



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4152

Introduced 10/26/2005, by Rep. Linda Chapa LaVia - Susana A
Mendoza - Jack D. Franks - Chapin Rose

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-3-7	from Ch. 38, par. 1003-3-7
730 ILCS 5/5-6-3	from Ch. 38, par. 1005-6-3
730 ILCS 5/5-6-3.1	from Ch. 38, par. 1005-6-3.1
730 ILCS 5/5-8A-6 new	

Amends the Unified Code of Corrections. Provides that a person convicted of or placed on supervision for a sex offense as defined in the Sex Offender Management Board Act must wear an approved electronic monitoring device for the duration of the person's parole, mandatory supervised release, probation, conditional discharge, or supervision term if the unlawful activity involved a victim who was under 18 years of age and the person convicted of the sex offense is 18 years of age or older or if the person convicted of the sex offense is a sexual predator and the victim of the offense is under 18 years of age.

LRB094 14450 RLC 49387 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning sex offenders.

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 Sections 3-3-7, 5-6-3, and 5-6-3.1 and by adding
6 Section 5-8A-6 as follows:

7 (730 ILCS 5/3-3-7) (from Ch. 38, par. 1003-3-7)

8 Sec. 3-3-7. Conditions of Parole or Mandatory Supervised
9 Release.

10 (a) The conditions of parole or mandatory supervised
11 release shall be such as the Prisoner Review Board deems
12 necessary to assist the subject in leading a law-abiding life.
13 The conditions of every parole and mandatory supervised release
14 are that the subject:

15 (1) not violate any criminal statute of any
16 jurisdiction during the parole or release term;

17 (2) refrain from possessing a firearm or other
18 dangerous weapon;

19 (3) report to an agent of the Department of
20 Corrections;

21 (4) permit the agent to visit him or her at his or her
22 home, employment, or elsewhere to the extent necessary for
23 the agent to discharge his or her duties;

24 (5) attend or reside in a facility established for the
25 instruction or residence of persons on parole or mandatory
26 supervised release;

27 (6) secure permission before visiting or writing a
28 committed person in an Illinois Department of Corrections
29 facility;

30 (7) report all arrests to an agent of the Department of
31 Corrections as soon as permitted by the arresting authority
32 but in no event later than 24 hours after release from

1 custody;

2 (7.5) if convicted of a sex offense as defined in the
3 Sex Offender Management Board Act, the individual shall
4 undergo and successfully complete sex offender treatment
5 conducted in conformance with the standards developed by
6 the Sex Offender Management Board Act by a treatment
7 provider approved by the Board;

8 (7.6) if convicted of a sex offense as defined in the
9 Sex Offender Management Board Act, refrain from residing at
10 the same address or in the same condominium unit or
11 apartment unit or in the same condominium complex or
12 apartment complex with another person he or she knows or
13 reasonably should know is a convicted sex offender or has
14 been placed on supervision for a sex offense; the
15 provisions of this paragraph do not apply to a person
16 convicted of a sex offense who is placed in a Department of
17 Corrections licensed transitional housing facility for sex
18 offenders, or is in any facility operated or licensed by
19 the Department of Children and Family Services or by the
20 Department of Human Services, or is in any licensed medical
21 facility;

22 (7.7) if convicted of a sex offense as defined in the
23 Sex Offender Management Board Act on or after the effective
24 date of this amendatory Act of the 94th General Assembly
25 and the unlawful activity involved a victim who was under
26 18 years of age and the person convicted of the sex offense
27 is 18 years of age or older or if the person convicted of
28 the sex offense is a sexual predator as defined in the Sex
29 Offender Registration Act and the victim of the offense is
30 under 18 years of age, wear an approved electronic
31 monitoring device as defined in Section 5-8A-2 for the
32 duration of the person's parole or mandatory supervised
33 release term;

34 (8) obtain permission of an agent of the Department of
35 Corrections before leaving the State of Illinois;

36 (9) obtain permission of an agent of the Department of

1 Corrections before changing his or her residence or
2 employment;

3 (10) consent to a search of his or her person,
4 property, or residence under his or her control;

5 (11) refrain from the use or possession of narcotics or
6 other controlled substances in any form, or both, or any
7 paraphernalia related to those substances and submit to a
8 urinalysis test as instructed by a parole agent of the
9 Department of Corrections;

10 (12) not frequent places where controlled substances
11 are illegally sold, used, distributed, or administered;

12 (13) not knowingly associate with other persons on
13 parole or mandatory supervised release without prior
14 written permission of his or her parole agent and not
15 associate with persons who are members of an organized gang
16 as that term is defined in the Illinois Streetgang
17 Terrorism Omnibus Prevention Act;

18 (14) provide true and accurate information, as it
19 relates to his or her adjustment in the community while on
20 parole or mandatory supervised release or to his or her
21 conduct while incarcerated, in response to inquiries by his
22 or her parole agent or of the Department of Corrections;

23 (15) follow any specific instructions provided by the
24 parole agent that are consistent with furthering
25 conditions set and approved by the Prisoner Review Board or
26 by law, exclusive of placement on electronic detention, to
27 achieve the goals and objectives of his or her parole or
28 mandatory supervised release or to protect the public.
29 These instructions by the parole agent may be modified at
30 any time, as the agent deems appropriate; and

31 (16) if convicted of a sex offense as defined in
32 subsection (a-5) of Section 3-1-2 of this Code, unless the
33 offender is a parent or guardian of the person under 18
34 years of age present in the home and no non-familial minors
35 are present, not participate in a holiday event involving
36 children under 18 years of age, such as distributing candy

1 or other items to children on Halloween, wearing a Santa
2 Claus costume on or preceding Christmas, being employed as
3 a department store Santa Claus, or wearing an Easter Bunny
4 costume on or preceding Easter.

5 (b) The Board may in addition to other conditions require
6 that the subject:

7 (1) work or pursue a course of study or vocational
8 training;

9 (2) undergo medical or psychiatric treatment, or
10 treatment for drug addiction or alcoholism;

11 (3) attend or reside in a facility established for the
12 instruction or residence of persons on probation or parole;

13 (4) support his dependents;

14 (5) (blank);

15 (6) (blank);

16 (7) comply with the terms and conditions of an order of
17 protection issued pursuant to the Illinois Domestic
18 Violence Act of 1986, enacted by the 84th General Assembly,
19 or an order of protection issued by the court of another
20 state, tribe, or United States territory; and

21 (8) in addition, if a minor:

22 (i) reside with his parents or in a foster home;

23 (ii) attend school;

24 (iii) attend a non-residential program for youth;

25 or

26 (iv) contribute to his own support at home or in a
27 foster home.

28 (b-1) In addition to the conditions set forth in
29 subsections (a) and (b), persons required to register as sex
30 offenders pursuant to the Sex Offender Registration Act, upon
31 release from the custody of the Illinois Department of
32 Corrections, may be required by the Board to comply with the
33 following specific conditions of release:

34 (1) reside only at a Department approved location;

35 (2) comply with all requirements of the Sex Offender
36 Registration Act;

1 (3) notify third parties of the risks that may be
2 occasioned by his or her criminal record;

3 (4) obtain the approval of an agent of the Department
4 of Corrections prior to accepting employment or pursuing a
5 course of study or vocational training and notify the
6 Department prior to any change in employment, study, or
7 training;

8 (5) not be employed or participate in any volunteer
9 activity that involves contact with children, except under
10 circumstances approved in advance and in writing by an
11 agent of the Department of Corrections;

12 (6) be electronically monitored for a minimum of 12
13 months from the date of release as determined by the Board;

14 (7) refrain from entering into a designated geographic
15 area except upon terms approved in advance by an agent of
16 the Department of Corrections. The terms may include
17 consideration of the purpose of the entry, the time of day,
18 and others accompanying the person;

19 (8) refrain from having any contact, including written
20 or oral communications, directly or indirectly, personally
21 or by telephone, letter, or through a third party with
22 certain specified persons including, but not limited to,
23 the victim or the victim's family without the prior written
24 approval of an agent of the Department of Corrections;

25 (9) refrain from all contact, directly or indirectly,
26 personally, by telephone, letter, or through a third party,
27 with minor children without prior identification and
28 approval of an agent of the Department of Corrections;

29 (10) neither possess or have under his or her control
30 any material that is sexually oriented, sexually
31 stimulating, or that shows male or female sex organs or any
32 pictures depicting children under 18 years of age nude or
33 any written or audio material describing sexual
34 intercourse or that depicts or alludes to sexual activity,
35 including but not limited to visual, auditory, telephonic,
36 or electronic media, or any matter obtained through access

1 to any computer or material linked to computer access use;

2 (11) not patronize any business providing sexually
3 stimulating or sexually oriented entertainment nor utilize
4 "900" or adult telephone numbers;

5 (12) not reside near, visit, or be in or about parks,
6 schools, day care centers, swimming pools, beaches,
7 theaters, or any other places where minor children
8 congregate without advance approval of an agent of the
9 Department of Corrections and immediately report any
10 incidental contact with minor children to the Department;

11 (13) not possess or have under his or her control
12 certain specified items of contraband related to the
13 incidence of sexually offending as determined by an agent
14 of the Department of Corrections;

15 (14) may be required to provide a written daily log of
16 activities if directed by an agent of the Department of
17 Corrections;

18 (15) comply with all other special conditions that the
19 Department may impose that restrict the person from
20 high-risk situations and limit access to potential
21 victims.

22 (c) The conditions under which the parole or mandatory
23 supervised release is to be served shall be communicated to the
24 person in writing prior to his release, and he shall sign the
25 same before release. A signed copy of these conditions,
26 including a copy of an order of protection where one had been
27 issued by the criminal court, shall be retained by the person
28 and another copy forwarded to the officer in charge of his
29 supervision.

30 (d) After a hearing under Section 3-3-9, the Prisoner
31 Review Board may modify or enlarge the conditions of parole or
32 mandatory supervised release.

33 (e) The Department shall inform all offenders committed to
34 the Department of the optional services available to them upon
35 release and shall assist inmates in availing themselves of such
36 optional services upon their release on a voluntary basis.

1 (Source: P.A. 93-616, eff. 1-1-04; 93-865, eff. 1-1-05; 94-159,
2 eff. 7-11-05; 94-161, eff. 7-11-05; revised 8-19-05.)

3 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

4 Sec. 5-6-3. Conditions of Probation and of Conditional
5 Discharge.

6 (a) The conditions of probation and of conditional
7 discharge shall be that the person:

8 (1) not violate any criminal statute of any
9 jurisdiction;

10 (2) report to or appear in person before such person or
11 agency as directed by the court;

12 (3) refrain from possessing a firearm or other
13 dangerous weapon;

14 (4) not leave the State without the consent of the
15 court or, in circumstances in which the reason for the
16 absence is of such an emergency nature that prior consent
17 by the court is not possible, without the prior
18 notification and approval of the person's probation
19 officer. Transfer of a person's probation or conditional
20 discharge supervision to another state is subject to
21 acceptance by the other state pursuant to the Interstate
22 Compact for Adult Offender Supervision;

23 (5) permit the probation officer to visit him at his
24 home or elsewhere to the extent necessary to discharge his
25 duties;

26 (6) perform no less than 30 hours of community service
27 and not more than 120 hours of community service, if
28 community service is available in the jurisdiction and is
29 funded and approved by the county board where the offense
30 was committed, where the offense was related to or in
31 furtherance of the criminal activities of an organized gang
32 and was motivated by the offender's membership in or
33 allegiance to an organized gang. The community service
34 shall include, but not be limited to, the cleanup and
35 repair of any damage caused by a violation of Section

1 21-1.3 of the Criminal Code of 1961 and similar damage to
2 property located within the municipality or county in which
3 the violation occurred. When possible and reasonable, the
4 community service should be performed in the offender's
5 neighborhood. For purposes of this Section, "organized
6 gang" has the meaning ascribed to it in Section 10 of the
7 Illinois Streetgang Terrorism Omnibus Prevention Act;

8 (7) if he or she is at least 17 years of age and has
9 been sentenced to probation or conditional discharge for a
10 misdemeanor or felony in a county of 3,000,000 or more
11 inhabitants and has not been previously convicted of a
12 misdemeanor or felony, may be required by the sentencing
13 court to attend educational courses designed to prepare the
14 defendant for a high school diploma and to work toward a
15 high school diploma or to work toward passing the high
16 school level Test of General Educational Development (GED)
17 or to work toward completing a vocational training program
18 approved by the court. The person on probation or
19 conditional discharge must attend a public institution of
20 education to obtain the educational or vocational training
21 required by this clause (7). The court shall revoke the
22 probation or conditional discharge of a person who wilfully
23 fails to comply with this clause (7). The person on
24 probation or conditional discharge shall be required to pay
25 for the cost of the educational courses or GED test, if a
26 fee is charged for those courses or test. The court shall
27 resentence the offender whose probation or conditional
28 discharge has been revoked as provided in Section 5-6-4.
29 This clause (7) does not apply to a person who has a high
30 school diploma or has successfully passed the GED test.
31 This clause (7) does not apply to a person who is
32 determined by the court to be developmentally disabled or
33 otherwise mentally incapable of completing the educational
34 or vocational program;

35 (8) if convicted of possession of a substance
36 prohibited by the Cannabis Control Act, the Illinois

1 Controlled Substances Act, or the Methamphetamine Control
2 and Community Protection Act after a previous conviction or
3 disposition of supervision for possession of a substance
4 prohibited by the Cannabis Control Act or Illinois
5 Controlled Substances Act or after a sentence of probation
6 under Section 10 of the Cannabis Control Act, Section 410
7 of the Illinois Controlled Substances Act, or Section 70 of
8 the Methamphetamine Control and Community Protection Act
9 and upon a finding by the court that the person is
10 addicted, undergo treatment at a substance abuse program
11 approved by the court;

12 (8.5) if convicted of a felony sex offense as defined
13 in the Sex Offender Management Board Act, the person shall
14 undergo and successfully complete sex offender treatment
15 by a treatment provider approved by the Board and conducted
16 in conformance with the standards developed under the Sex
17 Offender Management Board Act;

18 (8.6) if convicted of a sex offense as defined in the
19 Sex Offender Management Board Act, refrain from residing at
20 the same address or in the same condominium unit or
21 apartment unit or in the same condominium complex or
22 apartment complex with another person he or she knows or
23 reasonably should know is a convicted sex offender or has
24 been placed on supervision for a sex offense; the
25 provisions of this paragraph do not apply to a person
26 convicted of a sex offense who is placed in a Department of
27 Corrections licensed transitional housing facility for sex
28 offenders; ~~and~~

29 (8.7) if convicted of a sex offense as defined in the
30 Sex Offender Management Board Act on or after the effective
31 date of this amendatory Act of the 94th General Assembly
32 and the unlawful activity involved a victim who was under
33 18 years of age and the person convicted of the sex offense
34 is 18 years of age or older or if the person convicted of
35 the sex offense is a sexual predator as defined in the Sex
36 Offender Registration Act and the victim of the offense is

1 under 18 years of age, wear an approved electronic
2 monitoring device as defined in Section 5-8A-2 for the
3 duration of the person's probation or conditional
4 discharge;

5 (9) if convicted of a felony, physically surrender at a
6 time and place designated by the court, his or her Firearm
7 Owner's Identification Card and any and all firearms in his
8 or her possession; and

9 (10) if convicted of a sex offense as defined in
10 subsection (a-5) of Section 3-1-2 of this Code, unless the
11 offender is a parent or guardian of the person under 18
12 years of age present in the home and no non-familial minors
13 are present, not participate in a holiday event involving
14 children under 18 years of age, such as distributing candy
15 or other items to children on Halloween, wearing a Santa
16 Claus costume on or preceding Christmas, being employed as
17 a department store Santa Claus, or wearing an Easter Bunny
18 costume on or preceding Easter.

19 (b) The Court may in addition to other reasonable
20 conditions relating to the nature of the offense or the
21 rehabilitation of the defendant as determined for each
22 defendant in the proper discretion of the Court require that
23 the person:

24 (1) serve a term of periodic imprisonment under Article
25 7 for a period not to exceed that specified in paragraph
26 (d) of Section 5-7-1;

27 (2) pay a fine and costs;

28 (3) work or pursue a course of study or vocational
29 training;

30 (4) undergo medical, psychological or psychiatric
31 treatment; or treatment for drug addiction or alcoholism;

32 (5) attend or reside in a facility established for the
33 instruction or residence of defendants on probation;

34 (6) support his dependents;

35 (7) and in addition, if a minor:

36 (i) reside with his parents or in a foster home;

- 1 (ii) attend school;
- 2 (iii) attend a non-residential program for youth;
- 3 (iv) contribute to his own support at home or in a
4 foster home;
- 5 (v) with the consent of the superintendent of the
6 facility, attend an educational program at a facility
7 other than the school in which the offense was
8 committed if he or she is convicted of a crime of
9 violence as defined in Section 2 of the Crime Victims
10 Compensation Act committed in a school, on the real
11 property comprising a school, or within 1,000 feet of
12 the real property comprising a school;
- 13 (8) make restitution as provided in Section 5-5-6 of
14 this Code;
- 15 (9) perform some reasonable public or community
16 service;
- 17 (10) serve a term of home confinement. In addition to
18 any other applicable condition of probation or conditional
19 discharge, the conditions of home confinement shall be that
20 the offender:
- 21 (i) remain within the interior premises of the
22 place designated for his confinement during the hours
23 designated by the court;
- 24 (ii) admit any person or agent designated by the
25 court into the offender's place of confinement at any
26 time for purposes of verifying the offender's
27 compliance with the conditions of his confinement; and
- 28 (iii) if further deemed necessary by the court or
29 the Probation or Court Services Department, be placed
30 on an approved electronic monitoring device, subject
31 to Article 8A of Chapter V;
- 32 (iv) for persons convicted of any alcohol,
33 cannabis or controlled substance violation who are
34 placed on an approved monitoring device as a condition
35 of probation or conditional discharge, the court shall
36 impose a reasonable fee for each day of the use of the

1 device, as established by the county board in
2 subsection (g) of this Section, unless after
3 determining the inability of the offender to pay the
4 fee, the court assesses a lesser fee or no fee as the
5 case may be. This fee shall be imposed in addition to
6 the fees imposed under subsections (g) and (i) of this
7 Section. The fee shall be collected by the clerk of the
8 circuit court. The clerk of the circuit court shall pay
9 all monies collected from this fee to the county
10 treasurer for deposit in the substance abuse services
11 fund under Section 5-1086.1 of the Counties Code; and

12 (v) for persons convicted of offenses other than
13 those referenced in clause (iv) above and who are
14 placed on an approved monitoring device as a condition
15 of probation or conditional discharge, the court shall
16 impose a reasonable fee for each day of the use of the
17 device, as established by the county board in
18 subsection (g) of this Section, unless after
19 determining the inability of the defendant to pay the
20 fee, the court assesses a lesser fee or no fee as the
21 case may be. This fee shall be imposed in addition to
22 the fees imposed under subsections (g) and (i) of this
23 Section. The fee shall be collected by the clerk of the
24 circuit court. The clerk of the circuit court shall pay
25 all monies collected from this fee to the county
26 treasurer who shall use the monies collected to defray
27 the costs of corrections. The county treasurer shall
28 deposit the fee collected in the county working cash
29 fund under Section 6-27001 or Section 6-29002 of the
30 Counties Code, as the case may be.

31 (11) comply with the terms and conditions of an order
32 of protection issued by the court pursuant to the Illinois
33 Domestic Violence Act of 1986, as now or hereafter amended,
34 or an order of protection issued by the court of another
35 state, tribe, or United States territory. A copy of the
36 order of protection shall be transmitted to the probation

1 officer or agency having responsibility for the case;

2 (12) reimburse any "local anti-crime program" as
3 defined in Section 7 of the Anti-Crime Advisory Council Act
4 for any reasonable expenses incurred by the program on the
5 offender's case, not to exceed the maximum amount of the
6 fine authorized for the offense for which the defendant was
7 sentenced;

8 (13) contribute a reasonable sum of money, not to
9 exceed the maximum amount of the fine authorized for the
10 offense for which the defendant was sentenced, to a "local
11 anti-crime program", as defined in Section 7 of the
12 Anti-Crime Advisory Council Act;

13 (14) refrain from entering into a designated
14 geographic area except upon such terms as the court finds
15 appropriate. Such terms may include consideration of the
16 purpose of the entry, the time of day, other persons
17 accompanying the defendant, and advance approval by a
18 probation officer, if the defendant has been placed on
19 probation or advance approval by the court, if the
20 defendant was placed on conditional discharge;

21 (15) refrain from having any contact, directly or
22 indirectly, with certain specified persons or particular
23 types of persons, including but not limited to members of
24 street gangs and drug users or dealers;

25 (16) refrain from having in his or her body the
26 presence of any illicit drug prohibited by the Cannabis
27 Control Act, the Illinois Controlled Substances Act, or the
28 Methamphetamine Control and Community Protection Act,
29 unless prescribed by a physician, and submit samples of his
30 or her blood or urine or both for tests to determine the
31 presence of any illicit drug.

32 (c) The court may as a condition of probation or of
33 conditional discharge require that a person under 18 years of
34 age found guilty of any alcohol, cannabis or controlled
35 substance violation, refrain from acquiring a driver's license
36 during the period of probation or conditional discharge. If

1 such person is in possession of a permit or license, the court
2 may require that the minor refrain from driving or operating
3 any motor vehicle during the period of probation or conditional
4 discharge, except as may be necessary in the course of the
5 minor's lawful employment.

6 (d) An offender sentenced to probation or to conditional
7 discharge shall be given a certificate setting forth the
8 conditions thereof.

9 (e) Except where the offender has committed a fourth or
10 subsequent violation of subsection (c) of Section 6-303 of the
11 Illinois Vehicle Code, the court shall not require as a
12 condition of the sentence of probation or conditional discharge
13 that the offender be committed to a period of imprisonment in
14 excess of 6 months. This 6 month limit shall not include
15 periods of confinement given pursuant to a sentence of county
16 impact incarceration under Section 5-8-1.2. This 6 month limit
17 does not apply to a person sentenced to probation as a result
18 of a conviction of a fourth or subsequent violation of
19 subsection (c-4) of Section 11-501 of the Illinois Vehicle Code
20 or a similar provision of a local ordinance.

21 Persons committed to imprisonment as a condition of
22 probation or conditional discharge shall not be committed to
23 the Department of Corrections.

24 (f) The court may combine a sentence of periodic
25 imprisonment under Article 7 or a sentence to a county impact
26 incarceration program under Article 8 with a sentence of
27 probation or conditional discharge.

28 (g) An offender sentenced to probation or to conditional
29 discharge and who during the term of either undergoes mandatory
30 drug or alcohol testing, or both, or is assigned to be placed
31 on an approved electronic monitoring device, shall be ordered
32 to pay all costs incidental to such mandatory drug or alcohol
33 testing, or both, and all costs incidental to such approved
34 electronic monitoring in accordance with the defendant's
35 ability to pay those costs. The county board with the
36 concurrence of the Chief Judge of the judicial circuit in which

1 the county is located shall establish reasonable fees for the
2 cost of maintenance, testing, and incidental expenses related
3 to the mandatory drug or alcohol testing, or both, and all
4 costs incidental to approved electronic monitoring, involved
5 in a successful probation program for the county. The
6 concurrence of the Chief Judge shall be in the form of an
7 administrative order. The fees shall be collected by the clerk
8 of the circuit court. The clerk of the circuit court shall pay
9 all moneys collected from these fees to the county treasurer
10 who shall use the moneys collected to defray the costs of drug
11 testing, alcohol testing, and electronic monitoring. The
12 county treasurer shall deposit the fees collected in the county
13 working cash fund under Section 6-27001 or Section 6-29002 of
14 the Counties Code, as the case may be.

15 (h) Jurisdiction over an offender may be transferred from
16 the sentencing court to the court of another circuit with the
17 concurrence of both courts. Further transfers or retransfers of
18 jurisdiction are also authorized in the same manner. The court
19 to which jurisdiction has been transferred shall have the same
20 powers as the sentencing court.

21 (i) The court shall impose upon an offender sentenced to
22 probation after January 1, 1989 or to conditional discharge
23 after January 1, 1992 or to community service under the
24 supervision of a probation or court services department after
25 January 1, 2004, as a condition of such probation or
26 conditional discharge or supervised community service, a fee of
27 \$50 for each month of probation or conditional discharge
28 supervision or supervised community service ordered by the
29 court, unless after determining the inability of the person
30 sentenced to probation or conditional discharge or supervised
31 community service to pay the fee, the court assesses a lesser
32 fee. The court may not impose the fee on a minor who is made a
33 ward of the State under the Juvenile Court Act of 1987 while
34 the minor is in placement. The fee shall be imposed only upon
35 an offender who is actively supervised by the probation and
36 court services department. The fee shall be collected by the

1 clerk of the circuit court. The clerk of the circuit court
2 shall pay all monies collected from this fee to the county
3 treasurer for deposit in the probation and court services fund
4 under Section 15.1 of the Probation and Probation Officers Act.

5 A circuit court may not impose a probation fee under this
6 subsection (i) in excess of \$25 per month unless: (1) the
7 circuit court has adopted, by administrative order issued by
8 the chief judge, a standard probation fee guide determining an
9 offender's ability to pay, under guidelines developed by the
10 Administrative Office of the Illinois Courts; and (2) the
11 circuit court has authorized, by administrative order issued by
12 the chief judge, the creation of a Crime Victim's Services
13 Fund, to be administered by the Chief Judge or his or her
14 designee, for services to crime victims and their families. Of
15 the amount collected as a probation fee, up to \$5 of that fee
16 collected per month may be used to provide services to crime
17 victims and their families.

18 This amendatory Act of the 93rd General Assembly deletes
19 the \$10 increase in the fee under this subsection that was
20 imposed by Public Act 93-616. This deletion is intended to
21 control over any other Act of the 93rd General Assembly that
22 retains or incorporates that fee increase.

23 (i-5) In addition to the fees imposed under subsection (i)
24 of this Section, in the case of an offender convicted of a
25 felony sex offense (as defined in the Sex Offender Management
26 Board Act) or an offense that the court or probation department
27 has determined to be sexually motivated (as defined in the Sex
28 Offender Management Board Act), the court or the probation
29 department shall assess additional fees to pay for all costs of
30 treatment, assessment, evaluation for risk and treatment, and
31 monitoring the offender, based on that offender's ability to
32 pay those costs either as they occur or under a payment plan.

33 (j) All fines and costs imposed under this Section for any
34 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
35 Code, or a similar provision of a local ordinance, and any
36 violation of the Child Passenger Protection Act, or a similar

1 provision of a local ordinance, shall be collected and
2 disbursed by the circuit clerk as provided under Section 27.5
3 of the Clerks of Courts Act.

4 (k) Any offender who is sentenced to probation or
5 conditional discharge for a felony sex offense as defined in
6 the Sex Offender Management Board Act or any offense that the
7 court or probation department has determined to be sexually
8 motivated as defined in the Sex Offender Management Board Act
9 shall be required to refrain from any contact, directly or
10 indirectly, with any persons specified by the court and shall
11 be available for all evaluations and treatment programs
12 required by the court or the probation department.

13 (Source: P.A. 93-475, eff. 8-8-03; 93-616, eff. 1-1-04; 93-970,
14 eff. 8-20-04; 94-159, eff. 7-11-05; 94-161, eff. 7-11-05;
15 94-556, eff. 9-11-05; revised 8-19-05.)

16 (730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

17 Sec. 5-6-3.1. Incidents and Conditions of Supervision.

18 (a) When a defendant is placed on supervision, the court
19 shall enter an order for supervision specifying the period of
20 such supervision, and shall defer further proceedings in the
21 case until the conclusion of the period.

22 (b) The period of supervision shall be reasonable under all
23 of the circumstances of the case, but may not be longer than 2
24 years, unless the defendant has failed to pay the assessment
25 required by Section 10.3 of the Cannabis Control Act, Section
26 411.2 of the Illinois Controlled Substances Act, or Section 80
27 of the Methamphetamine Control and Community Protection Act, in
28 which case the court may extend supervision beyond 2 years.
29 Additionally, the court shall order the defendant to perform no
30 less than 30 hours of community service and not more than 120
31 hours of community service, if community service is available
32 in the jurisdiction and is funded and approved by the county
33 board where the offense was committed, when the offense (1) was
34 related to or in furtherance of the criminal activities of an
35 organized gang or was motivated by the defendant's membership

1 in or allegiance to an organized gang; or (2) is a violation of
2 any Section of Article 24 of the Criminal Code of 1961 where a
3 disposition of supervision is not prohibited by Section 5-6-1
4 of this Code. The community service shall include, but not be
5 limited to, the cleanup and repair of any damage caused by
6 violation of Section 21-1.3 of the Criminal Code of 1961 and
7 similar damages to property located within the municipality or
8 county in which the violation occurred. Where possible and
9 reasonable, the community service should be performed in the
10 offender's neighborhood.

11 For the purposes of this Section, "organized gang" has the
12 meaning ascribed to it in Section 10 of the Illinois Streetgang
13 Terrorism Omnibus Prevention Act.

14 (c) The court may in addition to other reasonable
15 conditions relating to the nature of the offense or the
16 rehabilitation of the defendant as determined for each
17 defendant in the proper discretion of the court require that
18 the person:

19 (1) make a report to and appear in person before or
20 participate with the court or such courts, person, or
21 social service agency as directed by the court in the order
22 of supervision;

23 (2) pay a fine and costs;

24 (3) work or pursue a course of study or vocational
25 training;

26 (4) undergo medical, psychological or psychiatric
27 treatment; or treatment for drug addiction or alcoholism;

28 (5) attend or reside in a facility established for the
29 instruction or residence of defendants on probation;

30 (6) support his dependents;

31 (7) refrain from possessing a firearm or other
32 dangerous weapon;

33 (8) and in addition, if a minor:

34 (i) reside with his parents or in a foster home;

35 (ii) attend school;

36 (iii) attend a non-residential program for youth;

1 (iv) contribute to his own support at home or in a
2 foster home; or

3 (v) with the consent of the superintendent of the
4 facility, attend an educational program at a facility
5 other than the school in which the offense was
6 committed if he or she is placed on supervision for a
7 crime of violence as defined in Section 2 of the Crime
8 Victims Compensation Act committed in a school, on the
9 real property comprising a school, or within 1,000 feet
10 of the real property comprising a school;

11 (9) make restitution or reparation in an amount not to
12 exceed actual loss or damage to property and pecuniary loss
13 or make restitution under Section 5-5-6 to a domestic
14 violence shelter. The court shall determine the amount and
15 conditions of payment;

16 (10) perform some reasonable public or community
17 service;

18 (11) comply with the terms and conditions of an order
19 of protection issued by the court pursuant to the Illinois
20 Domestic Violence Act of 1986 or an order of protection
21 issued by the court of another state, tribe, or United
22 States territory. If the court has ordered the defendant to
23 make a report and appear in person under paragraph (1) of
24 this subsection, a copy of the order of protection shall be
25 transmitted to the person or agency so designated by the
26 court;

27 (12) reimburse any "local anti-crime program" as
28 defined in Section 7 of the Anti-Crime Advisory Council Act
29 for any reasonable expenses incurred by the program on the
30 offender's case, not to exceed the maximum amount of the
31 fine authorized for the offense for which the defendant was
32 sentenced;

33 (13) contribute a reasonable sum of money, not to
34 exceed the maximum amount of the fine authorized for the
35 offense for which the defendant was sentenced, to a "local
36 anti-crime program", as defined in Section 7 of the

1 Anti-Crime Advisory Council Act;

2 (14) refrain from entering into a designated
3 geographic area except upon such terms as the court finds
4 appropriate. Such terms may include consideration of the
5 purpose of the entry, the time of day, other persons
6 accompanying the defendant, and advance approval by a
7 probation officer;

8 (15) refrain from having any contact, directly or
9 indirectly, with certain specified persons or particular
10 types of person, including but not limited to members of
11 street gangs and drug users or dealers;

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

19 (17) refrain from operating any motor vehicle not
20 equipped with an ignition interlock device as defined in
21 Section 1-129.1 of the Illinois Vehicle Code. Under this
22 condition the court may allow a defendant who is not
23 self-employed to operate a vehicle owned by the defendant's
24 employer that is not equipped with an ignition interlock
25 device in the course and scope of the defendant's
26 employment; ~~and~~

27 (18) if placed on supervision for a sex offense as
28 defined in subsection (a-5) of Section 3-1-2 of this Code,
29 unless the offender is a parent or guardian of the person
30 under 18 years of age present in the home and no
31 non-familial minors are present, not participate in a
32 holiday event involving children under 18 years of age,
33 such as distributing candy or other items to children on
34 Halloween, wearing a Santa Claus costume on or preceding
35 Christmas, being employed as a department store Santa
36 Claus, or wearing an Easter Bunny costume on or preceding

1 Easter; and

2 (19) if placed on supervision for a sex offense as
3 defined in the Sex Offender Management Board Act on or
4 after the effective date of this amendatory Act of the 94th
5 General Assembly and the unlawful activity involved a
6 victim who was under 18 years of age and the person placed
7 on supervision for the sex offense is 18 years of age or
8 older or if the person placed on supervision for the sex
9 offense is a sexual predator as defined in the Sex Offender
10 Registration Act and the victim of the offense is under 18
11 years of age, wear an approved electronic monitoring device
12 as defined in Section 5-8A-2 for the duration of the
13 person's supervision.

14 (d) The court shall defer entering any judgment on the
15 charges until the conclusion of the supervision.

16 (e) At the conclusion of the period of supervision, if the
17 court determines that the defendant has successfully complied
18 with all of the conditions of supervision, the court shall
19 discharge the defendant and enter a judgment dismissing the
20 charges.

21 (f) Discharge and dismissal upon a successful conclusion of
22 a disposition of supervision shall be deemed without
23 adjudication of guilt and shall not be termed a conviction for
24 purposes of disqualification or disabilities imposed by law
25 upon conviction of a crime. Two years after the discharge and
26 dismissal under this Section, unless the disposition of
27 supervision was for a violation of Sections 3-707, 3-708,
28 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a
29 similar provision of a local ordinance, or for a violation of
30 Sections 12-3.2 or 16A-3 of the Criminal Code of 1961, in which
31 case it shall be 5 years after discharge and dismissal, a
32 person may have his record of arrest sealed or expunged as may
33 be provided by law. However, any defendant placed on
34 supervision before January 1, 1980, may move for sealing or
35 expungement of his arrest record, as provided by law, at any
36 time after discharge and dismissal under this Section. A person

1 placed on supervision for a sexual offense committed against a
2 minor as defined in subsection (g) of Section 5 of the Criminal
3 Identification Act or for a violation of Section 11-501 of the
4 Illinois Vehicle Code or a similar provision of a local
5 ordinance shall not have his or her record of arrest sealed or
6 expunged.

7 (g) A defendant placed on supervision and who during the
8 period of supervision undergoes mandatory drug or alcohol
9 testing, or both, or is assigned to be placed on an approved
10 electronic monitoring device, shall be ordered to pay the costs
11 incidental to such mandatory drug or alcohol testing, or both,
12 and costs incidental to such approved electronic monitoring in
13 accordance with the defendant's ability to pay those costs. The
14 county board with the concurrence of the Chief Judge of the
15 judicial circuit in which the county is located shall establish
16 reasonable fees for the cost of maintenance, testing, and
17 incidental expenses related to the mandatory drug or alcohol
18 testing, or both, and all costs incidental to approved
19 electronic monitoring, of all defendants placed on
20 supervision. The concurrence of the Chief Judge shall be in the
21 form of an administrative order. The fees shall be collected by
22 the clerk of the circuit court. The clerk of the circuit court
23 shall pay all moneys collected from these fees to the county
24 treasurer who shall use the moneys collected to defray the
25 costs of drug testing, alcohol testing, and electronic
26 monitoring. The county treasurer shall deposit the fees
27 collected in the county working cash fund under Section 6-27001
28 or Section 6-29002 of the Counties Code, as the case may be.

29 (h) A disposition of supervision is a final order for the
30 purposes of appeal.

31 (i) The court shall impose upon a defendant placed on
32 supervision after January 1, 1992 or to community service under
33 the supervision of a probation or court services department
34 after January 1, 2004, as a condition of supervision or
35 supervised community service, a fee of \$50 for each month of
36 supervision or supervised community service ordered by the

1 court, unless after determining the inability of the person
2 placed on supervision or supervised community service to pay
3 the fee, the court assesses a lesser fee. The court may not
4 impose the fee on a minor who is made a ward of the State under
5 the Juvenile Court Act of 1987 while the minor is in placement.
6 The fee shall be imposed only upon a defendant who is actively
7 supervised by the probation and court services department. The
8 fee shall be collected by the clerk of the circuit court. The
9 clerk of the circuit court shall pay all monies collected from
10 this fee to the county treasurer for deposit in the probation
11 and court services fund pursuant to Section 15.1 of the
12 Probation and Probation Officers Act.

13 A circuit court may not impose a probation fee in excess of
14 \$25 per month unless: (1) the circuit court has adopted, by
15 administrative order issued by the chief judge, a standard
16 probation fee guide determining an offender's ability to pay,
17 under guidelines developed by the Administrative Office of the
18 Illinois Courts; and (2) the circuit court has authorized, by
19 administrative order issued by the chief judge, the creation of
20 a Crime Victim's Services Fund, to be administered by the Chief
21 Judge or his or her designee, for services to crime victims and
22 their families. Of the amount collected as a probation fee, not
23 to exceed \$5 of that fee collected per month may be used to
24 provide services to crime victims and their families.

25 (j) All fines and costs imposed under this Section for any
26 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
27 Code, or a similar provision of a local ordinance, and any
28 violation of the Child Passenger Protection Act, or a similar
29 provision of a local ordinance, shall be collected and
30 disbursed by the circuit clerk as provided under Section 27.5
31 of the Clerks of Courts Act.

32 (k) A defendant at least 17 years of age who is placed on
33 supervision for a misdemeanor in a county of 3,000,000 or more
34 inhabitants and who has not been previously convicted of a
35 misdemeanor or felony may as a condition of his or her
36 supervision be required by the court to attend educational

1 courses designed to prepare the defendant for a high school
2 diploma and to work toward a high school diploma or to work
3 toward passing the high school level Test of General
4 Educational Development (GED) or to work toward completing a
5 vocational training program approved by the court. The
6 defendant placed on supervision must attend a public
7 institution of education to obtain the educational or
8 vocational training required by this subsection (k). The
9 defendant placed on supervision shall be required to pay for
10 the cost of the educational courses or GED test, if a fee is
11 charged for those courses or test. The court shall revoke the
12 supervision of a person who wilfully fails to comply with this
13 subsection (k). The court shall resentence the defendant upon
14 revocation of supervision as provided in Section 5-6-4. This
15 subsection (k) does not apply to a defendant who has a high
16 school diploma or has successfully passed the GED test. This
17 subsection (k) does not apply to a defendant who is determined
18 by the court to be developmentally disabled or otherwise
19 mentally incapable of completing the educational or vocational
20 program.

21 (l) The court shall require a defendant placed on
22 supervision for possession of a substance prohibited by the
23 Cannabis Control Act, the Illinois Controlled Substances Act,
24 or the Methamphetamine Control and Community Protection Act
25 after a previous conviction or disposition of supervision for
26 possession of a substance prohibited by the Cannabis Control
27 Act, the Illinois Controlled Substances Act, or the
28 Methamphetamine Control and Community Protection Act or a
29 sentence of probation under Section 10 of the Cannabis Control
30 Act or Section 410 of the Illinois Controlled Substances Act
31 and after a finding by the court that the person is addicted,
32 to undergo treatment at a substance abuse program approved by
33 the court.

34 (m) The Secretary of State shall require anyone placed on
35 court supervision for a violation of Section 3-707 of the
36 Illinois Vehicle Code or a similar provision of a local

1 ordinance to give proof of his or her financial responsibility
2 as defined in Section 7-315 of the Illinois Vehicle Code. The
3 proof shall be maintained by the individual in a manner
4 satisfactory to the Secretary of State for a minimum period of
5 one year after the date the proof is first filed. The proof
6 shall be limited to a single action per arrest and may not be
7 affected by any post-sentence disposition. The Secretary of
8 State shall suspend the driver's license of any person
9 determined by the Secretary to be in violation of this
10 subsection.

11 (n) Any offender placed on supervision for any offense that
12 the court or probation department has determined to be sexually
13 motivated as defined in the Sex Offender Management Board Act
14 shall be required to refrain from any contact, directly or
15 indirectly, with any persons specified by the court and shall
16 be available for all evaluations and treatment programs
17 required by the court or the probation department.

18 (o) An offender placed on supervision for a sex offense as
19 defined in the Sex Offender Management Board Act shall refrain
20 from residing at the same address or in the same condominium
21 unit or apartment unit or in the same condominium complex or
22 apartment complex with another person he or she knows or
23 reasonably should know is a convicted sex offender or has been
24 placed on supervision for a sex offense. The provisions of this
25 subsection (o) do not apply to a person convicted of a sex
26 offense who is placed in a Department of Corrections licensed
27 transitional housing facility for sex offenders.

28 (Source: P.A. 93-475, eff. 8-8-03; 93-970, eff. 8-20-04;
29 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-556, eff.
30 9-11-05; revised 8-19-05.)

31 (730 ILCS 5/5-8A-6 new)

32 Sec. 5-8A-6. Electronic monitoring of certain sex
33 offenders. For a sex offender subject to electronic home
34 monitoring under paragraph (7.7) of subsection (a) of Section
35 3-3-7, paragraph (8.7) of subsection (a) of Section 5-6-3, or

1 paragraph (19) of subsection (c) of Section 5-6-3.1 of this
2 Code, the supervising authority must use a system that actively
3 monitors and identifies the offender's location and timely
4 reports or records the offender's presence near or within a
5 crime scene or in a prohibited area described in Sections
6 11-9.3 and 11-9.4 of the Criminal Code of 1961, in a court
7 order, or as a condition of the offender's parole, mandatory
8 supervised release, probation, conditional discharge, or
9 supervision and the offender's departure from specified
10 geographic limitations.