



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5847

Introduced 10/19/06, by Rep. James H. Meyer

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

Amends the Unified Code of Corrections. Provides that an offender placed on supervision, probation, or mandatory supervised release for an offense committed on or after the effective date of the amendatory Act that would qualify the accused as a child sex offender shall, as a condition of that supervision, probation, or mandatory supervised release, refrain from communicating with or contacting, by means of the Internet, a person who is not related to the accused and whom the accused reasonably believes to be under 18 years of age. Effective immediately.

LRB094 21736 RLC 60144 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by
5 changing Sections 3-3-7, 5-6-3, 5-6-3.1 as follows:

6 (730 ILCS 5/3-3-7) (from Ch. 38, par. 1003-3-7)

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

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

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

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

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

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

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

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

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

1 (7.5) if convicted of a sex offense as defined in the
2 Sex Offender Management Board Act, the individual shall
3 undergo and successfully complete sex offender treatment
4 conducted in conformance with the standards developed by
5 the Sex Offender Management Board Act by a treatment
6 provider approved by the Board;

7 (7.6) if convicted of a sex offense as defined in the
8 Sex Offender Management Board Act, refrain from residing at
9 the same address or in the same condominium unit or
10 apartment unit or in the same condominium complex or
11 apartment complex with another person he or she knows or
12 reasonably should know is a convicted sex offender or has
13 been placed on supervision for a sex offense; the
14 provisions of this paragraph do not apply to a person
15 convicted of a sex offense who is placed in a Department of
16 Corrections licensed transitional housing facility for sex
17 offenders, or is in any facility operated or licensed by
18 the Department of Children and Family Services or by the
19 Department of Human Services, or is in any licensed medical
20 facility;

21 (7.7) if convicted for an offense that would qualify
22 the accused as a sexual predator under the Sex Offender
23 Registration Act on or after the effective date of this
24 amendatory Act of the 94th General Assembly, wear an
25 approved electronic monitoring device as defined in
26 Section 5-8A-2 for the duration of the person's parole,
27 mandatory supervised release term, or extended mandatory
28 supervised release term, provided funding is appropriated
29 by the General Assembly;

30 (7.8) if convicted for an offense committed on or after
31 the effective date of this amendatory Act of the 94th
32 General Assembly that would qualify the accused as a child
33 sex offender as defined in Section 11-9.3 or 11-9.4 of the
34 Criminal Code of 1961, refrain from communicating with or
35 contacting, by means of the Internet, a person who is not
36 related to the accused and whom the accused reasonably

1 believes to be under 18 years of age; for purposes of this
2 paragraph (7.8), "Internet" has the meaning ascribed to it
3 in Section 16J-5 of the Criminal Code of 1961, as added by
4 Public Act 94-179; and a person is not related to the
5 accused if the person is not: (i) the spouse, brother, or
6 sister of the accused; (ii) a descendant of the accused;
7 (iii) a first or second cousin of the accused; or (iv) a
8 step-child or adopted child of the accused;

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

11 (9) obtain permission of an agent of the Department of
12 Corrections before changing his or her residence or
13 employment;

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

16 (11) refrain from the use or possession of narcotics or
17 other controlled substances in any form, or both, or any
18 paraphernalia related to those substances and submit to a
19 urinalysis test as instructed by a parole agent of the
20 Department of Corrections;

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

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

29 (14) provide true and accurate information, as it
30 relates to his or her adjustment in the community while on
31 parole or mandatory supervised release or to his or her
32 conduct while incarcerated, in response to inquiries by his
33 or her parole agent or of the Department of Corrections;

34 (15) follow any specific instructions provided by the
35 parole agent that are consistent with furthering
36 conditions set and approved by the Prisoner Review Board or

1 by law, exclusive of placement on electronic detention, to
2 achieve the goals and objectives of his or her parole or
3 mandatory supervised release or to protect the public.
4 These instructions by the parole agent may be modified at
5 any time, as the agent deems appropriate; and

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

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

18 (1) work or pursue a course of study or vocational
19 training;

20 (2) undergo medical or psychiatric treatment, or
21 treatment for drug addiction or alcoholism;

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

24 (4) support his dependents;

25 (5) (blank);

26 (6) (blank);

27 (7) comply with the terms and conditions of an order of
28 protection issued pursuant to the Illinois Domestic
29 Violence Act of 1986, enacted by the 84th General Assembly,
30 or an order of protection issued by the court of another
31 state, tribe, or United States territory; and

32 (8) in addition, if a minor:

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

34 (ii) attend school;

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

36 or

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

3 (b-1) In addition to the conditions set forth in
4 subsections (a) and (b), persons required to register as sex
5 offenders pursuant to the Sex Offender Registration Act, upon
6 release from the custody of the Illinois Department of
7 Corrections, may be required by the Board to comply with the
8 following specific conditions of release:

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

10 (2) comply with all requirements of the Sex Offender
11 Registration Act;

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

14 (4) obtain the approval of an agent of the Department
15 of Corrections prior to accepting employment or pursuing a
16 course of study or vocational training and notify the
17 Department prior to any change in employment, study, or
18 training;

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

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

25 (7) refrain from entering into a designated geographic
26 area except upon terms approved in advance by an agent of
27 the Department of Corrections. The terms may include
28 consideration of the purpose of the entry, the time of day,
29 and others accompanying the person;

30 (8) refrain from having any contact, including written
31 or oral communications, directly or indirectly, personally
32 or by telephone, letter, or through a third party with
33 certain specified persons including, but not limited to,
34 the victim or the victim's family without the prior written
35 approval of an agent of the Department of Corrections;

36 (9) refrain from all contact, directly or indirectly,

1 personally, by telephone, letter, or through a third party,
2 with minor children without prior identification and
3 approval of an agent of the Department of Corrections;

4 (10) neither possess or have under his or her control
5 any material that is sexually oriented, sexually
6 stimulating, or that shows male or female sex organs or any
7 pictures depicting children under 18 years of age nude or
8 any written or audio material describing sexual
9 intercourse or that depicts or alludes to sexual activity,
10 including but not limited to visual, auditory, telephonic,
11 or electronic media, or any matter obtained through access
12 to any computer or material linked to computer access use;

13 (11) not patronize any business providing sexually
14 stimulating or sexually oriented entertainment nor utilize
15 "900" or adult telephone numbers;

16 (12) not reside near, visit, or be in or about parks,
17 schools, day care centers, swimming pools, beaches,
18 theaters, or any other places where minor children
19 congregate without advance approval of an agent of the
20 Department of Corrections and immediately report any
21 incidental contact with minor children to the Department;

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

26 (14) may be required to provide a written daily log of
27 activities if directed by an agent of the Department of
28 Corrections;

29 (15) comply with all other special conditions that the
30 Department may impose that restrict the person from
31 high-risk situations and limit access to potential
32 victims.

33 (c) The conditions under which the parole or mandatory
34 supervised release is to be served shall be communicated to the
35 person in writing prior to his release, and he shall sign the
36 same before release. A signed copy of these conditions,

1 including a copy of an order of protection where one had been
2 issued by the criminal court, shall be retained by the person
3 and another copy forwarded to the officer in charge of his
4 supervision.

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

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

12 (Source: P.A. 93-616, eff. 1-1-04; 93-865, eff. 1-1-05; 94-159,
13 eff. 7-11-05; 94-161, eff. 7-11-05; 94-988, eff. 1-1-07.)

14 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

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

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

19 (1) not violate any criminal statute of any
20 jurisdiction;

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

23 (3) refrain from possessing a firearm or other
24 dangerous weapon;

25 (4) not leave the State without the consent of the
26 court or, in circumstances in which the reason for the
27 absence is of such an emergency nature that prior consent
28 by the court is not possible, without the prior
29 notification and approval of the person's probation
30 officer. Transfer of a person's probation or conditional
31 discharge supervision to another state is subject to
32 acceptance by the other state pursuant to the Interstate
33 Compact for Adult Offender Supervision;

34 (5) permit the probation officer to visit him at his
35 home or elsewhere to the extent necessary to discharge his

1 duties;

2 (6) perform no less than 30 hours of community service
3 and not more than 120 hours of community service, if
4 community service is available in the jurisdiction and is
5 funded and approved by the county board where the offense
6 was committed, where the offense was related to or in
7 furtherance of the criminal activities of an organized gang
8 and was motivated by the offender's membership in or
9 allegiance to an organized gang. The community service
10 shall include, but not be limited to, the cleanup and
11 repair of any damage caused by a violation of Section
12 21-1.3 of the Criminal Code of 1961 and similar damage to
13 property located within the municipality or county in which
14 the violation occurred. When possible and reasonable, the
15 community service should be performed in the offender's
16 neighborhood. For purposes of this Section, "organized
17 gang" has the meaning ascribed to it in Section 10 of the
18 Illinois Streetgang Terrorism Omnibus Prevention Act;

19 (7) if he or she is at least 17 years of age and has
20 been sentenced to probation or conditional discharge for a
21 misdemeanor or felony in a county of 3,000,000 or more
22 inhabitants and has not been previously convicted of a
23 misdemeanor or felony, may be required by the sentencing
24 court to attend educational courses designed to prepare the
25 defendant for a high school diploma and to work toward a
26 high school diploma or to work toward passing the high
27 school level Test of General Educational Development (GED)
28 or to work toward completing a vocational training program
29 approved by the court. The person on probation or
30 conditional discharge must attend a public institution of
31 education to obtain the educational or vocational training
32 required by this clause (7). The court shall revoke the
33 probation or conditional discharge of a person who wilfully
34 fails to comply with this clause (7). The person on
35 probation or conditional discharge shall be required to pay
36 for the cost of the educational courses or GED test, if a

1 fee is charged for those courses or test. The court shall
2 resentence the offender whose probation or conditional
3 discharge has been revoked as provided in Section 5-6-4.
4 This clause (7) does not apply to a person who has a high
5 school diploma or has successfully passed the GED test.
6 This clause (7) does not apply to a person who is
7 determined by the court to be developmentally disabled or
8 otherwise mentally incapable of completing the educational
9 or vocational program;

10 (8) if convicted of possession of a substance
11 prohibited by the Cannabis Control Act, the Illinois
12 Controlled Substances Act, or the Methamphetamine Control
13 and Community Protection Act after a previous conviction or
14 disposition of supervision for possession of a substance
15 prohibited by the Cannabis Control Act or Illinois
16 Controlled Substances Act or after a sentence of probation
17 under Section 10 of the Cannabis Control Act, Section 410
18 of the Illinois Controlled Substances Act, or Section 70 of
19 the Methamphetamine Control and Community Protection Act
20 and upon a finding by the court that the person is
21 addicted, undergo treatment at a substance abuse program
22 approved by the court;

23 (8.5) if convicted of a felony sex offense as defined
24 in the Sex Offender Management Board Act, the person shall
25 undergo and successfully complete sex offender treatment
26 by a treatment provider approved by the Board and conducted
27 in conformance with the standards developed under the Sex
28 Offender Management Board Act;

29 (8.6) if convicted of a sex offense as defined in the
30 Sex Offender Management Board Act, refrain from residing at
31 the same address or in the same condominium unit or
32 apartment unit or in the same condominium complex or
33 apartment complex with another person he or she knows or
34 reasonably should know is a convicted sex offender or has
35 been placed on supervision for a sex offense; the
36 provisions of this paragraph do not apply to a person

1 convicted of a sex offense who is placed in a Department of
2 Corrections licensed transitional housing facility for sex
3 offenders; ~~and~~

4 (8.7) if convicted for an offense committed on or after
5 the effective date of this amendatory Act of the 94th
6 General Assembly that would qualify the accused as a child
7 sex offender as defined in Section 11-9.3 or 11-9.4 of the
8 Criminal Code of 1961, refrain from communicating with or
9 contacting, by means of the Internet, a person who is not
10 related to the accused and whom the accused reasonably
11 believes to be under 18 years of age; for purposes of this
12 paragraph (8.7), "Internet" has the meaning ascribed to it
13 in Section 16J-5 of the Criminal Code of 1961, as added by
14 Public Act 94-179; and a person is not related to the
15 accused if the person is not: (i) the spouse, brother, or
16 sister of the accused; (ii) a descendant of the accused;
17 (iii) a first or second cousin of the accused; or (iv) a
18 step-child or adopted child of the accused;

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

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

33 (b) The Court may in addition to other reasonable
34 conditions relating to the nature of the offense or the
35 rehabilitation of the defendant as determined for each
36 defendant in the proper discretion of the Court require that

1 the person:

2 (1) serve a term of periodic imprisonment under Article
3 7 for a period not to exceed that specified in paragraph
4 (d) of Section 5-7-1;

5 (2) pay a fine and costs;

6 (3) work or pursue a course of study or vocational
7 training;

8 (4) undergo medical, psychological or psychiatric
9 treatment; or treatment for drug addiction or alcoholism;

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

12 (6) support his dependents;

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

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

15 (ii) attend school;

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

17 (iv) contribute to his own support at home or in a
18 foster home;

19 (v) with the consent of the superintendent of the
20 facility, attend an educational program at a facility
21 other than the school in which the offense was
22 committed if he or she is convicted of a crime of
23 violence as defined in Section 2 of the Crime Victims
24 Compensation Act committed in a school, on the real
25 property comprising a school, or within 1,000 feet of
26 the real property comprising a school;

27 (8) make restitution as provided in Section 5-5-6 of
28 this Code;

29 (9) perform some reasonable public or community
30 service;

31 (10) serve a term of home confinement. In addition to
32 any other applicable condition of probation or conditional
33 discharge, the conditions of home confinement shall be that
34 the offender:

35 (i) remain within the interior premises of the
36 place designated for his confinement during the hours

1 designated by the court;

2 (ii) admit any person or agent designated by the
3 court into the offender's place of confinement at any
4 time for purposes of verifying the offender's
5 compliance with the conditions of his confinement; and

6 (iii) if further deemed necessary by the court or
7 the Probation or Court Services Department, be placed
8 on an approved electronic monitoring device, subject
9 to Article 8A of Chapter V;

10 (iv) for persons convicted of any alcohol,
11 cannabis or controlled substance violation who are
12 placed on an approved monitoring device as a condition
13 of probation or conditional discharge, the court shall
14 impose a reasonable fee for each day of the use of the
15 device, as established by the county board in
16 subsection (g) of this Section, unless after
17 determining the inability of the offender to pay the
18 fee, the court assesses a lesser fee or no fee as the
19 case may be. This fee shall be imposed in addition to
20 the fees imposed under subsections (g) and (i) of this
21 Section. The fee shall be collected by the clerk of the
22 circuit court. The clerk of the circuit court shall pay
23 all monies collected from this fee to the county
24 treasurer for deposit in the substance abuse services
25 fund under Section 5-1086.1 of the Counties Code; and

26 (v) for persons convicted of offenses other than
27 those referenced in clause (iv) above and who are
28 placed on an approved monitoring device as a condition
29 of probation or conditional discharge, the court shall
30 impose a reasonable fee for each day of the use of the
31 device, as established by the county board in
32 subsection (g) of this Section, unless after
33 determining the inability of the defendant to pay the
34 fee, the court assesses a lesser fee or no fee as the
35 case may be. This fee shall be imposed in addition to
36 the fees imposed under subsections (g) and (i) of this

1 Section. The fee shall be collected by the clerk of the
2 circuit court. The clerk of the circuit court shall pay
3 all monies collected from this fee to the county
4 treasurer who shall use the monies collected to defray
5 the costs of corrections. The county treasurer shall
6 deposit the fee collected in the county working cash
7 fund under Section 6-27001 or Section 6-29002 of the
8 Counties Code, as the case may be.

9 (11) comply with the terms and conditions of an order
10 of protection issued by the court pursuant to the Illinois
11 Domestic Violence Act of 1986, as now or hereafter amended,
12 or an order of protection issued by the court of another
13 state, tribe, or United States territory. A copy of the
14 order of protection shall be transmitted to the probation
15 officer or agency having responsibility for the case;

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

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

27 (14) refrain from entering into a designated
28 geographic area except upon such terms as the court finds
29 appropriate. Such terms may include consideration of the
30 purpose of the entry, the time of day, other persons
31 accompanying the defendant, and advance approval by a
32 probation officer, if the defendant has been placed on
33 probation or advance approval by the court, if the
34 defendant was placed on conditional discharge;

35 (15) refrain from having any contact, directly or
36 indirectly, with certain specified persons or particular

1 types of persons, including but not limited to members of
2 street gangs and drug users or dealers;

3 (16) refrain from having in his or her body the
4 presence of any illicit drug prohibited by the Cannabis
5 Control Act, the Illinois Controlled Substances Act, or the
6 Methamphetamine Control and Community Protection Act,
7 unless prescribed by a physician, and submit samples of his
8 or her blood or urine or both for tests to determine the
9 presence of any illicit drug.

10 (c) The court may as a condition of probation or of
11 conditional discharge require that a person under 18 years of
12 age found guilty of any alcohol, cannabis or controlled
13 substance violation, refrain from acquiring a driver's license
14 during the period of probation or conditional discharge. If
15 such person is in possession of a permit or license, the court
16 may require that the minor refrain from driving or operating
17 any motor vehicle during the period of probation or conditional
18 discharge, except as may be necessary in the course of the
19 minor's lawful employment.

20 (d) An offender sentenced to probation or to conditional
21 discharge shall be given a certificate setting forth the
22 conditions thereof.

23 (e) Except where the offender has committed a fourth or
24 subsequent violation of subsection (c) of Section 6-303 of the
25 Illinois Vehicle Code, the court shall not require as a
26 condition of the sentence of probation or conditional discharge
27 that the offender be committed to a period of imprisonment in
28 excess of 6 months. This 6 month limit shall not include
29 periods of confinement given pursuant to a sentence of county
30 impact incarceration under Section 5-8-1.2. This 6 month limit
31 does not apply to a person sentenced to probation as a result
32 of a conviction of a fourth or subsequent violation of
33 subsection (c-4) of Section 11-501 of the Illinois Vehicle Code
34 or a similar provision of a local ordinance.

35 Persons committed to imprisonment as a condition of
36 probation or conditional discharge shall not be committed to

1 the Department of Corrections.

2 (f) The court may combine a sentence of periodic
3 imprisonment under Article 7 or a sentence to a county impact
4 incarceration program under Article 8 with a sentence of
5 probation or conditional discharge.

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

29 (h) Jurisdiction over an offender may be transferred from
30 the sentencing court to the court of another circuit with the
31 concurrence of both courts. Further transfers or retransfers of
32 jurisdiction are also authorized in the same manner. The court
33 to which jurisdiction has been transferred shall have the same
34 powers as the sentencing court.

35 (i) The court shall impose upon an offender sentenced to
36 probation after January 1, 1989 or to conditional discharge

1 after January 1, 1992 or to community service under the
2 supervision of a probation or court services department after
3 January 1, 2004, as a condition of such probation or
4 conditional discharge or supervised community service, a fee of
5 \$50 for each month of probation or conditional discharge
6 supervision or supervised community service ordered by the
7 court, unless after determining the inability of the person
8 sentenced to probation or conditional discharge or supervised
9 community service to pay the fee, the court assesses a lesser
10 fee. The court may not impose the fee on a minor who is made a
11 ward of the State under the Juvenile Court Act of 1987 while
12 the minor is in placement. The fee shall be imposed only upon
13 an offender who is actively supervised by the probation and
14 court services department. The fee shall be collected by the
15 clerk of the circuit court. The clerk of the circuit court
16 shall pay all monies collected from this fee to the county
17 treasurer for deposit in the probation and court services fund
18 under Section 15.1 of the Probation and Probation Officers Act.

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

32 This amendatory Act of the 93rd General Assembly deletes
33 the \$10 increase in the fee under this subsection that was
34 imposed by Public Act 93-616. This deletion is intended to
35 control over any other Act of the 93rd General Assembly that
36 retains or incorporates that fee increase.

1 (i-5) In addition to the fees imposed under subsection (i)
2 of this Section, in the case of an offender convicted of a
3 felony sex offense (as defined in the Sex Offender Management
4 Board Act) or an offense that the court or probation department
5 has determined to be sexually motivated (as defined in the Sex
6 Offender Management Board Act), the court or the probation
7 department shall assess additional fees to pay for all costs of
8 treatment, assessment, evaluation for risk and treatment, and
9 monitoring the offender, based on that offender's ability to
10 pay those costs either as they occur or under a payment plan.

11 (j) All fines and costs imposed under this Section for any
12 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
13 Code, or a similar provision of a local ordinance, and any
14 violation of the Child Passenger Protection Act, or a similar
15 provision of a local ordinance, shall be collected and
16 disbursed by the circuit clerk as provided under Section 27.5
17 of the Clerks of Courts Act.

18 (k) Any offender who is sentenced to probation or
19 conditional discharge for a felony sex offense as defined in
20 the Sex Offender Management Board Act or any offense that the
21 court or probation department has determined to be sexually
22 motivated as defined in the Sex Offender Management Board Act
23 shall be required to refrain from any contact, directly or
24 indirectly, with any persons specified by the court and shall
25 be available for all evaluations and treatment programs
26 required by the court or the probation department.

27 (Source: P.A. 93-475, eff. 8-8-03; 93-616, eff. 1-1-04; 93-970,
28 eff. 8-20-04; 94-159, eff. 7-11-05; 94-161, eff. 7-11-05;
29 94-556, eff. 9-11-05; revised 8-19-05.)

30 (730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

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

32 (a) When a defendant is placed on supervision, the court
33 shall enter an order for supervision specifying the period of
34 such supervision, and shall defer further proceedings in the
35 case until the conclusion of the period.

1 (b) The period of supervision shall be reasonable under all
2 of the circumstances of the case, but may not be longer than 2
3 years, unless the defendant has failed to pay the assessment
4 required by Section 10.3 of the Cannabis Control Act, Section
5 411.2 of the Illinois Controlled Substances Act, or Section 80
6 of the Methamphetamine Control and Community Protection Act, in
7 which case the court may extend supervision beyond 2 years.
8 Additionally, the court shall order the defendant to perform no
9 less than 30 hours of community service and not more than 120
10 hours of community service, if community service is available
11 in the jurisdiction and is funded and approved by the county
12 board where the offense was committed, when the offense (1) was
13 related to or in furtherance of the criminal activities of an
14 organized gang or was motivated by the defendant's membership
15 in or allegiance to an organized gang; or (2) is a violation of
16 any Section of Article 24 of the Criminal Code of 1961 where a
17 disposition of supervision is not prohibited by Section 5-6-1
18 of this Code. The community service shall include, but not be
19 limited to, the cleanup and repair of any damage caused by
20 violation of Section 21-1.3 of the Criminal Code of 1961 and
21 similar damages to property located within the municipality or
22 county in which the violation occurred. Where possible and
23 reasonable, the community service should be performed in the
24 offender's neighborhood.

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

28 (c) The court may in addition to other reasonable
29 conditions relating to the nature of the offense or the
30 rehabilitation of the defendant as determined for each
31 defendant in the proper discretion of the court require that
32 the person:

33 (1) make a report to and appear in person before or
34 participate with the court or such courts, person, or
35 social service agency as directed by the court in the order
36 of supervision;

- 1 (2) pay a fine and costs;
- 2 (3) work or pursue a course of study or vocational
3 training;
- 4 (4) undergo medical, psychological or psychiatric
5 treatment; or treatment for drug addiction or alcoholism;
- 6 (5) attend or reside in a facility established for the
7 instruction or residence of defendants on probation;
- 8 (6) support his dependents;
- 9 (7) refrain from possessing a firearm or other
10 dangerous weapon;
- 11 (8) and in addition, if a minor:
 - 12 (i) reside with his parents or in a foster home;
 - 13 (ii) attend school;
 - 14 (iii) attend a non-residential program for youth;
 - 15 (iv) contribute to his own support at home or in a
16 foster home; or
 - 17 (v) with the consent of the superintendent of the
18 facility, attend an educational program at a facility
19 other than the school in which the offense was
20 committed if he or she is placed on supervision for a
21 crime of violence as defined in Section 2 of the Crime
22 Victims Compensation Act committed in a school, on the
23 real property comprising a school, or within 1,000 feet
24 of the real property comprising a school;
- 25 (9) make restitution or reparation in an amount not to
26 exceed actual loss or damage to property and pecuniary loss
27 or make restitution under Section 5-5-6 to a domestic
28 violence shelter. The court shall determine the amount and
29 conditions of payment;
- 30 (10) perform some reasonable public or community
31 service;
- 32 (11) comply with the terms and conditions of an order
33 of protection issued by the court pursuant to the Illinois
34 Domestic Violence Act of 1986 or an order of protection
35 issued by the court of another state, tribe, or United
36 States territory. If the court has ordered the defendant to

1 make a report and appear in person under paragraph (1) of
2 this subsection, a copy of the order of protection shall be
3 transmitted to the person or agency so designated by the
4 court;

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

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

16 (14) refrain from entering into a designated
17 geographic area except upon such terms as the court finds
18 appropriate. Such terms may include consideration of the
19 purpose of the entry, the time of day, other persons
20 accompanying the defendant, and advance approval by a
21 probation officer;

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

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

33 (17) refrain from operating any motor vehicle not
34 equipped with an ignition interlock device as defined in
35 Section 1-129.1 of the Illinois Vehicle Code. Under this
36 condition the court may allow a defendant who is not

1 self-employed to operate a vehicle owned by the defendant's
2 employer that is not equipped with an ignition interlock
3 device in the course and scope of the defendant's
4 employment; and

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

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

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

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

1 expungement of his arrest record, as provided by law, at any
2 time after discharge and dismissal under this Section. A person
3 placed on supervision for a sexual offense committed against a
4 minor as defined in subsection (g) of Section 5 of the Criminal
5 Identification Act or for a violation of Section 11-501 of the
6 Illinois Vehicle Code or a similar provision of a local
7 ordinance shall not have his or her record of arrest sealed or
8 expunged.

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

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

33 (i) The court shall impose upon a defendant placed on
34 supervision after January 1, 1992 or to community service under
35 the supervision of a probation or court services department
36 after January 1, 2004, as a condition of supervision or

1 supervised community service, a fee of \$50 for each month of
2 supervision or supervised community service ordered by the
3 court, unless after determining the inability of the person
4 placed on supervision or supervised community service to pay
5 the fee, the court assesses a lesser fee. The court may not
6 impose the fee on a minor who is made a ward of the State under
7 the Juvenile Court Act of 1987 while the minor is in placement.
8 The fee shall be imposed only upon a defendant who is actively
9 supervised by the probation and court services department. The
10 fee shall be collected by the clerk of the circuit court. The
11 clerk of the circuit court shall pay all monies collected from
12 this fee to the county treasurer for deposit in the probation
13 and court services fund pursuant to Section 15.1 of the
14 Probation and Probation Officers Act.

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

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

34 (k) A defendant at least 17 years of age who is placed on
35 supervision for a misdemeanor in a county of 3,000,000 or more
36 inhabitants and who has not been previously convicted of a

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

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

36 (m) The Secretary of State shall require anyone placed on

1 court supervision for a violation of Section 3-707 of the
2 Illinois Vehicle Code or a similar provision of a local
3 ordinance to give proof of his or her financial responsibility
4 as defined in Section 7-315 of the Illinois Vehicle Code. The
5 proof shall be maintained by the individual in a manner
6 satisfactory to the Secretary of State for a minimum period of
7 one year after the date the proof is first filed. The proof
8 shall be limited to a single action per arrest and may not be
9 affected by any post-sentence disposition. The Secretary of
10 State shall suspend the driver's license of any person
11 determined by the Secretary to be in violation of this
12 subsection.

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

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

30 (p) An offender placed on supervision for an offense
31 committed on or after the effective date of this amendatory Act
32 of the 94th General Assembly that would qualify the accused as
33 a child sex offender as defined in Section 11-9.3 or 11-9.4 of
34 the Criminal Code of 1961 shall refrain from communicating with
35 or contacting, by means of the Internet, a person who is not
36 related to the accused and whom the accused reasonably believes

1 to be under 18 years of age. For purposes of this subsection
2 (p), "Internet" has the meaning ascribed to it in Section 16J-5
3 of the Criminal Code of 1961, as added by Public Act 94-179;
4 and a person is not related to the accused if the person is
5 not: (i) the spouse, brother, or sister of the accused; (ii) a
6 descendant of the accused; (iii) a first or second cousin of
7 the accused; or (iv) a step-child or adopted child of the
8 accused.

9 (Source: P.A. 93-475, eff. 8-8-03; 93-970, eff. 8-20-04;
10 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-556, eff.
11 9-11-05; revised 8-19-05.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.