



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0699

Introduced 2/6/2009, by Rep. James D. Brosnahan

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-4
730 ILCS 5/3-6-3

from Ch. 38, par. 12-4
from Ch. 38, par. 1003-6-3

Amends the Criminal Code of 1961. Provides that the penalty for aggravated battery that causes great bodily harm, or permanent disability or disfigurement to any victim (rather than to specified categories of persons) is a Class 1 felony. Amends the Unified Code of Corrections. Provides that a prisoner serving a sentence for aggravated battery that causes great bodily harm, or permanent disability or disfigurement shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment. Effective immediately.

LRB096 04553 RLC 14608 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 12-4 as follows:

6 (720 ILCS 5/12-4) (from Ch. 38, par. 12-4)

7 Sec. 12-4. Aggravated Battery.

8 (a) A person who, in committing a battery, intentionally or
9 knowingly causes great bodily harm, or permanent disability or
10 disfigurement commits aggravated battery.

11 (b) In committing a battery, a person commits aggravated
12 battery if he or she:

13 (1) Uses a deadly weapon other than by the discharge of
14 a firearm;

15 (2) Is hooded, robed or masked, in such manner as to
16 conceal his identity;

17 (3) Knows the individual harmed to be a teacher or
18 other person employed in any school and such teacher or
19 other employee is upon the grounds of a school or grounds
20 adjacent thereto, or is in any part of a building used for
21 school purposes;

22 (4) (Blank);

23 (5) (Blank);

1 (6) Knows the individual harmed to be a community
2 policing volunteer while such volunteer is engaged in the
3 execution of any official duties, or to prevent the
4 volunteer from performing official duties, or in
5 retaliation for the volunteer performing official duties,
6 and the battery is committed other than by the discharge of
7 a firearm;

8 (7) Knows the individual harmed to be an emergency
9 medical technician - ambulance, emergency medical
10 technician - intermediate, emergency medical technician -
11 paramedic, ambulance driver, other medical assistance,
12 first aid personnel, or hospital personnel engaged in the
13 performance of any of his or her official duties, or to
14 prevent the emergency medical technician - ambulance,
15 emergency medical technician - intermediate, emergency
16 medical technician - paramedic, ambulance driver, other
17 medical assistance, first aid personnel, or hospital
18 personnel from performing official duties, or in
19 retaliation for performing official duties;

20 (8) Is, or the person battered is, on or about a public
21 way, public property or public place of accommodation or
22 amusement;

23 (8.5) Is, or the person battered is, on a publicly or
24 privately owned sports or entertainment arena, stadium,
25 community or convention hall, special event center,
26 amusement facility, or a special event center in a public

1 park during any 24-hour period when a professional sporting
2 event, National Collegiate Athletic Association
3 (NCAA)-sanctioned sporting event, United States Olympic
4 Committee-sanctioned sporting event, or International
5 Olympic Committee-sanctioned sporting event is taking
6 place in this venue;

7 (9) Knows the individual harmed to be the driver,
8 operator, employee or passenger of any transportation
9 facility or system engaged in the business of
10 transportation of the public for hire and the individual
11 assaulted is then performing in such capacity or then using
12 such public transportation as a passenger or using any area
13 of any description designated by the transportation
14 facility or system as a vehicle boarding, departure, or
15 transfer location;

16 (10) Knows the individual harmed to be an individual of
17 60 years of age or older;

18 (11) Knows the individual harmed is pregnant;

19 (12) Knows the individual harmed to be a judge whom the
20 person intended to harm as a result of the judge's
21 performance of his or her official duties as a judge;

22 (13) (Blank);

23 (14) Knows the individual harmed to be a person who is
24 physically handicapped;

25 (15) Knowingly and without legal justification and by
26 any means causes bodily harm to a merchant who detains the

1 person for an alleged commission of retail theft under
2 Section 16A-5 of this Code. In this item (15), "merchant"
3 has the meaning ascribed to it in Section 16A-2.4 of this
4 Code;

5 (16) Is, or the person battered is, in any building or
6 other structure used to provide shelter or other services
7 to victims or to the dependent children of victims of
8 domestic violence pursuant to the Illinois Domestic
9 Violence Act of 1986 or the Domestic Violence Shelters Act,
10 or the person battered is within 500 feet of such a
11 building or other structure while going to or from such a
12 building or other structure. "Domestic violence" has the
13 meaning ascribed to it in Section 103 of the Illinois
14 Domestic Violence Act of 1986. "Building or other structure
15 used to provide shelter" has the meaning ascribed to
16 "shelter" in Section 1 of the Domestic Violence Shelters
17 Act;

18 (17) (Blank);

19 (18) Knows the individual harmed to be an officer or
20 employee of the State of Illinois, a unit of local
21 government, or school district engaged in the performance
22 of his or her authorized duties as such officer or
23 employee;

24 (19) Knows the individual harmed to be an emergency
25 management worker engaged in the performance of any of his
26 or her official duties, or to prevent the emergency

1 management worker from performing official duties, or in
2 retaliation for the emergency management worker performing
3 official duties;

4 (20) Knows the individual harmed to be a private
5 security officer engaged in the performance of any of his
6 or her official duties, or to prevent the private security
7 officer from performing official duties, or in retaliation
8 for the private security officer performing official
9 duties; or

10 (21) Knows the individual harmed to be a taxi driver
11 and the battery is committed while the taxi driver is on
12 duty; or

13 (22) Knows the individual harmed to be a utility
14 worker, while the utility worker is engaged in the
15 execution of his or her duties, or to prevent the utility
16 worker from performing his or her duties, or in retaliation
17 for the utility worker performing his or her duties. In
18 this paragraph (22), "utility worker" means a person
19 employed by a public utility as defined in Section 3-105 of
20 the Public Utilities Act and also includes an employee of a
21 municipally owned utility, an employee of a cable
22 television company, an employee of an electric cooperative
23 as defined in Section 3-119 of the Public Utilities Act, an
24 independent contractor or an employee of an independent
25 contractor working on behalf of a cable television company,
26 public utility, municipally owned utility, or an electric

1 cooperative, or an employee of a telecommunications
2 carrier as defined in Section 13-202 of the Public
3 Utilities Act, an independent contractor or an employee of
4 an independent contractor working on behalf of a
5 telecommunications carrier, or an employee of a telephone
6 or telecommunications cooperative as defined in Section
7 13-212 of the Public Utilities Act, or an independent
8 contractor or an employee of an independent contractor
9 working on behalf of a telephone or telecommunications
10 cooperative.

11 For the purpose of paragraph (14) of subsection (b) of this
12 Section, a physically handicapped person is a person who
13 suffers from a permanent and disabling physical
14 characteristic, resulting from disease, injury, functional
15 disorder or congenital condition.

16 For the purpose of paragraph (20) of subsection (b) and
17 subsection (e) of this Section, "private security officer"
18 means a registered employee of a private security contractor
19 agency under the Private Detective, Private Alarm, Private
20 Security, Fingerprint Vendor, and Locksmith Act of 2004.

21 (c) A person who administers to an individual or causes him
22 to take, without his consent or by threat or deception, and for
23 other than medical purposes, any intoxicating, poisonous,
24 stupefying, narcotic, anesthetic, or controlled substance
25 commits aggravated battery.

26 (d) A person who knowingly gives to another person any food

1 that contains any substance or object that is intended to cause
2 physical injury if eaten, commits aggravated battery.

3 (d-3) A person commits aggravated battery when he or she
4 knowingly and without lawful justification shines or flashes a
5 laser gunsight or other laser device that is attached or
6 affixed to a firearm, or used in concert with a firearm, so
7 that the laser beam strikes upon or against the person of
8 another.

9 (d-5) An inmate of a penal institution or a sexually
10 dangerous person or a sexually violent person in the custody of
11 the Department of Human Services who causes or attempts to
12 cause a correctional employee of the penal institution or an
13 employee of the Department of Human Services to come into
14 contact with blood, seminal fluid, urine, or feces, by
15 throwing, tossing, or expelling that fluid or material commits
16 aggravated battery. For purposes of this subsection (d-5),
17 "correctional employee" means a person who is employed by a
18 penal institution.

19 (e) Sentence.

20 (1) Except as otherwise provided in paragraphs (2),
21 (3), and (4) aggravated battery is a Class 3 felony.

22 (2) Aggravated battery that does not cause great bodily
23 harm or permanent disability or disfigurement is a Class 2
24 felony when the person knows the individual harmed to be a
25 peace officer, a community policing volunteer, a private
26 security officer, a correctional institution employee, an

1 employee of the Department of Human Services supervising or
2 controlling sexually dangerous persons or sexually violent
3 persons, or a fireman while such officer, volunteer,
4 employee, or fireman is engaged in the execution of any
5 official duties including arrest or attempted arrest, or to
6 prevent the officer, volunteer, employee, or fireman from
7 performing official duties, or in retaliation for the
8 officer, volunteer, employee, or fireman performing
9 official duties, and the battery is committed other than by
10 the discharge of a firearm.

11 (3) Aggravated battery that causes great bodily harm or
12 permanent disability or disfigurement in violation of
13 subsection (a) is a Class 1 felony ~~when the person knows~~
14 ~~the individual harmed to be a peace officer, a community~~
15 ~~policing volunteer, a private security officer, a~~
16 ~~correctional institution employee, an employee of the~~
17 ~~Department of Human Services supervising or controlling~~
18 ~~sexually dangerous persons or sexually violent persons, or~~
19 ~~a fireman while such officer, volunteer, employee, or~~
20 ~~fireman is engaged in the execution of any official duties~~
21 ~~including arrest or attempted arrest, or to prevent the~~
22 ~~officer, volunteer, employee, or fireman from performing~~
23 ~~official duties, or in retaliation for the officer,~~
24 ~~volunteer, employee, or fireman performing official~~
25 ~~duties, and the battery is committed other than by the~~
26 ~~discharge of a firearm.~~

1 (4) Aggravated battery under subsection (d-5) is a
2 Class 2 felony.

3 (Source: P.A. 94-243, eff. 1-1-06; 94-327, eff. 1-1-06; 94-333,
4 eff. 7-26-05; 94-363, eff. 7-29-05; 94-482, eff. 1-1-06;
5 95-236, eff. 1-1-08; 95-256, eff. 1-1-08; 95-331, eff. 8-21-07;
6 95-429, eff. 1-1-08; 95-748, eff. 1-1-09; 95-876, eff.
7 8-21-08.)

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

10 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

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

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

16 (2) The rules and regulations on early release shall
17 provide, with respect to offenses listed in clause (i),
18 (ii), or (iii) of this paragraph (2) committed on or after
19 June 19, 1998 or with respect to the offense listed in
20 clause (iv) of this paragraph (2) committed on or after
21 June 23, 2005 (the effective date of Public Act 94-71) or
22 with respect to offense listed in clause (vi) committed on
23 or after June 1, 2008 (the effective date of Public Act
24 95-625) or with respect to the offense of being an armed

1 habitual criminal committed on or after August 2, 2005 (the
2 effective date of Public Act 94-398) or with respect to the
3 offenses listed in clause (v) of this paragraph (2)
4 committed on or after August 13, 2007 (the effective date
5 of Public Act 95-134) or with respect to the offense of
6 aggravated battery under subsection (a) of Section 12-4 of
7 the Criminal Code of 1961 committed on or after the
8 effective date of this amendatory Act of the 96th General
9 Assembly, the following:

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

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

26 (iii) that a prisoner serving a sentence for home

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

11 (iv) that a prisoner serving a sentence for
12 aggravated discharge of a firearm, whether or not the
13 conduct leading to conviction for the offense resulted
14 in great bodily harm to the victim, shall receive no
15 more than 4.5 days of good conduct credit for each
16 month of his or her sentence of imprisonment;

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

1 conspiracy, criminal drug conspiracy, street gang
2 criminal drug conspiracy, participation in
3 methamphetamine manufacturing, aggravated
4 participation in methamphetamine manufacturing,
5 delivery of methamphetamine, possession with intent to
6 deliver methamphetamine, aggravated delivery of
7 methamphetamine, aggravated possession with intent to
8 deliver methamphetamine, methamphetamine conspiracy
9 when the substance containing the controlled substance
10 or methamphetamine is 100 grams or more shall receive
11 no more than 7.5 days good conduct credit for each
12 month of his or her sentence of imprisonment; ~~and~~

13 (vi) that a prisoner serving a sentence for a
14 second or subsequent offense of luring a minor shall
15 receive no more than 4.5 days of good conduct credit
16 for each month of his or her sentence of imprisonment;
17 and

18 (vii) that a prisoner serving a sentence for
19 aggravated battery under subsection (a) of Section
20 12-4 of the Criminal Code of 1961 shall receive no more
21 than 4.5 days of good conduct credit for each month of
22 his or her sentence of imprisonment.

23 (2.1) For all offenses, other than those enumerated in
24 subdivision (a)(2)(i), (ii), or (iii) committed on or after
25 June 19, 1998 or subdivision (a)(2)(iv) committed on or
26 after June 23, 2005 (the effective date of Public Act

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

21 (2.2) A prisoner serving a term of natural life
22 imprisonment or a prisoner who has been sentenced to death
23 shall receive no good conduct credit.

24 (2.3) The rules and regulations on early release shall
25 provide that a prisoner who is serving a sentence for
26 reckless homicide as defined in subsection (e) of Section

1 9-3 of the Criminal Code of 1961 committed on or after
2 January 1, 1999, or aggravated driving under the influence
3 of alcohol, other drug or drugs, or intoxicating compound
4 or compounds, or any combination thereof as defined in
5 subparagraph (F) of paragraph (1) of subsection (d) of
6 Section 11-501 of the Illinois Vehicle Code, shall receive
7 no more than 4.5 days of good conduct credit for each month
8 of his or her sentence of imprisonment.

9 (2.4) The rules and regulations on early release shall
10 provide with respect to the offenses of aggravated battery
11 with a machine gun or a firearm equipped with any device or
12 attachment designed or used for silencing the report of a
13 firearm or aggravated discharge of a machine gun or a
14 firearm equipped with any device or attachment designed or
15 used for silencing the report of a firearm, committed on or
16 after July 15, 1999 (the effective date of Public Act
17 91-121), that a prisoner serving a sentence for any of
18 these offenses shall receive no more than 4.5 days of good
19 conduct credit for each month of his or her sentence of
20 imprisonment.

21 (2.5) The rules and regulations on early release shall
22 provide that a prisoner who is serving a sentence for
23 aggravated arson committed on or after July 27, 2001 (the
24 effective date of Public Act 92-176) shall receive no more
25 than 4.5 days of good conduct credit for each month of his
26 or her sentence of imprisonment.

1 (3) The rules and regulations shall also provide that
2 the Director may award up to 180 days additional good
3 conduct credit for meritorious service in specific
4 instances as the Director deems proper; except that no more
5 than 90 days of good conduct credit for meritorious service
6 shall be awarded to any prisoner who is serving a sentence
7 for conviction of first degree murder, reckless homicide
8 while under the influence of alcohol or any other drug, or
9 aggravated driving under the influence of alcohol, other
10 drug or drugs, or intoxicating compound or compounds, or
11 any combination thereof as defined in subparagraph (F) of
12 paragraph (1) of subsection (d) of Section 11-501 of the
13 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
14 predatory criminal sexual assault of a child, aggravated
15 criminal sexual assault, criminal sexual assault, deviate
16 sexual assault, aggravated criminal sexual abuse,
17 aggravated indecent liberties with a child, indecent
18 liberties with a child, child pornography, heinous
19 battery, aggravated battery of a spouse, aggravated
20 battery of a spouse with a firearm, stalking, aggravated
21 stalking, aggravated battery of a child, endangering the
22 life or health of a child, or cruelty to a child.
23 Notwithstanding the foregoing, good conduct credit for
24 meritorious service shall not be awarded on a sentence of
25 imprisonment imposed for conviction of: (i) one of the
26 offenses enumerated in subdivision (a)(2)(i), (ii), or

1 (iii) when the offense is committed on or after June 19,
2 1998 or subdivision (a)(2)(iv) when the offense is
3 committed on or after June 23, 2005 (the effective date of
4 Public Act 94-71) or subdivision (a)(2)(v) when the offense
5 is committed on or after August 13, 2007 (the effective
6 date of Public Act 95-134) or subdivision (a)(2)(vi) when
7 the offense is committed on or after June 1, 2008 (the
8 effective date of Public Act 95-625) or subdivision
9 (a)(2)(vii) when the offense is committed on or after the
10 effective date of this amendatory Act of the 96th General
11 Assembly, (ii) reckless homicide as defined in subsection
12 (e) of Section 9-3 of the Criminal Code of 1961 when the
13 offense is committed on or after January 1, 1999, or
14 aggravated driving under the influence of alcohol, other
15 drug or drugs, or intoxicating compound or compounds, or
16 any combination thereof as defined in subparagraph (F) of
17 paragraph (1) of subsection (d) of Section 11-501 of the
18 Illinois Vehicle Code, (iii) one of the offenses enumerated
19 in subdivision (a)(2.4) when the offense is committed on or
20 after July 15, 1999 (the effective date of Public Act
21 91-121), or (iv) aggravated arson when the offense is
22 committed on or after July 27, 2001 (the effective date of
23 Public Act 92-176).

24 (4) The rules and regulations shall also provide that
25 the good conduct credit accumulated and retained under
26 paragraph (2.1) of subsection (a) of this Section by any

1 inmate during specific periods of time in which such inmate
2 is engaged full-time in substance abuse programs,
3 correctional industry assignments, or educational programs
4 provided by the Department under this paragraph (4) and
5 satisfactorily completes the assigned program as
6 determined by the standards of the Department, shall be
7 multiplied by a factor of 1.25 for program participation
8 before August 11, 1993 and 1.50 for program participation
9 on or after that date. However, no inmate shall be eligible
10 for the additional good conduct credit under this paragraph
11 (4) or (4.1) of this subsection (a) while assigned to a
12 boot camp or electronic detention, or if convicted of an
13 offense enumerated in subdivision (a)(2)(i), (ii), or
14 (iii) of this Section that is committed on or after June
15 19, 1998 or subdivision (a)(2)(iv) of this Section that is
16 committed on or after June 23, 2005 (the effective date of
17 Public Act 94-71) or subdivision (a)(2)(v) of this Section
18 that is committed on or after August 13, 2007 (the
19 effective date of Public Act 95-134) or subdivision
20 (a)(2)(vi) when the offense is committed on or after June
21 1, 2008 (the effective date of Public Act 95-625) or
22 subdivision (a)(2)(vii) of this Section that is committed
23 on or after the effective date of this amendatory Act of
24 the 96th General Assembly, or if convicted of reckless
25 homicide as defined in subsection (e) of Section 9-3 of the
26 Criminal Code of 1961 if the offense is committed on or

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

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

1 the Governor and the General Assembly by September 30th of
2 each year. The reports shall include data relating to the
3 recidivism rate among program participants.

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

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

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

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

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

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

20 (5) Whenever the Department is to release any inmate
21 earlier than it otherwise would because of a grant of good
22 conduct credit for meritorious service given at any time
23 during the term, the Department shall give reasonable
24 advance notice of the impending release to the State's
25 Attorney of the county where the prosecution of the inmate
26 took place.

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

5 (c) The Department shall prescribe rules and regulations
6 for revoking good conduct credit, or suspending or reducing the
7 rate of accumulation of good conduct credit for specific rule
8 violations, during imprisonment. These rules and regulations
9 shall provide that no inmate may be penalized more than one
10 year of good conduct credit for any one infraction.

11 When the Department seeks to revoke, suspend or reduce the
12 rate of accumulation of any good conduct credits for an alleged
13 infraction of its rules, it shall bring charges therefor
14 against the prisoner sought to be so deprived of good conduct
15 credits before the Prisoner Review Board as provided in
16 subparagraph (a) (4) of Section 3-3-2 of this Code, if the
17 amount of credit at issue exceeds 30 days or when during any 12
18 month period, the cumulative amount of credit revoked exceeds
19 30 days except where the infraction is committed or discovered
20 within 60 days of scheduled release. In those cases, the
21 Department of Corrections may revoke up to 30 days of good
22 conduct credit. The Board may subsequently approve the
23 revocation of additional good conduct credit, if the Department
24 seeks to revoke good conduct credit in excess of 30 days.
25 However, the Board shall not be empowered to review the
26 Department's decision with respect to the loss of 30 days of

1 good conduct credit within any calendar year for any prisoner
2 or to increase any penalty beyond the length requested by the
3 Department.

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

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

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

1 credit at the time of the finding, then the Prisoner Review
2 Board may revoke all good conduct credit accumulated by the
3 prisoner.

4 For purposes of this subsection (d):

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

9 (A) it lacks an arguable basis either in law or in
10 fact;

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

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

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

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

1 information or belief.

2 (2) "Lawsuit" means a motion pursuant to Section 116-3
3 of the Code of Criminal Procedure of 1963, a habeas corpus
4 action under Article X of the Code of Civil Procedure or
5 under federal law (28 U.S.C. 2254), a petition for claim
6 under the Court of Claims Act, an action under the federal
7 Civil Rights Act (42 U.S.C. 1983), or a second or
8 subsequent petition for post-conviction relief under
9 Article 122 of the Code of Criminal Procedure of 1963
10 whether filed with or without leave of court or a second or
11 subsequent petition for relief from judgment under Section
12 2-1401 of the Code of Civil Procedure.

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

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

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

1 eff. 8-21-08.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.