

# SB2046



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB2046

Introduced 2/7/2008, by Sen. Matt Murphy

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-3

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

Amends the Unified Code of Corrections. Provides that a prisoner who is serving a term of imprisonment for being an armed habitual criminal shall receive no good conduct credit and shall serve the entire sentence imposed by the court (rather than no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment). Effective January 1, 2009.

LRB095 18846 RLC 44974 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 (Text of Section after amendment by P.A. 95-585, 95-625,  
8 and 95-640)

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

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

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

1 offense of being an armed habitual criminal committed on or  
2 after August 2, 2005 (the effective date of Public Act  
3 94-398) and before the effective date of this amendatory  
4 Act of the 95th General Assembly, or clause (i) of this  
5 paragraph (2) with respect to the offense of being an armed  
6 habitual criminal committed on or after the effective date  
7 of this amendatory Act of the 95th General Assembly or with  
8 respect to the offenses listed in clause (v) of this  
9 paragraph (2) committed on or after August 13, 2007 (the  
10 effective date of Public Act 95-134) ~~this amendatory Act of~~  
11 ~~the 95th General Assembly~~, the following:

12 (i) that a prisoner who is serving a term of  
13 imprisonment for first degree murder, for being an  
14 armed habitual criminal, or for the offense of  
15 terrorism shall receive no good conduct credit and  
16 shall serve the entire sentence imposed by the court;

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

1 credit for each month of his or her sentence of  
2 imprisonment;

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

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

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

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

16 (vi) ~~(v)~~ that a prisoner serving a sentence for a  
17 second or subsequent offense of luring a minor shall  
18 receive no more than 4.5 days of good conduct credit  
19 for each month of his or her sentence of imprisonment.

20 (2.1) For all offenses, other than those enumerated in  
21 subdivision (a) (2) (i), (ii), or (iii) committed on or after  
22 June 19, 1998 or subdivision (a) (2) (iv) committed on or  
23 after June 23, 2005 (the effective date of Public Act  
24 94-71) or subdivision (a) (2) (v) committed on or after  
25 August 13, 2007 (the effective date of Public Act 95-134)  
26 ~~this amendatory Act of the 95th General Assembly or~~

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

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

21 (2.3) The rules and regulations on early release shall  
22 provide that a prisoner who is serving a sentence for  
23 reckless homicide as defined in subsection (e) of Section  
24 9-3 of the Criminal Code of 1961 committed on or after  
25 January 1, 1999, or aggravated driving under the influence  
26 of alcohol, other drug or drugs, or intoxicating compound

1 or compounds, or any combination thereof as defined in  
2 subparagraph (F) of paragraph (1) of subsection (d) of  
3 Section 11-501 of the Illinois Vehicle Code, shall receive  
4 no more than 4.5 days of good conduct credit for each month  
5 of his or her sentence of imprisonment.

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

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

24 (3) The rules and regulations shall also provide that  
25 the Director may award up to 180 days additional good  
26 conduct credit for meritorious service in specific

1 instances as the Director deems proper; except that no more  
2 than 90 days of good conduct credit for meritorious service  
3 shall be awarded to any prisoner who is serving a sentence  
4 for conviction of first degree murder, reckless homicide  
5 while under the influence of alcohol or any other drug, or  
6 aggravated driving under the influence of alcohol, other  
7 drug or drugs, or intoxicating compound or compounds, or  
8 any combination thereof as defined in subparagraph (F) of  
9 paragraph (1) of subsection (d) of Section 11-501 of the  
10 Illinois Vehicle Code, aggravated kidnapping, kidnapping,  
11 predatory criminal sexual assault of a child, aggravated  
12 criminal sexual assault, criminal sexual assault, deviate  
13 sexual assault, aggravated criminal sexual abuse,  
14 aggravated indecent liberties with a child, indecent  
15 liberties with a child, child pornography, heinous  
16 battery, aggravated battery of a spouse, aggravated  
17 battery of a spouse with a firearm, stalking, aggravated  
18 stalking, aggravated battery of a child, endangering the  
19 life or health of a child, or cruelty to a child.  
20 Notwithstanding the foregoing, good conduct credit for  
21 meritorious service shall not be awarded on a sentence of  
22 imprisonment imposed for conviction of: (i) one of the  
23 offenses enumerated in subdivision (a)(2)(i), (ii), or  
24 (iii) when the offense is committed on or after June 19,  
25 1998 or subdivision (a)(2)(iv) when the offense is  
26 committed on or after June 23, 2005 (the effective date of



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

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

1           satisfactorily completes the assigned program as  
2           determined by the standards of the Department, shall be  
3           multiplied by a factor of 1.25 for program participation  
4           before August 11, 1993 and 1.50 for program participation  
5           on or after that date. However, no inmate shall be eligible  
6           for the additional good conduct credit under this paragraph  
7           (4) or (4.1) of this subsection (a) while assigned to a  
8           boot camp or electronic detention, or if convicted of an  
9           offense enumerated in subdivision (a)(2)(i), (ii), or  
10          (iii) of this Section that is committed on or after June  
11          19, 1998 or subdivision (a)(2)(iv) of this Section that is  
12          committed on or after June 23, 2005 (the effective date of  
13          Public Act 94-71) or subdivision (a)(2)(v) of this Section  
14          that is committed on or after August 13, 2007 (the  
15          effective date of Public Act 95-134) ~~this amendatory Act of~~  
16          ~~the 95th General Assembly~~ or subdivision (a)(2)(~~vi~~)(~~v~~)  
17          when the offense is committed on or after June 1, 2008 (the  
18          effective date of Public Act 95-625) ~~this amendatory Act of~~  
19          ~~the 95th General Assembly~~, or if convicted of reckless  
20          homicide as defined in subsection (e) of Section 9-3 of the  
21          Criminal Code of 1961 if the offense is committed on or  
22          after January 1, 1999, or aggravated driving under the  
23          influence of alcohol, other drug or drugs, or intoxicating  
24          compound or compounds, or any combination thereof as  
25          defined in subparagraph (F) of paragraph (1) of subsection  
26          (d) of Section 11-501 of the Illinois Vehicle Code, or if

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

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

25 Availability of these programs shall be subject to the  
26 limits of fiscal resources appropriated by the General

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

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

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

1 credit under clause (3) of this subsection (a) at the  
2 discretion of the Director.

3 (4.6) The rules and regulations on early release shall  
4 also provide that a prisoner who has been convicted of a  
5 sex offense as defined in Section 2 of the Sex Offender  
6 Registration Act shall receive no good conduct credit  
7 unless he or she either has successfully completed or is  
8 participating in sex offender treatment as defined by the  
9 Sex Offender Management Board. However, prisoners who are  
10 waiting to receive such treatment, but who are unable to do  
11 so due solely to the lack of resources on the part of the  
12 Department, may, at the Director's sole discretion, be  
13 awarded good conduct credit at such rate as the Director  
14 shall determine.

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

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

26 (c) The Department shall prescribe rules and regulations

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

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

25 The Director of the Department of Corrections, in  
26 appropriate cases, may restore up to 30 days good conduct

1 credits which have been revoked, suspended or reduced. Any  
2 restoration of good conduct credits in excess of 30 days shall  
3 be subject to review by the Prisoner Review Board. However, the  
4 Board may not restore good conduct credit in excess of the  
5 amount requested by the Director.

6 Nothing contained in this Section shall prohibit the  
7 Prisoner Review Board from ordering, pursuant to Section  
8 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the  
9 sentence imposed by the court that was not served due to the  
10 accumulation of good conduct credit.

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

25 For purposes of this subsection (d):

26 (1) "Frivolous" means that a pleading, motion, or other



1 filing which purports to be a legal document filed by a  
2 prisoner in his or her lawsuit meets any or all of the  
3 following criteria:

4 (A) it lacks an arguable basis either in law or in  
5 fact;

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

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

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

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

23 (2) "Lawsuit" means a motion pursuant to Section 116-3  
24 of the Code of Criminal Procedure of 1963, a habeas corpus  
25 action under Article X of the Code of Civil Procedure or  
26 under federal law (28 U.S.C. 2254), a petition for claim

1           under the Court of Claims Act, an action under the federal  
2           Civil Rights Act (42 U.S.C. 1983), or a second or  
3           subsequent petition for post-conviction relief under  
4           Article 122 of the Code of Criminal Procedure of 1963  
5           whether filed with or without leave of court or a second or  
6           subsequent petition for relief from judgment under Section  
7           2-1401 of the Code of Civil Procedure.

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

10          (Source: P.A. 94-71, eff. 6-23-05; 94-128, eff. 7-7-05; 94-156,  
11          eff. 7-8-05; 94-398, eff. 8-2-05; 94-491, eff. 8-8-05; 94-744,  
12          eff. 5-8-06; 95-134, eff. 8-13-07; 95-585, eff. 6-1-08; 95-625,  
13          eff. 6-1-08; 95-640, eff. 6-1-08; revised 11-19-07.)

14          Section 99. Effective date. This Act takes effect January  
15          1, 2009.