

**SB1627**



**95TH GENERAL ASSEMBLY**

**State of Illinois**

**2007 and 2008**

**SB1627**

Introduced 2/9/2007, by Sen. William R. Haine

**SYNOPSIS AS INTRODUCED:**

730 ILCS 5/3-6-3

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

Amends the Unified Code of Corrections. Includes in the definition of "lawsuit" for the purpose of the Department of Corrections making a determination as to whether to revoke good conduct credit of a prisoner who files a frivolous lawsuit, a second or subsequent petition for post-conviction relief under the Code of Criminal Procedure of 1963 whether filed with or without leave of court or a second or subsequent petition for relief from judgment under the Code of Civil Procedure.

LRB095 11136 RLC 31474 b

**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 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) or  
18 with respect to the offense of being an armed habitual  
19 criminal committed on or after August 2, 2005 (the  
20 effective date of Public Act 94-398), the following:

21 (i) that a prisoner who is serving a term of  
22 imprisonment for first degree murder or for the offense  
23 of terrorism shall receive no good conduct credit and

1 shall serve the entire sentence imposed by the court;

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

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

25 (iv) that a prisoner serving a sentence for  
26 aggravated discharge of a firearm, whether or not the

1           conduct leading to conviction for the offense resulted  
2           in great bodily harm to the victim, shall receive no  
3           more than 4.5 days of good conduct credit for each  
4           month of his or her sentence of imprisonment.

5           (2.1) For all offenses, other than those enumerated in  
6           subdivision (a)(2)(i), (ii), or (iii) committed on or after  
7           June 19, 1998 or subdivision (a)(2)(iv) committed on or  
8           after June 23, 2005 (the effective date of Public Act  
9           94-71), and other than the offense of reckless homicide as  
10          defined in subsection (e) of Section 9-3 of the Criminal  
11          Code of 1961 committed on or after January 1, 1999, or  
12          aggravated driving under the influence of alcohol, other  
13          drug or drugs, or intoxicating compound or compounds, or  
14          any combination thereof as defined in subparagraph (F) of  
15          paragraph (1) of subsection (d) of Section 11-501 of the  
16          Illinois Vehicle Code, the rules and regulations shall  
17          provide that a prisoner who is serving a term of  
18          imprisonment shall receive one day of good conduct credit  
19          for each day of his or her sentence of imprisonment or  
20          recommitment under Section 3-3-9. Each day of good conduct  
21          credit shall reduce by one day the prisoner's period of  
22          imprisonment or recommitment under Section 3-3-9.

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

26          (2.3) The rules and regulations on early release shall

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

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

23 (2.5) The rules and regulations on early release shall  
24 provide that a prisoner who is serving a sentence for  
25 aggravated arson committed on or after July 27, 2001 (the  
26 effective date of Public Act 92-176) shall receive no more

1 than 4.5 days of good conduct credit for each month of his  
2 or her sentence of imprisonment.

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

1 sentence of imprisonment imposed for conviction of: (i) one  
2 of the offenses enumerated in subdivision (a)(2)(i), (ii),  
3 or (iii) when the offense is committed on or after June 19,  
4 1998 or subdivision (a)(2)(iv) when the offense is  
5 committed on or after June 23, 2005 (the effective date of  
6 Public Act 94-71), (ii) reckless homicide as defined in  
7 subsection (e) of Section 9-3 of the Criminal Code of 1961  
8 when the offense is committed on or after January 1, 1999,  
9 or 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).

19 (4) The rules and regulations shall also provide that  
20 the good conduct credit accumulated and retained under  
21 paragraph (2.1) of subsection (a) of this Section by any  
22 inmate during specific periods of time in which such inmate  
23 is engaged full-time in substance abuse programs,  
24 correctional industry assignments, or educational programs  
25 provided by the Department under this paragraph (4) and  
26 satisfactorily completes the assigned program as

1 determined by the standards of the Department, shall be  
2 multiplied by a factor of 1.25 for program participation  
3 before August 11, 1993 and 1.50 for program participation  
4 on or after that date. However, no inmate shall be eligible  
5 for the additional good conduct credit under this paragraph  
6 (4) or (4.1) of this subsection (a) while assigned to a  
7 boot camp or electronic detention, or if convicted of an  
8 offense enumerated in subdivision (a)(2)(i), (ii), or  
9 (iii) of this Section that is committed on or after June  
10 19, 1998 or subdivision (a)(2)(iv) of this Section that is  
11 committed on or after June 23, 2005 (the effective date of  
12 Public Act 94-71), or if convicted of reckless homicide as  
13 defined in subsection (e) of Section 9-3 of the Criminal  
14 Code of 1961 if the offense is committed on or after  
15 January 1, 1999, or aggravated driving under the influence  
16 of alcohol, other drug or drugs, or intoxicating compound  
17 or compounds, or any combination thereof as defined in  
18 subparagraph (F) of paragraph (1) of subsection (d) of  
19 Section 11-501 of the Illinois Vehicle Code, or if  
20 convicted of an offense enumerated in paragraph (a)(2.4) of  
21 this Section that is committed on or after July 15, 1999  
22 (the effective date of Public Act 91-121), or first degree  
23 murder, a Class X felony, criminal sexual assault, felony  
24 criminal sexual abuse, aggravated criminal sexual abuse,  
25 aggravated battery with a firearm, or any predecessor or  
26 successor offenses with the same or substantially the same



1 elements, or any inchoate offenses relating to the  
2 foregoing offenses. No inmate shall be eligible for the  
3 additional good conduct credit under this paragraph (4) who  
4 (i) has previously received increased good conduct credit  
5 under this paragraph (4) and has subsequently been  
6 convicted of a felony, or (ii) has previously served more  
7 than one prior sentence of imprisonment for a felony in an  
8 adult correctional facility.

9 Educational, vocational, substance abuse and  
10 correctional industry programs under which good conduct  
11 credit may be increased under this paragraph (4) and  
12 paragraph (4.1) of this subsection (a) shall be evaluated  
13 by the Department on the basis of documented standards. The  
14 Department shall report the results of these evaluations to  
15 the Governor and the General Assembly by September 30th of  
16 each year. The reports shall include data relating to the  
17 recidivism rate among program participants.

18 Availability of these programs shall be subject to the  
19 limits of fiscal resources appropriated by the General  
20 Assembly for these purposes. Eligible inmates who are  
21 denied immediate admission shall be placed on a waiting  
22 list under criteria established by the Department. The  
23 inability of any inmate to become engaged in any such  
24 programs by reason of insufficient program resources or for  
25 any other reason established under the rules and  
26 regulations of the Department shall not be deemed a cause

1 of action under which the Department or any employee or  
2 agent of the Department shall be liable for damages to the  
3 inmate.

4 (4.1) The rules and regulations shall also provide that  
5 an additional 60 days of good conduct credit shall be  
6 awarded to any prisoner who passes the high school level  
7 Test of General Educational Development (GED) while the  
8 prisoner is incarcerated. The good conduct credit awarded  
9 under this paragraph (4.1) shall be in addition to, and  
10 shall not affect, the award of good conduct under any other  
11 paragraph of this Section, but shall also be pursuant to  
12 the guidelines and restrictions set forth in paragraph (4)  
13 of subsection (a) of this Section. The good conduct credit  
14 provided for in this paragraph shall be available only to  
15 those prisoners who have not previously earned a high  
16 school diploma or a GED. If, after an award of the GED good  
17 conduct credit has been made and the Department determines  
18 that the prisoner was not eligible, then the award shall be  
19 revoked.

20 (4.5) The rules and regulations on early release shall  
21 also provide that when the court's sentencing order  
22 recommends a prisoner for substance abuse treatment and the  
23 crime was committed on or after September 1, 2003 (the  
24 effective date of Public Act 93-354), the prisoner shall  
25 receive no good conduct credit awarded under clause (3) of  
26 this subsection (a) unless he or she participates in and

1 completes a substance abuse treatment program. The  
2 Director may waive the requirement to participate in or  
3 complete a substance abuse treatment program and award the  
4 good conduct credit in specific instances if the prisoner  
5 is not a good candidate for a substance abuse treatment  
6 program for medical, programming, or operational reasons.  
7 Availability of substance abuse treatment shall be subject  
8 to the limits of fiscal resources appropriated by the  
9 General Assembly for these purposes. If treatment is not  
10 available and the requirement to participate and complete  
11 the treatment has not been waived by the Director, the  
12 prisoner shall be placed on a waiting list under criteria  
13 established by the Department. The Director may allow a  
14 prisoner placed on a waiting list to participate in and  
15 complete a substance abuse education class or attend  
16 substance abuse self-help meetings in lieu of a substance  
17 abuse treatment program. A prisoner on a waiting list who  
18 is not placed in a substance abuse program prior to release  
19 may be eligible for a waiver and receive good conduct  
20 credit under clause (3) of this subsection (a) at the  
21 discretion of the Director.

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

1 Attorney of the county where the prosecution of the inmate  
2 took place.

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

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

13 When the Department seeks to revoke, suspend or reduce the  
14 rate of accumulation of any good conduct credits for an alleged  
15 infraction of its rules, it shall bring charges therefor  
16 against the prisoner sought to be so deprived of good conduct  
17 credits before the Prisoner Review Board as provided in  
18 subparagraph (a)(4) of Section 3-3-2 of this Code, if the  
19 amount of credit at issue exceeds 30 days or when during any 12  
20 month period, the cumulative amount of credit revoked exceeds  
21 30 days except where the infraction is committed or discovered  
22 within 60 days of scheduled release. In those cases, the  
23 Department of Corrections may revoke up to 30 days of good  
24 conduct credit. The Board may subsequently approve the  
25 revocation of additional good conduct credit, if the Department  
26 seeks to revoke good conduct credit in excess of 30 days.

1       However, the Board shall not be empowered to review the  
2       Department's decision with respect to the loss of 30 days of  
3       good conduct credit within any calendar year for any prisoner  
4       or to increase any penalty beyond the length requested by the  
5       Department.

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

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

18              (d) If a lawsuit is filed by a prisoner in an Illinois or  
19      federal court against the State, the Department of Corrections,  
20      or the Prisoner Review Board, or against any of their officers  
21      or employees, and the court makes a specific finding that a  
22      pleading, motion, or other paper filed by the prisoner is  
23      frivolous, the Department of Corrections shall conduct a  
24      hearing to revoke up to 180 days of good conduct credit by  
25      bringing charges against the prisoner sought to be deprived of  
26      the good conduct credits before the Prisoner Review Board as

1 provided in subparagraph (a) (8) of Section 3-3-2 of this Code.  
2 If the prisoner has not accumulated 180 days of good conduct  
3 credit at the time of the finding, then the Prisoner Review  
4 Board may revoke all good conduct credit accumulated by the  
5 prisoner.

6 For purposes of this subsection (d):

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

11 (A) it lacks an arguable basis either in law or in  
12 fact;

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

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

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

26 (E) the denials of factual contentions are not

1 warranted on the evidence, or if specifically so  
2 identified, are not reasonably based on a lack of  
3 information or belief.

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

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

19 (Source: P.A. 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; 94-71,  
20 eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398,  
21 eff. 8-2-05; 94-491, eff. 8-8-05; 94-744, eff. 5-8-06.)