

SB1897



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB1897

Introduced 2/25/2005, by Sen. Dan Cronin

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-6-1

from Ch. 38, par. 1005-6-1

Amends the Unified Code of Corrections. Provides that a person charged with a Class A misdemeanor violation of sexual exploitation of a child may not receive a disposition of supervision.

LRB094 11227 RLC 41954 b

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 5-6-1 as follows:

6 (730 ILCS 5/5-6-1) (from Ch. 38, par. 1005-6-1)

7 Sec. 5-6-1. Sentences of Probation and of Conditional
8 Discharge and Disposition of Supervision. The General Assembly
9 finds that in order to protect the public, the criminal justice
10 system must compel compliance with the conditions of probation
11 by responding to violations with swift, certain and fair
12 punishments and intermediate sanctions. The Chief Judge of each
13 circuit shall adopt a system of structured, intermediate
14 sanctions for violations of the terms and conditions of a
15 sentence of probation, conditional discharge or disposition of
16 supervision.

17 (a) Except where specifically prohibited by other
18 provisions of this Code, the court shall impose a sentence of
19 probation or conditional discharge upon an offender unless,
20 having regard to the nature and circumstance of the offense,
21 and to the history, character and condition of the offender,
22 the court is of the opinion that:

23 (1) his imprisonment or periodic imprisonment is
24 necessary for the protection of the public; or

25 (2) probation or conditional discharge would deprecate
26 the seriousness of the offender's conduct and would be
27 inconsistent with the ends of justice; or

28 (3) a combination of imprisonment with concurrent or
29 consecutive probation when an offender has been admitted
30 into a drug court program under Section 20 of the Drug
31 Court Treatment Act is necessary for the protection of the
32 public and for the rehabilitation of the offender.

1 The court shall impose as a condition of a sentence of
2 probation, conditional discharge, or supervision, that the
3 probation agency may invoke any sanction from the list of
4 intermediate sanctions adopted by the chief judge of the
5 circuit court for violations of the terms and conditions of the
6 sentence of probation, conditional discharge, or supervision,
7 subject to the provisions of Section 5-6-4 of this Act.

8 (b) The court may impose a sentence of conditional
9 discharge for an offense if the court is of the opinion that
10 neither a sentence of imprisonment nor of periodic imprisonment
11 nor of probation supervision is appropriate.

12 (c) The court may, upon a plea of guilty or a stipulation
13 by the defendant of the facts supporting the charge or a
14 finding of guilt, defer further proceedings and the imposition
15 of a sentence, and enter an order for supervision of the
16 defendant, if the defendant is not charged with: (i) a Class A
17 misdemeanor, as defined by the following provisions of the
18 Criminal Code of 1961: Sections 11-9.1; 12-3.2; 12-15; 26-5;
19 31-1; 31-6; 31-7; subsections (b) and (c) of Section 21-1;
20 paragraph (1) through (5), (8), (10), and (11) of subsection
21 (a) of Section 24-1; (ii) a Class A misdemeanor violation of
22 Section 3.01, 3.03-1, or 4.01 of the Humane Care for Animals
23 Act; or (iii) felony. If the defendant is not barred from
24 receiving an order for supervision as provided in this
25 subsection, the court may enter an order for supervision after
26 considering the circumstances of the offense, and the history,
27 character and condition of the offender, if the court is of the
28 opinion that:

29 (1) the offender is not likely to commit further
30 crimes;

31 (2) the defendant and the public would be best served
32 if the defendant were not to receive a criminal record; and

33 (3) in the best interests of justice an order of
34 supervision is more appropriate than a sentence otherwise
35 permitted under this Code.

36 (d) The provisions of paragraph (c) shall not apply to a

1 defendant charged with violating Section 11-501 of the Illinois
2 Vehicle Code or a similar provision of a local ordinance when
3 the defendant has previously been:

4 (1) convicted for a violation of Section 11-501 of the
5 Illinois Vehicle Code or a similar provision of a local
6 ordinance or any similar law or ordinance of another state;
7 or

8 (2) assigned supervision for a violation of Section
9 11-501 of the Illinois Vehicle Code or a similar provision
10 of a local ordinance or any similar law or ordinance of
11 another state; or

12 (3) pleaded guilty to or stipulated to the facts
13 supporting a charge or a finding of guilty to a violation
14 of Section 11-503 of the Illinois Vehicle Code or a similar
15 provision of a local ordinance or any similar law or
16 ordinance of another state, and the plea or stipulation was
17 the result of a plea agreement.

18 The court shall consider the statement of the prosecuting
19 authority with regard to the standards set forth in this
20 Section.

21 (e) The provisions of paragraph (c) shall not apply to a
22 defendant charged with violating Section 16A-3 of the Criminal
23 Code of 1961 if said defendant has within the last 5 years
24 been:

25 (1) convicted for a violation of Section 16A-3 of the
26 Criminal Code of 1961; or

27 (2) assigned supervision for a violation of Section
28 16A-3 of the Criminal Code of 1961.

29 The court shall consider the statement of the prosecuting
30 authority with regard to the standards set forth in this
31 Section.

32 (f) The provisions of paragraph (c) shall not apply to a
33 defendant charged with violating Sections 15-111, 15-112,
34 15-301, paragraph (b) of Section 6-104, Section 11-605, or
35 Section 11-1414 of the Illinois Vehicle Code or a similar
36 provision of a local ordinance.

1 (g) Except as otherwise provided in paragraph (i) of this
2 Section, the provisions of paragraph (c) shall not apply to a
3 defendant charged with violating Section 3-707, 3-708, 3-710,
4 or 5-401.3 of the Illinois Vehicle Code or a similar provision
5 of a local ordinance if the defendant has within the last 5
6 years been:

7 (1) convicted for a violation of Section 3-707, 3-708,
8 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar
9 provision of a local ordinance; or

10 (2) assigned supervision for a violation of Section
11 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle
12 Code or a similar provision of a local ordinance.

13 The court shall consider the statement of the prosecuting
14 authority with regard to the standards set forth in this
15 Section.

16 (h) The provisions of paragraph (c) shall not apply to a
17 defendant under the age of 21 years charged with violating a
18 serious traffic offense as defined in Section 1-187.001 of the
19 Illinois Vehicle Code:

20 (1) unless the defendant, upon payment of the fines,
21 penalties, and costs provided by law, agrees to attend and
22 successfully complete a traffic safety program approved by
23 the court under standards set by the Conference of Chief
24 Circuit Judges. The accused shall be responsible for
25 payment of any traffic safety program fees. If the accused
26 fails to file a certificate of successful completion on or
27 before the termination date of the supervision order, the
28 supervision shall be summarily revoked and conviction
29 entered. The provisions of Supreme Court Rule 402 relating
30 to pleas of guilty do not apply in cases when a defendant
31 enters a guilty plea under this provision; or

32 (2) if the defendant has previously been sentenced
33 under the provisions of paragraph (c) on or after January
34 1, 1998 for any serious traffic offense as defined in
35 Section 1-187.001 of the Illinois Vehicle Code.

36 (i) The provisions of paragraph (c) shall not apply to a

1 defendant charged with violating Section 3-707 of the Illinois
2 Vehicle Code or a similar provision of a local ordinance if the
3 defendant has been assigned supervision for a violation of
4 Section 3-707 of the Illinois Vehicle Code or a similar
5 provision of a local ordinance.

6 (j) The provisions of paragraph (c) shall not apply to a
7 defendant charged with violating Section 6-303 of the Illinois
8 Vehicle Code or a similar provision of a local ordinance when
9 the revocation or suspension was for a violation of Section
10 11-501 or a similar provision of a local ordinance, a violation
11 of Section 11-501.1 or paragraph (b) of Section 11-401 of the
12 Illinois Vehicle Code, or a violation of Section 9-3 of the
13 Criminal Code of 1961 if the defendant has within the last 10
14 years been:

15 (1) convicted for a violation of Section 6-303 of the
16 Illinois Vehicle Code or a similar provision of a local
17 ordinance; or

18 (2) assigned supervision for a violation of Section
19 6-303 of the Illinois Vehicle Code or a similar provision
20 of a local ordinance.

21 (Source: P.A. 93-388, eff. 7-25-03; 93-1014, eff. 1-1-05.)