 than 90 days of good conduct credit for meritorious service
6 shall be awarded to any prisoner who is serving a sentence
7 for conviction of first degree murder, reckless homicide
8 while under the influence of alcohol or any other drug, or
9 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, aggravated kidnapping, kidnapping,
14 predatory criminal sexual assault of a child, aggravated
15 criminal sexual assault, criminal sexual assault, deviate
16 sexual assault, aggravated criminal sexual abuse,
17 aggravated indecent liberties with a child, indecent
18 liberties with a child, child pornography, heinous
19 battery, aggravated battery of a spouse, aggravated
20 battery of a spouse with a firearm, stalking, aggravated
21 stalking, aggravated battery of a child, endangering the
22 life or health of a child, or cruelty to a child.
23 Notwithstanding the foregoing, good conduct credit for
24 meritorious service shall not be awarded on a sentence of
25 imprisonment imposed for conviction of: (i) one of the
26 offenses enumerated in subdivision (a)(2)(i), (ii), or

1 (iii) when the offense is committed on or after June 19,
2 1998 or subdivision (a)(2)(iv) when the offense is
3 committed on or after June 23, 2005 (the effective date of
4 Public Act 94-71) or subdivision (a)(2)(v) when the offense
5 is committed on or after August 13, 2007 (the effective
6 date of Public Act 95-134) ~~this amendatory Act of the 95th~~
7 ~~General Assembly~~ or subdivision (a)(2)(vi)~~(v)~~ when the
8 offense is committed on or after June 1, 2008 (the
9 effective date of Public Act 95-625) ~~this amendatory Act of~~
10 ~~the 95th General Assembly~~, (ii) reckless homicide as
11 defined in subsection (e) of Section 9-3 of the Criminal
12 Code of 1961 when the offense is committed on or after
13 January 1, 1999, or aggravated driving under the influence
14 of alcohol, other drug or drugs, or intoxicating compound
15 or compounds, or any combination thereof as defined in
16 subparagraph (F) of paragraph (1) of subsection (d) of
17 Section 11-501 of the Illinois Vehicle Code, (iii) one of
18 the offenses enumerated in subdivision (a)(2.4) when the
19 offense is committed on or after July 15, 1999 (the
20 effective date of Public Act 91-121), or (iv) aggravated
21 arson when the offense is committed on or after July 27,
22 2001 (the effective date of Public Act 92-176).

23 (4) The rules and regulations shall also provide that
24 the good conduct credit accumulated and retained under
25 paragraph (2.1) of subsection (a) of this Section by any
26 inmate during specific periods of time in which such inmate

1 is engaged full-time in substance abuse programs,
2 correctional industry assignments, or educational programs
3 provided by the Department under this paragraph (4) and
4 satisfactorily completes the assigned program as
5 determined by the standards of the Department, shall be
6 multiplied by a factor of 1.25 for program participation
7 before August 11, 1993 and 1.50 for program participation
8 on or after that date. However, no inmate shall be eligible
9 for the additional good conduct credit under this paragraph
10 (4) or (4.1) of this subsection (a) while assigned to a
11 boot camp or electronic detention, or if convicted of an
12 offense enumerated in subdivision (a)(2)(i), (ii), or
13 (iii) of this Section that is committed on or after June
14 19, 1998 or subdivision (a)(2)(iv) of this Section that is
15 committed on or after June 23, 2005 (the effective date of
16 Public Act 94-71) or subdivision (a)(2)(v) of this Section
17 that is committed on or after August 13, 2007 (the
18 effective date of Public Act 95-134) ~~this amendatory Act of~~
19 ~~the 95th General Assembly~~ or subdivision (a)(2) ~~(vi)(v)~~
20 when the offense is committed on or after June 1, 2008 (the
21 effective date of Public Act 95-625) ~~this amendatory Act of~~
22 ~~the 95th General Assembly~~, or if convicted of reckless
23 homicide as defined in subsection (e) of Section 9-3 of the
24 Criminal Code of 1961 if the offense is committed on or
25 after January 1, 1999, or aggravated driving under the
26 influence of alcohol, other drug or drugs, or intoxicating

1 compound or compounds, or any combination thereof as
2 defined in subparagraph (F) of paragraph (1) of subsection
3 (d) of 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 (4.6) The rules and regulations on early release shall
7 also provide that a prisoner who has been convicted of a
8 sex offense as defined in Section 2 of the Sex Offender
9 Registration Act shall receive no good conduct credit
10 unless he or she either has successfully completed or is
11 participating in sex offender treatment as defined by the
12 Sex Offender Management Board. However, prisoners who are
13 waiting to receive such treatment, but who are unable to do
14 so due solely to the lack of resources on the part of the
15 Department, may, at the Director's sole discretion, be
16 awarded good conduct credit at such rate as the Director
17 shall determine.

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

25 (b) Whenever a person is or has been committed under
26 several convictions, with separate sentences, the sentences

1 shall be construed under Section 5-8-4 in granting and
2 forfeiting of good time.

3 (c) The Department shall prescribe rules and regulations
4 for revoking good conduct credit, or suspending or reducing the
5 rate of accumulation of good conduct credit for specific rule
6 violations, during imprisonment. These rules and regulations
7 shall provide that no inmate may be penalized more than one
8 year of good conduct credit for any one infraction.

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

1 Department.

2 The Director of the Department of Corrections, in
3 appropriate cases, may restore up to 30 days good conduct
4 credits which have been revoked, suspended or reduced. Any
5 restoration of good conduct credits in excess of 30 days shall
6 be subject to review by the Prisoner Review Board. However, the
7 Board may not restore good conduct credit in excess of the
8 amount requested by the Director.

9 Nothing contained in this Section shall prohibit the
10 Prisoner Review Board from ordering, pursuant to Section
11 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
12 sentence imposed by the court that was not served due to the
13 accumulation of good conduct credit.

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

1 prisoner.

2 For purposes of this subsection (d):

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

7 (A) it lacks an arguable basis either in law or in
8 fact;

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

12 (C) the claims, defenses, and other legal
13 contentions therein are not warranted by existing law
14 or by a nonfrivolous argument for the extension,
15 modification, or reversal of existing law or the
16 establishment of new law;

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

22 (E) the denials of factual contentions are not
23 warranted on the evidence, or if specifically so
24 identified, are not reasonably based on a lack of
25 information or belief.

26 (2) "Lawsuit" means a motion pursuant to Section 116-3

1 of the Code of Criminal Procedure of 1963, a habeas corpus
2 action under Article X of the Code of Civil Procedure or
3 under federal law (28 U.S.C. 2254), a petition for claim
4 under the Court of Claims Act, an action under the federal
5 Civil Rights Act (42 U.S.C. 1983), or a second or
6 subsequent petition for post-conviction relief under
7 Article 122 of the Code of Criminal Procedure of 1963
8 whether filed with or without leave of court or a second or
9 subsequent petition for relief from judgment under Section
10 2-1401 of the Code of Civil Procedure.

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

13 (Source: P.A. 94-71, eff. 6-23-05; 94-128, eff. 7-7-05; 94-156,
14 eff. 7-8-05; 94-398, eff. 8-2-05; 94-491, eff. 8-8-05; 94-744,
15 eff. 5-8-06; 95-134, eff. 8-13-07; 95-585, eff. 6-1-08; 95-625,
16 eff. 6-1-08; 95-640, eff. 6-1-08; revised 11-19-07.)