



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB1439**

Introduced 2/21/2007, by Rep. Maria Antonia Berrios

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-6-3.1

from Ch. 38, par. 1005-6-3.1

Amends the Unified Code of Corrections. Provides that a person placed on court supervision for driving an uninsured vehicle must maintain proof of financial responsibility, in a manner satisfactory to the Secretary of State, for a period of at least 3 years (rather than one year) after the date the proof is first filed.

LRB095 10757 RLC 30999 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 Section 5-6-3.1 as follows:

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

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

8 (a) When a defendant is placed on supervision, the court  
9 shall enter an order for supervision specifying the period of  
10 such supervision, and shall defer further proceedings in the  
11 case until the conclusion of the period.

12 (b) The period of supervision shall be reasonable under all  
13 of the circumstances of the case, but may not be longer than 2  
14 years, unless the defendant has failed to pay the assessment  
15 required by Section 10.3 of the Cannabis Control Act, Section  
16 411.2 of the Illinois Controlled Substances Act, or Section 80  
17 of the Methamphetamine Control and Community Protection Act, in  
18 which case the court may extend supervision beyond 2 years.  
19 Additionally, the court shall order the defendant to perform no  
20 less than 30 hours of community service and not more than 120  
21 hours of community service, if community service is available  
22 in the jurisdiction and is funded and approved by the county  
23 board where the offense was committed, when the offense (1) was

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

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

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

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

25 (2) pay a fine and costs;

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

1 training;

2 (4) undergo medical, psychological or psychiatric  
3 treatment; or treatment for drug addiction or alcoholism;

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

6 (6) support his dependents;

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

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

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

11 (ii) attend school;

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

13 (iv) contribute to his own support at home or in a  
14 foster home; or

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

23 (9) make restitution or reparation in an amount not to  
24 exceed actual loss or damage to property and pecuniary loss  
25 or make restitution under Section 5-5-6 to a domestic  
26 violence shelter. The court shall determine the amount and

1 conditions of payment;

2 (10) perform some reasonable public or community  
3 service;

4 (11) comply with the terms and conditions of an order  
5 of protection issued by the court pursuant to the Illinois  
6 Domestic Violence Act of 1986 or an order of protection  
7 issued by the court of another state, tribe, or United  
8 States territory. If the court has ordered the defendant to  
9 make a report and appear in person under paragraph (1) of  
10 this subsection, a copy of the order of protection shall be  
11 transmitted to the person or agency so designated by the  
12 court;

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

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

24 (14) refrain from entering into a designated  
25 geographic area except upon such terms as the court finds  
26 appropriate. Such terms may include consideration of the

1 purpose of the entry, the time of day, other persons  
2 accompanying the defendant, and advance approval by a  
3 probation officer;

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

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

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

23 (18) if placed on supervision for a sex offense as  
24 defined in subsection (a-5) of Section 3-1-2 of this Code,  
25 unless the offender is a parent or guardian of the person  
26 under 18 years of age present in the home and no

1 non-familial minors are present, not participate in a  
2 holiday event involving children under 18 years of age,  
3 such as distributing candy or other items to children on  
4 Halloween, wearing a Santa Claus costume on or preceding  
5 Christmas, being employed as a department store Santa  
6 Claus, or wearing an Easter Bunny costume on or preceding  
7 Easter.

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

10 (e) At the conclusion of the period of supervision, if the  
11 court determines that the defendant has successfully complied  
12 with all of the conditions of supervision, the court shall  
13 discharge the defendant and enter a judgment dismissing the  
14 charges.

15 (f) Discharge and dismissal upon a successful conclusion of  
16 a disposition of supervision shall be deemed without  
17 adjudication of guilt and shall not be termed a conviction for  
18 purposes of disqualification or disabilities imposed by law  
19 upon conviction of a crime. Two years after the discharge and  
20 dismissal under this Section, unless the disposition of  
21 supervision was for a violation of Sections 3-707, 3-708,  
22 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a  
23 similar provision of a local ordinance, or for a violation of  
24 Sections 12-3.2 or 16A-3 of the Criminal Code of 1961, in which  
25 case it shall be 5 years after discharge and dismissal, a  
26 person may have his record of arrest sealed or expunged as may

1 be provided by law. However, any defendant placed on  
2 supervision before January 1, 1980, may move for sealing or  
3 expungement of his arrest record, as provided by law, at any  
4 time after discharge and dismissal under this Section. A person  
5 placed on supervision for a sexual offense committed against a  
6 minor as defined in subsection (g) of Section 5 of the Criminal  
7 Identification Act or for a violation of Section 11-501 of the  
8 Illinois Vehicle Code or a similar provision of a local  
9 ordinance shall not have his or her record of arrest sealed or  
10 expunged.

11 (g) A defendant placed on supervision and who during the  
12 period of supervision undergoes mandatory drug or alcohol  
13 testing, or both, or is assigned to be placed on an approved  
14 electronic monitoring device, shall be ordered to pay the costs  
15 incidental to such mandatory drug or alcohol testing, or both,  
16 and costs incidental to such approved electronic monitoring in  
17 accordance with the defendant's ability to pay those costs. The  
18 county board with the concurrence of the Chief Judge of the  
19 judicial circuit in which the county is located shall establish  
20 reasonable fees for the cost of maintenance, testing, and  
21 incidental expenses related to the mandatory drug or alcohol  
22 testing, or both, and all costs incidental to approved  
23 electronic monitoring, of all defendants placed on  
24 supervision. The concurrence of the Chief Judge shall be in the  
25 form of an administrative order. The fees shall be collected by  
26 the clerk of the circuit court. The clerk of the circuit court



1 shall pay all moneys collected from these fees to the county  
2 treasurer who shall use the moneys collected to defray the  
3 costs of drug testing, alcohol testing, and electronic  
4 monitoring. The county treasurer shall deposit the fees  
5 collected in the county working cash fund under Section 6-27001  
6 or Section 6-29002 of the Counties Code, as the case may be.

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

9 (i) The court shall impose upon a defendant placed on  
10 supervision after January 1, 1992 or to community service under  
11 the supervision of a probation or court services department  
12 after January 1, 2004, as a condition of supervision or  
13 supervised community service, a fee of \$50 for each month of  
14 supervision or supervised community service ordered by the  
15 court, unless after determining the inability of the person  
16 placed on supervision or supervised community service to pay  
17 the fee, the court assesses a lesser fee. The court may not  
18 impose the fee on a minor who is made a ward of the State under  
19 the Juvenile Court Act of 1987 while the minor is in placement.  
20 The fee shall be imposed only upon a defendant who is actively  
21 supervised by the probation and court services department. The  
22 fee shall be collected by the clerk of the circuit court. The  
23 clerk of the circuit court shall pay all monies collected from  
24 this fee to the county treasurer for deposit in the probation  
25 and court services fund pursuant to Section 15.1 of the  
26 Probation and Probation Officers Act.

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

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

20           (k) A defendant at least 17 years of age who is placed on  
21 supervision for a misdemeanor in a county of 3,000,000 or more  
22 inhabitants and who has not been previously convicted of a  
23 misdemeanor or felony may as a condition of his or her  
24 supervision be required by the court to attend educational  
25 courses designed to prepare the defendant for a high school  
26 diploma and to work toward a high school diploma or to work

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

19 (1) The court shall require a defendant placed on  
20 supervision for possession of a substance prohibited by the  
21 Cannabis Control Act, the Illinois Controlled Substances Act,  
22 or the Methamphetamine Control and Community Protection Act  
23 after a previous conviction or disposition of supervision for  
24 possession of a substance prohibited by the Cannabis Control  
25 Act, the Illinois Controlled Substances Act, or the  
26 Methamphetamine Control and Community Protection Act or a

1 sentence of probation under Section 10 of the Cannabis Control  
2 Act or Section 410 of the Illinois Controlled Substances Act  
3 and after a finding by the court that the person is addicted,  
4 to undergo treatment at a substance abuse program approved by  
5 the court.

6 (m) The Secretary of State shall require anyone placed on  
7 court supervision for a violation of Section 3-707 of the  
8 Illinois Vehicle Code or a similar provision of a local  
9 ordinance to give proof of his or her financial responsibility  
10 as defined in Section 7-315 of the Illinois Vehicle Code. The  
11 proof shall be maintained by the individual in a manner  
12 satisfactory to the Secretary of State for a minimum period of  
13 3 years ~~one year~~ after the date the proof is first filed. The  
14 proof shall be limited to a single action per arrest and may  
15 not be affected by any post-sentence disposition. The Secretary  
16 of State shall suspend the driver's license of any person  
17 determined by the Secretary to be in violation of this  
18 subsection.

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

26 (o) An offender placed on supervision for a sex offense as

1 defined in the Sex Offender Management Board Act shall refrain  
2 from residing at the same address or in the same condominium  
3 unit or apartment unit or in the same condominium complex or  
4 apartment complex with another person he or she knows or  
5 reasonably should know is a convicted sex offender or has been  
6 placed on supervision for a sex offense. The provisions of this  
7 subsection (o) do not apply to a person convicted of a sex  
8 offense who is placed in a Department of Corrections licensed  
9 transitional housing facility for sex offenders.

10 (Source: P.A. 93-475, eff. 8-8-03; 93-970, eff. 8-20-04;  
11 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-556, eff.  
12 9-11-05; revised 8-19-05.)