

1 AN ACT concerning corrections.

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
9 prescribe rules and regulations for the early release on
10 account of good conduct of persons committed to the
11 Department which shall be subject to review by the
12 Prisoner Review Board.

13 (2) The rules and regulations on early release
14 shall provide, with respect to offenses committed on or
15 after June 19, 1998, the following:

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

20 (ii) that a prisoner serving a sentence for
21 attempt to commit first degree murder, solicitation
22 of murder, solicitation of murder for hire,
23 intentional homicide of an unborn child, predatory
24 criminal sexual assault of a child, aggravated
25 criminal sexual assault, criminal sexual assault,
26 aggravated kidnapping, aggravated battery with a
27 firearm, heinous battery, aggravated battery of a
28 senior citizen, or aggravated battery of a child
29 shall receive no more than 4.5 days of good conduct
30 credit for each month of his or her sentence of
31 imprisonment; and

1 (iii) that a prisoner serving a sentence for
2 home invasion, armed robbery, aggravated vehicular
3 hijacking, aggravated discharge of a firearm, or
4 armed violence with a category I weapon or category
5 II weapon, when the court has made and entered a
6 finding, pursuant to subsection (c-1) of Section
7 5-4-1 of this Code, that the conduct leading to
8 conviction for the enumerated offense resulted in
9 great bodily harm to a victim, shall receive no more
10 than 4.5 days of good conduct credit for each month
11 of his or her sentence of imprisonment.

12 (2.1) For all offenses, other than those enumerated
13 in subdivision (a)(2) committed on or after June 19,
14 1998, and other than the offense of reckless homicide as
15 defined in subsection (e) of Section 9-3 of the Criminal
16 Code of 1961 committed on or after January 1, 1999, the
17 rules and regulations shall provide that a prisoner who
18 is serving a term of imprisonment shall receive one day
19 of good conduct credit for each day of his or her
20 sentence of imprisonment or recommitment under Section
21 3-3-9. Each day of good conduct credit shall reduce by
22 one day the prisoner's period of imprisonment or
23 recommitment under Section 3-3-9.

24 (2.2) A prisoner serving a term of natural life
25 imprisonment or a prisoner who has been sentenced to
26 death shall receive no good conduct credit.

27 (2.3) The rules and regulations on early release
28 shall provide that a prisoner who is serving a sentence
29 for reckless homicide as defined in subsection (e) of
30 Section 9-3 of the Criminal Code of 1961 committed on or
31 after January 1, 1999 shall receive no more than 4.5 days
32 of good conduct credit for each month of his or her
33 sentence of imprisonment.

34 (2.4) The rules and regulations on early release

1 shall provide with respect to the offenses of aggravated
2 battery with a machine gun or a firearm equipped with any
3 device or attachment designed or used for silencing the
4 report of a firearm or aggravated discharge of a machine
5 gun or a firearm equipped with any device or attachment
6 designed or used for silencing the report of a firearm,
7 committed on or after the effective date of this
8 amendatory Act of 1999, that a prisoner serving a
9 sentence for any of these offenses shall receive no more
10 than 4.5 days of good conduct credit for each month of
11 his or her sentence of imprisonment.

12 (2.5) The rules and regulations on early release
13 shall provide that a prisoner who is serving a sentence
14 for aggravated arson committed on or after the effective
15 date of this amendatory Act of the 92nd General Assembly
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 (3) The rules and regulations shall also provide
20 that the Director may award up to 180 days additional
21 good conduct credit for meritorious service in specific
22 instances as the Director deems proper; except that no
23 more than 90 days of good conduct credit for meritorious
24 service shall be awarded to any prisoner who is serving a
25 sentence for conviction of first degree murder, reckless
26 homicide while under the influence of alcohol or any
27 other drug, aggravated kidnapping, kidnapping, predatory
28 criminal sexual assault of a child, aggravated criminal
29 sexual assault, criminal sexual assault, deviate sexual
30 assault, aggravated criminal sexual abuse, aggravated
31 indecent liberties with a child, indecent liberties with
32 a child, child pornography, heinous battery, aggravated
33 battery of a spouse, aggravated battery of a spouse with
34 a firearm, stalking, aggravated stalking, aggravated

1 battery of a child, endangering the life or health of a
2 child, cruelty to a child, or narcotic racketeering.
3 Notwithstanding the foregoing, good conduct credit for
4 meritorious service shall not be awarded on a sentence of
5 imprisonment imposed for conviction of: (i) one of the
6 offenses enumerated in subdivision (a)(2) when the
7 offense is committed on or after June 19, 1998, (ii)
8 reckless homicide as defined in subsection (e) of Section
9 9-3 of the Criminal Code of 1961 when the offense is
10 committed on or after January 1, 1999, ~~or~~ (iii) ~~for~~
11 ~~conviction--of~~ one of the offenses enumerated in
12 subdivision (a)(2.4) when the offense is committed on or
13 after the effective date of this amendatory Act of 1999,
14 or (iv) aggravated arson when the offense is committed on
15 or after the effective date of this amendatory Act of the
16 92nd General Assembly.

17 (4) The rules and regulations shall also provide
18 that the good conduct credit accumulated and retained
19 under paragraph (2.1) of subsection (a) of this Section
20 by any inmate during specific periods of time in which
21 such inmate is engaged full-time in substance abuse
22 programs, correctional industry assignments, or
23 educational programs provided by the Department under
24 this paragraph (4) and satisfactorily completes the
25 assigned program as determined by the standards of the
26 Department, shall be multiplied by a factor of 1.25 for
27 program participation before August 11, 1993 and 1.50 for
28 program participation on or after that date. However, no
29 inmate shall be eligible for the additional good conduct
30 credit under this paragraph (4) while assigned to a boot
31 camp, mental health unit, or electronic detention, or if
32 convicted of an offense enumerated in paragraph (a)(2) of
33 this Section that is committed on or after June 19, 1998,
34 or if convicted of reckless homicide as defined in

1 subsection (e) of Section 9-3 of the Criminal Code of
2 1961 if the offense is committed on or after January 1,
3 1999, or if convicted of an offense enumerated in
4 paragraph (a)(2.4) of this Section that is committed on
5 or after the effective date of this amendatory Act of
6 1999, 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,
9 or any predecessor or successor offenses with the same or
10 substantially the same elements, or any inchoate offenses
11 relating to the foregoing offenses. No inmate shall be
12 eligible for the additional good conduct credit under
13 this paragraph (4) who (i) has previously received
14 increased good conduct credit under this paragraph (4)
15 and has subsequently been convicted of a felony, or (ii)
16 has previously served more than one prior sentence of
17 imprisonment for a felony in an adult correctional
18 facility.

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

28 Availability of these programs shall be subject to
29 the limits of fiscal resources appropriated by the
30 General Assembly for these purposes. Eligible inmates
31 who are denied immediate admission shall be placed on a
32 waiting list under criteria established by the
33 Department. The inability of any inmate to become
34 engaged in any such programs by reason of insufficient

1 program resources or for any other reason established
2 under the rules and regulations of the Department shall
3 not be deemed a cause of action under which the
4 Department or any employee or agent of the Department
5 shall be liable for damages to the inmate.

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

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

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

24 When the Department seeks to revoke, suspend or reduce
25 the rate of accumulation of any good conduct credits for an
26 alleged infraction of its rules, it shall bring charges
27 therefor against the prisoner sought to be so deprived of
28 good conduct credits before the Prisoner Review Board as
29 provided in subparagraph (a)(4) of Section 3-3-2 of this
30 Code, if the amount of credit at issue exceeds 30 days or
31 when during any 12 month period, the cumulative amount of
32 credit revoked exceeds 30 days except where the infraction is
33 committed or discovered within 60 days of scheduled release.
34 In those cases, the Department of Corrections may revoke up

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

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

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

21 (d) If a lawsuit is filed by a prisoner in an Illinois
22 or federal court against the State, the Department of
23 Corrections, or the Prisoner Review Board, or against any of
24 their officers or employees, and the court makes a specific
25 finding that a pleading, motion, or other paper filed by the
26 prisoner is frivolous, the Department of Corrections shall
27 conduct a hearing to revoke up to 180 days of good conduct
28 credit by bringing charges against the prisoner sought to be
29 deprived of the good conduct credits before the Prisoner
30 Review Board as provided in subparagraph (a)(8) of Section
31 3-3-2 of this Code. If the prisoner has not accumulated 180
32 days of good conduct credit at the time of the finding, then
33 the Prisoner Review Board may revoke all good conduct credit
34 accumulated by the prisoner.

1 For purposes of this subsection (d):

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

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

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

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

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

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

26 (2) "Lawsuit" means a petition for post-conviction
27 relief under Article 122 of the Code of Criminal
28 Procedure of 1963, a motion pursuant to Section 116-3 of
29 the Code of Criminal Procedure of 1963, a habeas corpus
30 action under Article X of the Code of Civil Procedure or
31 under federal law (28 U.S.C. 2254), a petition for claim
32 under the Court of Claims Act or an action under the
33 federal Civil Rights Act (42 U.S.C. 1983).

34 (e) Nothing in this amendatory Act of 1998 affects the

1 validity of Public Act 89-404.

2 (Source: P.A. 90-141, eff. 1-1-98; 90-505, eff. 8-19-97;
3 90-592, eff. 6-19-98; 90-593, eff. 6-19-98; 90-655, eff.
4 7-30-98; 90-740, eff. 1-1-99; 91-121, eff. 7-15-99; 91-357,
5 eff. 7-29-99.)

6 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

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

8 (a) Except when the death penalty is sought under
9 hearing procedures otherwise specified, after a determination
10 of guilt, a hearing shall be held to impose the sentence.
11 However, prior to the imposition of sentence on an individual
12 being sentenced for an offense based upon a charge for a
13 violation of Section 11-501 of the Illinois Vehicle Code or a
14 similar provision of a local ordinance, the individual must
15 undergo a professional evaluation to determine if an alcohol
16 or other drug abuse problem exists and the extent of such a
17 problem. Programs conducting these evaluations shall be
18 licensed by the Department of Human Services. However, if
19 the individual is not a resident of Illinois, the court may,
20 in its discretion, accept an evaluation from a program in the
21 state of such individual's residence. The court may in its
22 sentencing order approve an eligible defendant for placement
23 in a Department of Corrections impact incarceration program
24 as provided in Section 5-8-1.1. At the hearing the court
25 shall:

26 (1) consider the evidence, if any, received upon
27 the trial;

28 (2) consider any presentence reports;

29 (3) consider the financial impact of incarceration
30 based on the financial impact statement filed with the
31 clerk of the court by the Department of Corrections;

32 (4) consider evidence and information offered by
33 the parties in aggravation and mitigation;

1 (5) hear arguments as to sentencing alternatives;

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

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

31 (8) in cases of reckless homicide afford the
32 victim's spouse, guardians, parents or other immediate
33 family members an opportunity to make oral statements.

34 (b) All sentences shall be imposed by the judge based

1 upon his independent assessment of the elements specified
2 above and any agreement as to sentence reached by the
3 parties. The judge who presided at the trial or the judge
4 who accepted the plea of guilty shall impose the sentence
5 unless he is no longer sitting as a judge in that court.
6 Where the judge does not impose sentence at the same time on
7 all defendants who are convicted as a result of being
8 involved in the same offense, the defendant or the State's
9 Attorney may advise the sentencing court of the disposition
10 of any other defendants who have been sentenced.

11 (c) In imposing a sentence for a violent crime or for an
12 offense of operating or being in physical control of a
13 vehicle while under the influence of alcohol, any other drug
14 or any combination thereof, or a similar provision of a local
15 ordinance, when such offense resulted in the personal injury
16 to someone other than the defendant, the trial judge shall
17 specify on the record the particular evidence, information,
18 factors in mitigation and aggravation or other reasons that
19 led to his sentencing determination. The full verbatim record
20 of the sentencing hearing shall be filed with the clerk of
21 the court and shall be a public record.

22 (c-1) In imposing a sentence for the offense of
23 aggravated kidnapping for ransom, home invasion, armed
24 robbery, aggravated vehicular hijacking, aggravated discharge
25 of a firearm, or armed violence with a category I weapon or
26 category II weapon, the trial judge shall make a finding as
27 to whether the conduct leading to conviction for the offense
28 resulted in great bodily harm to a victim, and shall enter
29 that finding and the basis for that finding in the record.

30 (c-2) If the defendant is sentenced to prison, other
31 than when a sentence of natural life imprisonment or a
32 sentence of death is imposed, at the time the sentence is
33 imposed the judge shall state on the record in open court the
34 approximate period of time the defendant will serve in

1 custody according to the then current statutory rules and
2 regulations for early release found in Section 3-6-3 and
3 other related provisions of this Code. This statement is
4 intended solely to inform the public, has no legal effect on
5 the defendant's actual release, and may not be relied on by
6 the defendant on appeal.

7 The judge's statement, to be given after pronouncing the
8 sentence, other than when the sentence is imposed for one of
9 the offenses enumerated in paragraph (a)(3) of Section 3-6-3,
10 shall include the following:

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

28 When the sentence is imposed for one of the offenses
29 enumerated in paragraph (a)(3) of Section 3-6-3, other than
30 when the sentence is imposed for one of the offenses
31 enumerated in paragraph (a)(2) of Section 3-6-3 committed on
32 or after June 19, 1998, and other than when the sentence is
33 imposed for reckless homicide as defined in subsection (e) of
34 Section 9-3 of the Criminal Code of 1961 if the offense was

1 committed on or after January 1, 1999, and other than when
2 the sentence is imposed for aggravated arson if the offense
3 was committed on or after the effective date of this
4 amendatory Act of the 92nd General Assembly, the judge's
5 statement, to be given after pronouncing the sentence, shall
6 include the following:

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

24 When the sentence is imposed for one of the offenses
25 enumerated in paragraph (a)(2) of Section 3-6-3, other than
26 first degree murder, and the offense was committed on or
27 after June 19, 1998, and when the sentence is imposed for
28 reckless homicide as defined in subsection (e) of Section 9-3
29 of the Criminal Code of 1961 if the offense was committed on
30 or after January 1, 1999, and when the sentence is imposed
31 for aggravated arson if the offense was committed on or after
32 the effective date of this amendatory Act of the 92nd General
33 Assembly, the judge's statement, to be given after
34 pronouncing the sentence, shall include the following:

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

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

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

30 (d) When the defendant is committed to the Department of
31 Corrections, the State's Attorney shall and counsel for the
32 defendant may file a statement with the clerk of the court to
33 be transmitted to the department, agency or institution to
34 which the defendant is committed to furnish such department,

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

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

- 17 (1) the sentence imposed;
- 18 (2) any statement by the court of the basis for
19 imposing the sentence;
- 20 (3) any presentence reports;
- 21 (4) the number of days, if any, which the defendant
22 has been in custody and for which he is entitled to
23 credit against the sentence, which information shall be
24 provided to the clerk by the sheriff;
- 25 (4.1) any finding of great bodily harm made by the
26 court with respect to an offense enumerated in subsection
27 (c-1);
- 28 (5) all statements filed under subsection (d) of
29 this Section;
- 30 (6) any medical or mental health records or
31 summaries of the defendant;
- 32 (7) the municipality where the arrest of the
33 offender or the commission of the offense has occurred,
34 where such municipality has a population of more than

1 25,000 persons;

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

4 (9) all additional matters which the court directs
5 the clerk to transmit.

6 (Source: P.A. 90-592, eff. 6-19-98; 90-593, eff. 6-19-98;
7 90-740, eff. 1-1-99; 91-357, eff. 7-29-99; 91-899, eff.
8 1-1-01.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.