



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB4398

Introduced 01/05/06, by Rep. Ronald A. Wait

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-3

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

Amends the Unified Code of Corrections. Eliminates good conduct credit for the offense of aggravated battery when the victim of the aggravated battery is an employee of a police or sheriff's department engaged in the performance of his or her official duties committed on or after the effective date of the amendatory Act.

LRB094 16039 RLC 51274 b

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 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 listed in clause (i),
14 (ii), or (iii) of this paragraph (2) committed on or after
15 June 19, 1998 or with respect to the offense listed in
16 clause (iv) of this paragraph (2) committed on or after
17 June 23, 2005 (the effective date of Public Act 94-71) ~~this~~
18 ~~amendatory Act of the 94th General Assembly~~ or with respect
19 to the offense of being an armed habitual criminal
20 committed on or after August 2, 2005 (the effective date of
21 Public Act 94-398) or with respect to the offense of
22 aggravated battery when the victim of the aggravated
23 battery is an employee of a police or sheriff's department
24 engaged in the performance of his or her official duties
25 committed on or after the effective date of this amendatory
26 Act of the 94th General Assembly ~~this amendatory Act of the~~
27 ~~94th General Assembly~~, the following:

28 (i) that a prisoner who is serving a term of
29 imprisonment for first degree murder or for the offense
30 of terrorism or for the offense of aggravated battery
31 when the victim of the aggravated battery is an
32 employee of a police or sheriff's department engaged in

1 the performance of his or her official duties shall
2 receive no good conduct credit and shall serve the
3 entire sentence imposed by the court;

4 (ii) that a prisoner serving a sentence for attempt
5 to commit first degree murder, solicitation of murder,
6 solicitation of murder for hire, intentional homicide
7 of an unborn child, predatory criminal sexual assault
8 of a child, aggravated criminal sexual assault,
9 criminal sexual assault, aggravated kidnapping,
10 aggravated battery with a firearm, heinous battery,
11 being an armed habitual criminal, aggravated battery
12 of a senior citizen, or aggravated battery of a child
13 shall receive no more than 4.5 days of good conduct
14 credit for each month of his or her sentence of
15 imprisonment;

16 (iii) that a prisoner serving a sentence for home
17 invasion, armed robbery, aggravated vehicular
18 hijacking, aggravated discharge of a firearm, or armed
19 violence with a category I weapon or category II
20 weapon, when the court has made and entered a finding,
21 pursuant to subsection (c-1) of Section 5-4-1 of this
22 Code, that the conduct leading to conviction for the
23 enumerated offense resulted in great bodily harm to a
24 victim, shall receive no more than 4.5 days of good
25 conduct credit for each month of his or her sentence of
26 imprisonment; and

27 (iv) that a prisoner serving a sentence for
28 aggravated discharge of a firearm, whether or not the
29 conduct leading to conviction for the offense resulted
30 in great bodily harm to the victim, shall receive no
31 more than 4.5 days of good conduct credit for each
32 month of his or her sentence of imprisonment.

33 (2.1) For all offenses, other than those enumerated in
34 subdivision (a)(2)(i), (ii), or (iii) committed on or after
35 June 19, 1998 or subdivision (a)(2)(iv) committed on or
36 after June 23, 2005 (the effective date of Public Act

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

16 (2.2) A prisoner serving a term of natural life
17 imprisonment or a prisoner who has been sentenced to death
18 shall receive no good conduct credit.

19 (2.3) The rules and regulations on early release shall
20 provide that a prisoner who is serving a sentence for
21 reckless homicide as defined in subsection (e) of Section
22 9-3 of the Criminal Code of 1961 committed on or after
23 January 1, 1999, or aggravated driving under the influence
24 of alcohol, other drug or drugs, or intoxicating compound
25 or compounds, or any combination thereof as defined in
26 subparagraph (F) of paragraph (1) of subsection (d) of
27 Section 11-501 of the Illinois Vehicle Code, shall receive
28 no more than 4.5 days of good conduct credit for each month
29 of his or her sentence of imprisonment.

30 (2.4) The rules and regulations on early release shall
31 provide with respect to the offenses of aggravated battery
32 with a machine gun or a firearm equipped with any device or
33 attachment designed or used for silencing the report of a
34 firearm or aggravated discharge of a machine gun or a
35 firearm equipped with any device or attachment designed or
36 used for silencing the report of a firearm, committed on or

1 after July 15, 1999 (the effective date of Public Act
2 91-121), that a prisoner serving a sentence for any of
3 these offenses shall receive no more than 4.5 days of good
4 conduct credit for each month of his or her sentence of
5 imprisonment.

6 (2.5) The rules and regulations on early release shall
7 provide that a prisoner who is serving a sentence for
8 aggravated arson committed on or after July 27, 2001 (the
9 effective date of Public Act 92-176) shall receive no more
10 than 4.5 days of good conduct credit for each month of his
11 or her sentence of imprisonment.

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

1 of the offenses enumerated in subdivision (a)(2)(i), (ii),
2 or (iii) when the offense is committed on or after June 19,
3 1998 or subdivision (a)(2)(iv) when the offense is
4 committed on or after June 23, 2005 (the effective date of
5 Public Act 94-71) ~~this amendatory Act of the 94th General~~
6 ~~Assembly~~, (ii) reckless homicide as defined in subsection
7 (e) of Section 9-3 of the Criminal Code of 1961 when the
8 offense is committed on or after January 1, 1999, 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, (iii) one of the offenses enumerated
14 in subdivision (a)(2.4) when the offense is committed on or
15 after July 15, 1999 (the effective date of Public Act
16 91-121), ~~or~~ (iv) aggravated arson when the offense is
17 committed on or after July 27, 2001 (the effective date of
18 Public Act 92-176), or (v) aggravated battery when the
19 victim of the aggravated battery is an employee of a police
20 or sheriff's department engaged in the performance of his
21 or her official duties when the offense is committed on or
22 after the effective date of this amendatory Act of the 94th
23 General Assembly.

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
27 inmate during specific periods of time in which such inmate
28 is engaged full-time in substance abuse programs,
29 correctional industry assignments, or educational programs
30 provided by the Department under this paragraph (4) and
31 satisfactorily completes the assigned program as
32 determined by the standards of the Department, shall be
33 multiplied by a factor of 1.25 for program participation
34 before August 11, 1993 and 1.50 for program participation
35 on or after that date. However, no inmate shall be eligible
36 for the additional good conduct credit under this paragraph

1 (4) or (4.1) of this subsection (a) while assigned to a
2 boot camp~~7~~ or electronic detention, or if convicted of an
3 offense enumerated in subdivision (a)(2)(i), (ii), or
4 (iii) of this Section that is committed on or after June
5 19, 1998 or subdivision (a)(2)(iv) of this Section that is
6 committed on or after June 23, 2005 (the effective date of
7 Public Act 94-71) ~~this amendatory Act of the 94th General~~
8 ~~Assembly~~, or if convicted of reckless homicide as defined
9 in subsection (e) of Section 9-3 of the Criminal Code of
10 1961 if the offense is committed on or after January 1,
11 1999, or aggravated driving under the influence of alcohol,
12 other drug or drugs, or intoxicating compound or compounds,
13 or any combination thereof as defined in subparagraph (F)
14 of 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), or first degree murder, a Class X
19 felony, criminal sexual assault, felony criminal sexual
20 abuse, aggravated criminal sexual abuse, aggravated
21 battery with a firearm, aggravated battery when the victim
22 of the aggravated battery is an employee of a police or
23 sheriff's department engaged in the performance of his or
24 her official duties if the offense is committed on or after
25 the effective date of this amendatory Act of the 94th
26 General Assembly, or any predecessor or successor offenses
27 with the same or substantially the same elements, or any
28 inchoate offenses relating to the foregoing offenses. No
29 inmate shall be eligible for the additional good conduct
30 credit under this paragraph (4) who (i) has previously
31 received increased good conduct credit under this
32 paragraph (4) and has subsequently been convicted of a
33 felony, or (ii) has previously served more than one prior
34 sentence of imprisonment for a felony in an adult
35 correctional facility.

36 Educational, vocational, substance abuse and

1 correctional industry programs under which good conduct
2 credit may be increased under this paragraph (4) and
3 paragraph (4.1) of this subsection (a) shall be evaluated
4 by the Department on the basis of documented standards. The
5 Department shall report the results of these evaluations to
6 the Governor and the General Assembly by September 30th of
7 each year. The reports shall include data relating to the
8 recidivism rate among program participants.

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

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

32 (4.5) The rules and regulations on early release shall
33 also provide that when the court's sentencing order
34 recommends a prisoner for substance abuse treatment and the
35 crime was committed on or after September 1, 2003 (the
36 effective date of Public Act 93-354), the prisoner shall

1 receive no good conduct credit awarded under clause (3) of
2 this subsection (a) unless he or she participates in and
3 completes a substance abuse treatment program. The
4 Director may waive the requirement to participate in or
5 complete a substance abuse treatment program and award the
6 good conduct credit in specific instances if the prisoner
7 is not a good candidate for a substance abuse treatment
8 program for medical, programming, or operational reasons.
9 Availability of substance abuse treatment shall be subject
10 to the limits of fiscal resources appropriated by the
11 General Assembly for these purposes. If treatment is not
12 available and the requirement to participate and complete
13 the treatment has not been waived by the Director, the
14 prisoner shall be placed on a waiting list under criteria
15 established by the Department. The Director may allow a
16 prisoner placed on a waiting list to participate in and
17 complete a substance abuse education class or attend
18 substance abuse self-help meetings in lieu of a substance
19 abuse treatment program. A prisoner on a waiting list who
20 is not placed in a substance abuse program prior to release
21 may be eligible for a waiver and receive good conduct
22 credit under clause (3) of this subsection (a) at the
23 discretion of the Director.

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

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

35 (c) The Department shall prescribe rules and regulations
36 for revoking good conduct credit, or suspending or reducing the

1 rate of accumulation of good conduct credit for specific rule
2 violations, during imprisonment. These rules and regulations
3 shall provide that no inmate may be penalized more than one
4 year of good conduct credit for any one infraction.

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

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

31 Nothing contained in this Section shall prohibit the
32 Prisoner Review Board from ordering, pursuant to Section
33 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
34 sentence imposed by the court that was not served due to the
35 accumulation of good conduct credit.

36 (d) If a lawsuit is filed by a prisoner in an Illinois or

1 federal court against the State, the Department of Corrections,
2 or the Prisoner Review Board, or against any of their officers
3 or employees, and the court makes a specific finding that a
4 pleading, motion, or other paper filed by the prisoner is
5 frivolous, the Department of Corrections shall conduct a
6 hearing to revoke up to 180 days of good conduct credit by
7 bringing charges against the prisoner sought to be deprived of
8 the good conduct credits before the Prisoner Review Board as
9 provided in subparagraph (a)(8) of Section 3-3-2 of this Code.
10 If the prisoner has not accumulated 180 days of good conduct
11 credit at the time of the finding, then the Prisoner Review
12 Board may revoke all good conduct credit accumulated by the
13 prisoner.

14 For purposes of this subsection (d):

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

19 (A) it lacks an arguable basis either in law or in
20 fact;

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

24 (C) the claims, defenses, and other legal
25 contentions therein are not warranted by existing law
26 or by a nonfrivolous argument for the extension,
27 modification, or reversal of existing law or the
28 establishment of new law;

29 (D) the allegations and other factual contentions
30 do not have evidentiary support or, if specifically so
31 identified, are not likely to have evidentiary support
32 after a reasonable opportunity for further
33 investigation or discovery; or

34 (E) the denials of factual contentions are not
35 warranted on the evidence, or if specifically so
36 identified, are not reasonably based on a lack of

1 information or belief.

2 (2) "Lawsuit" means a petition for post-conviction
3 relief under Article 122 of the Code of Criminal Procedure
4 of 1963, a motion pursuant to Section 116-3 of the Code of
5 Criminal Procedure of 1963, a habeas corpus action under
6 Article X of the Code of Civil Procedure or under federal
7 law (28 U.S.C. 2254), a petition for claim under the Court
8 of Claims Act or an action under the federal Civil Rights
9 Act (42 U.S.C. 1983).

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

12 (Source: P.A. 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; 94-71,
13 eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398,
14 eff. 8-2-05; 94-491, eff. 8-8-05; revised 8-19-05.)