



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4545

Introduced 1/11/2006, by Rep. Monique D. Davis

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-3-9	from Ch. 38, par. 1003-3-9
730 ILCS 5/5-6-4	from Ch. 38, par. 1005-6-4
730 ILCS 150/10	from Ch. 38, par. 230

Amends the Unified Code of Corrections and the Sex Offender Registration Act. Provides that any person who is required to register under the Sex Offender Registration Act who violates any of the provisions of that Act on 2 or more occasions shall, if sentenced to probation or supervision, be required to wear at all times for the duration of the period of probation or supervision a location transmitting device, and, if sentenced to imprisonment, be required to wear at all times for the duration of any period of parole or mandatory supervised release a location transmitting device. Provides that the location transmitting device shall be attached to the sex offender by the law enforcement agency having jurisdiction over the sex offender and that agency shall regularly and frequently monitor the information transmitted by the location transmitting device. Provides that any sex offender who is required to be monitored and who violates this requirement is guilty of a Class 2 felony. Provides that a violation of the monitoring requirement may be the basis for revocation of probation, supervision, parole, or mandatory supervised release.

LRB094 16618 RLC 51885 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 3-3-9 and 5-6-4 as follows:

6 (730 ILCS 5/3-3-9) (from Ch. 38, par. 1003-3-9)

7 (Text of Section before amendment by P.A. 94-696)

8 Sec. 3-3-9. Violations; changes of conditions; preliminary
9 hearing; revocation of parole or mandatory supervised release;
10 revocation hearing.

11 (a) If prior to expiration or termination of the term of
12 parole or mandatory supervised release, a person violates a
13 condition set by the Prisoner Review Board or a condition of
14 parole or mandatory supervised release under Section 3-3-7 of
15 this Code to govern that term, the Board may:

16 (1) continue the existing term, with or without
17 modifying or enlarging the conditions; or

18 (2) parole or release the person to a half-way house;
19 or

20 (3) revoke the parole or mandatory supervised release
21 and reconfine the person for a term computed in the
22 following manner:

23 (i) (A) For those sentenced under the law in effect
24 prior to this amendatory Act of 1977, the recommitment
25 shall be for any portion of the imposed maximum term of
26 imprisonment or confinement which had not been served
27 at the time of parole and the parole term, less the
28 time elapsed between the parole of the person and the
29 commission of the violation for which parole was
30 revoked;

31 (B) Except as set forth in paragraph (C), for those
32 subject to mandatory supervised release under

1 paragraph (d) of Section 5-8-1 of this Code, the
2 recommitment shall be for the total mandatory
3 supervised release term, less the time elapsed between
4 the release of the person and the commission of the
5 violation for which mandatory supervised release is
6 revoked. The Board may also order that a prisoner serve
7 up to one year of the sentence imposed by the court
8 which was not served due to the accumulation of good
9 conduct credit;

10 (C) For those subject to sex offender supervision
11 under clause (d) (4) of Section 5-8-1 of this Code, the
12 reconfinement period for violations of clauses (a) (3)
13 through (b-1) (15) of Section 3-3-7 shall not exceed 2
14 years from the date of reconfinement.

15 (ii) the person shall be given credit against the
16 term of reimprisonment or reconfinement for time spent
17 in custody since he was paroled or released which has
18 not been credited against another sentence or period of
19 confinement;

20 (iii) persons committed under the Juvenile Court
21 Act or the Juvenile Court Act of 1987 shall be
22 recommitted until the age of 21;

23 (iv) this Section is subject to the release under
24 supervision and the reparole and rerelease provisions
25 of Section 3-3-10.

26 (b) The Board may revoke parole or mandatory supervised
27 release for violation of a condition for the duration of the
28 term and for any further period which is reasonably necessary
29 for the adjudication of matters arising before its expiration.
30 The issuance of a warrant of arrest for an alleged violation of
31 the conditions of parole or mandatory supervised release shall
32 toll the running of the term until the final determination of
33 the charge, but where parole or mandatory supervised release is
34 not revoked that period shall be credited to the term.

35 (b-5) The Board shall revoke parole or mandatory supervised
36 release for violation of the conditions prescribed in paragraph

1 (7.6) of subsection (a) of Section 3-3-7.

2 (c) A person charged with violating a condition of parole
3 or mandatory supervised release shall have a preliminary
4 hearing before a hearing officer designated by the Board to
5 determine if there is cause to hold the person for a revocation
6 hearing. However, no preliminary hearing need be held when
7 revocation is based upon new criminal charges and a court finds
8 probable cause on the new criminal charges or when the
9 revocation is based upon a new criminal conviction and a
10 certified copy of that conviction is available.

11 (d) Parole or mandatory supervised release shall not be
12 revoked without written notice to the offender setting forth
13 the violation of parole or mandatory supervised release charged
14 against him.

15 (e) A hearing on revocation shall be conducted before at
16 least one member of the Prisoner Review Board. The Board may
17 meet and order its actions in panels of 3 or more members. The
18 action of a majority of the panel shall be the action of the
19 Board. In consideration of persons committed to the Juvenile
20 Division, the member hearing the matter and at least a majority
21 of the panel shall be experienced in juvenile matters. A record
22 of the hearing shall be made. At the hearing the offender shall
23 be permitted to:

24 (1) appear and answer the charge; and

25 (2) bring witnesses on his behalf.

26 (f) The Board shall either revoke parole or mandatory
27 supervised release or order the person's term continued with or
28 without modification or enlargement of the conditions.

29 (g) Parole or mandatory supervised release shall not be
30 revoked for failure to make payments under the conditions of
31 parole or release unless the Board determines that such failure
32 is due to the offender's willful refusal to pay.

33 (Source: P.A. 94-161, eff. 7-11-05; 94-165, eff. 7-11-05;
34 revised 8-19-05.)

35 (Text of Section after amendment by P.A. 94-696)

1 Sec. 3-3-9. Violations; changes of conditions; preliminary
2 hearing; revocation of parole or mandatory supervised release;
3 revocation hearing.

4 (a) If prior to expiration or termination of the term of
5 parole or mandatory supervised release, a person violates a
6 condition set by the Prisoner Review Board or a condition of
7 parole or mandatory supervised release under Section 3-3-7 of
8 this Code to govern that term, the Board may:

9 (1) continue the existing term, with or without
10 modifying or enlarging the conditions; or

11 (2) parole or release the person to a half-way house;
12 or

13 (3) revoke the parole or mandatory supervised release
14 and reconfine the person for a term computed in the
15 following manner:

16 (i) (A) For those sentenced under the law in effect
17 prior to this amendatory Act of 1977, the recommitment
18 shall be for any portion of the imposed maximum term of
19 imprisonment or confinement which had not been served
20 at the time of parole and the parole term, less the
21 time elapsed between the parole of the person and the
22 commission of the violation for which parole was
23 revoked;

24 (B) Except as set forth in paragraph (C), for those
25 subject to mandatory supervised release under
26 paragraph (d) of Section 5-8-1 of this Code, the
27 recommitment shall be for the total mandatory
28 supervised release term, less the time elapsed between
29 the release of the person and the commission of the
30 violation for which mandatory supervised release is
31 revoked. The Board may also order that a prisoner serve
32 up to one year of the sentence imposed by the court
33 which was not served due to the accumulation of good
34 conduct credit;

35 (C) For those subject to sex offender supervision
36 under clause (d) (4) of Section 5-8-1 of this Code, the

1 reconfinement period for violations of clauses (a) (3)
2 through (b-1) (15) of Section 3-3-7 shall not exceed 2
3 years from the date of reconfinement.

4 (ii) the person shall be given credit against the
5 term of reimprisonment or reconfinement for time spent
6 in custody since he was paroled or released which has
7 not been credited against another sentence or period of
8 confinement;

9 (iii) persons committed under the Juvenile Court
10 Act or the Juvenile Court Act of 1987 shall be
11 recommitted until the age of 21;

12 (iv) this Section is subject to the release under
13 supervision and the reparole and rerelease provisions
14 of Section 3-3-10.

15 (b) The Board may revoke parole or mandatory supervised
16 release for violation of a condition for the duration of the
17 term and for any further period which is reasonably necessary
18 for the adjudication of matters arising before its expiration.
19 The issuance of a warrant of arrest for an alleged violation of
20 the conditions of parole or mandatory supervised release shall
21 toll the running of the term until the final determination of
22 the charge, but where parole or mandatory supervised release is
23 not revoked that period shall be credited to the term.

24 (b-5) The Board shall revoke parole or mandatory supervised
25 release for violation of the conditions prescribed in paragraph
26 (7.6) of subsection (a) of Section 3-3-7.

27 (b-6) The Board may revoke parole or mandatory supervised
28 release for violation of the monitoring provisions of
29 subsection (b) of Section 10 of the Sex Offender Registration
30 Act.

31 (c) A person charged with violating a condition of parole
32 or mandatory supervised release shall have a preliminary
33 hearing before a hearing officer designated by the Board to
34 determine if there is cause to hold the person for a revocation
35 hearing. However, no preliminary hearing need be held when
36 revocation is based upon new criminal charges and a court finds

1 probable cause on the new criminal charges or when the
2 revocation is based upon a new criminal conviction and a
3 certified copy of that conviction is available.

4 (d) Parole or mandatory supervised release shall not be
5 revoked without written notice to the offender setting forth
6 the violation of parole or mandatory supervised release charged
7 against him.

8 (e) A hearing on revocation shall be conducted before at
9 least one member of the Prisoner Review Board. The Board may
10 meet and order its actions in panels of 3 or more members. The
11 action of a majority of the panel shall be the action of the
12 Board. In consideration of persons committed to the Department
13 of Juvenile Justice, the member hearing the matter and at least
14 a majority of the panel shall be experienced in juvenile
15 matters. A record of the hearing shall be made. At the hearing
16 the offender shall be permitted to:

17 (1) appear and answer the charge; and

18 (2) bring witnesses on his behalf.

19 (f) The Board shall either revoke parole or mandatory
20 supervised release or order the person's term continued with or
21 without modification or enlargement of the conditions.

22 (g) Parole or mandatory supervised release shall not be
23 revoked for failure to make payments under the conditions of
24 parole or release unless the Board determines that such failure
25 is due to the offender's willful refusal to pay.

26 (Source: P.A. 94-161, eff. 7-11-05; 94-165, eff. 7-11-05;
27 94-696, eff. 6-1-06.)

28 (730 ILCS 5/5-6-4) (from Ch. 38, par. 1005-6-4)

29 Sec. 5-6-4. Violation, Modification or Revocation of
30 Probation, of Conditional Discharge or Supervision or of a
31 sentence of county impact incarceration - Hearing.

32 (a) Except in cases where conditional discharge or
33 supervision was imposed for a petty offense as defined in
34 Section 5-1-17, when a petition is filed charging a violation
35 of a condition, the court may:

1 (1) in the case of probation violations, order the
2 issuance of a notice to the offender to be present by the
3 County Probation Department or such other agency
4 designated by the court to handle probation matters; and in
5 the case of conditional discharge or supervision
6 violations, such notice to the offender shall be issued by
7 the Circuit Court Clerk; and in the case of a violation of
8 a sentence of county impact incarceration, such notice
9 shall be issued by the Sheriff;

10 (2) order a summons to the offender to be present for
11 hearing; or

12 (3) order a warrant for the offender's arrest where
13 there is danger of his fleeing the jurisdiction or causing
14 serious harm to others or when the offender fails to answer
15 a summons or notice from the clerk of the court or Sheriff.

16 Personal service of the petition for violation of probation
17 or the issuance of such warrant, summons or notice shall toll
18 the period of probation, conditional discharge, supervision,
19 or sentence of county impact incarceration until the final
20 determination of the charge, and the term of probation,
21 conditional discharge, supervision, or sentence of county
22 impact incarceration shall not run until the hearing and
23 disposition of the petition for violation.

24 (b) The court shall conduct a hearing of the alleged
25 violation. The court shall admit the offender to bail pending
26 the hearing unless the alleged violation is itself a criminal
27 offense in which case the offender shall be admitted to bail on
28 such terms as are provided in the Code of Criminal Procedure of
29 1963, as amended. In any case where an offender remains
30 incarcerated only as a result of his alleged violation of the
31 court's earlier order of probation, supervision, conditional
32 discharge, or county impact incarceration such hearing shall be
33 held within 14 days of the onset of said incarceration, unless
34 the alleged violation is the commission of another offense by
35 the offender during the period of probation, supervision or
36 conditional discharge in which case such hearing shall be held

1 within the time limits described in Section 103-5 of the Code
2 of Criminal Procedure of 1963, as amended.

3 (c) The State has the burden of going forward with the
4 evidence and proving the violation by the preponderance of the
5 evidence. The evidence shall be presented in open court with
6 the right of confrontation, cross-examination, and
7 representation by counsel.

8 (d) Probation, conditional discharge, periodic
9 imprisonment and supervision shall not be revoked for failure
10 to comply with conditions of a sentence or supervision, which
11 imposes financial obligations upon the offender unless such
12 failure is due to his willful refusal to pay.

13 (e) If the court finds that the offender has violated a
14 condition at any time prior to the expiration or termination of
15 the period, it may continue him on the existing sentence, with
16 or without modifying or enlarging the conditions, or may impose
17 any other sentence that was available under Section 5-5-3 of
18 this Code or Section 11-501 of the Illinois Vehicle Code at the
19 time of initial sentencing. If the court finds that the person
20 has failed to successfully complete his or her sentence to a
21 county impact incarceration program, the court may impose any
22 other sentence that was available under Section 5-5-3 of this
23 Code or Section 11-501 of the Illinois Vehicle Code at the time
24 of initial sentencing, except for a sentence of probation or
25 conditional discharge. If the court finds that the offender has
26 violated paragraph (8.6) of subsection (a) of Section 5-6-3,
27 the court shall revoke the probation of the offender. If the
28 court finds that the offender has violated subsection (o) of
29 Section 5-6-3.1, the court shall revoke the supervision of the
30 offender.

31 (f) The conditions of probation, of conditional discharge,
32 of supervision, or of a sentence of county impact incarceration
33 may be modified by the court on motion of the supervising
34 agency or on its own motion or at the request of the offender
35 after notice and a hearing.

36 (g) A judgment revoking supervision, probation,

1 conditional discharge, or a sentence of county impact
2 incarceration is a final appealable order.

3 (h) Resentencing after revocation of probation,
4 conditional discharge, supervision, or a sentence of county
5 impact incarceration shall be under Article 4. Time served on
6 probation, conditional discharge or supervision shall not be
7 credited by the court against a sentence of imprisonment or
8 periodic imprisonment unless the court orders otherwise.

9 (i) Instead of filing a violation of probation, conditional
10 discharge, supervision, or a sentence of county impact
11 incarceration, an agent or employee of the supervising agency
12 with the concurrence of his or her supervisor may serve on the
13 defendant a Notice of Intermediate Sanctions. The Notice shall
14 contain the technical violation or violations involved, the
15 date or dates of the violation or violations, and the
16 intermediate sanctions to be imposed. Upon receipt of the
17 Notice, the defendant shall immediately accept or reject the
18 intermediate sanctions. If the sanctions are accepted, they
19 shall be imposed immediately. If the intermediate sanctions are
20 rejected or the defendant does not respond to the Notice, a
21 violation of probation, conditional discharge, supervision, or
22 a sentence of county impact incarceration shall be immediately
23 filed with the court. The State's Attorney and the sentencing
24 court shall be notified of the Notice of Sanctions. Upon
25 successful completion of the intermediate sanctions, a court
26 may not revoke probation, conditional discharge, supervision,
27 or a sentence of county impact incarceration or impose
28 additional sanctions for the same violation. A notice of
29 intermediate sanctions may not be issued for any violation of
30 probation, conditional discharge, supervision, or a sentence
31 of county impact incarceration which could warrant an
32 additional, separate felony charge. The intermediate sanctions
33 shall include a term of home detention as provided in Article
34 8A of Chapter V of this Code for multiple or repeat violations
35 of the terms and conditions of a sentence of probation,
36 conditional discharge, or supervision.

1 (j) When an offender is re-sentenced after revocation of
2 probation that was imposed in combination with a sentence of
3 imprisonment for the same offense, the aggregate of the
4 sentences may not exceed the maximum term authorized under
5 Article 8 of this Chapter.

6 (k) A violation of the monitoring provisions of subsection
7 (b) of Section 10 of the Sex Offender Registration Act may be
8 the basis for revocation of probation or supervision.

9 (Source: P.A. 93-800, eff. 1-1-05; 93-1014, eff. 1-1-05;
10 94-161, eff. 7-11-05.)

11 Section 10. The Sex Offender Registration Act is amended by
12 changing Section 10 as follows:

13 (730 ILCS 150/10) (from Ch. 38, par. 230)

14 Sec. 10. Penalty.

15 (a) Any person who is required to register under this
16 Article who violates any of the provisions of this Article and
17 any person who is required to register under this Article who
18 seeks to change his or her name under Article 21 of the Code of
19 Civil Procedure is guilty of a Class 3 felony. Any person who
20 is convicted for a violation of this Act for a second or
21 subsequent time is guilty of a Class 2 felony. Any person who
22 is required to register under this Article who knowingly or
23 wilfully gives material information required by this Article
24 that is false is guilty of a Class 3 felony. Any person
25 convicted of a violation of any provision of this Article
26 shall, in addition to any other penalty required by law, be
27 required to serve a minimum period of 7 days confinement in the
28 local county jail. The court shall impose a mandatory minimum
29 fine of \$500 for failure to comply with any provision of this
30 Article. These fines shall be deposited in the Sex Offender
31 Registration Fund. Any sex offender, as defined in Section 2 of
32 this Act, or sexual predator who violates any provision of this
33 Article may be arrested and tried in any Illinois county where
34 the sex offender can be located. The local police department or

1 sheriff's office is not required to determine whether the
2 person is living within its jurisdiction.

3 (b) Any person who is required to register under this
4 Article who violates any of the provisions of this Article on 2
5 or more occasions shall, if sentenced to probation or
6 supervision, be required to wear at all times for the duration
7 of the period of probation or supervision a location
8 transmitting device, and, if sentenced to imprisonment, be
9 required to wear at all times for the duration of any period of
10 parole or mandatory supervised release a location transmitting
11 device. The location transmitting device shall be attached to
12 the sex offender by the law enforcement agency having
13 jurisdiction and that agency shall regularly and frequently
14 monitor the information transmitted by the location
15 transmitting device. Any sex offender who is required to be
16 monitored under this subsection (b) who violates this
17 requirement is guilty of a Class 2 felony. A violation of this
18 subsection (b) may be the basis for revocation of parole or
19 mandatory supervised release under Section 3-3-9 of the Unified
20 Code of Corrections and the basis for a revocation of probation
21 or supervision under Section 5-6-4 of the Unified Code of
22 Corrections.

23 (Source: P.A. 93-979, eff. 8-20-04; 94-168, eff. 1-1-06.)