



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4746

Introduced 1/11/2010, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-3

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

Amends the Unified Code of Corrections. Makes a technical change in the Section concerning the early release of prisoners from a facility of the Department of Corrections on account of good conduct.

LRB096 16550 RLC 31822 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 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 ~~release~~ on
10 account of good conduct of persons committed to the
11 Department which shall be subject to review by the Prisoner
12 Review Board.

13 (2) The rules and regulations on early release shall
14 provide, with respect to offenses listed in clause (i),
15 (ii), or (iii) of this paragraph (2) committed on or after
16 June 19, 1998 or with respect to the offense listed in
17 clause (iv) of this paragraph (2) committed on or after
18 June 23, 2005 (the effective date of Public Act 94-71) or
19 with respect to offense listed in clause (vi) committed on
20 or after June 1, 2008 (the effective date of Public Act
21 95-625) or with respect to the offense of being an armed
22 habitual criminal committed on or after August 2, 2005 (the
23 effective date of Public Act 94-398) or with respect to the

1 offenses listed in clause (v) of this paragraph (2)
2 committed on or after August 13, 2007 (the effective date
3 of Public Act 95-134), the following:

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

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

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

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

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

11 (v) that a person serving a sentence for
12 gunrunning, narcotics racketeering, controlled
13 substance trafficking, methamphetamine trafficking,
14 drug-induced homicide, aggravated
15 methamphetamine-related child endangerment, money
16 laundering pursuant to clause (c) (4) or (5) of Section
17 29B-1 of the Criminal Code of 1961, or a Class X felony
18 conviction for delivery of a controlled substance,
19 possession of a controlled substance with intent to
20 manufacture or deliver, calculated criminal drug
21 conspiracy, criminal drug conspiracy, street gang
22 criminal drug conspiracy, participation in
23 methamphetamine manufacturing, aggravated
24 participation in methamphetamine manufacturing,
25 delivery of methamphetamine, possession with intent to
26 deliver methamphetamine, aggravated delivery of

1 methamphetamine, aggravated possession with intent to
2 deliver methamphetamine, methamphetamine conspiracy
3 when the substance containing the controlled substance
4 or methamphetamine is 100 grams or more shall receive
5 no more than 7.5 days good conduct credit for each
6 month of his or her sentence of imprisonment; and

7 (vi) that a prisoner serving a sentence for a
8 second or subsequent offense of luring a minor shall
9 receive no more than 4.5 days of good conduct credit
10 for each month of his or her sentence of imprisonment.

11 (2.1) For all offenses, other than those enumerated in
12 subdivision (a)(2)(i), (ii), or (iii) committed on or after
13 June 19, 1998 or subdivision (a)(2)(iv) committed on or
14 after June 23, 2005 (the effective date of Public Act
15 94-71) or subdivision (a)(2)(v) committed on or after
16 August 13, 2007 (the effective date of Public Act 95-134)
17 or subdivision (a)(2)(vi) committed on or after June 1,
18 2008 (the effective date of Public Act 95-625), and other
19 than the offense of reckless homicide as defined in
20 subsection (e) of Section 9-3 of the Criminal Code of 1961
21 committed on or after January 1, 1999, or aggravated
22 driving under the influence of alcohol, other drug or
23 drugs, or intoxicating compound or compounds, or any
24 combination thereof as defined in subparagraph (F) of
25 paragraph (1) of subsection (d) of Section 11-501 of the
26 Illinois Vehicle Code, the rules and regulations shall

1 provide that a prisoner who is serving a term of
2 imprisonment shall receive one day of good conduct credit
3 for each day of his or her sentence of imprisonment or
4 recommitment under Section 3-3-9. Each day of good conduct
5 credit shall reduce by one day the prisoner's period of
6 imprisonment or recommitment under Section 3-3-9.

7 (2.2) A prisoner serving a term of natural life
8 imprisonment or a prisoner who has been sentenced to death
9 shall receive no good conduct credit.

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, or cruelty to a child.
9 Notwithstanding the foregoing, good conduct credit for
10 meritorious service shall not be awarded on a sentence of
11 imprisonment imposed for conviction of: (i) one of the
12 offenses enumerated in subdivision (a)(2)(i), (ii), or
13 (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) or subdivision (a)(2)(v) when the offense
17 is committed on or after August 13, 2007 (the effective
18 date of Public Act 95-134) or subdivision (a)(2)(vi) when
19 the offense is committed on or after June 1, 2008 (the
20 effective date of Public Act 95-625), (ii) reckless
21 homicide as defined in subsection (e) of Section 9-3 of the
22 Criminal Code of 1961 when the offense is committed on or
23 after January 1, 1999, or aggravated driving under the
24 influence of alcohol, other drug or drugs, or intoxicating
25 compound or compounds, or any combination thereof as
26 defined in subparagraph (F) of paragraph (1) of subsection

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

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

1 that is committed on or after August 13, 2007 (the
2 effective date of Public Act 95-134) or subdivision
3 (a)(2)(vi) when the offense is committed on or after June
4 1, 2008 (the effective date of Public Act 95-625), or if
5 convicted of reckless homicide as defined in subsection (e)
6 of Section 9-3 of the Criminal Code of 1961 if the offense
7 is committed on or after January 1, 1999, or aggravated
8 driving under the influence of alcohol, other drug or
9 drugs, or intoxicating compound or compounds, or any
10 combination thereof as defined in subparagraph (F) of
11 paragraph (1) of subsection (d) of Section 11-501 of the
12 Illinois Vehicle Code, or if convicted of an offense
13 enumerated in paragraph (a)(2.4) of this Section that is
14 committed on or after July 15, 1999 (the effective date of
15 Public Act 91-121), or first degree murder, a Class X
16 felony, criminal sexual assault, felony criminal sexual
17 abuse, aggravated criminal sexual abuse, aggravated
18 battery with a firearm, or any predecessor or successor
19 offenses with the same or substantially the same elements,
20 or any inchoate offenses relating to the foregoing
21 offenses. No inmate shall be eligible for the additional
22 good conduct credit under this paragraph (4) who (i) has
23 previously received increased good conduct credit under
24 this paragraph (4) and has subsequently been convicted of a
25 felony, or (ii) has previously served more than one prior
26 sentence of imprisonment for a felony in an adult

1 correctional facility.

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

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

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

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

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

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

15 (4.6) The rules and regulations on early release shall
16 also provide that a prisoner who has been convicted of a
17 sex offense as defined in Section 2 of the Sex Offender
18 Registration Act shall receive no good conduct credit
19 unless he or she either has successfully completed or is
20 participating in sex offender treatment as defined by the
21 Sex Offender Management Board. However, prisoners who are
22 waiting to receive such treatment, but who are unable to do
23 so due solely to the lack of resources on the part of the
24 Department, may, at the Director's sole discretion, be
25 awarded good conduct credit at such rate as the Director
26 shall determine.

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

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

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

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

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

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

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

23 (d) If a lawsuit is filed by a prisoner in an Illinois or
24 federal court against the State, the Department of Corrections,
25 or the Prisoner Review Board, or against any of their officers
26 or employees, and the court makes a specific finding that a

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

11 For purposes of this subsection (d):

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

16 (A) it lacks an arguable basis either in law or in
17 fact;

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

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

26 (D) the allegations and other factual contentions

1 do not have evidentiary support or, if specifically so
2 identified, are not likely to have evidentiary support
3 after a reasonable opportunity for further
4 investigation or discovery; or

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

9 (2) "Lawsuit" means a motion pursuant to Section 116-3
10 of the Code of Criminal Procedure of 1963, a habeas corpus
11 action under Article X of the Code of Civil Procedure or
12 under federal law (28 U.S.C. 2254), a petition for claim
13 under the Court of Claims Act, an action under the federal
14 Civil Rights Act (42 U.S.C. 1983), or a second or
15 subsequent petition for post-conviction relief under
16 Article 122 of the Code of Criminal Procedure of 1963
17 whether filed with or without leave of court or a second or
18 subsequent petition for relief from judgment under Section
19 2-1401 of the Code of Civil Procedure.

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

22 (f) Whenever the Department is to release any inmate who
23 has been convicted of a violation of an order of protection
24 under Section 12-30 of the Criminal Code of 1961, earlier than
25 it otherwise would because of a grant of good conduct credit,
26 the Department, as a condition of such early release, shall

1 require that the person, upon release, be placed under
2 electronic surveillance as provided in Section 5-8A-7 of this
3 Code.

4 (Source: P.A. 94-71, eff. 6-23-05; 94-128, eff. 7-7-05; 94-156,
5 eff. 7-8-05; 94-398, eff. 8-2-05; 94-491, eff. 8-8-05; 94-744,
6 eff. 5-8-06; 95-134, eff. 8-13-07; 95-585, eff. 6-1-08; 95-625,
7 eff. 6-1-08; 95-640, eff. 6-1-08; 95-773, eff. 1-1-09; 95-876,
8 eff. 8-21-08.)