



Rep. Jil Tracy

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09800HB1919ham001

LRB098 07518 RLC 42158 a

1 AMENDMENT TO HOUSE BILL 1919

2 AMENDMENT NO. _____. Amend House Bill 1919 by replacing
3 everything after the enacting clause with the following:

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

1 of the Methamphetamine Control and Community Protection Act, in
2 which case the court may extend supervision beyond 2 years.
3 Additionally, the court shall order the defendant to perform no
4 less than 30 hours of community service and not more than 120
5 hours of community service, if community service is available
6 in the jurisdiction and is funded and approved by the county
7 board where the offense was committed, when the offense (1) was
8 related to or in furtherance of the criminal activities of an
9 organized gang or was motivated by the defendant's membership
10 in or allegiance to an organized gang; or (2) is a violation of
11 any Section of Article 24 of the Criminal Code of 1961 or the
12 Criminal Code of 2012 where a disposition of supervision is not
13 prohibited by Section 5-6-1 of this Code. The community service
14 shall include, but not be limited to, the cleanup and repair of
15 any damage caused by violation of Section 21-1.3 of the
16 Criminal Code of 1961 or the Criminal Code of 2012 and similar
17 damages to property located within the municipality or county
18 in which the violation occurred. Where possible and reasonable,
19 the community service should be performed in the offender's
20 neighborhood.

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

24 (c) The court may in addition to other reasonable
25 conditions relating to the nature of the offense or the
26 rehabilitation of the defendant as determined for each

1 defendant in the proper discretion of the court require that
2 the person:

3 (1) make a report to and appear in person before or
4 participate with the court or such courts, person, or
5 social service agency as directed by the court in the order
6 of supervision;

7 (2) pay a fine and costs;

8 (3) work or pursue a course of study or vocational
9 training;

10 (4) undergo medical, psychological or psychiatric
11 treatment; or treatment for drug addiction or alcoholism;

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

14 (6) support his dependents;

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

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

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

19 (ii) attend school;

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

21 (iv) contribute to his own support at home or in a
22 foster home; or

23 (v) with the consent of the superintendent of the
24 facility, attend an educational program at a facility
25 other than the school in which the offense was
26 committed if he or she is placed on supervision for a

1 crime of violence as defined in Section 2 of the Crime
2 Victims Compensation Act committed in a school, on the
3 real property comprising a school, or within 1,000 feet
4 of the real property comprising a school;

5 (9) make restitution or reparation in an amount not to
6 exceed actual loss or damage to property and pecuniary loss
7 or make restitution under Section 5-5-6 to a domestic
8 violence shelter. The court shall determine the amount and
9 conditions of payment;

10 (10) perform some reasonable public or community
11 service;

12 (11) comply with the terms and conditions of an order
13 of protection issued by the court pursuant to the Illinois
14 Domestic Violence Act of 1986 or an order of protection
15 issued by the court of another state, tribe, or United
16 States territory. If the court has ordered the defendant to
17 make a report and appear in person under paragraph (1) of
18 this subsection, a copy of the order of protection shall be
19 transmitted to the person or agency so designated by the
20 court;

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

1 (13) contribute a reasonable sum of money, not to
2 exceed the maximum amount of the fine authorized for the
3 offense for which the defendant was sentenced, (i) to a
4 "local anti-crime program", as defined in Section 7 of the
5 Anti-Crime Advisory Council Act, or (ii) for offenses under
6 the jurisdiction of the Department of Natural Resources, to
7 the fund established by the Department of Natural Resources
8 for the purchase of evidence for investigation purposes and
9 to conduct investigations as outlined in Section 805-105 of
10 the Department of Natural Resources (Conservation) Law, or
11 (iii) to a local high school after-prom program;

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

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

22 (16) refrain from having in his or her body the
23 presence of any illicit drug prohibited by the Cannabis
24 Control Act, the Illinois Controlled Substances Act, or the
25 Methamphetamine Control and Community Protection Act,
26 unless prescribed by a physician, and submit samples of his

1 or her blood or urine or both for tests to determine the
2 presence of any illicit drug;

3 (17) refrain from operating any motor vehicle not
4 equipped with an ignition interlock device as defined in
5 Section 1-129.1 of the Illinois Vehicle Code; under this
6 condition the court may allow a defendant who is not
7 self-employed to operate a vehicle owned by the defendant's
8 employer that is not equipped with an ignition interlock
9 device in the course and scope of the defendant's
10 employment; and

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

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

24 (e) At the conclusion of the period of supervision, if the
25 court determines that the defendant has successfully complied
26 with all of the conditions of supervision, the court shall

1 discharge the defendant and enter a judgment dismissing the
2 charges.

3 (f) Discharge and dismissal upon a successful conclusion of
4 a disposition of supervision shall be deemed without
5 adjudication of guilt and shall not be termed a conviction for
6 purposes of disqualification or disabilities imposed by law
7 upon conviction of a crime. Two years after the discharge and
8 dismissal under this Section, unless the disposition of
9 supervision was for a violation of Sections 3-707, 3-708,
10 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a
11 similar provision of a local ordinance, or for a violation of
12 Sections 12-3.2, 16-25, or 16A-3 of the Criminal Code of 1961
13 or the Criminal Code of 2012, in which case it shall be 5 years
14 after discharge and dismissal, a person may have his record of
15 arrest sealed or expunged as may be provided by law. However,
16 any defendant placed on supervision before January 1, 1980, may
17 move for sealing or expungement of his arrest record, as
18 provided by law, at any time after discharge and dismissal
19 under this Section. A person placed on supervision for a sexual
20 offense committed against a minor as defined in clause
21 (a)(1)(L) of Section 5.2 of the Criminal Identification Act or
22 for a violation of Section 11-501 of the Illinois Vehicle Code
23 or a similar provision of a local ordinance shall not have his
24 or her record of arrest sealed or expunged.

25 (g) A defendant placed on supervision and who during the
26 period of supervision undergoes mandatory drug or alcohol

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

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

23 (i) The court shall impose upon a defendant placed on
24 supervision after January 1, 1992 or to community service under
25 the supervision of a probation or court services department
26 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 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 Of the amount collected as a probation fee, not to exceed \$5 of
20 that fee collected per month may be used to provide services to
21 crime victims and their families.

22 The Court may only waive probation fees based on an
23 offender's ability to pay. The probation department may
24 re-evaluate an offender's ability to pay every 6 months, and,
25 with the approval of the Director of Court Services or the
26 Chief Probation Officer, adjust the monthly fee amount. An

1 offender may elect to pay probation fees due in a lump sum. Any
2 offender that has been assigned to the supervision of a
3 probation department, or has been transferred either under
4 subsection (h) of this Section or under any interstate compact,
5 shall be required to pay probation fees to the department
6 supervising the offender, based on the offender's ability to
7 pay.

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

15 (k) A defendant at least 17 years of age who is placed on
16 supervision for a misdemeanor in a county of 3,000,000 or more
17 inhabitants and who has not been previously convicted of a
18 misdemeanor or felony may as a condition of his or her
19 supervision be required by the court to attend educational
20 courses designed to prepare the defendant for a high school
21 diploma and to work toward a high school diploma or to work
22 toward passing the high school level Test of General
23 Educational Development (GED) or to work toward completing a
24 vocational training program approved by the court. The
25 defendant placed on supervision must attend a public
26 institution of education to obtain the educational or

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

14 (1) The court shall require a defendant placed on
15 supervision for possession of a substance prohibited by the
16 Cannabis Control Act, the Illinois Controlled Substances Act,
17 or the Methamphetamine Control and Community Protection Act
18 after a previous conviction or disposition of supervision for
19 possession of a substance prohibited by the Cannabis Control
20 Act, the Illinois Controlled Substances Act, or the
21 Methamphetamine Control and Community Protection Act or a
22 sentence of probation under Section 10 of the Cannabis Control
23 Act or Section 410 of the Illinois Controlled Substances Act
24 and after a finding by the court that the person is addicted,
25 to undergo treatment at a substance abuse program approved by
26 the court.

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

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

21 (o) An offender placed on supervision for a sex offense as
22 defined in the Sex Offender Management Board Act shall refrain
23 from residing at the same address or in the same condominium
24 unit or apartment unit or in the same condominium complex or
25 apartment complex with another person he or she knows or
26 reasonably should know is a convicted sex offender or has been

1 placed on supervision for a sex offense. The provisions of this
2 subsection (o) do not apply to a person convicted of a sex
3 offense who is placed in a Department of Corrections licensed
4 transitional housing facility for sex offenders.

5 (p) An offender placed on supervision for an offense
6 committed on or after June 1, 2008 (the effective date of
7 Public Act 95-464) that would qualify the accused as a child
8 sex offender as defined in Section 11-9.3 or 11-9.4 of the
9 Criminal Code of 1961 or the Criminal Code of 2012 shall
10 refrain from communicating with or contacting, by means of the
11 Internet, a person who is not related to the accused and whom
12 the accused reasonably believes to be under 18 years of age.
13 For purposes of this subsection (p), "Internet" has the meaning
14 ascribed to it in Section 16-0.1 of the Criminal Code of 2012;
15 and a person is not related to the accused if the person is
16 not: (i) the spouse, brother, or sister of the accused; (ii) a
17 descendant of the accused; (iii) a first or second cousin of
18 the accused; or (iv) a step-child or adopted child of the
19 accused.

20 (q) An offender placed on supervision for an offense
21 committed on or after June 1, 2008 (the effective date of
22 Public Act 95-464) that would qualify the accused as a child
23 sex offender as defined in Section 11-9.3 or 11-9.4 of the
24 Criminal Code of 1961 or the Criminal Code of 2012 shall, if so
25 ordered by the court, refrain from communicating with or
26 contacting, by means of the Internet, a person who is related

1 to the accused and whom the accused reasonably believes to be
2 under 18 years of age. For purposes of this subsection (q),
3 "Internet" has the meaning ascribed to it in Section 16-0.1 of
4 the Criminal Code of 2012; and a person is related to the
5 accused if the person is: (i) the spouse, brother, or sister of
6 the accused; (ii) a descendant of the accused; (iii) a first or
7 second cousin of the accused; or (iv) a step-child or adopted
8 child of the accused.

9 (r) An offender placed on supervision for an offense under
10 Section 11-6, 11-9.1, 11-14.4 that involves soliciting for a
11 juvenile prostitute, 11-15.1, 11-20.1, 11-20.1B, 11-20.3, or
12 11-21 of the Criminal Code of 1961 or the Criminal Code of
13 2012, or any attempt to commit any of these offenses, committed
14 on or after the effective date of this amendatory Act of the
15 95th General Assembly shall:

16 (i) not access or use a computer or any other device
17 with Internet capability without the prior written
18 approval of the court, except in connection with the
19 offender's employment or search for employment with the
20 prior approval of the court;

21 (ii) submit to periodic unannounced examinations of
22 the offender's computer or any other device with Internet
23 capability by the offender's probation officer, a law
24 enforcement officer, or assigned computer or information
25 technology specialist, including the retrieval and copying
26 of all data from the computer or device and any internal or

1 external peripherals and removal of such information,
2 equipment, or device to conduct a more thorough inspection;

3 (iii) submit to the installation on the offender's
4 computer or device with Internet capability, at the
5 offender's expense, of one or more hardware or software
6 systems to monitor the Internet use; and

7 (iv) submit to any other appropriate restrictions
8 concerning the offender's use of or access to a computer or
9 any other device with Internet capability imposed by the
10 court.

11 (s) An offender placed on supervision for an offense that
12 is a sex offense as defined in Section 2 of the Sex Offender
13 Registration Act that is committed on or after January 1, 2010
14 (the effective date of Public Act 96-362) that requires the
15 person to register as a sex offender under that Act, may not
16 knowingly use any computer scrub software on any computer that
17 the sex offender uses.

18 (t) An offender placed on supervision for a sex offense as
19 defined in the Sex Offender Registration Act committed on or
20 after January 1, 2010 (the effective date of Public Act 96-262)
21 shall refrain from accessing or using a social networking
22 website as defined in Section 17-0.5 of the Criminal Code of
23 2012.

24 (u) Jurisdiction over an offender may be transferred from
25 the sentencing court to the court of another circuit with the
26 concurrence of both courts. Further transfers or retransfers of

1 jurisdiction are also authorized in the same manner. The court
2 to which jurisdiction has been transferred shall have the same
3 powers as the sentencing court. The probation department within
4 the circuit to which jurisdiction has been transferred may
5 impose probation fees upon receiving the transferred offender,
6 as provided in subsection (i). The probation department from
7 the original sentencing court shall retain all probation fees
8 collected prior to the transfer.

9 (Source: P.A. 96-262, eff. 1-1-10; 96-362, eff. 1-1-10; 96-409,
10 eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1414, eff. 1-1-11;
11 96-1551, Article 2, Section 1065, eff. 7-1-11; 96-1551, Article
12 10, Section 10-150, eff. 7-1-11; 97-454, eff. 1-1-12; 97-597,
13 eff. 1-1-12; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)".