



Filed: 3/1/2006

09400HB4885ham001

LRB094 18448 RLC 56816 a

1 AMENDMENT TO HOUSE BILL 4885

2 AMENDMENT NO. _____. Amend House Bill 4885 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Cannabis Control Act is amended by changing
5 Section 10 as follows:

6 (720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

7 Sec. 10. (a) Whenever any person ~~who has not previously~~
8 ~~been convicted of, or placed on probation or court supervision~~
9 ~~for, any offense under this Act or any law of the United States~~
10 ~~or of any State relating to cannabis, or controlled substances~~
11 ~~as defined in the Illinois Controlled Substances Act,~~ pleads
12 guilty to or is found guilty of violating Sections 4(a), 4(b),
13 4(c), 5(a), 5(b), 5(c) or 8 of this Act, the court may, without
14 entering a judgment and with the consent of such person,
15 sentence him or her to probation pursuant to the terms of this
16 Section.

17 (b) When a person is placed on probation, the court shall
18 enter an order specifying a period of probation of 6 to 36 ~~24~~
19 months, and shall defer further proceedings in the case until
20 the conclusion of the period or until the filing of a petition
21 alleging violation of a term or condition of probation.

22 (c) The conditions of probation shall be that the person:
23 (1) not violate any criminal statute of any jurisdiction; (2)
24 refrain from possession of a firearm or other dangerous weapon;

1 (3) submit to periodic drug testing at a time and in a manner
2 as ordered by the court, but no less than 3 times during the
3 period of the probation, with the cost of the testing to be
4 paid by the probationer; ~~and~~ (4) perform no less than 30 hours
5 of community service, provided community service is available
6 in the jurisdiction; and (5) for first time offenders and
7 others for whom the court deems it beneficial, attend a drug
8 school program, provided a drug school program is available. If
9 a drug school program is not available, the court shall seek
10 recommendations for treatment or other intervention by a
11 licensed program designated by the State to provide assessment
12 services to the courts ~~and is funded and approved by the county~~
13 ~~board.~~

14 (d) The court may, in addition to other conditions, require
15 that the person:

16 (1) make a report to and appear in person before or
17 participate with the court or such courts, person, or
18 social service agency as directed by the court in the order
19 of probation;

20 (2) pay a fine and costs;

21 (3) work or pursue a course of study or vocational
22 training;

23 (4) undergo medical or psychiatric treatment; or
24 treatment for drug addiction or alcoholism;

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

27 (6) support his dependents;

28 (7) refrain from possessing a firearm or other
29 dangerous weapon;

30 (7-5) refrain from having in his or her body the
31 presence of any illicit drug prohibited by the Cannabis
32 Control Act, the Illinois Controlled Substances Act, or the
33 Methamphetamine Control and Community Protection Act,
34 unless prescribed by a physician, and submit samples of his

1 or her blood or urine or both for tests to determine the
2 presence of any illicit drug;

3 (7-6) undergo treatment under the supervision of a
4 licensed program designated by the Department of Human
5 Services, and according to the terms of Article 40 of the
6 Alcoholism and Other Drug Abuse and Dependency Act;

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

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

9 (ii) attend school;

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

11 (iv) contribute to his own support at home or in a
12 foster home.

13 (d-1) In addition to any other criminal or administrative
14 sanction for any second conviction of violating Section 4(a),
15 4(b), 4(c), 5(a), 5(b), 5(c) or 8 of this Act or a similar law
16 of another state or of the United States committed within 5
17 years of a previous violation of Section 4(a), 4(b), 4(c),
18 5(a), 5(b), 5(c) or 8 of this Act or a similar law of another
19 state or of the United States, the defendant shall be sentenced
20 to a mandatory minimum of 5 days of imprisonment or assigned a
21 mandatory minimum of 40 hours of community service as may be
22 determined by the court.

23 (d-2) In addition to any other criminal or administrative
24 sanction for any third conviction of violating Section 4(a),
25 4(b), 4(c), 5(a), 5(b), 5(c) or 8 of this Act or a similar law
26 of another state or of the United States committed within 5
27 years of a previous violation of Section 4(a), 4(b), 4(c),
28 5(a), 5(b), 5(c) or 8 of this Act or a similar law of another
29 state or of the United States, the defendant shall be sentenced
30 to a mandatory minimum of 10 days of imprisonment or assigned a
31 mandatory minimum of 80 hours of community service as may be
32 determined by the court.

33 (d-3) Whenever any person who has previously been convicted
34 of, or placed on probation or court supervision for, any

1 offense under this Act or any law of the United States or of
2 any state relating to cannabis or controlled substances pleads
3 guilty to or is found guilty of possession of cannabis under
4 this Act, that person also may be required to undergo (i) an
5 assessment conducted by a licensed program designated by the
6 State to provide assessment services to the courts to determine
7 if an alcohol, drug, or intoxicating compound abuse problem
8 exists and the extent of the problem, and (ii) a professional
9 mental health screening, and undergo the imposition of
10 treatment as appropriate. Whenever the professional evaluation
11 or mental health screening recommends remedial or
12 rehabilitative treatment or education, the court may monitor
13 compliance with any remedial education or treatment
14 recommendations contained in the professional evaluation or
15 mental health screening. Assessments or screenings under this
16 subsection (d-3) shall be conducted by an agent independent of
17 any treatment provider to which the person may be referred.

18 (d-4) In addition to any other criminal or administrative
19 sanction for any third or subsequent conviction of violating
20 Section 4(a), 4(b), 4(c), 5(a), 5(b), 5(c) or 8 of this Act or
21 a similar law of another state or of the United States within 5
22 years of a previous violation of Section 4(a), 4(b), 4(c),
23 5(a), 5(b), 5(c) or 8 of this Act or a similar law of another
24 state or of the United States, the court may also order the
25 defendant to participate in a treatment intervention
26 consistent with his or her clinical and supervisory needs,
27 including but not limited to supervision under Article 40 of
28 the Alcoholism and Other Drug Abuse and Dependency Act or
29 supervision under the Drug Court Treatment Act.

30 (e) Upon violation of a term or condition of probation, the
31 court may enter a judgment on its original finding of guilt and
32 proceed as otherwise provided.

33 (f) Upon fulfillment of the terms and conditions of
34 probation, the court shall discharge such person and dismiss

1 the proceedings against him.

2 (g) A disposition of probation is considered to be a
3 conviction for the purposes of imposing the conditions of
4 probation and for appeal, however, discharge and dismissal
5 under this Section is not a conviction for purposes of
6 disqualification or disabilities imposed by law upon
7 conviction of a crime (including the additional penalty imposed
8 for subsequent offenses under Section 4(c), 4(d), 5(c) or 5(d)
9 of this Act).

10 (h) (Blank). ~~Discharge and dismissal under this Section,~~
11 ~~Section 410 of the Illinois Controlled Substances Act, or~~
12 ~~Section 70 of the Methamphetamine Control and Community~~
13 ~~Protection Act may occur only once with respect to any person.~~

14 (h-1) A sentence of probation under this Section is
15 immediately expungeable upon the successful completion of the
16 probation.

17 (i) If a person is convicted of an offense under this Act,
18 the Illinois Controlled Substances Act, or the Methamphetamine
19 Control and Community Protection Act within 5 years subsequent
20 to a discharge and dismissal under this Section, the discharge
21 and dismissal under this Section shall be admissible in the
22 sentencing proceeding for that conviction as a factor in
23 aggravation.

24 (j) A person is not eligible for a disposition of probation
25 under this Section if he or she has during the course of the
26 act giving rise to the offense under Section 4(a), 4(b), 4(c),
27 5(a), 5(b), 5(c) or 8 of this Act committed any violation of
28 Section 5.1, 5.2, or 7 of this Act, any violation of Section
29 401, 405, 405.1, 405.2, 405.3, 406, 406.1, 407, 407.1, 407.2,
30 or 408 of the Illinois Controlled Substances Act, any violation
31 of the Methamphetamine Control and Community Protection Act
32 involving the manufacture, delivery, or possession with intent
33 to deliver of methamphetamine or a methamphetamine precursor,
34 or any offense that is a violent crime under the Rights of

1 Crime Victims and Witnesses Act.

2 (Source: P.A. 94-556, eff. 9-11-05.)

3 Section 10. The Illinois Controlled Substances Act is
4 amended by changing Section 410 as follows:

5 (720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

6 Sec. 410. (a) Whenever any person ~~who has not previously~~
7 ~~been convicted of, or placed on probation or court supervision~~
8 ~~for any offense under this Act or any law of the United States~~
9 ~~or of any State relating to cannabis or controlled substances,~~
10 pleads guilty to or is found guilty of possession of a
11 controlled or counterfeit substance under subsection (c) of
12 Section 402, the court, without entering a judgment and with
13 the consent of such person, may sentence him or her to
14 probation pursuant to the terms of this Section.

15 (b) When a person is placed on probation, the court shall
16 enter an order specifying a period of probation of 6 to 36 ~~24~~
17 months and shall defer further proceedings in the case until
18 the conclusion of the period or until the filing of a petition
19 alleging violation of a term or condition of probation.

20 (c) The conditions of probation shall be that the person:
21 (1) not violate any criminal statute of any jurisdiction; (2)
22 refrain from possessing a firearm or other dangerous weapon;
23 (3) submit to periodic drug testing at a time and in a manner
24 as ordered by the court, but no less than 3 times during the
25 period of the probation, with the cost of the testing to be
26 paid by the probationer; ~~and~~ (4) perform no less than 30 hours
27 of community service, provided community service is available
28 in the jurisdiction; and (5) for first time offenders and
29 others for whom the court deems it beneficial, attend a drug
30 school program, provided a drug school program is available. If
31 a drug school program is not available, the court shall seek
32 recommendations for treatment or other intervention by a

1 licensed program designated by the State to provide assessment
2 services to the courts ~~and is funded and approved by the county~~
3 ~~board.~~

4 (d) The court may, in addition to other conditions, require
5 that the person:

6 (1) make a report to and appear in person before or
7 participate with the court or such courts, person, or
8 social service agency as directed by the court in the order
9 of probation;

10 (2) pay a fine and costs;

11 (3) work or pursue a course of study or vocational
12 training;

13 (4) undergo medical or psychiatric treatment; or
14 treatment or rehabilitation approved by the Illinois
15 Department of Human Services;

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

18 (6) support his dependents;

19 (6-5) refrain from having in his or her body the
20 presence of any illicit drug prohibited by the Cannabis
21 Control Act, the Illinois Controlled Substances Act, or the
22 Methamphetamine Control and Community Protection Act,
23 unless prescribed by a physician, and submit samples of his
24 or her blood or urine or both for tests to determine the
25 presence of any illicit drug;

26 (6-6) undergo treatment under the supervision of a
27 licensed program designated by the Department of Human
28 Services, and according to the terms of Article 40 of the
29 Alcoholism and Other Drug Abuse and Dependency Act;

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

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

32 (ii) attend school;

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

34 (iv) contribute to his own support at home or in a

1 foster home.

2 (d-1) In addition to any other criminal or administrative
3 sanction for any second conviction of violating subsection (c)
4 of Section 402 or a similar law of another state or of the
5 United States committed within 5 years of a previous violation
6 of subsection (c) of Section 402 or a similar law of another
7 state or of the United States, the defendant shall be sentenced
8 to a mandatory minimum of 5 days of imprisonment or assigned a
9 mandatory minimum of 40 hours of community service as may be
10 determined by the court.

11 (d-2) In addition to any other criminal or administrative
12 sanction for any third conviction of violating subsection (c)
13 of Section 402 or a similar law of another state or of the
14 United States committed within 5 years of a previous violation
15 of subsection (c) of Section 402 or a similar law of another
16 state or of the United States, the defendant shall be sentenced
17 to a mandatory minimum of 10 days of imprisonment or assigned a
18 mandatory minimum of 80 hours of community service as may be
19 determined by the court.

20 (d-3) Whenever any person who has previously been convicted
21 of, or placed on probation or court supervision for, any
22 offense under this Act or any law of the United States or of
23 any state relating to cannabis or controlled substances pleads
24 guilty to or is found guilty of possession of a controlled
25 substance under this Act, that person also may be required to
26 undergo (i) an assessment conducted by a licensed program
27 designated by the State to provide assessment services to the
28 courts to determine if an alcohol, drug, or intoxicating
29 compound abuse problem exists and the extent of the problem,
30 and (ii) a professional mental health screening, and undergo
31 the imposition of treatment as appropriate. Whenever the
32 professional evaluation or mental health screening recommends
33 remedial or rehabilitative treatment or education, the court
34 may monitor compliance with any remedial education or treatment

1 recommendations contained in the professional evaluation or
2 mental health screening. Assessments or screenings under this
3 subsection (d-3) shall be conducted by an agent independent of
4 any treatment provider to which the person may be referred.

5 (d-4) In addition to any other criminal or administrative
6 sanction for any third or subsequent conviction of violating
7 subsection (c) of Section 402 or a similar law of another state
8 or of the United States within 5 years of a previous violation
9 of subsection (c) of Section 402 or a similar law of another
10 state or of the United States, the court may also order the
11 defendant to participate in a treatment intervention
12 consistent with his or her clinical and supervisory needs,
13 including but not limited to supervision under Article 40 of
14 the Alcoholism and Other Drug Abuse and Dependency Act or
15 supervision under the Drug Court Treatment Act.

16 (e) Upon violation of a term or condition of probation, the
17 court may enter a judgment on its original finding of guilt and
18 proceed as otherwise provided.

19 (f) Upon fulfillment of the terms and conditions of
20 probation, the court shall discharge the person and dismiss the
21 proceedings against him.

22 (g) A disposition of probation is considered to be a
23 conviction for the purposes of imposing the conditions of
24 probation and for appeal, however, discharge and dismissal
25 under this Section is not a conviction for purposes of this Act
26 or for purposes of disqualifications or disabilities imposed by
27 law upon conviction of a crime.

28 (h) (Blank). ~~There may be only one discharge and dismissal~~
29 ~~under this Section, Section 10 of the Cannabis Control Act, or~~
30 ~~Section 70 of the Methamphetamine Control and Community~~
31 ~~Protection Act with respect to any person.~~

32 (h-1) A sentence of probation under this Section is
33 immediately expungeable upon the successful completion of the
34 probation.

1 (i) If a person is convicted of an offense under this Act,
2 the Cannabis Control Act, or the Methamphetamine Control and
3 Community Protection Act within 5 years subsequent to a
4 discharge and dismissal under this Section, the discharge and
5 dismissal under this Section shall be admissible in the
6 sentencing proceeding for that conviction as evidence in
7 aggravation.

8 (j) A person is not eligible for a disposition of probation
9 under this Section if he or she has during the course of the
10 act giving rise to the offense under Section 402 of this Act
11 committed any violation of Section 5, 5.1, 5.2, 7, or 8 of the
12 Cannabis Control Act, any violation of Section 401, 405, 405.1,
13 405.2, 405.3, 406, 406.1, 407, 407.1, 407.2, or 408 of this
14 Act, any violation of the Methamphetamine Control and Community
15 Protection Act involving the manufacture, delivery, or
16 possession with intent to deliver of methamphetamine or a
17 methamphetamine precursor, or any offense that is a violent
18 crime under the Rights of Crime Victims and Witnesses Act.

19 (Source: P.A. 94-556, eff. 9-11-05.)

20 Section 15. The Methamphetamine Control and Community
21 Protection Act is amended by changing Section 70 as follows:

22 (720 ILCS 646/70)

23 Sec. 70. Probation.

24 (a) Whenever any person ~~who has not previously been~~
25 ~~convicted of, or placed on probation or court supervision for~~
26 ~~any offense under this Act, the Illinois Controlled Substances~~
27 ~~Act, the Cannabis Control Act, or any law of the United States~~
28 ~~or of any state relating to cannabis or controlled substances,~~
29 pleads guilty to or is found guilty of possession of less than
30 15 grams of methamphetamine under paragraph (1) or (2) of
31 subsection (b) of Section 60 of this Act, the court, without
32 entering a judgment and with the consent of the person, may

1 sentence him or her to probation pursuant to the terms of this
2 Section.

3 (b) When a person is placed on probation, the court shall
4 enter an order specifying a period of probation of 6 to 36 ~~24~~
5 months and shall defer further proceedings in the case until
6 the conclusion of the period or until the filing of a petition
7 alleging violation of a term or condition of probation.

8 (c) The conditions of probation shall be that the person:

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

11 (2) refrain from possessing a firearm or other
12 dangerous weapon;

13 (3) submit to periodic drug testing at a time and in a
14 manner as ordered by the court, but no less than 3 times
15 during the period of the probation, with the cost of the
16 testing to be paid by the probationer; ~~and~~

17 (4) perform no less than 30 hours of community service,
18 if community service is available in the jurisdiction; and
19 ~~and is funded and approved by the county board.~~

20 (5) for first time offenders and others for whom the
21 court deems it beneficial, attend a drug school program,
22 provided a drug school program is available. If a drug
23 school program is not available, the court shall seek
24 recommendations for treatment or other intervention by a
25 licensed program designated by the State to provide
26 assessment services to the courts.

27 (d) The court may, in addition to other conditions, require
28 that the person take one or more of the following actions:

29 (1) make a report to and appear in person before or
30 participate with the court or such courts, person, or
31 social service agency as directed by the court in the order
32 of probation;

33 (2) pay a fine and costs;

34 (3) work or pursue a course of study or vocational

1 training;

2 (4) undergo medical or psychiatric treatment; or
3 treatment or rehabilitation approved by the Illinois
4 Department of Human Services;

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

7 (6) support his or her dependents;

8 (7) refrain from having in his or her body the presence
9 of any illicit drug prohibited by this Act, the Cannabis
10 Control Act, or the Illinois Controlled Substances Act,
11 unless prescribed by a physician, and submit samples of his
12 or her blood or urine or both for tests to determine the
13 presence of any illicit drug;

14 (7-5) undergo treatment under the supervision of a
15 licensed program designated by the Department of Human
16 Services, and according to the terms of Article 40 of the
17 Alcoholism and Other Drug Abuse and Dependency Act; or

18 (8) if a minor:

19 (i) reside with his or her parents or in a foster
20 home;

21 (ii) attend school;

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

23 or

24 (iv) contribute to his or her own support at home
25 or in a foster home.

26 (d-1) In addition to any other criminal or administrative
27 sanction for any second conviction of violating this Act or a
28 similar law of another state or of the United States committed
29 within 5 years of a previous violation of this Act or a similar
30 law of another state or of the United States, the defendant
31 shall be sentenced to a mandatory minimum of 5 days of
32 imprisonment or assigned a mandatory minimum of 40 hours of
33 community service as may be determined by the court.

34 (d-2) In addition to any other criminal or administrative

1 sanction for any third conviction of violating this Act or a
2 similar law of another state or of the United States committed
3 within 5 years of a previous violation of this Act or a similar
4 law of another state or of the United States, the defendant
5 shall be sentenced to a mandatory minimum of 10 days of
6 imprisonment or assigned a mandatory minimum of 80 hours of
7 community service as may be determined by the court.

8 (d-3) Whenever any person who has previously been convicted
9 of, or placed on probation or court supervision for, any
10 offense under this Act or any law of the United States or of
11 any state relating to cannabis or controlled substances pleads
12 guilty to or is found guilty of possession of methamphetamine
13 under this Act, that person also may be required to undergo (i)
14 an assessment conducted by a licensed program designated by the
15 State to provide assessment services to the courts to determine
16 if an alcohol, drug, or intoxicating compound abuse problem
17 exists and the extent of the problem, and (ii) a professional
18 mental health screening, and undergo the imposition of
19 treatment as appropriate. Whenever the professional evaluation
20 or mental health screening recommends remedial or
21 rehabilitative treatment or education, the court may monitor
22 compliance with any remedial education or treatment
23 recommendations contained in the professional evaluation or
24 mental health screening. Assessments or screenings under this
25 subsection (d-3) shall be conducted by an agent independent of
26 any treatment provider to which the person may be referred.

27 (d-4) In addition to any other criminal or administrative
28 sanction for any third or subsequent conviction of violating
29 this Act or a similar law of another state or of the United
30 States within 5 years of a previous violation of this Act or a
31 similar law of another state or of the United States, the court
32 may also order the defendant to participate in a treatment
33 intervention consistent with his or her clinical and
34 supervisory needs, including but not limited to supervision

1 under Article 40 of the Alcoholism and Other Drug Abuse and
2 Dependency Act or supervision under the Drug Court Treatment
3 Act.

4 (e) Upon violation of a term or condition of probation, the
5 court may enter a judgment on its original finding of guilt and
6 proceed as otherwise provided.

7 (f) Upon fulfillment of the terms and conditions of
8 probation, the court shall discharge the person and dismiss the
9 proceedings against the person.

10 (g) A disposition of probation is considered to be a
11 conviction for the purposes of imposing the conditions of
12 probation and for appeal, however, discharge and dismissal
13 under this Section is not a conviction for purposes of this Act
14 or for purposes of disqualifications or disabilities imposed by
15 law upon conviction of a crime.

16 (h) (Blank). ~~There may be only one discharge and dismissal~~
17 ~~under this Section, Section 410 of the Illinois Controlled~~
18 ~~Substances Act, or Section 10 of the Cannabis Control Act with~~
19 ~~respect to any person.~~

20 (h-1) A sentence of probation under this Section is
21 immediately expungeable upon the successful completion of the
22 probation.

23 (i) If a person is convicted of an offense under this Act,
24 the Cannabis Control Act, or the Illinois Controlled Substances
25 Act within 5 years subsequent to a discharge and dismissal
26 under this Section, the discharge and dismissal under this
27 Section are admissible in the sentencing proceeding for that
28 conviction as evidence in aggravation.

29 (j) A person is not eligible for a disposition of probation
30 under this Section if he or she has during the course of the
31 act giving rise to the offense under this Act committed any
32 violation of Section 5, 5.1, 5.2, 7, or 8 of the Cannabis
33 Control Act, any violation of Section 401, 405, 405.1, 405.2,
34 405.3, 406, 406.1, 407, 407.1, 407.2, or 408 of the Illinois

1 Controlled Substances Act, any violation of this Act involving
2 the manufacture, delivery, or possession with intent to deliver
3 of methamphetamine or a methamphetamine precursor, or any
4 offense that is a violent crime under the Rights of Crime
5 Victims and Witnesses Act.
6 (Source: P.A. 94-556, eff. 9-11-05.)".