



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0611

Introduced 1/28/2005, by Rep. Constance A. Howard

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-3

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

730 ILCS 5/3-6-8 new

Amends the Unified Code of Corrections. Provides that the rules and regulations for the early release of a prisoner on account of good conduct shall also provide that an additional 60 days of good conduct credit shall be awarded to any prisoner who earns a high school diploma or passes the high school level Test of General Educational Development (GED) and receives a GED certificate while the prisoner is incarcerated. Provides that the Department of Corrections shall develop and establish a program designed to increase the number of committed persons enrolled in programs to obtain a high school diploma or to pass the high school level Test of General Educational Development (GED) and receive GED certificates by at least 100% over the 4-year period following the effective date of this amendatory Act. Provides that pursuant to the program, each institution and facility shall report annually to the Director of Corrections on the number of committed persons enrolled in high school education programs and those who pass the high school level Test of General Educational Development (GED) and receive GED certificates, and the number of committed persons who are on waiting lists for those educational programs. Effective immediately.

LRB094 06192 RLC 36261 b

FISCAL 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 Unified Code of Corrections is amended by  
5 changing Section 3-6-3 and by adding Section 3-6-8 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,  
25 aggravated battery with a firearm, heinous battery,  
26 aggravated battery of a senior citizen, or aggravated  
27 battery of a child shall receive no more than 4.5 days  
28 of good conduct credit for each month of his or her  
29 sentence of imprisonment; and

30 (iii) that a prisoner serving a sentence for home  
31 invasion, armed robbery, aggravated vehicular  
32 hijacking, aggravated discharge of a firearm, or armed

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

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

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

28 (2.3) The rules and regulations on early release shall  
29 provide that a prisoner who is serving a sentence for  
30 reckless homicide as defined in subsection (e) of Section  
31 9-3 of the Criminal Code of 1961 committed on or after  
32 January 1, 1999, or aggravated driving under the influence  
33 of alcohol, other drug or drugs, or intoxicating compound  
34 or compounds, or any combination thereof as defined in  
35 subparagraph (F) of paragraph (1) of subsection (d) of  
36 Section 11-501 of the Illinois Vehicle Code, shall receive

1 no more than 4.5 days of good conduct credit for each month  
2 of his or her sentence of imprisonment.

3 (2.4) The rules and regulations on early release shall  
4 provide with respect to the offenses of aggravated battery  
5 with a machine gun or a firearm equipped with any device or  
6 attachment designed or used for silencing the report of a  
7 firearm or aggravated discharge of a machine gun or a  
8 firearm equipped with any device or attachment designed or  
9 used for silencing the report of a firearm, committed on or  
10 after July 15, 1999 (the effective date of Public Act  
11 91-121) ~~this amendatory Act of 1999~~, that a prisoner  
12 serving a sentence for any of these offenses shall receive  
13 no more than 4.5 days of good conduct credit for each month  
14 of his or her sentence of imprisonment.

15 (2.5) The rules and regulations on early release shall  
16 provide that a prisoner who is serving a sentence for  
17 aggravated arson committed on or after July 27, 2001 (the  
18 effective date of Public Act 92-176) ~~this amendatory Act of~~  
19 ~~the 92nd 93rd General Assembly~~ shall receive no more than  
20 4.5 days of good conduct credit for each month of his or  
21 her sentence of imprisonment.

22 (3) The rules and regulations shall also provide that  
23 the Director may award up to 180 days additional good  
24 conduct credit for meritorious service in specific  
25 instances as the Director deems proper; except that no more  
26 than 90 days of good conduct credit for meritorious service  
27 shall be awarded to any prisoner who is serving a sentence  
28 for conviction of first degree murder, reckless homicide  
29 while under the influence of alcohol or any other drug, or  
30 aggravated driving under the influence of alcohol, other  
31 drug or drugs, or intoxicating compound or compounds, or  
32 any combination thereof as defined in subparagraph (F) of  
33 paragraph (1) of subsection (d) of Section 11-501 of the  
34 Illinois Vehicle Code, aggravated kidnapping, kidnapping,  
35 predatory criminal sexual assault of a child, aggravated  
36 criminal sexual assault, criminal sexual assault, deviate

1 sexual assault, aggravated criminal sexual abuse,  
2 aggravated indecent liberties with a child, indecent  
3 liberties with a child, child pornography, heinous  
4 battery, aggravated battery of a spouse, aggravated  
5 battery of a spouse with a firearm, stalking, aggravated  
6 stalking, aggravated battery of a child, endangering the  
7 life or health of a child, cruelty to a child, or narcotic  
8 racketeering. Notwithstanding the foregoing, good conduct  
9 credit for meritorious service shall not be awarded on a  
10 sentence of imprisonment imposed for conviction of: (i) one  
11 of the offenses enumerated in subdivision (a)(2) when the  
12 offense is committed on or after June 19, 1998, (ii)  
13 reckless homicide as defined in subsection (e) of Section  
14 9-3 of the Criminal Code of 1961 when the offense is  
15 committed on or after January 1, 1999, or aggravated  
16 driving under the influence of alcohol, other drug or  
17 drugs, or intoxicating compound or compounds, or any  
18 combination thereof as defined in subparagraph (F) of  
19 paragraph (1) of subsection (d) of Section 11-501 of the  
20 Illinois Vehicle Code, (iii) one of the offenses enumerated  
21 in subdivision (a)(2.4) when the offense is committed on or  
22 after July 15, 1999 (the effective date of Public Act  
23 91-121) ~~this amendatory Act of 1999~~, or (iv) aggravated  
24 arson when the offense is committed on or after July 27,  
25 2001 (the effective date of Public Act 92-176) ~~this~~  
26 ~~amendatory Act of the 92nd 93rd General Assembly.~~

27 (4) The rules and regulations shall also provide that  
28 the good conduct credit accumulated and retained under  
29 paragraph (2.1) of subsection (a) of this Section by any  
30 inmate during specific periods of time in which such inmate  
31 is engaged full-time in substance abuse programs,  
32 correctional industry assignments, or educational programs  
33 provided by the Department under this paragraph (4) and  
34 satisfactorily completes the assigned program as  
35 determined by the standards of the Department, shall be  
36 multiplied by a factor of 1.25 for program participation

1 before August 11, 1993 and 1.50 for program participation  
2 on or after that date. However, no inmate shall be eligible  
3 for the additional good conduct credit under this paragraph  
4 (4) while assigned to a boot camp, mental health unit, or  
5 electronic detention, or if convicted of an offense  
6 enumerated in paragraph (a)(2) of this Section that is  
7 committed on or after June 19, 1998, or if convicted of  
8 reckless homicide as defined in subsection (e) of Section  
9 9-3 of the Criminal Code of 1961 if the offense is  
10 committed on or after January 1, 1999, or aggravated  
11 driving under the influence of alcohol, other drug or  
12 drugs, or intoxicating compound or compounds, or any  
13 combination thereof as defined in subparagraph (F) of  
14 paragraph (1) of subsection (d) of Section 11-501 of the  
15 Illinois Vehicle Code, or if convicted of an offense  
16 enumerated in paragraph (a)(2.4) of this Section that is  
17 committed on or after July 15, 1999 (the effective date of  
18 Public Act 91-121) ~~this amendatory Act of 1999~~, or first  
19 degree murder, a Class X felony, criminal sexual assault,  
20 felony criminal sexual abuse, aggravated criminal sexual  
21 abuse, aggravated battery with a firearm, or any  
22 predecessor or successor offenses with the same or  
23 substantially the same elements, or any inchoate offenses  
24 relating to the foregoing offenses. No inmate shall be  
25 eligible for the additional good conduct credit under this  
26 paragraph (4) who (i) has previously received increased  
27 good conduct credit under this paragraph (4) and has  
28 subsequently been convicted of a felony, or (ii) has  
29 previously served more than one prior sentence of  
30 imprisonment for a felony in an adult correctional  
31 facility.

32 Educational, vocational, substance abuse and  
33 correctional industry programs under which good conduct  
34 credit may be increased under this paragraph (4) shall be  
35 evaluated by the Department on the basis of documented  
36 standards. The Department shall report the results of these

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

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

17 (4.1) The rules and regulations shall also provide that  
18 an additional 60 days of good conduct credit shall be  
19 awarded to any prisoner who earns a high school diploma or  
20 passes the high school level Test of General Educational  
21 Development (GED) and receives a GED certificate while the  
22 prisoner is incarcerated. The good conduct credit awarded  
23 under this paragraph (4.1) shall be in addition to, and  
24 shall not affect, the award of good conduct under any other  
25 paragraph of this Section.

26 (4.5) The rules and regulations on early release shall  
27 also provide that a prisoner who is serving a sentence for  
28 a crime committed as a result of the use of, abuse of, or  
29 addiction to alcohol or a controlled substance and the  
30 crime was committed on or after September 1, 2003 (the  
31 effective date of Public Act 93-354) ~~this Amendatory Act of~~  
32 ~~the 93rd General Assembly~~ shall receive no good conduct  
33 credit until he or she participates in and completes a  
34 substance abuse treatment program. Good conduct credit  
35 awarded under clauses (2), (3), and (4) of this subsection  
36 (a) for crimes committed on or after September 1, 2003 ~~the~~

1 ~~effective date of this amendatory Act of the 93rd General~~  
2 ~~Assembly~~ is subject to the provisions of this clause (4.5).

3 If the prisoner completes a substance abuse treatment  
4 program, the Department may award good conduct credit for  
5 the time spent in treatment. Availability of substance  
6 abuse treatment shall be subject to the limits of fiscal  
7 resources appropriated by the General Assembly for these  
8 purposes. If treatment is not available, the prisoner shall  
9 be placed on a waiting list under criteria established by  
10 the Department. The Department may require a prisoner  
11 placed on a waiting list to attend a substance abuse  
12 education class or attend substance abuse self-help  
13 meetings. A prisoner may not lose good conduct credit as a  
14 result of being placed on a waiting list. A prisoner placed  
15 on a waiting list remains eligible for increased good  
16 conduct credit for participation in an educational,  
17 vocational, or correctional industry program under clause  
18 (4) of subsection (a) of this Section.

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

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

30 (c) The Department shall prescribe rules and regulations  
31 for revoking good conduct credit, or suspending or reducing the  
32 rate of accumulation of good conduct credit for specific rule  
33 violations, during imprisonment. These rules and regulations  
34 shall provide that no inmate may be penalized more than one  
35 year of good conduct credit for any one infraction.

36 When the Department seeks to revoke, suspend or reduce the



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

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

26 Nothing contained in this Section shall prohibit the  
27 Prisoner Review Board from ordering, pursuant to Section  
28 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the  
29 sentence imposed by the court that was not served due to the  
30 accumulation of good conduct credit.

31 (d) If a lawsuit is filed by a prisoner in an Illinois or  
32 federal court against the State, the Department of Corrections,  
33 or the Prisoner Review Board, or against any of their officers  
34 or employees, and the court makes a specific finding that a  
35 pleading, motion, or other paper filed by the prisoner is  
36 frivolous, the Department of Corrections shall conduct a

1 hearing to revoke up to 180 days of good conduct credit by  
2 bringing charges against the prisoner sought to be deprived of  
3 the good conduct credits before the Prisoner Review Board as  
4 provided in subparagraph (a) (8) of Section 3-3-2 of this Code.  
5 If the prisoner has not accumulated 180 days of good conduct  
6 credit at the time of the finding, then the Prisoner Review  
7 Board may revoke all good conduct credit accumulated by the  
8 prisoner.

9 For purposes of this subsection (d):

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

14 (A) it lacks an arguable basis either in law or in  
15 fact;

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

19 (C) the claims, defenses, and other legal  
20 contentions therein are not warranted by existing law  
21 or by a nonfrivolous argument for the extension,  
22 modification, or reversal of existing law or the  
23 establishment of new law;

24 (D) the allegations and other factual contentions  
25 do not have evidentiary support or, if specifically so  
26 identified, are not likely to have evidentiary support  
27 after a reasonable opportunity for further  
28 investigation or discovery; or

29 (E) the denials of factual contentions are not  
30 warranted on the evidence, or if specifically so  
31 identified, are not reasonably based on a lack of  
32 information or belief.

33 (2) "Lawsuit" means a petition for post-conviction  
34 relief under Article 122 of the Code of Criminal Procedure  
35 of 1963, a motion pursuant to Section 116-3 of the Code of  
36 Criminal Procedure of 1963, a habeas corpus action under

1 Article X of the Code of Civil Procedure or under federal  
2 law (28 U.S.C. 2254), a petition for claim under the Court  
3 of Claims Act or an action under the federal Civil Rights  
4 Act (42 U.S.C. 1983).

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

7 (Source: P.A. 92-176, eff. 7-27-01; 92-854, eff. 12-5-02;  
8 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; revised 10-15-03.)

9 (730 ILCS 5/3-6-8 new)

10 Sec. 3-6-8. High school educational programs. The  
11 Department of Corrections shall develop and establish a program  
12 designed to increase the number of committed persons enrolled  
13 in programs to obtain a high school diploma or to pass the high  
14 school level Test of General Educational Development (GED) and  
15 receive GED certificates by at least 100% over the 4-year  
16 period following the effective date of this amendatory Act of  
17 the 94th General Assembly. Pursuant to the program, each  
18 institution and facility shall report annually to the Director  
19 of Corrections on the number of committed persons enrolled in  
20 high school education programs and those who pass the high  
21 school level Test of General Educational Development (GED) and  
22 receive GED certificates, and the number of committed persons  
23 who are on waiting lists for those educational programs.

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.