



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5445

Introduced 2/5/2010, by Rep. Dennis M. Reboletti

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 person serving a sentence for armed robbery or aggravated vehicular hijacking when he or she carried on or about his or her person or was otherwise armed with a firearm shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment. Effective immediately.

LRB096 18100 RLC 33475 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 3-6-3 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 offense listed in clause (vi) committed on
19 or after June 1, 2008 (the effective date of Public Act
20 95-625) or with respect to the offense of being an armed
21 habitual criminal committed on or after August 2, 2005 (the
22 effective date of Public Act 94-398) or with respect to the
23 offenses listed in clause (v) of this paragraph (2)

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

6 (i) that a prisoner who is serving a term of
7 imprisonment for first degree murder or for the offense
8 of terrorism shall receive no good conduct credit and
9 shall serve the entire sentence imposed by the court;

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

22 (iii) that a prisoner serving a sentence for home
23 invasion, armed robbery, aggravated vehicular
24 hijacking, aggravated discharge of a firearm, or armed
25 violence with a category I weapon or category II
26 weapon, when the court has made and entered a finding,

1 pursuant to subsection (c-1) of Section 5-4-1 of this
2 Code, that the conduct leading to conviction for the
3 enumerated offense resulted in great bodily harm to a
4 victim, shall receive no more than 4.5 days of good
5 conduct credit for each month of his or her sentence of
6 imprisonment; provided that with respect to the
7 offenses described in subdivision (a)(2)(vii)
8 committed on or after the effective date of this
9 amendatory Act of the 96th General Assembly, a finding,
10 pursuant to subsection (c-1) of Section 5-4-1 of this
11 Code, that the conduct leading to conviction for the
12 enumerated offense resulted in great bodily harm to a
13 victim is not required;

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;

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) 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 and -

21 (vii) that a person serving a sentence for armed
22 robbery or aggravated vehicular hijacking when he or
23 she carried on or about his or her person or was
24 otherwise armed with a firearm shall receive no more
25 than 4.5 days of good conduct credit for each month of
26 his or her sentence of imprisonment.

1 (2.1) For all offenses, other than those enumerated in
2 subdivision (a)(2)(i), (ii), or (iii) committed on or after
3 June 19, 1998 or subdivision (a)(2)(iv) committed on or
4 after June 23, 2005 (the effective date of Public Act
5 94-71) or subdivision (a)(2)(v) committed on or after
6 August 13, 2007 (the effective date of Public Act 95-134)
7 or subdivision (a)(2)(vi) committed on or after June 1,
8 2008 (the effective date of Public Act 95-625) or
9 subdivision (a)(2)(vii) committed on or after the
10 effective date of this amendatory Act of the 96th General
11 Assembly, and other than the offense of reckless homicide
12 as defined in subsection (e) of Section 9-3 of the Criminal
13 Code of 1961 committed on or after January 1, 1999, or
14 aggravated driving under the influence of alcohol, other
15 drug or drugs, or intoxicating compound or compounds, or
16 any combination thereof as defined in subparagraph (F) of
17 paragraph (1) of subsection (d) of Section 11-501 of the
18 Illinois Vehicle Code, the rules and regulations shall
19 provide that a prisoner who is serving a term of
20 imprisonment shall receive one day of good conduct credit
21 for each day of his or her sentence of imprisonment or
22 recommitment under Section 3-3-9. Each day of good conduct
23 credit shall reduce by one day the prisoner's period of
24 imprisonment or recommitment under Section 3-3-9.

25 (2.2) A prisoner serving a term of natural life
26 imprisonment or a prisoner who has been sentenced to death

1 shall receive no good conduct credit.

2 (2.3) The rules and regulations on early release shall
3 provide that a prisoner who is serving a sentence for
4 reckless homicide as defined in subsection (e) of Section
5 9-3 of the Criminal Code of 1961 committed on or after
6 January 1, 1999, or aggravated driving under the influence
7 of alcohol, other drug or drugs, or intoxicating compound
8 or compounds, or any combination thereof as defined in
9 subparagraph (F) of paragraph (1) of subsection (d) of
10 Section 11-501 of the Illinois Vehicle Code, shall receive
11 no more than 4.5 days of good conduct credit for each month
12 of his or her sentence of imprisonment.

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

25 (2.5) The rules and regulations on early release shall
26 provide that a prisoner who is serving a sentence for

1 aggravated arson committed on or after July 27, 2001 (the
2 effective date of Public Act 92-176) shall receive no more
3 than 4.5 days of good conduct credit for each month of his
4 or her sentence of imprisonment.

5 (3) The rules and regulations shall also provide that
6 the Director may award up to 180 days additional good
7 conduct credit for meritorious service in specific
8 instances as the Director deems proper; except that no more
9 than 90 days of good conduct credit for meritorious service
10 shall be awarded to any prisoner who is serving a sentence
11 for conviction of first degree murder, reckless homicide
12 while under the influence of alcohol or any other drug, or
13 aggravated driving under the influence of alcohol, other
14 drug or drugs, or intoxicating compound or compounds, or
15 any combination thereof as defined in subparagraph (F) of
16 paragraph (1) of subsection (d) of Section 11-501 of the
17 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
18 predatory criminal sexual assault of a child, aggravated
19 criminal sexual assault, criminal sexual assault, deviate
20 sexual assault, aggravated criminal sexual abuse,
21 aggravated indecent liberties with a child, indecent
22 liberties with a child, child pornography, heinous
23 battery, aggravated battery of a spouse, aggravated
24 battery of a spouse with a firearm, stalking, aggravated
25 stalking, aggravated battery of a child, endangering the
26 life or health of a child, or cruelty to a child.

1 Notwithstanding the foregoing, good conduct credit for
2 meritorious service shall not be awarded on a sentence of
3 imprisonment imposed for conviction of: (i) one of the
4 offenses enumerated in subdivision (a)(2)(i), (ii), or
5 (iii) when the offense is committed on or after June 19,
6 1998 or subdivision (a)(2)(iv) when the offense is
7 committed on or after June 23, 2005 (the effective date of
8 Public Act 94-71) or subdivision (a)(2)(v) when the offense
9 is committed on or after August 13, 2007 (the effective
10 date of Public Act 95-134) or subdivision (a)(2)(vi) when
11 the offense is committed on or after June 1, 2008 (the
12 effective date of Public Act 95-625) or subdivision
13 (a)(2)(vii) when the offense is committed on or after the
14 effective date of this amendatory Act of the 96th General
15 Assembly, (ii) reckless homicide as defined in subsection
16 (e) of Section 9-3 of the Criminal Code of 1961 when the
17 offense is committed on or after January 1, 1999, or
18 aggravated driving under the influence of alcohol, other
19 drug or drugs, or intoxicating compound or compounds, or
20 any combination thereof as defined in subparagraph (F) of
21 paragraph (1) of subsection (d) of Section 11-501 of the
22 Illinois Vehicle Code, (iii) one of the offenses enumerated
23 in subdivision (a)(2.4) when the offense is committed on or
24 after July 15, 1999 (the effective date of Public Act
25 91-121), or (iv) aggravated arson when the offense is
26 committed on or after July 27, 2001 (the effective date of

1 Public Act 92-176).

2 The Director shall not award good conduct credit for
3 meritorious service under this paragraph (3) to an inmate
4 unless the inmate has served a minimum of 60 days of the
5 sentence; except nothing in this paragraph shall be
6 construed to permit the Director to extend an inmate's
7 sentence beyond that which was imposed by the court. Prior
8 to awarding credit under this paragraph (3), the Director
9 shall make a written determination that the inmate:

10 (A) is eligible for good conduct credit for
11 meritorious service;

12 (B) has served a minimum of 60 days, or as close to
13 60 days as the sentence will allow; and

14 (C) has met the eligibility criteria established
15 by rule.

16 The Director shall determine the form and content of
17 the written determination required in this subsection.

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

1 multiplied by a factor of 1.25 for program participation
2 before August 11, 1993 and 1.50 for program participation
3 on or after that date. However, no inmate shall be eligible
4 for the additional good conduct credit under this paragraph
5 (4) or (4.1) of this subsection (a) while assigned to a
6 boot camp or electronic detention, or if convicted of an
7 offense enumerated in subdivision (a)(2)(i), (ii), or
8 (iii) of this Section that is committed on or after June
9 19, 1998 or subdivision (a)(2)(iv) of this Section that is
10 committed on or after June 23, 2005 (the effective date of
11 Public Act 94-71) or subdivision (a)(2)(v) of this Section
12 that is committed on or after August 13, 2007 (the
13 effective date of Public Act 95-134) or subdivision
14 (a)(2)(vi) when the offense is committed on or after June
15 1, 2008 (the effective date of Public Act 95-625) or
16 subdivision (a)(2)(vii) when the offense is committed on or
17 after the effective date of this amendatory Act of the 96th
18 General Assembly, or if convicted of reckless homicide as
19 defined in subsection (e) of Section 9-3 of the Criminal
20 Code of 1961 if the offense is committed on or after
21 January 1, 1999, or aggravated driving under the influence
22 of alcohol, other drug or drugs, or intoxicating compound
23 or compounds, or any combination thereof as defined in
24 subparagraph (F) of paragraph (1) of subsection (d) of
25 Section 11-501 of the Illinois Vehicle Code, or if
26 convicted of an offense enumerated in paragraph (a)(2.4) of

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

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

24 Availability of these programs shall be subject to the
25 limits of fiscal resources appropriated by the General
26 Assembly for these purposes. Eligible inmates who are

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

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

26 (4.5) The rules and regulations on early release shall

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

1 discretion of the Director.

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

14 (5) Whenever the Department is to release any inmate
15 earlier than it otherwise would because of a grant of good
16 conduct credit for meritorious service given at any time
17 during the term, the Department shall give reasonable
18 notice of the impending release not less than 14 days prior
19 to the date of the release to the State's Attorney of the
20 county where the prosecution of the inmate took place, and
21 if applicable, the State's Attorney of the county into
22 which the inmate will be released.

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. 95-134, eff. 8-13-07; 95-585, eff. 6-1-08;
20 95-625, eff. 6-1-08; 95-640, eff. 6-1-08; 95-773, eff. 1-1-09;
21 95-876, eff. 8-21-08; 96-860, eff. 1-15-10.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.