

HB1116



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB1116

Introduced 2/11/2009, by Rep. Jim Durkin

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 disposition of court supervision may apply to a defendant with certain previous offenses who is charged with DUI. Effective immediately.

LRB096 09126 RLC 19273 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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

1 necessary for the protection of the public; or

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

5 (3) a combination of imprisonment with concurrent or
6 consecutive probation when an offender has been admitted
7 into a drug court program under Section 20 of the Drug
8 Court Treatment Act is necessary for the protection of the
9 public and for the rehabilitation of the offender.

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

17 (b) The court may impose a sentence of conditional
18 discharge for an offense if the court is of the opinion that
19 neither a sentence of imprisonment nor of periodic imprisonment
20 nor of probation supervision is appropriate.

21 (b-1) Subsections (a) and (b) of this Section do not apply
22 to a defendant charged with a misdemeanor or felony under the
23 Illinois Vehicle Code or reckless homicide under Section 9-3 of
24 the Criminal Code of 1961 if the defendant within the past 12
25 months has been convicted of or pleaded guilty to a misdemeanor
26 or felony under the Illinois Vehicle Code or reckless homicide

1 under Section 9-3 of the Criminal Code of 1961.

2 (c) The court may, upon a plea of guilty or a stipulation
3 by the defendant of the facts supporting the charge or a
4 finding of guilt, defer further proceedings and the imposition
5 of a sentence, and enter an order for supervision of the
6 defendant, if the defendant is not charged with: (i) a Class A
7 misdemeanor, as defined by the following provisions of the
8 Criminal Code of 1961: Sections 11-9.1; 12-3.2; 12-15; 26-5;
9 31-1; 31-6; 31-7; subsections (b) and (c) of Section 21-1;
10 paragraph (1) through (5), (8), (10), and (11) of subsection
11 (a) of Section 24-1; (ii) a Class A misdemeanor violation of
12 Section 3.01, 3.03-1, or 4.01 of the Humane Care for Animals
13 Act; or (iii) a felony. If the defendant is not barred from
14 receiving an order for supervision as provided in this
15 subsection, the court may enter an order for supervision after
16 considering the circumstances of the offense, and the history,
17 character and condition of the offender, if the court is of the
18 opinion that:

19 (1) the offender is not likely to commit further
20 crimes;

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

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

26 (c-5) Subsections (a), (b), and (c) of this Section do not

1 apply to a defendant charged with a second or subsequent
2 violation of Section 6-303 of the Illinois Vehicle Code
3 committed while his or her driver's license, permit or
4 privileges were revoked because of a violation of Section 9-3
5 of the Criminal Code of 1961, relating to the offense of
6 reckless homicide, or a similar provision of a law of another
7 state.

8 (d) The provisions of paragraph (c) shall not apply to a
9 defendant charged with violating Section 11-501 of the Illinois
10 Vehicle Code or a similar provision of a local ordinance when
11 the defendant has previously been:

12 (1) convicted for a violation of Section 11-501 of the
13 Illinois Vehicle Code or a similar provision of a local
14 ordinance or any similar law or ordinance of another state;
15 or

16 (2) assigned supervision for a violation of Section
17 11-501 of the Illinois Vehicle Code or a similar provision
18 of a local ordinance or any similar law or ordinance of
19 another state; or

20 (3) pleaded guilty to or stipulated to the facts
21 supporting a charge or a finding of guilty to a violation
22 of Section 11-503 of the Illinois Vehicle Code or a similar
23 provision of a local ordinance or any similar law or
24 ordinance of another state, and the plea or stipulation was
25 the result of a plea agreement.

26 The court shall consider the statement of the prosecuting

1 authority with regard to the standards set forth in this
2 Section.

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

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

9 (2) assigned supervision for a violation of Section
10 16A-3 of the Criminal Code of 1961.

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

14 (f) The provisions of paragraph (c) shall not apply to a
15 defendant charged with violating Sections 15-111, 15-112,
16 15-301, paragraph (b) of Section 6-104, Section 11-605, Section
17 11-1002.5, or Section 11-1414 of the Illinois Vehicle Code or a
18 similar provision of a local ordinance.

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

25 (1) convicted for a violation of Section 3-707, 3-708,
26 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar

1 provision of a local ordinance; or

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

5 The court shall consider the statement of the prosecuting
6 authority with regard to the standards set forth in this
7 Section.

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

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

24 (2) if the defendant has previously been sentenced
25 under the provisions of paragraph (c) on or after January
26 1, 1998 for any serious traffic offense as defined in

1 Section 1-187.001 of the Illinois Vehicle Code.

2 (h-1) The provisions of paragraph (c) shall not apply to a
3 defendant under the age of 21 years charged with an offense
4 against traffic regulations governing the movement of vehicles
5 or any violation of Section 6-107 or Section 12-603.1 of the
6 Illinois Vehicle Code, unless the defendant, upon payment of
7 the fines, penalties, and costs provided by law, agrees to
8 attend and successfully complete a traffic safety program
9 approved by the court under standards set by the Conference of
10 Chief Circuit Judges. The accused shall be responsible for
11 payment of any traffic safety program fees. If the accused
12 fails to file a certificate of successful completion on or
13 before the termination date of the supervision order, the
14 supervision shall be summarily revoked and conviction entered.
15 The provisions of Supreme Court Rule 402 relating to pleas of
16 guilty do not apply in cases when a defendant enters a guilty
17 plea under this provision.

18 (i) The provisions of paragraph (c) shall not apply to a
19 defendant charged with violating Section 3-707 of the Illinois
20 Vehicle Code or a similar provision of a local ordinance if the
21 defendant has been assigned supervision for a violation of
22 Section 3-707 of the Illinois Vehicle Code or a similar
23 provision of a local ordinance.

24 (j) The provisions of paragraph (c) shall not apply to a
25 defendant charged with violating Section 6-303 of the Illinois
26 Vehicle Code or a similar provision of a local ordinance when

1 the revocation or suspension was for a violation of Section
2 11-501 or a similar provision of a local ordinance or a
3 violation of Section 11-501.1 or paragraph (b) of Section
4 11-401 of the Illinois Vehicle Code if the defendant has within
5 the last 10 years been:

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

9 (2) assigned supervision for a violation of Section
10 6-303 of the Illinois Vehicle Code or a similar provision
11 of a local ordinance.

12 (k) The provisions of paragraph (c) shall not apply to a
13 defendant charged with violating any provision of the Illinois
14 Vehicle Code or a similar provision of a local ordinance that
15 governs the movement of vehicles if, within the 12 months
16 preceding the date of the defendant's arrest, the defendant has
17 been assigned court supervision on 2 occasions for a violation
18 that governs the movement of vehicles under the Illinois
19 Vehicle Code or a similar provision of a local ordinance. The
20 provisions of paragraph (c) do apply, however, to a defendant
21 charged with violating Section 11-501 of the Illinois Vehicle
22 Code or a similar provision of a local ordinance.

23 (l) A defendant charged with violating any provision of the
24 Illinois Vehicle Code or a similar provision of a local
25 ordinance who, after a court appearance in the same matter,
26 receives a disposition of supervision under subsection (c)

1 shall pay an additional fee of \$20, to be collected as provided
2 in Sections 27.5 and 27.6 of the Clerks of Courts Act. In
3 addition to the \$20 fee, the person shall also pay a fee of \$5,
4 which, if not waived by the court, shall be collected as
5 provided in Sections 27.5 and 27.6 of the Clerks of Courts Act.
6 The \$20 fee shall be disbursed as provided in Section 16-104c
7 of the Illinois Vehicle Code. If the \$5 fee is collected, \$4.50
8 of the fee shall be deposited into the Circuit Court Clerk
9 Operation and Administrative Fund created by the Clerk of the
10 Circuit Court and 50 cents of the fee shall be deposited into
11 the Prisoner Review Board Vehicle and Equipment Fund in the
12 State treasury.

13 (m) Any person convicted of or pleading guilty to a serious
14 traffic violation, as defined in Section 1-187.001 of the
15 Illinois Vehicle Code, shall pay an additional fee of \$20, to
16 be disbursed as provided in Section 16-104d of that Code.

17 This subsection (m) becomes inoperative 7 years after
18 October 13, 2007 (the effective date of Public Act 95-154).

19 (n) The provisions of paragraph (c) shall not apply to any
20 person under the age of 18 who commits an offense against
21 traffic regulations governing the movement of vehicles or any
22 violation of Section 6-107 or Section 12-603.1 of the Illinois
23 Vehicle Code, except upon personal appearance of the defendant
24 in court and upon the written consent of the defendant's parent
25 or legal guardian, executed before the presiding judge. The
26 presiding judge shall have the authority to waive this

1 requirement upon the showing of good cause by the defendant.

2 (o) The provisions of paragraph (c) shall not apply to a
3 defendant charged with violating Section 6-303 of the Illinois
4 Vehicle Code or a similar provision of a local ordinance when
5 the suspension was for a violation of Section 11-501.1 of the
6 Illinois Vehicle Code and when:

7 (1) at the time of the violation of Section 11-501.1 of
8 the Illinois Vehicle Code, the defendant was a first
9 offender pursuant to Section 11-500 of the Illinois Vehicle
10 Code and the defendant failed to obtain a monitoring device
11 driving permit; or

12 (2) at the time of the violation of Section 11-501.1 of
13 the Illinois Vehicle Code, the defendant was a first
14 offender pursuant to Section 11-500 of the Illinois Vehicle
15 Code, had subsequently obtained a monitoring device
16 driving permit, but was driving a vehicle not equipped with
17 a breath alcohol ignition interlock device as defined in
18 Section 1-129.1 of the Illinois Vehicle Code.

19 (Source: P.A. 94-169, eff. 1-1-06; 94-330, eff. 1-1-06; 94-375,
20 eff. 1-1-06; 94-1009, eff. 1-1-07; 95-154, eff. 10-13-07;
21 95-302, eff. 1-1-08; 95-310, eff. 1-1-08; 95-377, eff. 1-1-08;
22 95-400, eff. 1-1-09; 95-428, 8-24-07; 95-876, eff. 8-21-08;
23 revised 10-30-08.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.