

SB1537



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1537

Introduced 2/9/2007, by Sen. Matt Murphy - Dale A. Righter -
Christine Radogno

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 who is serving a term of imprisonment for being an armed habitual criminal shall receive no good conduct credit and shall serve the entire sentence imposed by the court (rather than no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment).

LRB095 06877 RLC 27938 b

CORRECTIONAL
BUDGET AND
IMPACT 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 clause (ii) of this paragraph (2) with respect to the
19 offense of being an armed habitual criminal committed on or
20 after August 2, 2005 (the effective date of Public Act
21 94-398) and before the effective date of this amendatory
22 Act of the 95th General Assembly, or clause (i) of this
23 paragraph (2) with respect to the offense of being an armed

1 habitual criminal committed on or after the effective date
2 of this amendatory Act of the 95th General Assembly, the
3 following:

4 (i) that a prisoner who is serving a term of
5 imprisonment for first degree murder, for being an
6 armed habitual criminal, or for the offense of
7 terrorism shall receive no good conduct credit and
8 shall serve the entire sentence imposed by the court;

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

21 (iii) that a prisoner serving a sentence for home
22 invasion, armed robbery, aggravated vehicular
23 hijacking, aggravated discharge of a firearm, or armed
24 violence with a category I weapon or category II
25 weapon, when the court has made and entered a finding,
26 pursuant to subsection (c-1) of Section 5-4-1 of this

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

6 (iv) that a prisoner serving a sentence for
7 aggravated discharge of a firearm, whether or not the
8 conduct leading to conviction for the offense resulted
9 in great bodily harm to the victim, shall receive no
10 more than 4.5 days of good conduct credit for each
11 month of his or her sentence of imprisonment.

12 (2.1) For all offenses, other than those enumerated in
13 subdivision (a) (2) (i), (ii), or (iii) committed on or after
14 June 19, 1998 or subdivision (a) (2) (iv) committed on or
15 after June 23, 2005 (the effective date of Public Act
16 94-71), and other than the offense of reckless homicide as
17 defined in subsection (e) of Section 9-3 of the Criminal
18 Code of 1961 committed on or after January 1, 1999, or
19 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, the rules and regulations shall
24 provide that a prisoner who is serving a term of
25 imprisonment shall receive one day of good conduct credit
26 for each day of his or her sentence of imprisonment or

1 recommitment under Section 3-3-9. Each day of good conduct
2 credit shall reduce by one day the prisoner's period of
3 imprisonment or recommitment under Section 3-3-9.

4 (2.2) A prisoner serving a term of natural life
5 imprisonment or a prisoner who has been sentenced to death
6 shall receive no good conduct credit.

7 (2.3) The rules and regulations on early release shall
8 provide that a prisoner who is serving a sentence for
9 reckless homicide as defined in subsection (e) of Section
10 9-3 of the Criminal Code of 1961 committed on or after
11 January 1, 1999, or aggravated driving under the influence
12 of alcohol, other drug or drugs, or intoxicating compound
13 or compounds, or any combination thereof as defined in
14 subparagraph (F) of paragraph (1) of subsection (d) of
15 Section 11-501 of the Illinois Vehicle Code, shall receive
16 no more than 4.5 days of good conduct credit for each month
17 of his or her sentence of imprisonment.

18 (2.4) The rules and regulations on early release shall
19 provide with respect to the offenses of aggravated battery
20 with a machine gun or a firearm equipped with any device or
21 attachment designed or used for silencing the report of a
22 firearm or aggravated discharge of a machine gun or a
23 firearm equipped with any device or attachment designed or
24 used for silencing the report of a firearm, committed on or
25 after July 15, 1999 (the effective date of Public Act
26 91-121), that a prisoner serving a sentence for any of

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

4 (2.5) The rules and regulations on early release shall
5 provide that a prisoner who is serving a sentence for
6 aggravated arson committed on or after July 27, 2001 (the
7 effective date of Public Act 92-176) shall receive no more
8 than 4.5 days of good conduct credit for each month of his
9 or her sentence of imprisonment.

10 (3) The rules and regulations shall also provide that
11 the Director may award up to 180 days additional good
12 conduct credit for meritorious service in specific
13 instances as the Director deems proper; except that no more
14 than 90 days of good conduct credit for meritorious service
15 shall be awarded to any prisoner who is serving a sentence
16 for conviction of first degree murder, reckless homicide
17 while under the influence of alcohol or any other drug, or
18 aggravated driving under the influence of alcohol, other
19 drug or drugs, or intoxicating compound or compounds, or
20 any combination thereof as defined in subparagraph (F) of
21 paragraph (1) of subsection (d) of Section 11-501 of the
22 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
23 predatory criminal sexual assault of a child, aggravated
24 criminal sexual assault, criminal sexual assault, deviate
25 sexual assault, aggravated criminal sexual abuse,
26 aggravated indecent liberties with a child, indecent

1 liberties with a child, child pornography, heinous
2 battery, aggravated battery of a spouse, aggravated
3 battery of a spouse with a firearm, stalking, aggravated
4 stalking, aggravated battery of a child, endangering the
5 life or health of a child, cruelty to a child, or narcotic
6 racketeering. Notwithstanding the foregoing, good conduct
7 credit for meritorious service shall not be awarded on a
8 sentence of imprisonment imposed for conviction of: (i) one
9 of the offenses enumerated in subdivision (a)(2)(i), (ii),
10 or (iii) when the offense is committed on or after June 19,
11 1998 or subdivision (a)(2)(iv) when the offense is
12 committed on or after June 23, 2005 (the effective date of
13 Public Act 94-71), (ii) reckless homicide as defined in
14 subsection (e) of Section 9-3 of the Criminal Code of 1961
15 when the offense is committed on or after January 1, 1999,
16 or aggravated driving under the influence of alcohol, other
17 drug or drugs, or intoxicating compound or compounds, or
18 any combination thereof as defined in subparagraph (F) of
19 paragraph (1) of subsection (d) of Section 11-501 of the
20 Illinois Vehicle Code, (iii) one of the offenses enumerated
21 in subdivision (a)(2.4) when the offense is committed on or
22 after July 15, 1999 (the effective date of Public Act
23 91-121), or (iv) aggravated arson when the offense is
24 committed on or after July 27, 2001 (the effective date of
25 Public Act 92-176).

26 (4) The rules and regulations shall also provide that

1 the good conduct credit accumulated and retained under
2 paragraph (2.1) of subsection (a) of this Section by any
3 inmate during specific periods of time in which such inmate
4 is engaged full-time in substance abuse programs,
5 correctional industry assignments, or educational programs
6 provided by the Department under this paragraph (4) and
7 satisfactorily completes the assigned program as
8 determined by the standards of the Department, shall be
9 multiplied by a factor of 1.25 for program participation
10 before August 11, 1993 and 1.50 for program participation
11 on or after that date. However, no inmate shall be eligible
12 for the additional good conduct credit under this paragraph
13 (4) or (4.1) of this subsection (a) while assigned to a
14 boot camp or electronic detention, or if convicted of an
15 offense enumerated in subdivision (a)(2)(i), (ii), or
16 (iii) of this Section that is committed on or after June
17 19, 1998 or subdivision (a)(2)(iv) of this Section that is
18 committed on or after June 23, 2005 (the effective date of
19 Public Act 94-71), or if convicted of reckless homicide as
20 defined in subsection (e) of Section 9-3 of the Criminal
21 Code of 1961 if the offense is committed on or after
22 January 1, 1999, or aggravated driving under the influence
23 of alcohol, other drug or drugs, or intoxicating compound
24 or compounds, or any combination thereof as defined in
25 subparagraph (F) of paragraph (1) of subsection (d) of
26 Section 11-501 of the Illinois Vehicle Code, or if

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

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

25 Availability of these programs shall be subject to the
26 limits of fiscal resources appropriated by the General

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

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

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

1 credit under clause (3) of this subsection (a) at the
2 discretion of the Director.

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

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

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

20 When the Department seeks to revoke, suspend or reduce the
21 rate of accumulation of any good conduct credits for an alleged
22 infraction of its rules, it shall bring charges therefor
23 against the prisoner sought to be so deprived of good conduct
24 credits before the Prisoner Review Board as provided in
25 subparagraph (a)(4) of Section 3-3-2 of this Code, if the
26 amount of credit at issue exceeds 30 days or when during any 12

1 month period, the cumulative amount of credit revoked exceeds
2 30 days except where the infraction is committed or discovered
3 within 60 days of scheduled release. In those cases, the
4 Department of Corrections may revoke up to 30 days of good
5 conduct credit. The Board may subsequently approve the
6 revocation of additional good conduct credit, if the Department
7 seeks to revoke good conduct credit in excess of 30 days.
8 However, the Board shall not be empowered to review the
9 Department's decision with respect to the loss of 30 days of
10 good conduct credit within any calendar year for any prisoner
11 or to increase any penalty beyond the length requested by the
12 Department.

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

20 Nothing contained in this Section shall prohibit the
21 Prisoner Review Board from ordering, pursuant to Section
22 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
23 sentence imposed by the court that was not served due to the
24 accumulation of good conduct credit.

25 (d) If a lawsuit is filed by a prisoner in an Illinois or
26 federal court against the State, the Department of Corrections,

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

13 For purposes of this subsection (d):

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

18 (A) it lacks an arguable basis either in law or in
19 fact;

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

23 (C) the claims, defenses, and other legal
24 contentions therein are not warranted by existing law
25 or by a nonfrivolous argument for the extension,
26 modification, or reversal of existing law or the

1 establishment of new law;

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

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

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

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

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