



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB6055

Introduced 2/10/2010, by Rep. Thomas Holbrook

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-3

from Ch. 38, par. 1005-5-3

730 ILCS 5/5-6-1

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

Amends the Unified Code of Corrections. Provides that a person convicted of reckless homicide is ineligible for a period of probation, a term of periodic imprisonment, or conditional discharge. Effective immediately.

LRB096 16799 RLC 32106 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 Sections 5-5-3 and 5-6-1 as follows:

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

7 Sec. 5-5-3. Disposition.

8 (a) (Blank).

9 (b) (Blank).

10 (c) (1) (Blank).

11 (2) A period of probation, a term of periodic
12 imprisonment or conditional discharge shall not be imposed
13 for the following offenses. The court shall sentence the
14 offender to not less than the minimum term of imprisonment
15 set forth in this Code for the following offenses, and may
16 order a fine or restitution or both in conjunction with
17 such term of imprisonment:

18 (A) First degree murder where the death penalty is
19 not imposed.

20 (B) Attempted first degree murder.

21 (C) A Class X felony.

22 (D) A violation of Section 401.1 or 407 of the
23 Illinois Controlled Substances Act, or a violation of

1 subdivision (c) (1), (c) (1.5), or (c) (2) of Section 401
2 of that Act which relates to more than 5 grams of a
3 substance containing heroin, cocaine, fentanyl, or an
4 analog thereof.

5 (E) A violation of Section 5.1 or 9 of the Cannabis
6 Control Act.

7 (F) A Class 2 or greater felony if the offender had
8 been convicted of a Class 2 or greater felony,
9 including any state or federal conviction for an
10 offense that contained, at the time it was committed,
11 the same elements as an offense now (the date of the
12 offense committed after the prior Class 2 or greater
13 felony) classified as a Class 2 or greater felony,
14 within 10 years of the date on which the offender
15 committed the offense for which he or she is being
16 sentenced, except as otherwise provided in Section
17 40-10 of the Alcoholism and Other Drug Abuse and
18 Dependency Act.

19 (F-5) A violation of Section 24-1, 24-1.1, or
20 24-1.6 of the Criminal Code of 1961 for which
21 imprisonment is prescribed in those Sections.

22 (G) Residential burglary, except as otherwise
23 provided in Section 40-10 of the Alcoholism and Other
24 Drug Abuse and Dependency Act.

25 (H) Criminal sexual assault.

26 (I) Aggravated battery of a senior citizen.

1 (J) A forcible felony if the offense was related to
2 the activities of an organized gang.

3 Before July 1, 1994, for the purposes of this
4 paragraph, "organized gang" means an association of 5
5 or more persons, with an established hierarchy, that
6 encourages members of the association to perpetrate
7 crimes or provides support to the members of the
8 association who do commit crimes.

9 Beginning July 1, 1994, for the purposes of this
10 paragraph, "organized gang" has the meaning ascribed
11 to it in Section 10 of the Illinois Streetgang
12 Terrorism Omnibus Prevention Act.

13 (K) Vehicular hijacking.

14 (L) A second or subsequent conviction for the
15 offense of hate crime when the underlying offense upon
16 which the hate crime is based is felony aggravated
17 assault or felony mob action.

18 (M) A second or subsequent conviction for the
19 offense of institutional vandalism if the damage to the
20 property exceeds \$300.

21 (N) A Class 3 felony violation of paragraph (1) of
22 subsection (a) of Section 2 of the Firearm Owners
23 Identification Card Act.

24 (O) A violation of Section 12-6.1 of the Criminal
25 Code of 1961.

26 (P) A violation of paragraph (1), (2), (3), (4),

1 (5), or (7) of subsection (a) of Section 11-20.1 of the
2 Criminal Code of 1961.

3 (Q) A violation of Section 20-1.2 or 20-1.3 of the
4 Criminal Code of 1961.

5 (R) A violation of Section 24-3A of the Criminal
6 Code of 1961.

7 (S) (Blank).

8 (T) A second or subsequent violation of the
9 Methamphetamine Control and Community Protection Act.

10 (U) A second or subsequent violation of Section
11 6-303 of the Illinois Vehicle Code committed while his
12 or her driver's license, permit, or privilege was
13 revoked because of a violation of Section 9-3 of the
14 Criminal Code of 1961, relating to the offense of
15 reckless homicide, or a similar provision of a law of
16 another state.

17 (V) A violation of paragraph (4) of subsection (c)
18 of Section 11-20.3 of the Criminal Code of 1961.

19 (W) A violation of Section 24-3.5 of the Criminal
20 Code of 1961.

21 (X) A violation of subsection (a) of Section 31-1a
22 of the Criminal Code of 1961.

23 (Y) A conviction for unlawful possession of a
24 firearm by a street gang member when the firearm was
25 loaded or contained firearm ammunition.

26 (Z) A conviction for reckless homicide.

1 (3) (Blank).

2 (4) A minimum term of imprisonment of not less than 10
3 consecutive days or 30 days of community service shall be
4 imposed for a violation of paragraph (c) of Section 6-303
5 of the Illinois Vehicle Code.

6 (4.1) (Blank).

7 (4.2) Except as provided in paragraphs (4.3) and (4.8)
8 of this subsection (c), a minimum of 100 hours of community
9 service shall be imposed for a second violation of Section
10 6-303 of the Illinois Vehicle Code.

11 (4.3) A minimum term of imprisonment of 30 days or 300
12 hours of community service, as determined by the court,
13 shall be imposed for a second violation of subsection (c)
14 of Section 6-303 of the Illinois Vehicle Code.

15 (4.4) Except as provided in paragraphs (4.5), (4.6),
16 and (4.9) of this subsection (c), a minimum term of
17 imprisonment of 30 days or 300 hours of community service,
18 as determined by the court, shall be imposed for a third or
19 subsequent violation of Section 6-303 of the Illinois
20 Vehicle Code.

21 (4.5) A minimum term of imprisonment of 30 days shall
22 be imposed for a third violation of subsection (c) of
23 Section 6-303 of the Illinois Vehicle Code.

24 (4.6) Except as provided in paragraph (4.10) of this
25 subsection (c), a minimum term of imprisonment of 180 days
26 shall be imposed for a fourth or subsequent violation of

1 subsection (c) of Section 6-303 of the Illinois Vehicle
2 Code.

3 (4.7) A minimum term of imprisonment of not less than
4 30 consecutive days, or 300 hours of community service,
5 shall be imposed for a violation of subsection (a-5) of
6 Section 6-303 of the Illinois Vehicle Code, as provided in
7 subsection (b-5) of that Section.

8 (4.8) A mandatory prison sentence shall be imposed for
9 a second violation of subsection (a-5) of Section 6-303 of
10 the Illinois Vehicle Code, as provided in subsection (c-5)
11 of that Section. The person's driving privileges shall be
12 revoked for a period of not less than 5 years from the date
13 of his or her release from prison.

14 (4.9) A mandatory prison sentence of not less than 4
15 and not more than 15 years shall be imposed for a third
16 violation of subsection (a-5) of Section 6-303 of the
17 Illinois Vehicle Code, as provided in subsection (d-2.5) of
18 that Section. The person's driving privileges shall be
19 revoked for the remainder of his or her life.

20 (4.10) A mandatory prison sentence for a Class 1 felony
21 shall be imposed, and the person shall be eligible for an
22 extended term sentence, for a fourth or subsequent
23 violation of subsection (a-5) of Section 6-303 of the
24 Illinois Vehicle Code, as provided in subsection (d-3.5) of
25 that Section. The person's driving privileges shall be
26 revoked for the remainder of his or her life.

1 (5) The court may sentence a corporation or
2 unincorporated association convicted of any offense to:

3 (A) a period of conditional discharge;

4 (B) a fine;

5 (C) make restitution to the victim under Section
6 5-5-6 of this Code.

7 (5.1) In addition to any other penalties imposed, and
8 except as provided in paragraph (5.2) or (5.3), a person
9 convicted of violating subsection (c) of Section 11-907 of
10 the Illinois Vehicle Code shall have his or her driver's
11 license, permit, or privileges suspended for at least 90
12 days but not more than one year, if the violation resulted
13 in damage to the property of another person.

14 (5.2) In addition to any other penalties imposed, and
15 except as provided in paragraph (5.3), a person convicted
16 of violating subsection (c) of Section 11-907 of the
17 Illinois Vehicle Code shall have his or her driver's
18 license, permit, or privileges suspended for at least 180
19 days but not more than 2 years, if the violation resulted
20 in injury to another person.

21 (5.3) In addition to any other penalties imposed, a
22 person convicted of violating subsection (c) of Section
23 11-907 of the Illinois Vehicle Code shall have his or her
24 driver's license, permit, or privileges suspended for 2
25 years, if the violation resulted in the death of another
26 person.

1 (5.4) In addition to any other penalties imposed, a
2 person convicted of violating Section 3-707 of the Illinois
3 Vehicle Code shall have his or her driver's license,
4 permit, or privileges suspended for 3 months and until he
5 or she has paid a reinstatement fee of \$100.

6 (5.5) In addition to any other penalties imposed, a
7 person convicted of violating Section 3-707 of the Illinois
8 Vehicle Code during a period in which his or her driver's
9 license, permit, or privileges were suspended for a
10 previous violation of that Section shall have his or her
11 driver's license, permit, or privileges suspended for an
12 additional 6 months after the expiration of the original
13 3-month suspension and until he or she has paid a
14 reinstatement fee of \$100.

15 (6) (Blank).

16 (7) (Blank).

17 (8) (Blank).

18 (9) A defendant convicted of a second or subsequent
19 offense of ritualized abuse of a child may be sentenced to
20 a term of natural life imprisonment.

21 (10) (Blank).

22 (11) The court shall impose a minimum fine of \$1,000
23 for a first offense and \$2,000 for a second or subsequent
24 offense upon a person convicted of or placed on supervision
25 for battery when the individual harmed was a sports
26 official or coach at any level of competition and the act

1 causing harm to the sports official or coach occurred
2 within an athletic facility or within the immediate
3 vicinity of the athletic facility at which the sports
4 official or coach was an active participant of the athletic
5 contest held at the athletic facility. For the purposes of
6 this paragraph (11), "sports official" means a person at an
7 athletic contest who enforces the rules of the contest,
8 such as an umpire or referee; "athletic facility" means an
9 indoor or outdoor playing field or recreational area where
10 sports activities are conducted; and "coach" means a person
11 recognized as a coach by the sanctioning authority that
12 conducted the sporting event.

13 (12) A person may not receive a disposition of court
14 supervision for a violation of Section 5-16 of the Boat
15 Registration and Safety Act if that person has previously
16 received a disposition of court supervision for a violation
17 of that Section.

18 (13) A person convicted of or placed on court
19 supervision for an assault or aggravated assault when the
20 victim and the offender are family or household members as
21 defined in Section 103 of the Illinois Domestic Violence
22 Act of 1986 or convicted of domestic battery or aggravated
23 domestic battery may be required to attend a Partner Abuse
24 Intervention Program under protocols set forth by the
25 Illinois Department of Human Services under such terms and
26 conditions imposed by the court. The costs of such classes

1 shall be paid by the offender.

2 (d) In any case in which a sentence originally imposed is
3 vacated, the case shall be remanded to the trial court. The
4 trial court shall hold a hearing under Section 5-4-1 of the
5 Unified Code of Corrections which may include evidence of the
6 defendant's life, moral character and occupation during the
7 time since the original sentence was passed. The trial court
8 shall then impose sentence upon the defendant. The trial court
9 may impose any sentence which could have been imposed at the
10 original trial subject to Section 5-5-4 of the Unified Code of
11 Corrections. If a sentence is vacated on appeal or on
12 collateral attack due to the failure of the trier of fact at
13 trial to determine beyond a reasonable doubt the existence of a
14 fact (other than a prior conviction) necessary to increase the
15 punishment for the offense beyond the statutory maximum
16 otherwise applicable, either the defendant may be re-sentenced
17 to a term within the range otherwise provided or, if the State
18 files notice of its intention to again seek the extended
19 sentence, the defendant shall be afforded a new trial.

20 (e) In cases where prosecution for aggravated criminal
21 sexual abuse under Section 12-16 of the Criminal Code of 1961
22 results in conviction of a defendant who was a family member of
23 the victim at the time of the commission of the offense, the
24 court shall consider the safety and welfare of the victim and
25 may impose a sentence of probation only where:

26 (1) the court finds (A) or (B) or both are appropriate:

1 (A) the defendant is willing to undergo a court
2 approved counseling program for a minimum duration of 2
3 years; or

4 (B) the defendant is willing to participate in a
5 court approved plan including but not limited to the
6 defendant's:

7 (i) removal from the household;

8 (ii) restricted contact with the victim;

9 (iii) continued financial support of the
10 family;

11 (iv) restitution for harm done to the victim;

12 and

13 (v) compliance with any other measures that
14 the court may deem appropriate; and

15 (2) the court orders the defendant to pay for the
16 victim's counseling services, to the extent that the court
17 finds, after considering the defendant's income and
18 assets, that the defendant is financially capable of paying
19 for such services, if the victim was under 18 years of age
20 at the time the offense was committed and requires
21 counseling as a result of the offense.

22 Probation may be revoked or modified pursuant to Section
23 5-6-4; except where the court determines at the hearing that
24 the defendant violated a condition of his or her probation
25 restricting contact with the victim or other family members or
26 commits another offense with the victim or other family

1 members, the court shall revoke the defendant's probation and
2 impose a term of imprisonment.

3 For the purposes of this Section, "family member" and
4 "victim" shall have the meanings ascribed to them in Section
5 12-12 of the Criminal Code of 1961.

6 (f) (Blank).

7 (g) Whenever a defendant is convicted of an offense under
8 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
9 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
10 of the Criminal Code of 1961, the defendant shall undergo
11 medical testing to determine whether the defendant has any
12 sexually transmissible disease, including a test for infection
13 with human immunodeficiency virus (HIV) or any other identified
14 causative agent of acquired immunodeficiency syndrome (AIDS).
15 Any such medical test shall be performed only by appropriately
16 licensed medical practitioners and may include an analysis of
17 any bodily fluids as well as an examination of the defendant's
18 person. Except as otherwise provided by law, the results of
19 such test shall be kept strictly confidential by all medical
20 personnel involved in the testing and must be personally
21 delivered in a sealed envelope to the judge of the court in
22 which the conviction was entered for the judge's inspection in
23 camera. Acting in accordance with the best interests of the
24 victim and the public, the judge shall have the discretion to
25 determine to whom, if anyone, the results of the testing may be
26 revealed. The court shall notify the defendant of the test

1 results. The court shall also notify the victim if requested by
2 the victim, and if the victim is under the age of 15 and if
3 requested by the victim's parents or legal guardian, the court
4 shall notify the victim's parents or legal guardian of the test
5 results. The court shall provide information on the
6 availability of HIV testing and counseling at Department of
7 Public Health facilities to all parties to whom the results of
8 the testing are revealed and shall direct the State's Attorney
9 to provide the information to the victim when possible. A
10 State's Attorney may petition the court to obtain the results
11 of any HIV test administered under this Section, and the court
12 shall grant the disclosure if the State's Attorney shows it is
13 relevant in order to prosecute a charge of criminal
14 transmission of HIV under Section 12-16.2 of the Criminal Code
15 of 1961 against the defendant. The court shall order that the
16 cost of any such test shall be paid by the county and may be
17 taxed as costs against the convicted defendant.

18 (g-5) When an inmate is tested for an airborne communicable
19 disease, as determined by the Illinois Department of Public
20 Health including but not limited to tuberculosis, the results
21 of the test shall be personally delivered by the warden or his
22 or her designee in a sealed envelope to the judge of the court
23 in which the inmate must appear for the judge's inspection in
24 camera if requested by the judge. Acting in accordance with the
25 best interests of those in the courtroom, the judge shall have
26 the discretion to determine what if any precautions need to be

1 taken to prevent transmission of the disease in the courtroom.

2 (h) Whenever a defendant is convicted of an offense under
3 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
4 defendant shall undergo medical testing to determine whether
5 the defendant has been exposed to human immunodeficiency virus
6 (HIV) or any other identified causative agent of acquired
7 immunodeficiency syndrome (AIDS). Except as otherwise provided
8 by law, the results of such test shall be kept strictly
9 confidential by all medical personnel involved in the testing
10 and must be personally delivered in a sealed envelope to the
11 judge of the court in which the conviction was entered for the
12 judge's inspection in camera. Acting in accordance with the
13 best interests of the public, the judge shall have the
14 discretion to determine to whom, if anyone, the results of the
15 testing may be revealed. The court shall notify the defendant
16 of a positive test showing an infection with the human
17 immunodeficiency virus (HIV). The court shall provide
18 information on the availability of HIV testing and counseling
19 at Department of Public Health facilities to all parties to
20 whom the results of the testing are revealed and shall direct
21 the State's Attorney to provide the information to the victim
22 when possible. A State's Attorney may petition the court to
23 obtain the results of any HIV test administered under this
24 Section, and the court shall grant the disclosure if the
25 State's Attorney shows it is relevant in order to prosecute a
26 charge of criminal transmission of HIV under Section 12-16.2 of

1 the Criminal Code of 1961 against the defendant. The court
2 shall order that the cost of any such test shall be paid by the
3 county and may be taxed as costs against the convicted
4 defendant.

5 (i) All fines and penalties imposed under this Section for
6 any violation of Chapters 3, 4, 6, and 11 of the Illinois
7 Vehicle Code, or a similar provision of a local ordinance, and
8 any violation of the Child Passenger Protection Act, or a
9 similar provision of a local ordinance, shall be collected and
10 disbursed by the circuit clerk as provided under Section 27.5
11 of the Clerks of Courts Act.

12 (j) In cases when prosecution for any violation of Section
13 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
14 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
15 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
16 Code of 1961, any violation of the Illinois Controlled
17 Substances Act, any violation of the Cannabis Control Act, or
18 any violation of the Methamphetamine Control and Community
19 Protection Act results in conviction, a disposition of court
20 supervision, or an order of probation granted under Section 10
21 of the Cannabis Control Act, Section 410 of the Illinois
22 Controlled Substance Act, or Section 70 of the Methamphetamine
23 Control and Community Protection Act of a defendant, the court
24 shall determine whether the defendant is employed by a facility
25 or center as defined under the Child Care Act of 1969, a public
26 or private elementary or secondary school, or otherwise works

1 with children under 18 years of age on a daily basis. When a
2 defendant is so employed, the court shall order the Clerk of
3 the Court to send a copy of the judgment of conviction or order
4 of supervision or probation to the defendant's employer by
5 certified mail. If the employer of the defendant is a school,
6 the Clerk of the Court shall direct the mailing of a copy of
7 the judgment of conviction or order of supervision or probation
8 to the appropriate regional superintendent of schools. The
9 regional superintendent of schools shall notify the State Board
10 of Education of any notification under this subsection.

11 (j-5) A defendant at least 17 years of age who is convicted
12 of a felony and who has not been previously convicted of a
13 misdemeanor or felony and who is sentenced to a term of
14 imprisonment in the Illinois Department of Corrections shall as
15 a condition of his or her sentence be required by the court to
16 attend educational courses designed to prepare the defendant
17 for a high school diploma and to work toward a high school
18 diploma or to work toward passing the high school level Test of
19 General Educational Development (GED) or to work toward
20 completing a vocational training program offered by the
21 Department of Corrections. If a defendant fails to complete the
22 educational training required by his or her sentence during the
23 term of incarceration, the Prisoner Review Board shall, as a
24 condition of mandatory supervised release, require the
25 defendant, at his or her own expense, to pursue a course of
26 study toward a high school diploma or passage of the GED test.

1 The Prisoner Review Board shall revoke the mandatory supervised
2 release of a defendant who wilfully fails to comply with this
3 subsection (j-5) upon his or her release from confinement in a
4 penal institution while serving a mandatory supervised release
5 term; however, the inability of the defendant after making a
6 good faith effort to obtain financial aid or pay for the
7 educational training shall not be deemed a wilful failure to
8 comply. The Prisoner Review Board shall recommit the defendant
9 whose mandatory supervised release term has been revoked under
10 this subsection (j-5) as provided in Section 3-3-9. This
11 subsection (j-5) does not apply to a defendant who has a high
12 school diploma or has successfully passed the GED test. This
13 subsection (j-5) does not apply to a defendant who is
14 determined by the court to be developmentally disabled or
15 otherwise mentally incapable of completing the educational or
16 vocational program.

17 (k) (Blank).

18 (l) (A) Except as provided in paragraph (C) of subsection
19 (l), whenever a defendant, who is an alien as defined by
20 the Immigration and Nationality Act, is convicted of any
21 felony or misdemeanor offense, the court after sentencing
22 the defendant may, upon motion of the State's Attorney,
23 hold sentence in abeyance and remand the defendant to the
24 custody of the Attorney General of the United States or his
25 or her designated agent to be deported when:

26 (1) a final order of deportation has been issued

1 against the defendant pursuant to proceedings under
2 the Immigration and Nationality Act, and

3 (2) the deportation of the defendant would not
4 deprecate the seriousness of the defendant's conduct
5 and would not be inconsistent with the ends of justice.

6 Otherwise, the defendant shall be sentenced as
7 provided in this Chapter V.

8 (B) If the defendant has already been sentenced for a
9 felony or misdemeanor offense, or has been placed on
10 probation under Section 10 of the Cannabis Control Act,
11 Section 410 of the Illinois Controlled Substances Act, or
12 Section 70 of the Methamphetamine Control and Community
13 Protection Act, the court may, upon motion of the State's
14 Attorney to suspend the sentence imposed, commit the
15 defendant to the custody of the Attorney General of the
16 United States or his or her designated agent when:

17 (1) a final order of deportation has been issued
18 against the defendant pursuant to proceedings under
19 the Immigration and Nationality Act, and

20 (2) the deportation of the defendant would not
21 deprecate the seriousness of the defendant's conduct
22 and would not be inconsistent with the ends of justice.

23 (C) This subsection (1) does not apply to offenders who
24 are subject to the provisions of paragraph (2) of
25 subsection (a) of Section 3-6-3.

26 (D) Upon motion of the State's Attorney, if a defendant

1 sentenced under this Section returns to the jurisdiction of
2 the United States, the defendant shall be recommitted to
3 the custody of the county from which he or she was
4 sentenced. Thereafter, the defendant shall be brought
5 before the sentencing court, which may impose any sentence
6 that was available under Section 5-5-3 at the time of
7 initial sentencing. In addition, the defendant shall not be
8 eligible for additional good conduct credit for
9 meritorious service as provided under Section 3-6-6.

10 (m) A person convicted of criminal defacement of property
11 under Section 21-1.3 of the Criminal Code of 1961, in which the
12 property damage exceeds \$300 and the property damaged is a
13 school building, shall be ordered to perform community service
14 that may include cleanup, removal, or painting over the
15 defacement.

16 (n) The court may sentence a person convicted of a
17 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
18 Code of 1961 (i) to an impact incarceration program if the
19 person is otherwise eligible for that program under Section
20 5-8-1.1, (ii) to community service, or (iii) if the person is
21 an addict or alcoholic, as defined in the Alcoholism and Other
22 Drug Abuse and Dependency Act, to a substance or alcohol abuse
23 program licensed under that Act.

24 (o) Whenever a person is convicted of a sex offense as
25 defined in Section 2 of the Sex Offender Registration Act, the
26 defendant's driver's license or permit shall be subject to

1 renewal on an annual basis in accordance with the provisions of
2 license renewal established by the Secretary of State.

3 (Source: P.A. 95-188, eff. 8-16-07; 95-259, eff. 8-17-07;
4 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08;
5 95-876, eff. 8-21-08; 95-882, eff. 1-1-09; 95-1052, eff.
6 7-1-09; 96-348, eff. 8-12-09; 96-400, eff. 8-13-09; 96-829,
7 eff. 12-3-09.)

8 (730 ILCS 5/5-6-1) (from Ch. 38, par. 1005-6-1)

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

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

25 (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 (b-2) Subsections (a) and (b) of this Section do not apply
3 to a defendant charged with reckless homicide under Section 9-3
4 of the Criminal Code of 1961.

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

22 (1) the offender is not likely to commit further
23 crimes;

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

26 (3) in the best interests of justice an order of

1 supervision is more appropriate than a sentence otherwise
2 permitted under this Code.

3 (c-5) Subsections (a), (b), and (c) of this Section do not
4 apply to a defendant charged with a second or subsequent
5 violation of Section 6-303 of the Illinois Vehicle Code
6 committed while his or her driver's license, permit or
7 privileges were revoked because of a violation of Section 9-3
8 of the Criminal Code of 1961, relating to the offense of
9 reckless homicide, or a similar provision of a law of another
10 state.

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

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

19 (2) assigned supervision for a violation of Section
20 11-501 of the Illinois Vehicle Code or a similar provision
21 of a local ordinance or any similar law or ordinance of
22 another state; or

23 (3) pleaded guilty to or stipulated to the facts
24 supporting a charge or a finding of guilty to a violation
25 of Section 11-503 of the Illinois Vehicle Code or a similar
26 provision of a local ordinance or any similar law or

1 ordinance of another state, and the plea or stipulation was
2 the result of a plea agreement.

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

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

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

12 (2) assigned supervision for a violation of Section
13 16A-3 of the Criminal Code of 1961.

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

17 (f) The provisions of paragraph (c) shall not apply to a
18 defendant charged with violating Sections 15-111, 15-112,
19 15-301, paragraph (b) of Section 6-104, Section 11-605, Section
20 11-1002.5, or Section 11-1414 of the Illinois Vehicle Code or a
21 similar provision of a local ordinance.

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

1 years been:

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

5 (2) assigned supervision for a violation of Section
6 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle
7 Code or a similar provision of a local ordinance.

8 The court shall consider the statement of the prosecuting
9 authority with regard to the standards set forth in this
10 Section.

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

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

1 (2) if the defendant has previously been sentenced
2 under the provisions of paragraph (c) on or after January
3 1, 1998 for any serious traffic offense as defined in
4 Section 1-187.001 of the Illinois Vehicle Code.

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

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

1 (j) The provisions of paragraph (c) shall not apply to a
2 defendant charged with violating Section 6-303 of the Illinois
3 Vehicle Code or a similar provision of a local ordinance when
4 the revocation or suspension was for a violation of Section
5 11-501 or a similar provision of a local ordinance or a
6 violation of Section 11-501.1 or paragraph (b) of Section
7 11-401 of the Illinois Vehicle Code if the defendant has within
8 the last 10 years been:

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

12 (2) assigned supervision for a violation of Section
13 6-303 of the Illinois Vehicle Code or a similar provision
14 of a local ordinance.

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

26 (1) A defendant charged with violating any provision of the

1 Illinois Vehicle Code or a similar provision of a local
2 ordinance who receives a disposition of supervision under
3 subsection (c) shall pay an additional fee of \$29, to be
4 collected as provided in Sections 27.5 and 27.6 of the Clerks
5 of Courts Act. In addition to the \$29 fee, the person shall
6 also pay a fee of \$6, which, if not waived by the court, shall
7 be collected as provided in Sections 27.5 and 27.6 of the
8 Clerks of Courts Act. The \$29 fee shall be disbursed as
9 provided in Section 16-104c of the Illinois Vehicle Code. If
10 the \$6 fee is collected, \$5.50 of the fee shall be deposited
11 into the Circuit Court Clerk Operation and Administrative Fund
12 created by the Clerk of the Circuit Court and 50 cents of the
13 fee shall be deposited into the Prisoner Review Board Vehicle
14 and Equipment Fund in the State treasury.

15 (m) Any person convicted of, pleading guilty to, or placed
16 on supervision for a serious traffic violation, as defined in
17 Section 1-187.001 of the Illinois Vehicle Code, a violation of
18 Section 11-501 of the Illinois Vehicle Code, or a violation of
19 a similar provision of a local ordinance shall pay an
20 additional fee of \$20, to be disbursed as provided in Section
21 16-104d of that Code.

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

24 (n) The provisions of paragraph (c) shall not apply to any
25 person under the age of 18 who commits an offense against
26 traffic regulations governing the movement of vehicles or any

1 violation of Section 6-107 or Section 12-603.1 of the Illinois
2 Vehicle Code, except upon personal appearance of the defendant
3 in court and upon the written consent of the defendant's parent
4 or legal guardian, executed before the presiding judge. The
5 presiding judge shall have the authority to waive this
6 requirement upon the showing of good cause by the defendant.

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

12 (1) 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 and the defendant failed to obtain a monitoring device
16 driving permit; or

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

24 (Source: P.A. 95-154, eff. 10-13-07; 95-302, eff. 1-1-08;
25 95-310, eff. 1-1-08; 95-377, eff. 1-1-08; 95-400, eff. 1-1-09;
26 95-428, 8-24-07; 95-876, eff. 8-21-08; 96-253, eff. 8-11-09;

1 96-286, eff. 8-11-09; 96-328, eff. 8-11-09; 96-625, eff.
2 1-1-10; revised 10-1-09.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.