

HB1137



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1137

by Rep. Emily McAsey

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-3

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

Amends the Unified Code of Corrections. Makes a technical change in a Section concerning rules and regulations for early release on account of good conduct of persons committed to the Department of Corrections.

LRB098 06271 RLC 36312 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 Sentence Credit.

8 (a) (1) The Department of Corrections shall ~~shall~~
9 prescribe rules and regulations for awarding and revoking
10 sentence credit for persons committed to the Department
11 which shall be subject to review by the Prisoner Review
12 Board.

13 (1.5) As otherwise provided by law, sentence credit may
14 be awarded for the following:

15 (A) successful completion of programming while in
16 custody of the Department or while in custody prior to
17 sentencing;

18 (B) compliance with the rules and regulations of
19 the Department; or

20 (C) service to the institution, service to a
21 community, or service to the State.

22 (2) The rules and regulations on sentence credit shall
23 provide, with respect to offenses listed in clause (i),

1 (ii), or (iii) of this paragraph (2) committed on or after
2 June 19, 1998 or with respect to the offense listed in
3 clause (iv) of this paragraph (2) committed on or after
4 June 23, 2005 (the effective date of Public Act 94-71) or
5 with respect to offense listed in clause (vi) committed on
6 or after June 1, 2008 (the effective date of Public Act
7 95-625) or with respect to the offense of being an armed
8 habitual criminal committed on or after August 2, 2005 (the
9 effective date of Public Act 94-398) or with respect to the
10 offenses listed in clause (v) of this paragraph (2)
11 committed on or after August 13, 2007 (the effective date
12 of Public Act 95-134) or with respect to the offense of
13 aggravated domestic battery committed on or after July 23,
14 2010 (the effective date of Public Act 96-1224) or with
15 respect to the offense of attempt to commit terrorism
16 committed on or after the effective date of this amendatory
17 Act of the 97th General Assembly, the following:

18 (i) that a prisoner who is serving a term of
19 imprisonment for first degree murder or for the offense
20 of terrorism shall receive no sentence credit and shall
21 serve the entire sentence imposed by the court;

22 (ii) that a prisoner serving a sentence for attempt
23 to commit terrorism, attempt to commit first degree
24 murder, solicitation of murder, solicitation of murder
25 for hire, intentional homicide of an unborn child,
26 predatory criminal sexual assault of a child,

1 aggravated criminal sexual assault, criminal sexual
2 assault, aggravated kidnapping, aggravated battery
3 with a firearm as described in Section 12-4.2 or
4 subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of
5 Section 12-3.05, heinous battery as described in
6 Section 12-4.1 or subdivision (a)(2) of Section
7 12-3.05, being an armed habitual criminal, aggravated
8 battery of a senior citizen as described in Section
9 12-4.6 or subdivision (a)(4) of Section 12-3.05, or
10 aggravated battery of a child as described in Section
11 12-4.3 or subdivision (b)(1) of Section 12-3.05 shall
12 receive no more than 4.5 days of sentence credit for
13 each month of his or her sentence of 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 sentence
23 credit for each month of his or her sentence of
24 imprisonment;

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 sentence credit for each month of
4 his or her sentence of imprisonment;

5 (v) that a person serving a sentence for
6 gunrunning, narcotics racketeering, controlled
7 substance trafficking, methamphetamine trafficking,
8 drug-induced homicide, aggravated
9 methamphetamine-related child endangerment, money
10 laundering pursuant to clause (c) (4) or (5) of Section
11 29B-1 of the Criminal Code of 1961, or a Class X felony
12 conviction for delivery of a controlled substance,
13 possession of a controlled substance with intent to
14 manufacture or deliver, calculated criminal drug
15 conspiracy, criminal drug conspiracy, street gang
16 criminal drug conspiracy, participation in
17 methamphetamine manufacturing, aggravated
18 participation in methamphetamine manufacturing,
19 delivery of methamphetamine, possession with intent to
20 deliver methamphetamine, aggravated delivery of
21 methamphetamine, aggravated possession with intent to
22 deliver methamphetamine, methamphetamine conspiracy
23 when the substance containing the controlled substance
24 or methamphetamine is 100 grams or more shall receive
25 no more than 7.5 days sentence credit for each month of
26 his or her sentence of imprisonment;

1 (vi) that a prisoner serving a sentence for a
2 second or subsequent offense of luring a minor shall
3 receive no more than 4.5 days of sentence credit for
4 each month of his or her sentence of imprisonment; and

5 (vii) that a prisoner serving a sentence for
6 aggravated domestic battery shall receive no more than
7 4.5 days of sentence credit for each month of his or
8 her sentence of imprisonment.

9 (2.1) For all offenses, other than those enumerated in
10 subdivision (a)(2)(i), (ii), or (iii) committed on or after
11 June 19, 1998 or subdivision (a)(2)(iv) committed on or
12 after June 23, 2005 (the effective date of Public Act
13 94-71) or subdivision (a)(2)(v) committed on or after
14 August 13, 2007 (the effective date of Public Act 95-134)
15 or subdivision (a)(2)(vi) committed on or after June 1,
16 2008 (the effective date of Public Act 95-625) or
17 subdivision (a)(2)(vii) committed on or after July 23, 2010
18 (the effective date of Public Act 96-1224), and other than
19 the offense of aggravated driving under the influence of
20 alcohol, other drug or drugs, or intoxicating compound or
21 compounds, or any combination thereof as defined in
22 subparagraph (F) of paragraph (1) of subsection (d) of
23 Section 11-501 of the Illinois Vehicle Code, and other than
24 the offense of aggravated driving under the influence of
25 alcohol, other drug or drugs, or intoxicating compound or
26 compounds, or any combination thereof as defined in

1 subparagraph (C) of paragraph (1) of subsection (d) of
2 Section 11-501 of the Illinois Vehicle Code committed on or
3 after January 1, 2011 (the effective date of Public Act
4 96-1230), the rules and regulations shall provide that a
5 prisoner who is serving a term of imprisonment shall
6 receive one day of sentence credit for each day of his or
7 her sentence of imprisonment or recommitment under Section
8 3-3-9. Each day of sentence credit shall reduce by one day
9 the prisoner's period of imprisonment or recommitment
10 under Section 3-3-9.

11 (2.2) A prisoner serving a term of natural life
12 imprisonment or a prisoner who has been sentenced to death
13 shall receive no sentence credit.

14 (2.3) The rules and regulations on sentence credit
15 shall provide that a prisoner who is serving a sentence for
16 aggravated driving under the influence of alcohol, other
17 drug or drugs, or intoxicating compound or compounds, or
18 any combination thereof as defined in subparagraph (F) of
19 paragraph (1) of subsection (d) of Section 11-501 of the
20 Illinois Vehicle Code, shall receive no more than 4.5 days
21 of sentence credit for each month of his or her sentence of
22 imprisonment.

23 (2.4) The rules and regulations on sentence credit
24 shall provide with respect to the offenses of aggravated
25 battery with a machine gun or a firearm equipped with any
26 device or attachment designed or used for silencing the

1 report of a firearm or aggravated discharge of a machine
2 gun or a firearm equipped with any device or attachment
3 designed or used for silencing the report of a firearm,
4 committed on or after July 15, 1999 (the effective date of
5 Public Act 91-121), that a prisoner serving a sentence for
6 any of these offenses shall receive no more than 4.5 days
7 of sentence credit for each month of his or her sentence of
8 imprisonment.

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

15 (2.6) The rules and regulations on sentence credit
16 shall provide that a prisoner who is serving a sentence for
17 aggravated driving under the influence of alcohol, other
18 drug or drugs, or intoxicating compound or compounds or any
19 combination thereof as defined in subparagraph (C) of
20 paragraph (1) of subsection (d) of Section 11-501 of the
21 Illinois Vehicle Code committed on or after January 1, 2011
22 (the effective date of Public Act 96-1230) shall receive no
23 more than 4.5 days of sentence credit for each month of his
24 or her sentence of imprisonment.

25 (3) The rules and regulations shall also provide that
26 the Director may award up to 180 days additional sentence

1 credit for good conduct in specific instances as the
2 Director deems proper. The good conduct may include, but is
3 not limited to, compliance with the rules and regulations
4 of the Department, service to the Department, service to a
5 community, or service to the State. However, the Director
6 shall not award more than 90 days of sentence credit for
7 good conduct to any prisoner who is serving a sentence for
8 conviction of first degree murder, reckless homicide while
9 under the influence of alcohol or any other drug, or
10 aggravated driving under the influence of alcohol, other
11 drug or drugs, or intoxicating compound or compounds, or
12 any combination thereof as defined in subparagraph (F) of
13 paragraph (1) of subsection (d) of Section 11-501 of the
14 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
15 predatory criminal sexual assault of a child, aggravated
16 criminal sexual assault, criminal sexual assault, deviate
17 sexual assault, aggravated criminal sexual abuse,
18 aggravated indecent liberties with a child, indecent
19 liberties with a child, child pornography, heinous battery
20 as described in Section 12-4.1 or subdivision (a)(2) of
21 Section 12-3.05, aggravated battery of a spouse,
22 aggravated battery of a spouse with a firearm, stalking,
23 aggravated stalking, aggravated battery of a child as
24 described in Section 12-4.3 or subdivision (b)(1) of
25 Section 12-3.05, endangering the life or health of a child,
26 or cruelty to a child. Notwithstanding the foregoing,

1 sentence credit for good conduct shall not be awarded on a
2 sentence of imprisonment imposed for conviction of: (i) one
3 of the offenses enumerated in subdivision (a)(2)(i), (ii),
4 or (iii) when the offense is committed on or after June 19,
5 1998 or subdivision (a)(2)(iv) when the offense is
6 committed on or after June 23, 2005 (the effective date of
7 Public Act 94-71) or subdivision (a)(2)(v) when the offense
8 is committed on or after August 13, 2007 (the effective
9 date of Public Act 95-134) or subdivision (a)(2)(vi) when
10 the offense is committed on or after June 1, 2008 (the
11 effective date of Public Act 95-625) or subdivision
12 (a)(2)(vii) when the offense is committed on or after July
13 23, 2010 (the effective date of Public Act 96-1224), (ii)
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, (iii) one of the offenses enumerated
19 in subdivision (a)(2.4) when the offense is committed on or
20 after July 15, 1999 (the effective date of Public Act
21 91-121), (iv) aggravated arson when the offense is
22 committed on or after July 27, 2001 (the effective date of
23 Public Act 92-176), (v) offenses that may subject the
24 offender to commitment under the Sexually Violent Persons
25 Commitment Act, or (vi) aggravated driving under the
26 influence of alcohol, other drug or drugs, or intoxicating

1 compound or compounds or any combination thereof as defined
2 in subparagraph (C) of paragraph (1) of subsection (d) of
3 Section 11-501 of the Illinois Vehicle Code committed on or
4 after January 1, 2011 (the effective date of Public Act
5 96-1230).

6 Eligible inmates for an award of sentence credit under this
7 paragraph (3) may be selected to receive the credit at the
8 Director's or his or her designee's sole discretion.
9 Consideration may be based on, but not limited to, any
10 available risk assessment analysis on the inmate, any history
11 of conviction for violent crimes as defined by the Rights of
12 Crime Victims and Witnesses Act, facts and circumstances of the
13 inmate's holding offense or offenses, and the potential for
14 rehabilitation.

15 The Director shall not award sentence credit under this
16 paragraph (3) to an inmate unless the inmate has served a
17 minimum of 60 days of the sentence; except nothing in this
18 paragraph shall be construed to permit the Director to extend
19 an inmate's sentence beyond that which was imposed by the
20 court. Prior to awarding credit under this paragraph (3), the
21 Director shall make a written determination that the inmate:

22 (A) is eligible for the sentence credit;

23 (B) has served a minimum of 60 days, or as close to
24 60 days as the sentence will allow; and

25 (C) has met the eligibility criteria established
26 by rule.

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

3 (3.5) The Department shall provide annual written
4 reports to the Governor and the General Assembly on the
5 award of sentence credit for good conduct, with the first
6 report due January 1, 2014. The Department must publish
7 both reports on its website within 48 hours of transmitting
8 the reports to the Governor and the General Assembly. The
9 reports must include:

10 (A) the number of inmates awarded sentence credit
11 for good conduct;

12 (B) the average amount of sentence credit for good
13 conduct awarded;

14 (C) the holding offenses of inmates awarded
15 sentence credit for good conduct; and

16 (D) the number of sentence credit for good conduct
17 revocations.

18 (4) The rules and regulations shall also provide that
19 the sentence 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, educational programs,
24 behavior modification programs, life skills courses, or
25 re-entry planning provided by the Department under this
26 paragraph (4) and satisfactorily completes the assigned

1 program as determined by the standards of the Department,
2 shall be multiplied by a factor of 1.25 for program
3 participation before August 11, 1993 and 1.50 for program
4 participation on or after that date. The rules and
5 regulations shall also provide that sentence credit,
6 subject to the same offense limits and multiplier provided
7 in this paragraph, may be provided to an inmate who was
8 held in pre-trial detention prior to his or her current
9 commitment to the Department of Corrections and
10 successfully completed a full-time, 60-day or longer
11 substance abuse program, educational program, behavior
12 modification program, life skills course, or re-entry
13 planning provided by the county department of corrections
14 or county jail. Calculation of this county program credit
15 shall be done at sentencing as provided in Section
16 5-4.5-100 of this Code and shall be included in the
17 sentencing order. However, no inmate shall be eligible for
18 the additional sentence credit under this paragraph (4) or
19 (4.1) of this subsection (a) while assigned to a boot camp
20 or electronic detention, or if convicted of an offense
21 enumerated in subdivision (a)(2)(i), (ii), or (iii) of this
22 Section that is committed on or after June 19, 1998 or
23 subdivision (a)(2)(iv) of this Section that is committed on
24 or after June 23, 2005 (the effective date of Public Act
25 94-71) or subdivision (a)(2)(v) of this Section that is
26 committed on or after August 13, 2007 (the effective date

1 of Public Act 95-134) or subdivision (a)(2)(vi) when the
2 offense is committed on or after June 1, 2008 (the
3 effective date of Public Act 95-625) or subdivision
4 (a)(2)(vii) when the offense is committed on or after July
5 23, 2010 (the effective date of Public Act 96-1224), or if
6 convicted of aggravated driving under the influence of
7 alcohol, other drug or drugs, or intoxicating compound or
8 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, or if
11 convicted of aggravated driving under the influence of
12 alcohol, other drug or drugs, or intoxicating compound or
13 compounds or any combination thereof as defined in
14 subparagraph (C) of paragraph (1) of subsection (d) of
15 Section 11-501 of the Illinois Vehicle Code committed on or
16 after January 1, 2011 (the effective date of Public Act
17 96-1230), or if convicted of an offense enumerated in
18 paragraph (a)(2.4) of this Section that is committed on or
19 after July 15, 1999 (the effective date of Public Act
20 91-121), or first degree murder, a Class X felony, criminal
21 sexual assault, felony criminal sexual abuse, aggravated
22 criminal sexual abuse, aggravated battery with a firearm as
23 described in Section 12-4.2 or subdivision (e)(1), (e)(2),
24 (e)(3), or (e)(4) of Section 12-3.05, or any predecessor or
25 successor offenses with the same or substantially the same
26 elements, or any inchoate offenses relating to the

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

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

19 Availability of these programs shall be subject to the
20 limits of fiscal resources appropriated by the General
21 Assembly for these purposes. Eligible inmates who are
22 denied immediate admission shall be placed on a waiting
23 list under criteria established by the Department. The
24 inability of any inmate to become engaged in any such
25 programs by reason of insufficient program resources or for
26 any other reason established under the rules and

1 regulations of the Department shall not be deemed a cause
2 of action under which the Department or any employee or
3 agent of the Department shall be liable for damages to the
4 inmate.

5 (4.1) The rules and regulations shall also provide that
6 an additional 60 days of sentence credit shall be awarded
7 to any prisoner who passes the high school level Test of
8 General Educational Development (GED) while the prisoner
9 is committed to the Department of Corrections. The sentence
10 credit awarded under this paragraph (4.1) shall be in
11 addition to, and shall not affect, the award of sentence
12 credit under any other paragraph of this Section, but shall
13 also be pursuant to the guidelines and restrictions set
14 forth in paragraph (4) of subsection (a) of this Section.
15 The sentence credit provided for in this paragraph shall be
16 available only to those prisoners who have not previously
17 earned a high school diploma or a GED. If, after an award
18 of the GED sentence credit has been made and the Department
19 determines that the prisoner was not eligible, then the
20 award shall be revoked. The Department may also award 60
21 days of sentence credit to any committed person who passed
22 the high school level Test of General Educational
23 Development (GED) while he or she was held in pre-trial
24 detention prior to the current commitment to the Department
25 of Corrections.

26 (4.5) The rules and regulations on sentence credit

1 shall 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 sentence credit awarded under clause (3) of this
6 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 sentence credit in specific instances if the prisoner is
11 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 sentence credit
26 under clause (3) of this subsection (a) at the discretion

1 of the Director.

2 (4.6) The rules and regulations on sentence credit
3 shall also provide that a prisoner who has been convicted
4 of a sex offense as defined in Section 2 of the Sex
5 Offender Registration Act shall receive no sentence 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 treatment, but who are unable to do so
10 due solely to the lack of resources on the part of the
11 Department, may, at the Director's sole discretion, be
12 awarded sentence credit at a rate as the Director shall
13 determine.

14 (5) Whenever the Department is to release any inmate
15 earlier than it otherwise would because of a grant of
16 sentence credit for good conduct under paragraph (3) of
17 subsection (a) of this Section given at any time during the
18 term, the Department shall give reasonable notice of the
19 impending release not less than 14 days prior to the date
20 of the release to the State's Attorney of the county where
21 the prosecution of the inmate took place, and if
22 applicable, the State's Attorney of the county into which
23 the inmate will be released. The Department must also make
24 identification information and a recent photo of the inmate
25 being released accessible on the Internet by means of a
26 hyperlink labeled "Community Notification of Inmate Early

1 Release" on the Department's World Wide Web homepage. The
2 identification information shall include the inmate's:
3 name, any known alias, date of birth, physical
4 characteristics, residence address, commitment offense and
5 county where conviction was imposed. The identification
6 information shall be placed on the website within 3 days of
7 the inmate's release and the information may not be removed
8 until either: completion of the first year of mandatory
9 supervised release or return of the inmate to custody of
10 the Department.

11 (b) Whenever a person is or has been committed under
12 several convictions, with separate sentences, the sentences
13 shall be construed under Section 5-8-4 in granting and
14 forfeiting of sentence credit.

15 (c) The Department shall prescribe rules and regulations
16 for revoking sentence credit, including revoking sentence
17 credit awarded for good conduct under paragraph (3) of
18 subsection (a) of this Section. The Department shall prescribe
19 rules and regulations for suspending or reducing the rate of
20 accumulation of sentence credit for specific rule violations,
21 during imprisonment. These rules and regulations shall provide
22 that no inmate may be penalized more than one year of sentence
23 credit for any one infraction.

24 When the Department seeks to revoke, suspend or reduce the
25 rate of accumulation of any sentence credits for an alleged
26 infraction of its rules, it shall bring charges therefor

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

16 The Director of the Department of Corrections, in
17 appropriate cases, may restore up to 30 days of sentence
18 credits which have been revoked, suspended or reduced. Any
19 restoration of sentence credits in excess of 30 days shall be
20 subject to review by the Prisoner Review Board. However, the
21 Board may not restore sentence credit in excess of the amount
22 requested by the Director.

23 Nothing contained in this Section shall prohibit the
24 Prisoner Review Board from ordering, pursuant to Section
25 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
26 sentence imposed by the court that was not served due to the

1 accumulation of sentence credit.

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

15 For purposes of this subsection (d):

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

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

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

25 (C) the claims, defenses, and other legal
26 contentions therein are not warranted by existing law

1 or by a nonfrivolous argument for the extension,
2 modification, or reversal of existing law or the
3 establishment of new law;

4 (D) the allegations and other factual contentions
5 do not have evidentiary support or, if specifically so
6 identified, are not likely to have evidentiary support
7 after a reasonable opportunity for further
8 investigation or discovery; or

9 (E) the denials of factual contentions are not
10 warranted on the evidence, or if specifically so
11 identified, are not reasonably based on a lack of
12 information or belief.

13 (2) "Lawsuit" means a motion pursuant to Section 116-3
14 of the Code of Criminal Procedure of 1963, a habeas corpus
15 action under Article X of the Code of Civil Procedure or
16 under federal law (28 U.S.C. 2254), a petition for claim
17 under the Court of Claims Act, an action under the federal
18 Civil Rights Act (42 U.S.C. 1983), or a second or
19 subsequent petition for post-conviction relief under
20 Article 122 of the Code of Criminal Procedure of 1963
21 whether filed with or without leave of court or a second or
22 subsequent petition for relief from judgment under Section
23 2-1401 of the Code of Civil Procedure.

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

26 (f) Whenever the Department is to release any inmate who

1 has been convicted of a violation of an order of protection
2 under Section 12-3.4 or 12-30 of the Criminal Code of 1961,
3 earlier than it otherwise would because of a grant of sentence
4 credit, the Department, as a condition of release, shall
5 require that the person, upon release, be placed under
6 electronic surveillance as provided in Section 5-8A-7 of this
7 Code.

8 (Source: P.A. 96-860, eff. 1-15-10; 96-1110, eff. 7-19-10;
9 96-1128, eff. 1-1-11; 96-1200, eff. 7-22-10; 96-1224, eff.
10 7-23-10; 96-1230, eff. 1-1-11; 96-1551, eff. 7-1-11; 97-333,
11 eff. 8-12-11; 97-697, eff. 6-22-12; 97-990, eff. 1-1-13;
12 revised 8-23-12.)