



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4776

Introduced 1/12/2010, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-3

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

730 ILCS 5/5-4-1

from Ch. 38, par. 1005-4-1

Amends the Unified Code of Corrections. Provides that the rules and regulations on early release shall provide that a prisoner who is serving a sentence for aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof that involved a motor vehicle accident that resulted in great bodily harm or permanent disability or disfigurement to another, when the violation was a proximate cause of the injuries and the offense was committed on or after the effective date of the amendatory Act, shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

LRB096 17102 RLC 32426 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 Sections 3-6-3 and 5-4-1 as follows:

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

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

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

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

1 committed on or after August 13, 2007 (the effective date
2 of Public Act 95-134), the following:

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

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

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

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

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

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

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

10 (2.1) For all offenses, other than those enumerated in
11 subdivision (a)(2)(i), (ii), or (iii) committed on or after
12 June 19, 1998 or subdivision (a)(2)(iv) committed on or
13 after June 23, 2005 (the effective date of Public Act
14 94-71) or subdivision (a)(2)(v) committed on or after
15 August 13, 2007 (the effective date of Public Act 95-134)
16 or subdivision (a)(2)(vi) committed on or after June 1,
17 2008 (the effective date of Public Act 95-625), and other
18 than the offense of reckless homicide as defined in
19 subsection (e) of Section 9-3 of the Criminal Code of 1961
20 committed on or after January 1, 1999, or aggravated
21 driving under the influence of alcohol, other drug or
22 drugs, or intoxicating compound or compounds, or any
23 combination thereof as defined in subparagraph (F) of
24 paragraph (1) of subsection (d) of Section 11-501 of the
25 Illinois Vehicle Code, and other than the offense of
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 (C) of
3 paragraph (1) of subsection (d) of Section 11-501 of the
4 Illinois Vehicle Code committed on or after the effective
5 date of this amendatory Act of the 96th General Assembly,
6 the rules and regulations shall provide that a prisoner who
7 is serving a term of imprisonment shall receive one day of
8 good conduct credit for each day of his or her sentence of
9 imprisonment or recommitment under Section 3-3-9. Each day
10 of good conduct credit shall reduce by one day the
11 prisoner's period of imprisonment or recommitment under
12 Section 3-3-9.

13 (2.2) A prisoner serving a term of natural life
14 imprisonment or a prisoner who has been sentenced to death
15 shall receive no good conduct credit.

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

1 (2.4) The rules and regulations on early release shall
2 provide with respect to the offenses of aggravated battery
3 with a machine gun or a firearm equipped with any device or
4 attachment designed or used for silencing the report of a
5 firearm or aggravated discharge of a machine gun or a
6 firearm equipped with any device or attachment designed or
7 used for silencing the report of a firearm, committed on or
8 after July 15, 1999 (the effective date of Public Act
9 91-121), that a prisoner serving a sentence for any of
10 these offenses shall receive no more than 4.5 days of good
11 conduct credit for each month of his or her sentence of
12 imprisonment.

13 (2.5) The rules and regulations on early release shall
14 provide that a prisoner who is serving a sentence for
15 aggravated arson committed on or after July 27, 2001 (the
16 effective date of Public Act 92-176) shall receive no more
17 than 4.5 days of good conduct credit for each month of his
18 or her sentence of imprisonment.

19 (2.6) The rules and regulations on early release shall
20 provide that a prisoner who is serving a sentence for
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 (C) of
24 paragraph (1) of subsection (d) of Section 11-501 of the
25 Illinois Vehicle Code committed on or after the effective
26 date of this amendatory Act of the 96th General Assembly,

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

3 (3) The rules and regulations shall also provide that
4 the Director may award up to 180 days additional good
5 conduct credit for meritorious service in specific
6 instances as the Director deems proper; except that no more
7 than 90 days of good conduct credit for meritorious service
8 shall be awarded to any prisoner who is serving a sentence
9 for conviction of first degree murder, reckless homicide
10 while under the influence of alcohol or any other drug, or
11 aggravated driving under the influence of alcohol, other
12 drug or drugs, or intoxicating compound or compounds, or
13 any combination thereof as defined in subparagraph (F) of
14 paragraph (1) of subsection (d) of Section 11-501 of the
15 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
16 predatory criminal sexual assault of a child, aggravated
17 criminal sexual assault, criminal sexual assault, deviate
18 sexual assault, aggravated criminal sexual abuse,
19 aggravated indecent liberties with a child, indecent
20 liberties with a child, child pornography, heinous
21 battery, aggravated battery of a spouse, aggravated
22 battery of a spouse with a firearm, stalking, aggravated
23 stalking, aggravated battery of a child, endangering the
24 life or health of a child, or cruelty to a child.
25 Notwithstanding the foregoing, good conduct credit for
26 meritorious service shall not be awarded on a sentence of

1 imprisonment imposed for conviction of: (i) one of the
2 offenses enumerated in subdivision (a)(2)(i), (ii), or
3 (iii) when the offense is committed on or after June 19,
4 1998 or subdivision (a)(2)(iv) when the offense is
5 committed on or after June 23, 2005 (the effective date of
6 Public Act 94-71) or subdivision (a)(2)(v) when the offense
7 is committed on or after August 13, 2007 (the effective
8 date of Public Act 95-134) or subdivision (a)(2)(vi) when
9 the offense is committed on or after June 1, 2008 (the
10 effective date of Public Act 95-625), (ii) reckless
11 homicide as defined in subsection (e) of Section 9-3 of the
12 Criminal Code of 1961 when the offense is committed on or
13 after January 1, 1999, or aggravated driving under the
14 influence of alcohol, other drug or drugs, or intoxicating
15 compound or compounds, or any combination thereof as
16 defined in subparagraph (F) of paragraph (1) of subsection
17 (d) of Section 11-501 of the Illinois Vehicle Code, (iii)
18 one of the offenses enumerated in subdivision (a)(2.4) when
19 the 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), or (v)
23 aggravated driving under the influence of alcohol, other
24 drug or drugs, or intoxicating compound or compounds, or
25 any combination thereof as defined in subparagraph (C) of
26 paragraph (1) of subsection (d) of Section 11-501 of the

1 Illinois Vehicle Code committed on or after the effective
2 date of this amendatory Act of the 96th General Assembly.

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 subdivision (a)(2)(v) of this Section
23 that is committed on or after August 13, 2007 (the
24 effective date of Public Act 95-134) or subdivision
25 (a)(2)(vi) when the offense is committed on or after June
26 1, 2008 (the effective date of Public Act 95-625), or if

1 convicted of reckless homicide as defined in subsection (e)
2 of Section 9-3 of the Criminal Code of 1961 if the offense
3 is committed on or after January 1, 1999, or aggravated
4 driving under the influence of alcohol, other drug or
5 drugs, or intoxicating compound or compounds, or any
6 combination thereof as defined in subparagraph (F) of
7 paragraph (1) of subsection (d) of Section 11-501 of the
8 Illinois Vehicle Code, or if convicted of aggravated
9 driving under the influence of alcohol, other drug or
10 drugs, or intoxicating compound or compounds, or any
11 combination thereof as defined in subparagraph (C) of
12 paragraph (1) of subsection (d) of Section 11-501 of the
13 Illinois Vehicle Code committed on or after the effective
14 date of this amendatory Act of the 96th General Assembly,
15 or if convicted of an offense enumerated in paragraph
16 (a)(2.4) of this Section that is committed on or after July
17 15, 1999 (the effective date of Public Act 91-121), or
18 first degree murder, a Class X felony, criminal sexual
19 assault, felony criminal sexual abuse, aggravated criminal
20 sexual abuse, aggravated battery with a firearm, or any
21 predecessor or successor offenses with the same or
22 substantially the same elements, or any inchoate offenses
23 relating to the foregoing offenses. No inmate shall be
24 eligible for the additional good conduct credit under this
25 paragraph (4) who (i) has previously received increased
26 good conduct credit under this paragraph (4) and has

1 subsequently been convicted of a felony, or (ii) has
2 previously served more than one prior sentence of
3 imprisonment for a felony in an adult correctional
4 facility.

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

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

26 (4.1) The rules and regulations shall also provide that

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

16 (4.5) The rules and regulations on early release shall
17 also provide that when the court's sentencing order
18 recommends a prisoner for substance abuse treatment and the
19 crime was committed on or after September 1, 2003 (the
20 effective date of Public Act 93-354), the prisoner shall
21 receive no good conduct credit awarded under clause (3) of
22 this subsection (a) unless he or she participates in and
23 completes a substance abuse treatment program. The
24 Director may waive the requirement to participate in or
25 complete a substance abuse treatment program and award the
26 good conduct credit in specific instances if the prisoner

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

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

1 Department, may, at the Director's sole discretion, be
2 awarded good conduct credit at such rate as the Director
3 shall determine.

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

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

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

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

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

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

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

26 (d) If a lawsuit is filed by a prisoner in an Illinois or

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

14 For purposes of this subsection (d):

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

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

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

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

1 modification, or reversal of existing law or the
2 establishment of new law;

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

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

12 (2) "Lawsuit" means a motion pursuant to Section 116-3
13 of the Code of Criminal Procedure of 1963, a habeas corpus
14 action under Article X of the Code of Civil Procedure or
15 under federal law (28 U.S.C. 2254), a petition for claim
16 under the Court of Claims Act, an action under the federal
17 Civil Rights Act (42 U.S.C. 1983), or a second or
18 subsequent petition for post-conviction relief under
19 Article 122 of the Code of Criminal Procedure of 1963
20 whether filed with or without leave of court or a second or
21 subsequent petition for relief from judgment under Section
22 2-1401 of the Code of Civil Procedure.

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

25 (f) Whenever the Department is to release any inmate who
26 has been convicted of a violation of an order of protection

1 under Section 12-30 of the Criminal Code of 1961, earlier than
2 it otherwise would because of a grant of good conduct credit,
3 the Department, as a condition of such early release, shall
4 require that the person, upon release, be placed under
5 electronic surveillance as provided in Section 5-8A-7 of this
6 Code.

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

12 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

13 Sec. 5-4-1. Sentencing Hearing.

14 (a) Except when the death penalty is sought under hearing
15 procedures otherwise specified, after a determination of
16 guilt, a hearing shall be held to impose the sentence. However,
17 prior to the imposition of sentence on an individual being
18 sentenced for an offense based upon a charge for a violation of
19 Section 11-501 of the Illinois Vehicle Code or a similar
20 provision of a local ordinance, the individual must undergo a
21 professional evaluation to determine if an alcohol or other
22 drug abuse problem exists and the extent of such a problem.
23 Programs conducting these evaluations shall be licensed by the
24 Department of Human Services. However, if the individual is not
25 a resident of Illinois, the court may, in its discretion,

1 accept an evaluation from a program in the state of such
2 individual's residence. The court may in its sentencing order
3 approve an eligible defendant for placement in a Department of
4 Corrections impact incarceration program as provided in
5 Section 5-8-1.1 or 5-8-1.3. The court may in its sentencing
6 order recommend a defendant for placement in a Department of
7 Corrections substance abuse treatment program as provided in
8 paragraph (a) of subsection (1) of Section 3-2-2 conditioned
9 upon the defendant being accepted in a program by the
10 Department of Corrections. At the hearing the court shall:

11 (1) consider the evidence, if any, received upon the
12 trial;

13 (2) consider any presentence reports;

14 (3) consider the financial impact of incarceration
15 based on the financial impact statement filed with the
16 clerk of the court by the Department of Corrections;

17 (4) consider evidence and information offered by the
18 parties in aggravation and mitigation;

19 (4.5) consider substance abuse treatment, eligibility
20 screening, and an assessment, if any, of the defendant by
21 an agent designated by the State of Illinois to provide
22 assessment services for the Illinois courts;

23 (5) hear arguments as to sentencing alternatives;

24 (6) afford the defendant the opportunity to make a
25 statement in his own behalf;

26 (7) afford the victim of a violent crime or a violation

1 of Section 11-501 of the Illinois Vehicle Code, or a
2 similar provision of a local ordinance, or a qualified
3 individual affected by: (i) a violation of Section 405,
4 405.1, 405.2, or 407 of the Illinois Controlled Substances
5 Act or a violation of Section 55 or Section 65 of the
6 Methamphetamine Control and Community Protection Act, or
7 (ii) a Class 4 felony violation of Section 11-14, 11-15,
8 11-17, 11-18, 11-18.1, or 11-19 of the Criminal Code of
9 1961, committed by the defendant the opportunity to make a
10 statement concerning the impact on the victim and to offer
11 evidence in aggravation or mitigation; provided that the
12 statement and evidence offered in aggravation or
13 mitigation must first be prepared in writing in conjunction
14 with the State's Attorney before it may be presented orally
15 at the hearing. Any sworn testimony offered by the victim
16 is subject to the defendant's right to cross-examine. All
17 statements and evidence offered under this paragraph (7)
18 shall become part of the record of the court. For the
19 purpose of this paragraph (7), "qualified individual"
20 means any person who (i) lived or worked within the
21 territorial jurisdiction where the offense took place when
22 the offense took place; and (ii) is familiar with various
23 public places within the territorial jurisdiction where
24 the offense took place when the offense took place. For the
25 purposes of this paragraph (7), "qualified individual"
26 includes any peace officer, or any member of any duly

1 organized State, county, or municipal peace unit assigned
2 to the territorial jurisdiction where the offense took
3 place when the offense took place;

4 (8) in cases of reckless homicide afford the victim's
5 spouse, guardians, parents or other immediate family
6 members an opportunity to make oral statements; and

7 (9) in cases involving a felony sex offense as defined
8 under the Sex Offender Management Board Act, consider the
9 results of the sex offender evaluation conducted pursuant
10 to Section 5-3-2 of this Act.

11 (b) All sentences shall be imposed by the judge based upon
12 his independent assessment of the elements specified above and
13 any agreement as to sentence reached by the parties. The judge
14 who presided at the trial or the judge who accepted the plea of
15 guilty shall impose the sentence unless he is no longer sitting
16 as a judge in that court. Where the judge does not impose
17 sentence at the same time on all defendants who are convicted
18 as a result of being involved in the same offense, the
19 defendant or the State's Attorney may advise the sentencing
20 court of the disposition of any other defendants who have been
21 sentenced.

22 (c) In imposing a sentence for a violent crime or for an
23 offense of operating or being in physical control of a vehicle
24 while under the influence of alcohol, any other drug or any
25 combination thereof, or a similar provision of a local
26 ordinance, when such offense resulted in the personal injury to

1 someone other than the defendant, the trial judge shall specify
2 on the record the particular evidence, information, factors in
3 mitigation and aggravation or other reasons that led to his
4 sentencing determination. The full verbatim record of the
5 sentencing hearing shall be filed with the clerk of the court
6 and shall be a public record.

7 (c-1) In imposing a sentence for the offense of aggravated
8 kidnapping for ransom, home invasion, armed robbery,
9 aggravated vehicular hijacking, aggravated discharge of a
10 firearm, or armed violence with a category I weapon or category
11 II weapon, the trial judge shall make a finding as to whether
12 the conduct leading to conviction for the offense resulted in
13 great bodily harm to a victim, and shall enter that finding and
14 the basis for that finding in the record.

15 (c-2) If the defendant is sentenced to prison, other than
16 when a sentence of natural life imprisonment or a sentence of
17 death is imposed, at the time the sentence is imposed the judge
18 shall state on the record in open court the approximate period
19 of time the defendant will serve in custody according to the
20 then current statutory rules and regulations for early release
21 found in Section 3-6-3 and other related provisions of this
22 Code. This statement is intended solely to inform the public,
23 has no legal effect on the defendant's actual release, and may
24 not be relied on by the defendant on appeal.

25 The judge's statement, to be given after pronouncing the
26 sentence, other than when the sentence is imposed for one of

1 the offenses enumerated in paragraph (a)(3) of Section 3-6-3,
2 shall include the following:

3 "The purpose of this statement is to inform the public of
4 the actual period of time this defendant is likely to spend in
5 prison as a result of this sentence. The actual period of
6 prison time served is determined by the statutes of Illinois as
7 applied to this sentence by the Illinois Department of
8 Corrections and the Illinois Prisoner Review Board. In this
9 case, assuming the defendant receives all of his or her good
10 conduct credit, the period of estimated actual custody is ...
11 years and ... months, less up to 180 days additional good
12 conduct credit for meritorious service. If the defendant,
13 because of his or her own misconduct or failure to comply with
14 the institutional regulations, does not receive those credits,
15 the actual time served in prison will be longer. The defendant
16 may also receive an additional one-half day good conduct credit
17 for each day of participation in vocational, industry,
18 substance abuse, and educational programs as provided for by
19 Illinois statute."

20 When the sentence is imposed for one of the offenses
21 enumerated in paragraph (a)(3) of Section 3-6-3, other than
22 when the sentence is imposed for one of the offenses enumerated
23 in paragraph (a)(2) of Section 3-6-3 committed on or after June
24 19, 1998, and other than when the sentence is imposed for
25 reckless homicide as defined in subsection (e) of Section 9-3
26 of the Criminal Code of 1961 if the offense was committed on or

1 after January 1, 1999, and other than when the sentence is
2 imposed for aggravated arson if the offense was committed on or
3 after July 27, 2001 (the effective date of Public Act 92-176),
4 and other than when the sentence is imposed for aggravated
5 driving under the influence of alcohol, other drug or drugs, or
6 intoxicating compound or compounds, or any combination thereof
7 as defined in subparagraph (C) of paragraph (1) of subsection
8 (d) of Section 11-501 of the Illinois Vehicle Code committed on
9 or after the effective date of this amendatory Act of the 96th
10 General Assembly, the judge's statement, to be given after
11 pronouncing the sentence, shall include the following:

12 "The purpose of this statement is to inform the public of
13 the actual period of time this defendant is likely to spend in
14 prison as a result of this sentence. The actual period of
15 prison time served is determined by the statutes of Illinois as
16 applied to this sentence by the Illinois Department of
17 Corrections and the Illinois Prisoner Review Board. In this
18 case, assuming the defendant receives all of his or her good
19 conduct credit, the period of estimated actual custody is ...
20 years and ... months, less up to 90 days additional good
21 conduct credit for meritorious service. If the defendant,
22 because of his or her own misconduct or failure to comply with
23 the institutional regulations, does not receive those credits,
24 the actual time served in prison will be longer. The defendant
25 may also receive an additional one-half day good conduct credit
26 for each day of participation in vocational, industry,

1 substance abuse, and educational programs as provided for by
2 Illinois statute."

3 When the sentence is imposed for one of the offenses
4 enumerated in paragraph (a)(2) of Section 3-6-3, other than
5 first degree murder, and the offense was committed on or after
6 June 19, 1998, and when the sentence is imposed for reckless
7 homicide as defined in subsection (e) of Section 9-3 of the
8 Criminal Code of 1961 if the offense was committed on or after
9 January 1, 1999, and when the sentence is imposed for
10 aggravated driving under the influence of alcohol, other drug
11 or drugs, or intoxicating compound or compounds, or any
12 combination thereof as defined in subparagraph (F) of paragraph
13 (1) of subsection (d) of Section 11-501 of the Illinois Vehicle
14 Code, and when the sentence is imposed for aggravated arson if
15 the offense was committed on or after July 27, 2001 (the
16 effective date of Public Act 92-176), and when the sentence is
17 imposed for aggravated driving under the influence of alcohol,
18 other drug or drugs, or intoxicating compound or compounds, or
19 any combination thereof as defined in subparagraph (C) of
20 paragraph (1) of subsection (d) of Section 11-501 of the
21 Illinois Vehicle Code committed on or after the effective date
22 of this amendatory Act of the 96th General Assembly, the
23 judge's statement, to be given after pronouncing the sentence,
24 shall include the following:

25 "The purpose of this statement is to inform the public of
26 the actual period of time this defendant is likely to spend in

1 prison as a result of this sentence. The actual period of
2 prison time served is determined by the statutes of Illinois as
3 applied to this sentence by the Illinois Department of
4 Corrections and the Illinois Prisoner Review Board. In this
5 case, the defendant is entitled to no more than 4 1/2 days of
6 good conduct credit for each month of his or her sentence of
7 imprisonment. Therefore, this defendant will serve at least 85%
8 of his or her sentence. Assuming the defendant receives 4 1/2
9 days credit for each month of his or her sentence, the period
10 of estimated actual custody is ... years and ... months. If the
11 defendant, because of his or her own misconduct or failure to
12 comply with the institutional regulations receives lesser
13 credit, the actual time served in prison will be longer."

14 When a sentence of imprisonment is imposed for first degree
15 murder and the offense was committed on or after June 19, 1998,
16 the judge's statement, to be given after pronouncing the
17 sentence, shall include the following:

18 "The purpose of this statement is to inform the public of
19 the actual period of time this defendant is likely to spend in
20 prison as a result of this sentence. The actual period of
21 prison time served is determined by the statutes of Illinois as
22 applied to this sentence by the Illinois Department of
23 Corrections and the Illinois Prisoner Review Board. In this
24 case, the defendant is not entitled to good conduct credit.
25 Therefore, this defendant will serve 100% of his or her
26 sentence."

1 When the sentencing order recommends placement in a
2 substance abuse program for any offense that results in
3 incarceration in a Department of Corrections facility and the
4 crime was committed on or after September 1, 2003 (the
5 effective date of Public Act 93-354), the judge's statement, in
6 addition to any other judge's statement required under this
7 Section, to be given after pronouncing the sentence, shall
8 include the following:

9 "The purpose of this statement is to inform the public of
10 the actual period of time this defendant is likely to spend in
11 prison as a result of this sentence. The actual period of
12 prison time served is determined by the statutes of Illinois as
13 applied to this sentence by the Illinois Department of
14 Corrections and the Illinois Prisoner Review Board. In this
15 case, the defendant shall receive no good conduct credit under
16 clause (3) of subsection (a) of Section 3-6-3 until he or she
17 participates in and completes a substance abuse treatment
18 program or receives a waiver from the Director of Corrections
19 pursuant to clause (4.5) of subsection (a) of Section 3-6-3."

20 (c-4) Before the sentencing hearing and as part of the
21 presentence investigation under Section 5-3-1, the court shall
22 inquire of the defendant whether the defendant is currently
23 serving in or is a veteran of the Armed Forces of the United
24 States. If the defendant is currently serving in the Armed
25 Forces of the United States or is a veteran of the Armed Forces
26 of the United States and has been diagnosed as having a mental

1 illness by a qualified psychiatrist or clinical psychologist or
2 physician, the court may:

3 (1) order that the officer preparing the presentence
4 report consult with the United States Department of
5 Veterans Affairs, Illinois Department of Veterans'
6 Affairs, or another agency or person with suitable
7 knowledge or experience for the purpose of providing the
8 court with information regarding treatment options
9 available to the defendant, including federal, State, and
10 local programming; and

11 (2) consider the treatment recommendations of any
12 diagnosing or treating mental health professionals
13 together with the treatment options available to the
14 defendant in imposing sentence.

15 For the purposes of this subsection (c-4), "qualified
16 psychiatrist" means a reputable physician licensed in Illinois
17 to practice medicine in all its branches, who has specialized
18 in the diagnosis and treatment of mental and nervous disorders
19 for a period of not less than 5 years.

20 (d) When the defendant is committed to the Department of
21 Corrections, the State's Attorney shall and counsel for the
22 defendant may file a statement with the clerk of the court to
23 be transmitted to the department, agency or institution to
24 which the defendant is committed to furnish such department,
25 agency or institution with the facts and circumstances of the
26 offense for which the person was committed together with all

1 other factual information accessible to them in regard to the
2 person prior to his commitment relative to his habits,
3 associates, disposition and reputation and any other facts and
4 circumstances which may aid such department, agency or
5 institution during its custody of such person. The clerk shall
6 within 10 days after receiving any such statements transmit a
7 copy to such department, agency or institution and a copy to
8 the other party, provided, however, that this shall not be
9 cause for delay in conveying the person to the department,
10 agency or institution to which he has been committed.

11 (e) The clerk of the court shall transmit to the
12 department, agency or institution, if any, to which the
13 defendant is committed, the following:

14 (1) the sentence imposed;

15 (2) any statement by the court of the basis for
16 imposing the sentence;

17 (3) any presentence reports;

18 (3.5) any sex offender evaluations;

19 (3.6) any substance abuse treatment eligibility
20 screening and assessment of the defendant by an agent
21 designated by the State of Illinois to provide assessment
22 services for the Illinois courts;

23 (4) the number of days, if any, which the defendant has
24 been in custody and for which he is entitled to credit
25 against the sentence, which information shall be provided
26 to the clerk by the sheriff;

1 (4.1) any finding of great bodily harm made by the
2 court with respect to an offense enumerated in subsection
3 (c-1);

4 (5) all statements filed under subsection (d) of this
5 Section;

6 (6) any medical or mental health records or summaries
7 of the defendant;

8 (7) the municipality where the arrest of the offender
9 or the commission of the offense has occurred, where such
10 municipality has a population of more than 25,000 persons;

11 (8) all statements made and evidence offered under
12 paragraph (7) of subsection (a) of this Section; and

13 (9) all additional matters which the court directs the
14 clerk to transmit.

15 (Source: P.A. 95-331, eff. 8-21-07; 96-86, eff. 1-1-10.)