



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3906

Introduced 2/26/2009, by Rep. Michael P. McAuliffe - Sandra M. Pihos, Mark H. Beaubien, Jr., Michael G. Connelly, Michael W. Tryon, et al.

#### 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 in a Department of Corrections facility who is serving a sentence for the offense of domestic battery or aggravated domestic battery committed on or after the effective date of the amendatory Act shall receive no good conduct credit and shall serve the entire sentence imposed by the court.

LRB096 03166 RLC 13183 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

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) (A)  
14 or (i) (B), (ii), or (iii) of this paragraph (2) committed  
15 on or after June 19, 1998 or with respect to the offense  
16 listed in clause (iv) of this paragraph (2) committed on or  
17 after June 23, 2005 (the effective date of Public Act  
18 94-71) or with respect to offense listed in clause (vi)  
19 committed on or after June 1, 2008 (the effective date of  
20 Public Act 95-625) or with respect to the offense of being  
21 an armed habitual criminal committed on or after August 2,  
22 2005 (the effective date of Public Act 94-398) or with  
23 respect to the offenses listed in clause (v) of this

1 paragraph (2) committed on or after August 13, 2007 (the  
2 effective date of Public Act 95-134) or with respect to the  
3 offenses listed in clauses (i)(C) and (i)(D) of this  
4 paragraph (2) committed on or after the effective date of  
5 this amendatory Act of the 96th General Assembly, the  
6 following:

7 (i) that a prisoner who is serving a term of  
8 imprisonment for: (A) first degree murder, (B) ~~or for~~  
9 the offense of terrorism, (C) the offense of domestic  
10 battery, or (D) the offense of aggravated domestic  
11 battery shall receive no good conduct credit and shall  
12 serve the entire sentence imposed by the court;

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

25 (iii) that a prisoner serving a sentence for home  
26 invasion, armed robbery, aggravated vehicular

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

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

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

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

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

16 (2.1) For all offenses, other than those enumerated in  
17 subdivision (a) (2) (i) (A) or (a) (2) (i) (B), (ii), or (iii)  
18 committed on or after June 19, 1998 or subdivision  
19 (a) (2) (iv) committed on or after June 23, 2005 (the  
20 effective date of Public Act 94-71) or subdivision  
21 (a) (2) (v) committed on or after August 13, 2007 (the  
22 effective date of Public Act 95-134) or subdivision  
23 (a) (2) (vi) committed on or after June 1, 2008 (the  
24 effective date of Public Act 95-625), and other than the  
25 offense of reckless homicide as defined in subsection (e)  
26 of Section 9-3 of the Criminal Code of 1961 committed on or

1 after January 1, 1999, or subdivision (a)(2)(i)(C) or  
2 (a)(2)(i)(D) committed on or after the effective date of  
3 this amendatory Act of the 96th General Assembly, or  
4 aggravated driving under the influence of alcohol, other  
5 drug or drugs, or intoxicating compound or compounds, or  
6 any combination thereof as defined in subparagraph (F) of  
7 paragraph (1) of subsection (d) of Section 11-501 of the  
8 Illinois Vehicle Code, the rules and regulations shall  
9 provide that a prisoner who is serving a term of  
10 imprisonment shall receive one day of good conduct credit  
11 for each day of his or her sentence of imprisonment or  
12 recommitment under Section 3-3-9. Each day of good conduct  
13 credit shall reduce by one day the prisoner's period of  
14 imprisonment or recommitment under Section 3-3-9.

15 (2.2) A prisoner serving a term of natural life  
16 imprisonment or a prisoner who has been sentenced to death  
17 shall receive no good conduct credit.

18 (2.3) The rules and regulations on early release shall  
19 provide that a prisoner who is serving a sentence for  
20 reckless homicide as defined in subsection (e) of Section  
21 9-3 of the Criminal Code of 1961 committed on or after  
22 January 1, 1999, or aggravated driving under the influence  
23 of alcohol, other drug or drugs, or intoxicating compound  
24 or compounds, or any combination thereof as defined in  
25 subparagraph (F) of paragraph (1) of subsection (d) of  
26 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), that a prisoner serving a sentence for any of  
12 these offenses shall receive no more than 4.5 days of good  
13 conduct credit for each month of his or her sentence of  
14 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) shall receive no more  
19 than 4.5 days of good conduct credit for each month of his  
20 or her sentence of imprisonment.

21 (3) The rules and regulations shall also provide that  
22 the Director may award up to 180 days additional good  
23 conduct credit for meritorious service in specific  
24 instances as the Director deems proper; except that no more  
25 than 90 days of good conduct credit for meritorious service  
26 shall be awarded to any prisoner who is serving a sentence

1 for conviction of first degree murder, reckless homicide  
2 while under the influence of alcohol or any other drug, or  
3 aggravated driving under the influence of alcohol, other  
4 drug or drugs, or intoxicating compound or compounds, or  
5 any combination thereof as defined in subparagraph (F) of  
6 paragraph (1) of subsection (d) of Section 11-501 of the  
7 Illinois Vehicle Code, aggravated kidnapping, kidnapping,  
8 predatory criminal sexual assault of a child, aggravated  
9 criminal sexual assault, criminal sexual assault, deviate  
10 sexual assault, aggravated criminal sexual abuse,  
11 aggravated indecent liberties with a child, indecent  
12 liberties with a child, child pornography, heinous  
13 battery, aggravated battery of a spouse, aggravated  
14 battery of a spouse with a firearm, stalking, aggravated  
15 stalking, aggravated battery of a child, endangering the  
16 life or health of a child, or cruelty to a child.  
17 Notwithstanding the foregoing, good conduct credit for  
18 meritorious service shall not be awarded on a sentence of  
19 imprisonment imposed for conviction of: (i) one of the  
20 offenses enumerated in subdivision (a)(2)(i) (A) or  
21 (a)(2)(i)(B), (ii), or (iii) when the offense is committed  
22 on or after June 19, 1998 or subdivision (a)(2)(iv) when  
23 the offense is committed on or after June 23, 2005 (the  
24 effective date of Public Act 94-71) or subdivision  
25 (a)(2)(v) when the offense is committed on or after August  
26 13, 2007 (the effective date of Public Act 95-134) or



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

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

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

26 Availability of these programs shall be subject to the

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

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

1           revoked.

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

1           may be eligible for a waiver and receive good conduct  
2           credit under clause (3) of this subsection (a) at the  
3           discretion of the Director.

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

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

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

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

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

26           The Director of the Department of Corrections, in

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

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

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

26 For purposes of this subsection (d):



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

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

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

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

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

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

24           (2) "Lawsuit" means a motion pursuant to Section 116-3  
25 of the Code of Criminal Procedure of 1963, a habeas corpus  
26 action under Article X of the Code of Civil Procedure or

1 under federal law (28 U.S.C. 2254), a petition for claim  
2 under the Court of Claims Act, an action under the federal  
3 Civil Rights Act (42 U.S.C. 1983), or a second or  
4 subsequent petition for post-conviction relief under  
5 Article 122 of the Code of Criminal Procedure of 1963  
6 whether filed with or without leave of court or a second or  
7 subsequent petition for relief from judgment under Section  
8 2-1401 of the Code of Civil Procedure.

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

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

19 (Source: P.A. 94-71, eff. 6-23-05; 94-128, eff. 7-7-05; 94-156,  
20 eff. 7-8-05; 94-398, eff. 8-2-05; 94-491, eff. 8-8-05; 94-744,  
21 eff. 5-8-06; 95-134, eff. 8-13-07; 95-585, eff. 6-1-08; 95-625,  
22 eff. 6-1-08; 95-640, eff. 6-1-08; 95-773, eff. 1-1-09; 95-876,  
23 eff. 8-21-08.)