

# SB1747



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB1747

Introduced 2/20/2015, by Sen. John G. Mulroe

#### SYNOPSIS AS INTRODUCED:

730 ILCS 130/3.1

from Ch. 75, par. 32.1

Amends the County Jail Good Behavior Allowance Act. Provides that if a lawsuit is filed by a person confined in a county jail, whether serving a term of imprisonment or confined pending trial or sentencing, against the sheriff or county, or against any of their officers or employees, and the court makes a specific finding that a pleading, motion, or other paper filed by the prisoner is frivolous, the warden may revoke up to 180 days of good behavior allowance under the Act. Provides that if the person has not accumulated 180 days of good behavior allowance at the time of the finding, then the warden may revoke all of the good behavior allowance accumulated by the prisoner. Defines "frivolous" and "lawsuit".

LRB099 07934 RLC 28074 b

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 County Jail Good Behavior Allowance Act is  
5 amended by changing Section 3.1 as follows:

6 (730 ILCS 130/3.1) (from Ch. 75, par. 32.1)

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

23 (b) Whenever a person is alleged to have violated a rule of

1 behavior, a written report of the infraction shall be filed  
2 with the warden within 72 hours of the occurrence of the  
3 infraction or the discovery of it, and such report shall be  
4 placed in the file of the institution or facility. No  
5 disciplinary proceeding shall be commenced more than 8 days  
6 after the infraction or the discovery of it, unless the  
7 committed person is unable or unavailable for any reason to  
8 participate in the disciplinary proceeding.

9 (c) All or any of the good behavior allowance earned may be  
10 revoked by the warden, unless he initiates the charge, and in  
11 that case by the disciplinary board, for violations of rules of  
12 behavior at any time prior to discharge from the institution,  
13 consistent with the provisions of this Act.

14 (d) In disciplinary cases that may involve the loss of good  
15 behavior allowance or eligibility to earn good behavior  
16 allowance, the warden shall establish disciplinary procedures  
17 consistent with the following principles:

18 (1) The warden may establish one or more disciplinary  
19 boards, made up of one or more persons, to hear and  
20 determine charges. Any person who initiates a disciplinary  
21 charge against a committed person shall not serve on the  
22 disciplinary board that will determine the disposition of  
23 the charge. In those cases in which the charge was  
24 initiated by the warden, he shall establish a disciplinary  
25 board which will have the authority to impose any  
26 appropriate discipline.

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

6           (3) Any committed person charged with a violation of  
7 rules is entitled to a hearing on that charge, at which  
8 time he shall have an opportunity to appear before and  
9 address the warden or disciplinary board deciding the  
10 charge.

11           (4) The person or persons determining the disposition  
12 of the charge may also summon to testify any witnesses or  
13 other persons with relevant knowledge of the incident. The  
14 person charged may be permitted to question any person so  
15 summoned.

16           (5) If the charge is sustained, the person charged is  
17 entitled to a written statement, within 14 days after the  
18 hearing, of the decision by the warden or the disciplinary  
19 board which determined the disposition of the charge, and  
20 the statement shall include the basis for the decision and  
21 the disciplinary action, if any, to be imposed.

22           (6) The warden may impose the discipline recommended by  
23 the disciplinary board, or may reduce the discipline  
24 recommended; however, no committed person may be penalized  
25 more than 30 days of good behavior allowance for any one  
26 infraction.

1           (7) The warden, in appropriate cases, may restore good  
2 behavior allowance that has been revoked, suspended or  
3 reduced.

4           (e) The warden, or his or her designee, may revoke the good  
5 behavior allowance specified in Section 3 of this Act of an  
6 inmate who is sentenced to the Illinois Department of  
7 Corrections for misconduct committed by the inmate while in  
8 custody of the warden. If an inmate while in custody of the  
9 warden is convicted of assault or battery on a peace officer,  
10 correctional employee, or another inmate, or for criminal  
11 damage to property or for bringing into or possessing  
12 contraband in the penal institution in violation of Section  
13 31A-1.1 of the Criminal Code of 1961 or the Criminal Code of  
14 2012, his or her day for day good behavior allowance shall be  
15 revoked for each day such allowance was earned while the inmate  
16 was in custody of the warden.

17           (f) If a lawsuit is filed by a person confined in a county  
18 jail, whether serving a term of imprisonment or confined  
19 pending trial or sentencing, against the sheriff or county, or  
20 against any of their officers or employees, and the court makes  
21 a specific finding that a pleading, motion, or other paper  
22 filed by the prisoner is frivolous, the warden may revoke up to  
23 180 days of good behavior allowance under this Act. If the  
24 person has not accumulated 180 days of good behavior allowance  
25 at the time of the finding, then the warden may revoke all of  
26 the good behavior allowance accumulated by the prisoner. For

1 purposes of this subsection (f):

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

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

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

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

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

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

24 "Lawsuit" means a motion under Section 116-3 of the Code of  
25 Criminal Procedure of 1963, a habeas corpus action under  
26 Article X of the Code of Civil Procedure or under federal law

1 (28 U.S.C. 2254), an action under the federal Civil Rights Act  
2 (42 U.S.C. 1983), a second or subsequent petition for  
3 post-conviction relief under Article 122 of the Code of  
4 Criminal Procedure of 1963 whether filed with or without leave  
5 of court, or a second or subsequent petition for relief from  
6 judgment under Section 2-1401 of the Code of Civil Procedure.  
7 (Source: P.A. 96-495, eff. 1-1-10; 97-1150, eff. 1-25-13.)