

SB4004



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB4004

Introduced 1/4/2021, by Sen. Scott M. Bennett

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-6-3.6

Amends the Unified Code of Corrections. Provides that the Program administrator of the First Time Weapon Offender Program shall be appointed by the Chief Judge of each Judicial Circuit. Effective immediately.

LRB101 21710 RLC 72654 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 5-6-3.6 as follows:

6 (730 ILCS 5/5-6-3.6)

7 (Section scheduled to be repealed on January 1, 2023)

8 Sec. 5-6-3.6. First Time Weapon Offender Program.

9 (a) The General Assembly has sought to promote public
10 safety, reduce recidivism, and conserve valuable resources of
11 the criminal justice system through the creation of diversion
12 programs for non-violent offenders. This amendatory Act of the
13 100th General Assembly establishes a pilot program for
14 first-time, non-violent offenders charged with certain weapons
15 offenses. The General Assembly recognizes some persons,
16 particularly young adults in areas of high crime or poverty,
17 may have experienced trauma that contributes to poor decision
18 making skills, and the creation of a diversionary program poses
19 a greater benefit to the community and the person than
20 incarceration. Under this program, a court, with the consent of
21 the defendant and the State's Attorney, may sentence a
22 defendant charged with an unlawful use of weapons offense under
23 Section 24-1 of the Criminal Code of 2012 or aggravated

1 unlawful use of a weapon offense under Section 24-1.6 of the
2 Criminal Code of 2012, if punishable as a Class 4 felony or
3 lower, to a First Time Weapon Offender Program.

4 (b) A defendant is not eligible for this Program if:

5 (1) the offense was committed during the commission of
6 a violent offense as defined in subsection (h) of this
7 Section;

8 (2) he or she has previously been convicted or placed
9 on probation or conditional discharge for any violent
10 offense under the laws of this State, the laws of any other
11 state, or the laws of the United States;

12 (3) he or she had a prior successful completion of the
13 First Time Weapon Offender Program under this Section;

14 (4) he or she has previously been adjudicated a
15 delinquent minor for the commission of a violent offense;

16 (5) he or she is 21 years of age or older; or

17 (6) he or she has an existing order of protection
18 issued against him or her.

19 (b-5) In considering whether a defendant shall be sentenced
20 to the First Time Weapon Offender Program, the court shall
21 consider the following:

22 (1) the age, immaturity, or limited mental capacity of
23 the defendant;

24 (2) the nature and circumstances of the offense;

25 (3) whether participation in the Program is in the
26 interest of the defendant's rehabilitation, including any

1 employment or involvement in community, educational,
2 training, or vocational programs;

3 (4) whether the defendant suffers from trauma, as
4 supported by documentation or evaluation by a licensed
5 professional; and

6 (5) the potential risk to public safety.

7 (c) For an offense committed on or after the effective date
8 of this amendatory Act of the 100th General Assembly and before
9 January 1, 2023, whenever an eligible person pleads guilty to
10 an unlawful use of weapons offense under Section 24-1 of the
11 Criminal Code of 2012 or aggravated unlawful use of a weapon
12 offense under Section 24-1.6 of the Criminal Code of 2012,
13 which is punishable as a Class 4 felony or lower, the court,
14 with the consent of the defendant and the State's Attorney,
15 may, without entering a judgment, sentence the defendant to
16 complete the First Time Weapon Offender Program. When a
17 defendant is placed in the Program, the court shall defer
18 further proceedings in the case until the conclusion of the
19 period or until the filing of a petition alleging violation of
20 a term or condition of the Program. Upon violation of a term or
21 condition of the Program, the court may enter a judgment on its
22 original finding of guilt and proceed as otherwise provided by
23 law. Upon fulfillment of the terms and conditions of the
24 Program, the court shall discharge the person and dismiss the
25 proceedings against the person.

26 (d) The Program shall be at least 18 months and not to

1 exceed 24 months, as determined by the court at the
2 recommendation of the Program ~~program~~ administrator and the
3 State's Attorney. The Program administrator shall be appointed
4 by the Chief Judge of each Judicial Circuit.

5 (e) The conditions of the Program shall be that the
6 defendant:

7 (1) not violate any criminal statute of this State or
8 any other jurisdiction;

9 (2) refrain from possessing a firearm or other
10 dangerous weapon;

11 (3) obtain or attempt to obtain employment;

12 (4) attend educational courses designed to prepare the
13 defendant for obtaining a high school diploma or to work
14 toward passing high school equivalency testing or to work
15 toward completing a vocational training program;

16 (5) refrain from having in his or her body the presence
17 of any illicit drug prohibited by the Methamphetamine
18 Control and Community Protection Act, the Cannabis Control
19 Act, or the Illinois Controlled Substances Act, unless
20 prescribed by a physician, and submit samples of his or her
21 blood or urine or both for tests to determine the presence
22 of any illicit drug;

23 (6) perform a minimum of 50 hours of community service;

24 (7) attend and participate in any Program activities
25 deemed required by the Program administrator, including
26 but not limited to: counseling sessions, in-person and over

1 the phone check-ins, and educational classes; and

2 (8) pay all fines, assessments, fees, and costs.

3 (f) The Program may, in addition to other conditions,
4 require that the defendant:

5 (1) wear an ankle bracelet with GPS tracking;

6 (2) undergo medical or psychiatric treatment, or
7 treatment or rehabilitation approved by the Department of
8 Human Services; and

9 (3) attend or reside in a facility established for the
10 instruction or residence of defendants on probation.

11 (g) There may be only one discharge and dismissal under
12 this Section. If a person is convicted of any offense which
13 occurred within 5 years subsequent to a discharge and dismissal
14 under this Section, the discharge and dismissal under this
15 Section shall be admissible in the sentencing proceeding for
16 that conviction as evidence in aggravation.

17 (h) For purposes of this Section, "violent offense" means
18 any offense in which bodily harm was inflicted or force was
19 used against any person or threatened against any person; any
20 offense involving the possession of a firearm or dangerous
21 weapon; any offense involving sexual conduct, sexual
22 penetration, or sexual exploitation; violation of an order of
23 protection, stalking, hate crime, domestic battery, or any
24 offense of domestic violence.

25 (i) This Section is repealed on January 1, 2023.

26 (Source: P.A. 100-3, eff. 1-1-18.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.