



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2538

Introduced 11/29/2011, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

See Index

Amends the Criminal Code of 1961. Provides that a person who brings, without authorization, cellular communications equipment within the secure perimeter of any penal institution is deemed to have given his or her consent to the governing authority of the penal institution using available technology to prevent that cellular communications equipment from sending or receiving telephone calls or other forms of electronic communication. Provides that notice of this provision shall be posted at all public entry gates of the penal institution. Provides that the governing authority of the penal institution shall not access data or communications that have been captured using available technology from unauthorized use of the cellular communications equipment except after obtaining a valid search warrant. Establishes civil penalties for violation. Amends the Unified Code of Corrections. Provides that any inmate who is found to be in possession of cellular communications equipment in violation of the Criminal Code of 1961 shall be subject to good conduct credit denial or loss of up to 90 days if confined to a Department of Corrections facility. Amends the County Jail Good Behavior Allowance Act. Provides that if an inmate brings into or possesses contraband in the penal institution that is cellular communications equipment, the warden may revoke up to 90 days of the inmate's good behavior allowance. Makes other changes.

LRB097 14728 RLC 59728 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 Criminal Code of 1961 is amended by changing
5 Section 31A-1.1 as follows:

6 (720 ILCS 5/31A-1.1) (from Ch. 38, par. 31A-1.1)

7 Sec. 31A-1.1. Bringing Contraband into a Penal
8 Institution; Possessing Contraband in a Penal Institution.

9 (a) A person commits the offense of bringing contraband
10 into a penal institution when he knowingly and without
11 authority of any person designated or authorized to grant such
12 authority (1) brings an item of contraband into a penal
13 institution or (2) causes another to bring an item of
14 contraband into a penal institution or (3) places an item of
15 contraband in such proximity to a penal institution as to give
16 an inmate access to the contraband.

17 (b) A person commits the offense of possessing contraband
18 in a penal institution when he possesses contraband in a penal
19 institution, regardless of the intent with which he possesses
20 it.

21 (c) For the purposes of this Section, the words and phrases
22 listed below shall be defined as follows:

23 (1) "Penal institution" means any penitentiary, State

1 farm, reformatory, prison, jail, house of correction,
2 police detention area, half-way house or other institution
3 or place for the incarceration or custody of persons under
4 sentence for offenses awaiting trial or sentence for
5 offenses, under arrest for an offense, a violation of
6 probation, a violation of parole, or a violation of
7 mandatory supervised release, or awaiting a bail setting
8 hearing or preliminary hearing; provided that where the
9 place for incarceration or custody is housed within another
10 public building this Act shall not apply to that part of
11 such building unrelated to the incarceration or custody of
12 persons.

13 (2) "Item of contraband" means any of the following:

14 (i) "Alcoholic liquor" as such term is defined in
15 Section 1-3.05 of the Liquor Control Act of 1934.

16 (ii) "Cannabis" as such term is defined in
17 subsection (a) of Section 3 of the Cannabis Control
18 Act.

19 (iii) "Controlled substance" as such term is
20 defined in the Illinois Controlled Substances Act.

21 (iii-a) "Methamphetamine" as such term is defined
22 in the Illinois Controlled Substances Act or the
23 Methamphetamine Control and Community Protection Act.

24 (iv) "Hypodermic syringe" or hypodermic needle, or
25 any instrument adapted for use of controlled
26 substances or cannabis by subcutaneous injection.

1 (v) "Weapon" means any knife, dagger, dirk, billy,
2 razor, stiletto, broken bottle, or other piece of glass
3 which could be used as a dangerous weapon. Such term
4 includes any of the devices or implements designated in
5 subsections (a)(1), (a)(3) and (a)(6) of Section 24-1
6 of this Act, or any other dangerous weapon or
7 instrument of like character.

8 (vi) "Firearm" means any device, by whatever name
9 known, which is designed to expel a projectile or
10 projectiles by the action of an explosion, expansion of
11 gas or escape of gas, including but not limited to:

12 (A) any pneumatic gun, spring gun, or B-B gun
13 which expels a single globular projectile not
14 exceeding .18 inch in diameter, or;

15 (B) any device used exclusively for signaling
16 or safety and required as recommended by the United
17 States Coast Guard or the Interstate Commerce
18 Commission; or

19 (C) any device used exclusively for the firing
20 of stud cartridges, explosive rivets or industrial
21 ammunition; or

22 (D) any device which is powered by electrical
23 charging units, such as batteries, and which fires
24 one or several barbs attached to a length of wire
25 and which, upon hitting a human, can send out
26 current capable of disrupting the person's nervous

1 system in such a manner as to render him incapable
2 of normal functioning, commonly referred to as a
3 stun gun or taser.

4 (vii) "Firearm ammunition" means any
5 self-contained cartridge or shotgun shell, by whatever
6 name known, which is designed to be used or adaptable
7 to use in a firearm, including but not limited to:

8 (A) any ammunition exclusively designed for
9 use with a device used exclusively for signaling or
10 safety and required or recommended by the United
11 States Coast Guard or the Interstate Commerce
12 Commission; or

13 (B) any ammunition designed exclusively for
14 use with a stud or rivet driver or other similar
15 industrial ammunition.

16 (viii) "Explosive" means, but is not limited to,
17 bomb, bombshell, grenade, bottle or other container
18 containing an explosive substance of over one-quarter
19 ounce for like purposes such as black powder bombs and
20 Molotov cocktails or artillery projectiles.

21 (ix) "Tool to defeat security mechanisms" means,
22 but is not limited to, handcuff or security restraint
23 key, tool designed to pick locks, popper, or any device
24 or instrument used to or capable of unlocking or
25 preventing from locking any handcuff or security
26 restraints, doors to cells, rooms, gates or other areas

1 of the penal institution.

2 (x) "Cutting tool" means, but is not limited to,
3 hacksaw blade, wirecutter, or device, instrument or
4 file capable of cutting through metal.

5 (xi) "Electronic contraband" means, but is not
6 limited to, any electronic, video recording device,
7 computer, or cellular communications equipment,
8 including, but not limited to, cellular telephones,
9 cellular telephone batteries, videotape recorders,
10 pagers, computers, and computer peripheral equipment
11 brought into or possessed in a penal institution
12 without the written authorization of the Chief
13 Administrative Officer.

14 (d) Bringing alcoholic liquor into a penal institution is a
15 Class 4 felony. Possessing alcoholic liquor in a penal
16 institution is a Class 4 felony.

17 (e) Bringing cannabis into a penal institution is a Class 3
18 felony. Possessing cannabis in a penal institution is a Class 3
19 felony.

20 (f) Bringing any amount of a controlled substance
21 classified in Schedules III, IV or V of Article II of the
22 Controlled Substance Act into a penal institution is a Class 2
23 felony. Possessing any amount of a controlled substance
24 classified in Schedule III, IV, or V of Article II of the
25 Controlled Substance Act in a penal institution is a Class 2
26 felony.

1 (g) Bringing any amount of a controlled substance
2 classified in Schedules I or II of Article II of the Controlled
3 Substance Act into a penal institution is a Class 1 felony.
4 Possessing any amount of a controlled substance classified in
5 Schedules I or II of Article II of the Controlled Substance Act
6 in a penal institution is a Class 1 felony.

7 (h) Bringing an item of contraband listed in paragraph (iv)
8 of subsection (c)(2) into a penal institution is a Class 1
9 felony. Possessing an item of contraband listed in paragraph
10 (iv) of subsection (c)(2) in a penal institution is a Class 1
11 felony.

12 (i) Bringing an item of contraband listed in paragraph (v),
13 (ix), (x), or (xi) of subsection (c)(2) into a penal
14 institution is a Class 1 felony. Possessing an item of
15 contraband listed in paragraph (v), (ix), (x), or (xi) of
16 subsection (c)(2) in a penal institution is a Class 1 felony.

17 (j) Bringing an item of contraband listed in paragraphs
18 (vi), (vii) or (viii) of subsection (c)(2) in a penal
19 institution is a Class X felony. Possessing an item of
20 contraband listed in paragraphs (vi), (vii), or (viii) of
21 subsection (c)(2) in a penal institution is a Class X felony.

22 (k) It shall be an affirmative defense to subsection (b)
23 hereof, that such possession was specifically authorized by
24 rule, regulation, or directive of the governing authority of
25 the penal institution or order issued pursuant thereto.

26 (l) It shall be an affirmative defense to subsection (a)(1)

1 and subsection (b) hereof that the person bringing into or
2 possessing contraband in a penal institution had been arrested,
3 and that that person possessed such contraband at the time of
4 his arrest, and that such contraband was brought into or
5 possessed in the penal institution by that person as a direct
6 and immediate result of his arrest.

7 (m) Items confiscated may be retained for use by the
8 Department of Corrections or disposed of as deemed appropriate
9 by the Chief Administrative Officer in accordance with
10 Department rules or disposed of as required by law.

11 (n) (1) If a person visiting an inmate in a penal
12 institution, upon being searched or subjected to a metal
13 detector, is found to be in possession of cellular
14 communications equipment, that equipment shall be subject to
15 confiscation but shall be returned on the same day the person
16 visits the inmate, unless the cellular communications
17 equipment is held as evidence in a case where the person is
18 cited for a violation of subsection (i).

19 (2) If, upon investigation, it is determined that no
20 prosecution will take place, the cellular communications
21 equipment shall be returned to the owner at the owner's
22 expense.

23 (3) Notice of the provisions of paragraphs (1) and (2) of
24 this subsection (n) shall be posted in all areas where visitors
25 are searched prior to visitation with an inmate in the custody
26 of the penal institution.

1 (4) A person who brings, without authorization, cellular
2 communications equipment within the secure perimeter of any
3 penal institution is deemed to have given his or her consent to
4 the governing authority of the penal institution using
5 available technology to prevent that cellular communications
6 equipment from sending or receiving telephone calls or other
7 forms of electronic communication. Notice of the provisions of
8 this paragraph (4) shall be posted at all public entry gates of
9 the penal institution.

10 (5) The governing authority of the penal institution shall
11 not access data or communications that have been captured using
12 available technology from unauthorized use of the cellular
13 communications equipment except after obtaining a valid search
14 warrant.

15 (6) The governing authority of the penal institution shall
16 not capture data or communications from authorized cellular
17 communications equipment, except as provided by law.

18 (7) The governing authority of the penal institution shall
19 not access data or communications that have been captured using
20 available technology from authorized cellular communications
21 equipment, except as provided by law.

22 (8) If the available technology to prevent cellular
23 communications equipment from sending and receiving telephone
24 calls or other forms of electronic communication extends beyond
25 the secure perimeter of the penal institution, the governing
26 authority of the penal institution shall take all reasonable

1 actions to correct the problem.

2 (9) Any contractor or employee of a contractor or the
3 governing authority of the penal institution who knowingly and
4 willfully, without authorization, obtains, discloses, or uses
5 confidential information in violation of this subsection (n)
6 shall be subject to an administrative fine or civil penalty not
7 to exceed \$5,000 for a first violation, \$10,000 for a second
8 violation, and \$25,000 for a third or subsequent violation.

9 (10) Nothing in this subsection (n) prohibits the governing
10 authority of the penal institution from obtaining electronic
11 communications that the governing authority of the penal
12 institution could have lawfully obtained prior to the effective
13 date of this amendatory Act of the 97th General Assembly.

14 (Source: P.A. 96-1112, eff. 1-1-11.)

15 Section 10. The Unified Code of Corrections is amended by
16 changing Section 3-6-3 as follows:

17 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

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

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

23 (2) The rules and regulations on early release shall
24 provide, with respect to offenses listed in clause (i),

1 (ii), or (iii) of this paragraph (2) committed on or after
2 June 19, 1998 or with respect to the offense listed in
3 clause (iv) of this paragraph (2) committed on or after
4 June 23, 2005 (the effective date of Public Act 94-71) or
5 with respect to offense listed in clause (vi) committed on
6 or after June 1, 2008 (the effective date of Public Act
7 95-625) or with respect to the offense of being an armed
8 habitual criminal committed on or after August 2, 2005 (the
9 effective date of Public Act 94-398) or with respect to the
10 offenses listed in clause (v) of this paragraph (2)
11 committed on or after August 13, 2007 (the effective date
12 of Public Act 95-134) or with respect to the offense of
13 aggravated domestic battery committed on or after July 23,
14 2010 (the effective date of Public Act 96-1224), the
15 following:

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

20 (ii) that a prisoner serving a sentence for attempt
21 to commit first degree murder, solicitation of murder,
22 solicitation of murder for hire, intentional homicide
23 of an unborn child, predatory criminal sexual assault
24 of a child, aggravated criminal sexual assault,
25 criminal sexual assault, aggravated kidnapping,
26 aggravated battery with a firearm as described in

1 Section 12-4.2 or subdivision (e) (1), (e) (2), (e) (3),
2 or (e) (4) of Section 12-3.05, heinous battery as
3 described in Section 12-4.1 or subdivision (a) (2) of
4 Section 12-3.05, being an armed habitual criminal,
5 aggravated battery of a senior citizen as described in
6 Section 12-4.6 or subdivision (a) (4) of Section
7 12-3.05, or aggravated battery of a child as described
8 in Section 12-4.3 or subdivision (b) (1) of Section
9 12-3.05 shall receive no more than 4.5 days of good
10 conduct credit for each month of his or her sentence of
11 imprisonment;

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

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

1 more than 4.5 days of good conduct credit for each
2 month of his or her sentence of imprisonment;

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

25 (vi) that a prisoner serving a sentence for a
26 second or subsequent offense of luring a minor shall

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

4 (vii) that a prisoner serving a sentence for
5 aggravated domestic battery shall receive no more than
6 4.5 days of good conduct credit for each month of his
7 or her sentence of imprisonment.

8 (2.1) For all offenses, other than those enumerated in
9 subdivision (a)(2)(i), (ii), or (iii) committed on or after
10 June 19, 1998 or subdivision (a)(2)(iv) committed on or
11 after June 23, 2005 (the effective date of Public Act
12 94-71) or subdivision (a)(2)(v) committed on or after
13 August 13, 2007 (the effective date of Public Act 95-134)
14 or subdivision (a)(2)(vi) committed on or after June 1,
15 2008 (the effective date of Public Act 95-625) or
16 subdivision (a)(2)(vii) committed on or after July 23, 2010
17 (the effective date of Public Act 96-1224), and other than
18 the offense of aggravated driving under the influence of
19 alcohol, other drug or drugs, or intoxicating compound or
20 compounds, or any combination thereof as defined in
21 subparagraph (F) of paragraph (1) of subsection (d) of
22 Section 11-501 of the Illinois Vehicle Code, and other than
23 the offense of aggravated driving under the influence of
24 alcohol, other drug or drugs, or intoxicating compound or
25 compounds, or any combination thereof as defined in
26 subparagraph (C) of paragraph (1) of subsection (d) of

1 Section 11-501 of the Illinois Vehicle Code committed on or
2 after January 1, 2011 (the effective date of Public Act
3 96-1230), the rules and regulations shall provide that a
4 prisoner who is serving a term of imprisonment shall
5 receive one day of good conduct credit for each day of his
6 or her sentence of imprisonment or recommitment under
7 Section 3-3-9. Each day of good conduct credit shall reduce
8 by one day the prisoner's period of imprisonment or
9 recommitment under Section 3-3-9.

10 (2.2) A prisoner serving a term of natural life
11 imprisonment or a prisoner who has been sentenced to death
12 shall receive no good conduct credit.

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

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

1 firearm equipped with any device or attachment designed or
2 used for silencing the report of a firearm, committed on or
3 after July 15, 1999 (the effective date of Public Act
4 91-121), that a prisoner serving a sentence for any of
5 these offenses shall receive no more than 4.5 days of good
6 conduct credit for each month of his or her sentence of
7 imprisonment.

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

14 (2.6) The rules and regulations on early release shall
15 provide that a prisoner who is serving a sentence for
16 aggravated driving under the influence of alcohol, other
17 drug or drugs, or intoxicating compound or compounds or any
18 combination thereof as defined in subparagraph (C) of
19 paragraph (1) of subsection (d) of Section 11-501 of the
20 Illinois Vehicle Code committed on or after January 1, 2011
21 (the effective date of Public Act 96-1230) shall receive no
22 more than 4.5 days of good conduct credit for each month of
23 his or her sentence of imprisonment.

24 (3) The rules and regulations shall also provide that
25 the Director may award up to 180 days additional good
26 conduct credit for meritorious service in specific

1 instances as the Director deems proper; except that no more
2 than 90 days of good conduct credit for meritorious service
3 shall be awarded to any prisoner who is serving a sentence
4 for conviction of first degree murder, reckless homicide
5 while under the influence of alcohol or any other drug, or
6 aggravated driving under the influence of alcohol, other
7 drug or drugs, or intoxicating compound or compounds, or
8 any combination thereof as defined in subparagraph (F) of
9 paragraph (1) of subsection (d) of Section 11-501 of the
10 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
11 predatory criminal sexual assault of a child, aggravated
12 criminal sexual assault, criminal sexual assault, deviate
13 sexual assault, aggravated criminal sexual abuse,
14 aggravated indecent liberties with a child, indecent
15 liberties with a child, child pornography, heinous battery
16 as described in Section 12-4.1 or subdivision (a)(2) of
17 Section 12-3.05, aggravated battery of a spouse,
18 aggravated battery of a spouse with a firearm, stalking,
19 aggravated stalking, aggravated battery of a child as
20 described in Section 12-4.3 or subdivision (b)(1) of
21 Section 12-3.05, endangering the life or health of a child,
22 or cruelty to a child. Notwithstanding the foregoing, good
23 conduct credit for meritorious service shall not be awarded
24 on a sentence of imprisonment imposed for conviction of:
25 (i) one of the offenses enumerated in subdivision
26 (a)(2)(i), (ii), or (iii) when the offense is committed on

1 or after June 19, 1998 or subdivision (a)(2)(iv) when the
2 offense is committed on or after June 23, 2005 (the
3 effective date of Public Act 94-71) or subdivision
4 (a)(2)(v) when the offense is committed on or after August
5 13, 2007 (the effective date of Public Act 95-134) or
6 subdivision (a)(2)(vi) when the offense is committed on or
7 after June 1, 2008 (the effective date of Public Act
8 95-625) or subdivision (a)(2)(vii) when the offense is
9 committed on or after July 23, 2010 (the effective date of
10 Public Act 96-1224), (ii) aggravated driving under the
11 influence of alcohol, other drug or drugs, or intoxicating
12 compound or compounds, or any combination thereof as
13 defined in subparagraph (F) of paragraph (1) of subsection
14 (d) of Section 11-501 of the Illinois Vehicle Code, (iii)
15 one of the offenses enumerated in subdivision (a)(2.4) when
16 the offense is committed on or after July 15, 1999 (the
17 effective date of Public Act 91-121), (iv) aggravated arson
18 when the offense is committed on or after July 27, 2001
19 (the effective date of Public Act 92-176), (v) offenses
20 that may subject the offender to commitment under the
21 Sexually Violent Persons Commitment Act, or (vi)
22 aggravated driving under the influence of alcohol, other
23 drug or drugs, or intoxicating compound or compounds or any
24 combination thereof as defined in subparagraph (C) of
25 paragraph (1) of subsection (d) of Section 11-501 of the
26 Illinois Vehicle Code committed on or after January 1, 2011

1 (the effective date of Public Act 96-1230).

2 The Director shall not award good conduct credit for
3 meritorious service under this paragraph (3) to an inmate
4 unless the inmate has served a minimum of 60 days of the
5 sentence; except nothing in this paragraph shall be
6 construed to permit the Director to extend an inmate's
7 sentence beyond that which was imposed by the court. Prior
8 to awarding credit under this paragraph (3), the Director
9 shall make a written determination that the inmate:

10 (A) is eligible for good conduct credit for
11 meritorious service;

12 (B) has served a minimum of 60 days, or as close to
13 60 days as the sentence will allow; and

14 (C) has met the eligibility criteria established
15 by rule.

16 The Director shall determine the form and content of
17 the written determination required in this subsection.

18 (4) The rules and regulations shall also provide that
19 the good conduct credit accumulated and retained under
20 paragraph (2.1) of subsection (a) of this Section by any
21 inmate during specific periods of time in which such inmate
22 is engaged full-time in substance abuse programs,
23 correctional industry assignments, or educational programs
24 provided by the Department under this paragraph (4) and
25 satisfactorily completes the assigned program as
26 determined by the standards of the Department, shall be

1 multiplied by a factor of 1.25 for program participation
2 before August 11, 1993 and 1.50 for program participation
3 on or after that date. However, no inmate shall be eligible
4 for the additional good conduct credit under this paragraph
5 (4) or (4.1) of this subsection (a) while assigned to a
6 boot camp or electronic detention, or if convicted of an
7 offense enumerated in subdivision (a)(2)(i), (ii), or
8 (iii) of this Section that is committed on or after June
9 19, 1998 or subdivision (a)(2)(iv) of this Section that is
10 committed on or after June 23, 2005 (the effective date of
11 Public Act 94-71) or subdivision (a)(2)(v) of this Section
12 that is committed on or after August 13, 2007 (the
13 effective date of Public Act 95-134) or subdivision
14 (a)(2)(vi) when the offense is committed on or after June
15 1, 2008 (the effective date of Public Act 95-625) or
16 subdivision (a)(2)(vii) when the offense is committed on or
17 after July 23, 2010 (the effective date of Public Act
18 96-1224), or if convicted of aggravated driving under the
19 influence of alcohol, other drug or drugs, or intoxicating
20 compound or compounds or any combination thereof as defined
21 in subparagraph (F) of paragraph (1) of subsection (d) of
22 Section 11-501 of the Illinois Vehicle Code, or if
23 convicted of aggravated driving under the influence of
24 alcohol, other drug or drugs, or intoxicating compound or
25 compounds or any combination thereof as defined in
26 subparagraph (C) of paragraph (1) of subsection (d) of

1 Section 11-501 of the Illinois Vehicle Code committed on or
2 after January 1, 2011 (the effective date of Public Act
3 96-1230), or if convicted of an offense enumerated in
4 paragraph (a)(2.4) of this Section that is committed on or
5 after July 15, 1999 (the effective date of Public Act
6 91-121), or first degree murder, a Class X felony, criminal
7 sexual assault, felony criminal sexual abuse, aggravated
8 criminal sexual abuse, aggravated battery with a firearm as
9 described in Section 12-4.2 or subdivision (e)(1), (e)(2),
10 (e)(3), or (e)(4) of Section 12-3.05, or any predecessor or
11 successor offenses with the same or substantially the same
12 elements, or any inchoate offenses relating to the
13 foregoing offenses. No inmate shall be eligible for the
14 additional good conduct credit under this paragraph (4) who
15 (i) has previously received increased good conduct credit
16 under this paragraph (4) and has subsequently been
17 convicted of a felony, or (ii) has previously served more
18 than one prior sentence of imprisonment for a felony in an
19 adult correctional facility.

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

1 each year. The reports shall include data relating to the
2 recidivism rate among program participants.

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

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

1 school diploma or a GED. If, after an award of the GED good
2 conduct credit has been made and the Department determines
3 that the prisoner was not eligible, then the award shall be
4 revoked.

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

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

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

19 (5) Whenever the Department is to release any inmate
20 earlier than it otherwise would because of a grant of good
21 conduct credit for meritorious service given at any time
22 during the term, the Department shall give reasonable
23 notice of the impending release not less than 14 days prior
24 to the date of the release to the State's Attorney of the
25 county where the prosecution of the inmate took place, and
26 if applicable, the State's Attorney of the county into

1 which the inmate will be released. The Department must also
2 make identification information and a recent photo of the
3 inmate being released accessible on the Internet by means
4 of a hyperlink labeled "Community Notification of Inmate
5 Early Release" on the Department's World Wide Web homepage.
6 The identification information shall include the inmate's:
7 name, any known alias, date of birth, physical
8 characteristics, residence address, commitment offense and
9 county where conviction was imposed. The identification
10 information shall be placed on the website within 3 days of
11 the inmate's release and the information may not be removed
12 until either: completion of the first year of mandatory
13 supervised release or return of the inmate to custody of
14 the Department.

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

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

25 When the Department seeks to revoke, suspend or reduce the
26 rate of accumulation of any good conduct credits for an alleged

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

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

25 Nothing contained in this Section shall prohibit the
26 Prisoner Review Board from ordering, pursuant to Section

1 3-3-9(a) (3) (i) (B), that a prisoner serve up to one year of the
2 sentence imposed by the court that was not served due to the
3 accumulation of good conduct credit.

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

18 For purposes of this subsection (d):

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

23 (A) it lacks an arguable basis either in law or in
24 fact;

25 (B) it is being presented for any improper purpose,
26 such as to harass or to cause unnecessary delay or

1 needless increase in the cost of litigation;

2 (C) the claims, defenses, and other legal
3 contentions therein are not warranted by existing law
4 or by a nonfrivolous argument for the extension,
5 modification, or reversal of existing law or the
6 establishment of new law;

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

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

16 (2) "Lawsuit" means a motion pursuant to Section 116-3
17 of the Code of Criminal Procedure of 1963, a habeas corpus
18 action under Article X of the Code of Civil Procedure or
19 under federal law (28 U.S.C. 2254), a petition for claim
20 under the Court of Claims Act, an action under the federal
21 Civil Rights Act (42 U.S.C. 1983), or a second or
22 subsequent petition for post-conviction relief under
23 Article 122 of the Code of Criminal Procedure of 1963
24 whether filed with or without leave of court or a second or
25 subsequent petition for relief from judgment under Section
26 2-1401 of the Code of Civil Procedure.

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

3 (f) Whenever the Department is to release any inmate who
4 has been convicted of a violation of an order of protection
5 under Section 12-3.4 or 12-30 of the Criminal Code of 1961,
6 earlier than it otherwise would because of a grant of good
7 conduct credit, the Department, as a condition of such early
8 release, shall require that the person, upon release, be placed
9 under electronic surveillance as provided in Section 5-8A-7 of
10 this Code.

11 (g) Any inmate who is found to be in possession of cellular
12 communications equipment in violation of Section 31A-1.1 of the
13 Criminal Code of 1961 shall be subject to good conduct credit
14 denial or loss of up to 90 days if confined to a Department of
15 Corrections facility.

16 (Source: P.A. 95-134, eff. 8-13-07; 95-585, eff. 6-1-08;
17 95-625, eff. 6-1-08; 95-640, eff. 6-1-08; 95-773, eff. 1-1-09;
18 95-876, eff. 8-21-08; 96-860, eff. 1-15-10; 96-1110, eff.
19 7-19-10; 96-1128, eff. 1-1-11; 96-1200, eff. 7-22-10; 96-1224,
20 eff. 7-23-10; 96-1230, eff. 1-1-11; 96-1551, eff. 7-1-11;
21 97-333, eff. 8-12-11.)

22 Section 15. The County Jail Good Behavior Allowance Act is
23 amended by changing Section 3.1 as follows:

24 (730 ILCS 130/3.1) (from Ch. 75, par. 32.1)

1 Sec. 3.1. (a) Within 3 months after the effective date of
2 this amendatory Act of 1986, the wardens who supervise
3 institutions under this Act shall meet and agree upon uniform
4 rules and regulations for behavior and conduct, penalties, and
5 the awarding, denying and revocation of good behavior
6 allowance, in such institutions; and such rules and regulations
7 shall be immediately promulgated and consistent with the
8 provisions of this Act. Interim rules shall be provided by each
9 warden consistent with the provision of this Act and shall be
10 effective until the promulgation of uniform rules. All
11 disciplinary action shall be consistent with the provisions of
12 this Act. Committed persons shall be informed of rules of
13 behavior and conduct, the penalties for violation thereof, and
14 the disciplinary procedure by which such penalties may be
15 imposed. Any rules, penalties and procedures shall be posted
16 and made available to the committed persons.

17 (b) Whenever a person is alleged to have violated a rule of
18 behavior, a written report of the infraction shall be filed
19 with the warden within 72 hours of the occurrence of the
20 infraction or the discovery of it, and such report shall be
21 placed in the file of the institution or facility. No
22 disciplinary proceeding shall be commenced more than 8 days
23 after the infraction or the discovery of it, unless the
24 committed person is unable or unavailable for any reason to
25 participate in the disciplinary proceeding.

26 (c) All or any of the good behavior allowance earned may be

1 revoked by the warden, unless he initiates the charge, and in
2 that case by the disciplinary board, for violations of rules of
3 behavior at any time prior to discharge from the institution,
4 consistent with the provisions of this Act.

5 (d) In disciplinary cases that may involve the loss of good
6 behavior allowance or eligibility to earn good behavior
7 allowance, the warden shall establish disciplinary procedures
8 consistent with the following principles:

9 (1) The warden may establish one or more disciplinary
10 boards, made up of one or more persons, to hear and
11 determine charges. Any person who initiates a disciplinary
12 charge against a committed person shall not serve on the
13 disciplinary board that will determine the disposition of
14 the charge. In those cases in which the charge was
15 initiated by the warden, he shall establish a disciplinary
16 board which will have the authority to impose any
17 appropriate discipline.

18 (2) Any committed person charged with a violation of
19 rules of behavior shall be given notice of the charge,
20 including a statement of the misconduct alleged and of the
21 rules this conduct is alleged to violate, no less than 24
22 hours before the disciplinary hearing.

23 (3) Any committed person charged with a violation of
24 rules is entitled to a hearing on that charge, at which
25 time he shall have an opportunity to appear before and
26 address the warden or disciplinary board deciding the

1 charge.

2 (4) The person or persons determining the disposition
3 of the charge may also summon to testify any witnesses or
4 other persons with relevant knowledge of the incident. The
5 person charged may be permitted to question any person so
6 summoned.

7 (5) If the charge is sustained, the person charged is
8 entitled to a written statement, within 14 days after the
9 hearing, of the decision by the warden or the disciplinary
10 board which determined the disposition of the charge, and
11 the statement shall include the basis for the decision and
12 the disciplinary action, if any, to be imposed.

13 (6) The warden may impose the discipline recommended by
14 the disciplinary board, or may reduce the discipline
15 recommended; however, no committed person may be penalized
16 more than 30 days of good behavior allowance for any one
17 infraction.

18 (7) The warden, in appropriate cases, may restore good
19 behavior allowance that has been revoked, suspended or
20 reduced.

21 (e) The warden, or his or her designee, may revoke the good
22 behavior allowance specified in Section 3 of this Act of an
23 inmate who is sentenced to the Illinois Department of
24 Corrections for misconduct committed by the inmate while in
25 custody of the warden. If an inmate while in custody of the
26 warden is convicted of assault or battery on a peace officer,

1 correctional employee, or another inmate, or for criminal
2 damage to property or for bringing into or possessing
3 contraband in the penal institution in violation of Section
4 31A-1.1 of the Criminal Code of 1961, his or her day for day
5 good behavior allowance shall be revoked for each day such
6 allowance was earned while the inmate was in custody of the
7 warden. If an inmate brings into or possesses contraband in the
8 penal institution that is cellular communications equipment,
9 the warden may revoke up to 90 days of the inmate's good
10 behavior allowance.

11 (Source: P.A. 96-495, eff. 1-1-10.)

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Statutes amended in order of appearance

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720 ILCS 5/31A-1.1

from Ch. 38, par. 31A-1.1

4

730 ILCS 5/3-6-3

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

5

730 ILCS 130/3.1

from Ch. 75, par. 32.1