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LRB094 11236 RLC 43687 a

1 AMENDMENT TO SENATE BILL 1832

2 AMENDMENT NO. _____. Amend Senate Bill 1832 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Unified Code of Corrections is amended by
5 changing Section 3-6-3 as follows:

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

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

8 (a) (1) The Department of Corrections shall prescribe
9 rules and regulations for the early release 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 committed on or after
14 June 19, 1998, the following:

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

19 (ii) that a prisoner serving a sentence for attempt
20 to commit first degree murder, solicitation of murder,
21 solicitation of murder for hire, intentional homicide
22 of an unborn child, predatory criminal sexual assault
23 of a child, aggravated criminal sexual assault,
24 criminal sexual assault, aggravated kidnapping,

1 aggravated battery with a firearm, heinous battery,
2 aggravated battery of a senior citizen, or aggravated
3 battery of a child shall receive no more than 4.5 days
4 of good conduct credit for each month of his or her
5 sentence of imprisonment; and

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

17 (2.1) For all offenses, other than those enumerated in
18 subdivision (a) (2) committed on or after June 19, 1998, and
19 other than the offense of reckless homicide as defined in
20 subsection (e) of Section 9-3 of the Criminal Code of 1961
21 committed on or after January 1, 1999, or aggravated
22 driving under the influence of alcohol, other drug or
23 drugs, or intoxicating compound or compounds, or any
24 combination thereof as defined in subparagraph (F) of
25 paragraph (1) of subsection (d) of Section 11-501 of the
26 Illinois Vehicle Code, the rules and regulations shall
27 provide that a prisoner who is serving a term of
28 imprisonment shall receive one day of good conduct credit
29 for each day of his or her sentence of imprisonment or
30 recommitment under Section 3-3-9. Each day of good conduct
31 credit shall reduce by one day the prisoner's period of
32 imprisonment or recommitment under Section 3-3-9.

33 (2.2) A prisoner serving a term of natural life
34 imprisonment or a prisoner who has been sentenced to death

1 shall receive no good conduct credit.

2 (2.3) The rules and regulations on early release shall
3 provide that a prisoner who is serving a sentence for
4 reckless homicide as defined in subsection (e) of Section
5 9-3 of the Criminal Code of 1961 committed on or after
6 January 1, 1999, or aggravated driving under the influence
7 of alcohol, other drug or drugs, or intoxicating compound
8 or compounds, or any combination thereof as defined in
9 subparagraph (F) of paragraph (1) of subsection (d) of
10 Section 11-501 of the Illinois Vehicle Code, shall receive
11 no more than 4.5 days of good conduct credit for each month
12 of his or her sentence of imprisonment.

13 (2.4) The rules and regulations on early release shall
14 provide with respect to the offenses of aggravated battery
15 with a machine gun or a firearm equipped with any device or
16 attachment designed or used for silencing the report of a
17 firearm or aggravated discharge of a machine gun or a
18 firearm equipped with any device or attachment designed or
19 used for silencing the report of a firearm, committed on or
20 after July 15, 1999 (the effective date of Public Act
21 91-121) ~~this amendatory Act of 1999~~, that a prisoner
22 serving a sentence for any of these offenses shall receive
23 no more than 4.5 days of good conduct credit for each month
24 of his or her sentence of imprisonment.

25 (2.5) The rules and regulations on early release shall
26 provide that a prisoner who is serving a sentence for
27 aggravated arson committed on or after July 27, 2001 (the
28 effective date of Public Act 92-176) ~~this amendatory Act of~~
29 ~~the 92nd 93rd General Assembly~~ shall receive no more than
30 4.5 days of good conduct credit for each month of his or
31 her sentence of imprisonment.

32 (3) The rules and regulations shall also provide that
33 the Director may award up to 180 days additional good
34 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
16 battery, aggravated battery of a spouse, aggravated
17 battery of a spouse with a firearm, stalking, aggravated
18 stalking, aggravated battery of a child, endangering the
19 life or health of a child, cruelty to a child, or narcotic
20 racketeering. Notwithstanding the foregoing, good conduct
21 credit for meritorious service shall not be awarded on a
22 sentence of imprisonment imposed for conviction of: (i) one
23 of the offenses enumerated in subdivision (a)(2) when the
24 offense is committed on or after June 19, 1998, (ii)
25 reckless homicide as defined in subsection (e) of Section
26 9-3 of the Criminal Code of 1961 when the offense is
27 committed on or after January 1, 1999, or aggravated
28 driving under the influence of alcohol, other drug or
29 drugs, or intoxicating compound or compounds, or any
30 combination thereof as defined in subparagraph (F) of
31 paragraph (1) of subsection (d) of Section 11-501 of the
32 Illinois Vehicle Code, (iii) one of the offenses enumerated
33 in subdivision (a)(2.4) when the offense is committed on or
34 after July 15, 1999 (the effective date of Public Act

1 91-121) ~~this amendatory Act of 1999,~~ or (iv) aggravated
2 arson when the offense is committed on or after July 27,
3 2001 (the effective date of Public Act 92-176) ~~this~~
4 amendatory Act of the 92nd 93rd General Assembly. The
5 Director may establish a model program at one or more Level
6 1 prisons for which prisoners may be selected for
7 participation in a model year long educational or
8 vocational program. If a selected prisoner completes the
9 designated program in accordance with standards and
10 requirements established by the Director, the Director may
11 award such prisoner up to 365 days of good conduct credit,
12 in addition to any other credits to which the prisoner may
13 otherwise be entitled.

14 (4) The rules and regulations shall also provide that
15 the good conduct credit accumulated and retained under
16 paragraph (2.1) of subsection (a) of this Section by any
17 inmate during specific periods of time in which such inmate
18 is engaged full-time in substance abuse programs,
19 correctional industry assignments, or educational programs
20 provided by the Department under this paragraph (4) and
21 satisfactorily completes the assigned program as
22 determined by the standards of the Department, shall be
23 multiplied by a factor of 1.25 for program participation
24 before August 11, 1993 and 1.50 for program participation
25 on or after that date. However, no inmate shall be eligible
26 for the additional good conduct credit under this paragraph
27 (4) while assigned to a boot camp, mental health unit, or
28 electronic detention, or if convicted of an offense
29 enumerated in paragraph (a)(2) of this Section that is
30 committed on or after June 19, 1998, or if convicted of
31 reckless homicide as defined in subsection (e) of Section
32 9-3 of the Criminal Code of 1961 if the offense is
33 committed on or after January 1, 1999, or aggravated
34 driving under the influence of alcohol, other drug or

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

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

30 Availability of these programs shall be subject to the
31 limits of fiscal resources appropriated by the General
32 Assembly for these purposes. Eligible inmates who are
33 denied immediate admission shall be placed on a waiting
34 list under criteria established by the Department. The

1 inability of any inmate to become engaged in any such
2 programs by reason of insufficient program resources or for
3 any other reason established under the rules and
4 regulations of the Department shall not be deemed a cause
5 of action under which the Department or any employee or
6 agent of the Department shall be liable for damages to the
7 inmate.

8 (4.5) The rules and regulations on early release shall
9 also provide that a prisoner who is serving a sentence for
10 a crime committed as a result of the use of, abuse of, or
11 addiction to alcohol or a controlled substance and the
12 crime was committed on or after September 1, 2003 (the
13 effective date of Public Act 93-354) ~~this Amendatory Act of~~
14 ~~the 93rd General Assembly~~ shall receive no good conduct
15 credit until he or she participates in and completes a
16 substance abuse treatment program. Good conduct credit
17 awarded under clauses (2), (3), and (4) of this subsection
18 (a) for crimes committed on or after September 1, 2003 ~~the~~
19 ~~effective date of this amendatory Act of the 93rd General~~
20 ~~Assembly~~ is subject to the provisions of this clause (4.5).
21 If the prisoner completes a substance abuse treatment
22 program, the Department may award good conduct credit for
23 the time spent in treatment. Availability of substance
24 abuse treatment shall be subject to the limits of fiscal
25 resources appropriated by the General Assembly for these
26 purposes. If treatment is not available, the prisoner shall
27 be placed on a waiting list under criteria established by
28 the Department. The Department may require a prisoner
29 placed on a waiting list to attend a substance abuse
30 education class or attend substance abuse self-help
31 meetings. A prisoner may not lose good conduct credit as a
32 result of being placed on a waiting list. A prisoner placed
33 on a waiting list remains eligible for increased good
34 conduct credit for participation in an educational,

1 vocational, or correctional industry program under clause
2 (4) of subsection (a) of this Section.

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

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

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

20 When the Department seeks to revoke, suspend or reduce the
21 rate of accumulation of any good conduct credits for an alleged
22 infraction of its rules, it shall bring charges therefor
23 against the prisoner sought to be so deprived of good conduct
24 credits before the Prisoner Review Board as provided in
25 subparagraph (a)(4) of Section 3-3-2 of this Code, if the
26 amount of credit at issue exceeds 30 days or when during any 12
27 month period, the cumulative amount of credit revoked exceeds
28 30 days except where the infraction is committed or discovered
29 within 60 days of scheduled release. In those cases, the
30 Department of Corrections may revoke up to 30 days of good
31 conduct credit. The Board may subsequently approve the
32 revocation of additional good conduct credit, if the Department
33 seeks to revoke good conduct credit in excess of 30 days.
34 However, the Board shall not be empowered to review the

1 Department's decision with respect to the loss of 30 days of
2 good conduct credit within any calendar year for any prisoner
3 or to increase any penalty beyond the length requested by the
4 Department.

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

12 Nothing contained in this Section shall prohibit the
13 Prisoner Review Board from ordering, pursuant to Section
14 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
15 sentence imposed by the court that was not served due to the
16 accumulation of good conduct credit.

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

31 For purposes of this subsection (d):

32 (1) "Frivolous" means that a pleading, motion, or other
33 filing which purports to be a legal document filed by a
34 prisoner in his or her lawsuit meets any or all of the

1 following criteria:

2 (A) it lacks an arguable basis either in law or in
3 fact;

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

7 (C) the claims, defenses, and other legal
8 contentions therein are not warranted by existing law
9 or by a nonfrivolous argument for the extension,
10 modification, or reversal of existing law or the
11 establishment of new law;

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

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

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

29 (e) Nothing in Public Act 90-592 or 90-593 ~~this amendatory~~
30 ~~Act of 1998~~ affects the validity of Public Act 89-404.

31 (Source: P.A. 92-176, eff. 7-27-01; 92-854, eff. 12-5-02;
32 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; revised
33 10-15-03.)".