

SB1406



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1406

Introduced 2/13/2019, by Sen. Donald P. DeWitte

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-3-7

from Ch. 38, par. 1003-3-7

Amends the Unified Code of Corrections concerning parole or mandatory supervised release. Provides that the Department of Corrections may not discriminate against any offender on the basis of any of the protected classes under the Illinois Human Rights Act.

LRB101 09198 SLF 54292 b

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 3-3-7 as follows:

6 (730 ILCS 5/3-3-7) (from Ch. 38, par. 1003-3-7)

7 Sec. 3-3-7. Conditions of parole or mandatory supervised
8 release.

9 (a) The conditions of parole or mandatory supervised
10 release shall be such as the Prisoner Review Board deems
11 necessary to assist the subject in leading a law-abiding life.
12 The conditions of every parole and mandatory supervised release
13 are that the subject:

14 (1) not violate any criminal statute of any
15 jurisdiction during the parole or release term;

16 (2) refrain from possessing a firearm or other
17 dangerous weapon;

18 (3) report to an agent of the Department of
19 Corrections;

20 (4) permit the agent to visit him or her at his or her
21 home, employment, or elsewhere to the extent necessary for
22 the agent to discharge his or her duties;

23 (5) attend or reside in a facility established for the

1 instruction or residence of persons on parole or mandatory
2 supervised release;

3 (6) secure permission before visiting or writing a
4 committed person in an Illinois Department of Corrections
5 facility;

6 (7) report all arrests to an agent of the Department of
7 Corrections as soon as permitted by the arresting authority
8 but in no event later than 24 hours after release from
9 custody and immediately report service or notification of
10 an order of protection, a civil no contact order, or a
11 stalking no contact order to an agent of the Department of
12 Corrections;

13 (7.5) if convicted of a sex offense as defined in the
14 Sex Offender Management Board Act, the individual shall
15 undergo and successfully complete sex offender treatment
16 conducted in conformance with the standards developed by
17 the Sex Offender Management Board Act by a treatment
18 provider approved by the Board;

19 (7.6) if convicted of a sex offense as defined in the
20 Sex Offender Management Board Act, refrain from residing at
21 the same address or in the same condominium unit or
22 apartment unit or in the same condominium complex or
23 apartment complex with another person he or she knows or
24 reasonably should know is a convicted sex offender or has
25 been placed on supervision for a sex offense; the
26 provisions of this paragraph do not apply to a person

1 convicted of a sex offense who is placed in a Department of
2 Corrections licensed transitional housing facility for sex
3 offenders, or is in any facility operated or licensed by
4 the Department of Children and Family Services or by the
5 Department of Human Services, or is in any licensed medical
6 facility;

7 (7.7) if convicted for an offense that would qualify
8 the accused as a sexual predator under the Sex Offender
9 Registration Act on or after January 1, 2007 (the effective
10 date of Public Act 94-988), wear an approved electronic
11 monitoring device as defined in Section 5-8A-2 for the
12 duration of the person's parole, mandatory supervised
13 release term, or extended mandatory supervised release
14 term and if convicted for an offense of criminal sexual
15 assault, aggravated criminal sexual assault, predatory
16 criminal sexual assault of a child, criminal sexual abuse,
17 aggravated criminal sexual abuse, or ritualized abuse of a
18 child committed on or after August 11, 2009 (the effective
19 date of Public Act 96-236) when the victim was under 18
20 years of age at the time of the commission of the offense
21 and the defendant used force or the threat of force in the
22 commission of the offense wear an approved electronic
23 monitoring device as defined in Section 5-8A-2 that has
24 Global Positioning System (GPS) capability for the
25 duration of the person's parole, mandatory supervised
26 release term, or extended mandatory supervised release

1 term;

2 (7.8) if convicted for an offense committed on or after
3 June 1, 2008 (the effective date of Public Act 95-464) that
4 would qualify the accused as a child sex offender as
5 defined in Section 11-9.3 or 11-9.4 of the Criminal Code of
6 1961 or the Criminal Code of 2012, refrain from
7 communicating with or contacting, by means of the Internet,
8 a person who is not related to the accused and whom the
9 accused reasonably believes to be under 18 years of age;
10 for purposes of this paragraph (7.8), "Internet" has the
11 meaning ascribed to it in Section 16-0.1 of the Criminal
12 Code of 2012; and a person is not related to the accused if
13 the person is not: (i) the spouse, brother, or sister of
14 the accused; (ii) a descendant of the accused; (iii) a
15 first or second cousin of the accused; or (iv) a step-child
16 or adopted child of the accused;

17 (7.9) if convicted under Section 11-6, 11-20.1,
18 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 or
19 the Criminal Code of 2012, consent to search of computers,
20 PDAs, cellular phones, and other devices under his or her
21 control that are capable of accessing the Internet or
22 storing electronic files, in order to confirm Internet
23 protocol addresses reported in accordance with the Sex
24 Offender Registration Act and compliance with conditions
25 in this Act;

26 (7.10) if convicted for an offense that would qualify

1 the accused as a sex offender or sexual predator under the
2 Sex Offender Registration Act on or after June 1, 2008 (the
3 effective date of Public Act 95-640), not possess
4 prescription drugs for erectile dysfunction;

5 (7.11) if convicted for an offense under Section 11-6,
6 11-9.1, 11-14.4 that involves soliciting for a juvenile
7 prostitute, 11-15.1, 11-20.1, 11-20.1B, 11-20.3, or 11-21
8 of the Criminal Code of 1961 or the Criminal Code of 2012,
9 or any attempt to commit any of these offenses, committed
10 on or after June 1, 2009 (the effective date of Public Act
11 95-983):

12 (i) not access or use a computer or any other
13 device with Internet capability without the prior
14 written approval of the Department;

15 (ii) submit to periodic unannounced examinations
16 of the offender's computer or any other device with
17 Internet capability by the offender's supervising
18 agent, a law enforcement officer, or assigned computer
19 or information technology specialist, including the
20 retrieval and copying of all data from the computer or
21 device and any internal or external peripherals and
22 removal of such information, equipment, or device to
23 conduct a more thorough inspection;

24 (iii) submit to the installation on the offender's
25 computer or device with Internet capability, at the
26 offender's expense, of one or more hardware or software

1 systems to monitor the Internet use; and

2 (iv) submit to any other appropriate restrictions
3 concerning the offender's use of or access to a
4 computer or any other device with Internet capability
5 imposed by the Board, the Department or the offender's
6 supervising agent;

7 (7.12) if convicted of a sex offense as defined in the
8 Sex Offender Registration Act committed on or after January
9 1, 2010 (the effective date of Public Act 96-262), refrain
10 from accessing or using a social networking website as
11 defined in Section 17-0.5 of the Criminal Code of 2012;

12 (7.13) if convicted of a sex offense as defined in
13 Section 2 of the Sex Offender Registration Act committed on
14 or after January 1, 2010 (the effective date of Public Act
15 96-362) that requires the person to register as a sex
16 offender under that Act, may not knowingly use any computer
17 scrub software on any computer that the sex offender uses;

18 (8) obtain permission of an agent of the Department of
19 Corrections before leaving the State of Illinois;

20 (9) obtain permission of an agent of the Department of
21 Corrections before changing his or her residence or
22 employment;

23 (10) consent to a search of his or her person,
24 property, or residence under his or her control;

25 (11) refrain from the use or possession of narcotics or
26 other controlled substances in any form, or both, or any

1 paraphernalia related to those substances and submit to a
2 urinalysis test as instructed by a parole agent of the
3 Department of Corrections;

4 (12) not frequent places where controlled substances
5 are illegally sold, used, distributed, or administered;

6 (13) not knowingly associate with other persons on
7 parole or mandatory supervised release without prior
8 written permission of his or her parole agent, except when
9 the association involves activities related to community
10 programs, worship services, volunteering, and engaging
11 families, and not associate with persons who are members of
12 an organized gang as that term is defined in the Illinois
13 Streetgang Terrorism Omnibus Prevention Act;

14 (14) provide true and accurate information, as it
15 relates to his or her adjustment in the community while on
16 parole or mandatory supervised release or to his or her
17 conduct while incarcerated, in response to inquiries by his
18 or her parole agent or of the Department of Corrections;

19 (15) follow any specific instructions provided by the
20 parole agent that are consistent with furthering
21 conditions set and approved by the Prisoner Review Board or
22 by law, exclusive of placement on electronic detention, to
23 achieve the goals and objectives of his or her parole or
24 mandatory supervised release or to protect the public.
25 These instructions by the parole agent may be modified at
26 any time, as the agent deems appropriate;

1 (16) if convicted of a sex offense as defined in
2 subsection (a-5) of Section 3-1-2 of this Code, unless the
3 offender is a parent or guardian of the person under 18
4 years of age present in the home and no non-familial minors
5 are present, not participate in a holiday event involving
6 children under 18 years of age, such as distributing candy
7 or other items to children on Halloween, wearing a Santa
8 Claus costume on or preceding Christmas, being employed as
9 a department store Santa Claus, or wearing an Easter Bunny
10 costume on or preceding Easter;

11 (17) if convicted of a violation of an order of
12 protection under Section 12-3.4 or Section 12-30 of the
13 Criminal Code of 1961 or the Criminal Code of 2012, be
14 placed under electronic surveillance as provided in
15 Section 5-8A-7 of this Code;

16 (18) comply with the terms and conditions of an order
17 of protection issued pursuant to the Illinois Domestic
18 Violence Act of 1986; an order of protection issued by the
19 court of another state, tribe, or United States territory;
20 a no contact order issued pursuant to the Civil No Contact
21 Order Act; or a no contact order issued pursuant to the
22 Stalking No Contact Order Act;

23 (19) if convicted of a violation of the Methamphetamine
24 Control and Community Protection Act, the Methamphetamine
25 Precursor Control Act, or a methamphetamine related
26 offense, be:

1 (A) prohibited from purchasing, possessing, or
2 having under his or her control any product containing
3 pseudoephedrine unless prescribed by a physician; and

4 (B) prohibited from purchasing, possessing, or
5 having under his or her control any product containing
6 ammonium nitrate;

7 (20) if convicted of a hate crime under Section 12-7.1
8 of the Criminal Code of 2012, perform public or community
9 service of no less than 200 hours and enroll in an
10 educational program discouraging hate crimes involving the
11 protected class identified in subsection (a) of Section
12 12-7.1 of the Criminal Code of 2012 that gave rise to the
13 offense the offender committed ordered by the court; and

14 (21) be evaluated by the Department of Corrections
15 prior to release using a validated risk assessment and be
16 subject to a corresponding level of supervision. In
17 accordance with the findings of that evaluation:

18 (A) All subjects found to be at a moderate or high
19 risk to recidivate, or on parole or mandatory
20 supervised release for first degree murder, a forcible
21 felony as defined in Section 2-8 of the Criminal Code
22 of 2012, any felony that requires registration as a sex
23 offender under the Sex Offender Registration Act, or a
24 Class X felony or Class 1 felony that is not a
25 violation of the Cannabis Control Act, the Illinois
26 Controlled Substances Act, or the Methamphetamine

1 Control and Community Protection Act, shall be subject
2 to high level supervision. The Department shall define
3 high level supervision based upon evidence-based and
4 research-based practices. Notwithstanding this
5 placement on high level supervision, placement of the
6 subject on electronic monitoring or detention shall
7 not occur unless it is required by law or expressly
8 ordered or approved by the Prisoner Review Board.

9 (B) All subjects found to be at a low risk to
10 recidivate shall be subject to low-level supervision,
11 except for those subjects on parole or mandatory
12 supervised release for first degree murder, a forcible
13 felony as defined in Section 2-8 of the Criminal Code
14 of 2012, any felony that requires registration as a sex
15 offender under the Sex Offender Registration Act, or a
16 Class X felony or Class 1 felony that is not a
17 violation of the Cannabis Control Act, the Illinois
18 Controlled Substances Act, or the Methamphetamine
19 Control and Community Protection Act. Low level
20 supervision shall require the subject to check in with
21 the supervising officer via phone or other electronic
22 means. Notwithstanding this placement on low level
23 supervision, placement of the subject on electronic
24 monitoring or detention shall not occur unless it is
25 required by law or expressly ordered or approved by the
26 Prisoner Review Board.

1 (b) The Board may in addition to other conditions require
2 that the subject:

3 (1) work or pursue a course of study or vocational
4 training;

5 (2) undergo medical or psychiatric treatment, or
6 treatment for drug addiction or alcoholism;

7 (3) attend or reside in a facility established for the
8 instruction or residence of persons on probation or parole;

9 (4) support his or her dependents;

10 (5) (blank);

11 (6) (blank);

12 (7) (blank);

13 (7.5) if convicted for an offense committed on or after
14 the effective date of this amendatory Act of the 95th
15 General Assembly that would qualify the accused as a child
16 sex offender as defined in Section 11-9.3 or 11-9.4 of the
17 Criminal Code of 1961 or the Criminal Code of 2012, refrain
18 from communicating with or contacting, by means of the
19 Internet, a person who is related to the accused and whom
20 the accused reasonably believes to be under 18 years of
21 age; for purposes of this paragraph (7.5), "Internet" has
22 the meaning ascribed to it in Section 16-0.1 of the
23 Criminal Code of 2012; and a person is related to the
24 accused if the person is: (i) the spouse, brother, or
25 sister of the accused; (ii) a descendant of the accused;
26 (iii) a first or second cousin of the accused; or (iv) a

1 step-child or adopted child of the accused;

2 (7.6) if convicted for an offense committed on or after
3 June 1, 2009 (the effective date of Public Act 95-983) that
4 would qualify as a sex offense as defined in the Sex
5 Offender Registration Act:

6 (i) not access or use a computer or any other
7 device with Internet capability without the prior
8 written approval of the Department;

9 (ii) submit to periodic unannounced examinations
10 of the offender's computer or any other device with
11 Internet capability by the offender's supervising
12 agent, a law enforcement officer, or assigned computer
13 or information technology specialist, including the
14 retrieval and copying of all data from the computer or
15 device and any internal or external peripherals and
16 removal of such information, equipment, or device to
17 conduct a more thorough inspection;

18 (iii) submit to the installation on the offender's
19 computer or device with Internet capability, at the
20 offender's expense, of one or more hardware or software
21 systems to monitor the Internet use; and

22 (iv) submit to any other appropriate restrictions
23 concerning the offender's use of or access to a
24 computer or any other device with Internet capability
25 imposed by the Board, the Department or the offender's
26 supervising agent; and

1 (8) in addition, if a minor:

2 (i) reside with his or her parents or in a foster
3 home;

4 (ii) attend school;

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

6 or

7 (iv) contribute to his or her own support at home
8 or in a foster home.

9 (b-1) In addition to the conditions set forth in
10 subsections (a) and (b), persons required to register as sex
11 offenders pursuant to the Sex Offender Registration Act, upon
12 release from the custody of the Illinois Department of
13 Corrections, may be required by the Board to comply with the
14 following specific conditions of release:

15 (1) reside only at a Department approved location;

16 (2) comply with all requirements of the Sex Offender
17 Registration Act;

18 (3) notify third parties of the risks that may be
19 occasioned by his or her criminal record;

20 (4) obtain the approval of an agent of the Department
21 of Corrections prior to accepting employment or pursuing a
22 course of study or vocational training and notify the
23 Department prior to any change in employment, study, or
24 training;

25 (5) not be employed or participate in any volunteer
26 activity that involves contact with children, except under

1 circumstances approved in advance and in writing by an
2 agent of the Department of Corrections;

3 (6) be electronically monitored for a minimum of 12
4 months from the date of release as determined by the Board;

5 (7) refrain from entering into a designated geographic
6 area except upon terms approved in advance by an agent of
7 the Department of Corrections. The terms may include
8 consideration of the purpose of the entry, the time of day,
9 and others accompanying the person;

10 (8) refrain from having any contact, including written
11 or oral communications, directly or indirectly, personally
12 or by telephone, letter, or through a third party with
13 certain specified persons including, but not limited to,
14 the victim or the victim's family without the prior written
15 approval of an agent of the Department of Corrections;

16 (9) refrain from all contact, directly or indirectly,
17 personally, by telephone, letter, or through a third party,
18 with minor children without prior identification and
19 approval of an agent of the Department of Corrections;

20 (10) neither possess or have under his or her control
21 any material that is sexually oriented, sexually
22 stimulating, or that shows male or female sex organs or any
23 pictures depicting children under 18 years of age nude or
24 any written or audio material describing sexual
25 intercourse or that depicts or alludes to sexual activity,
26 including but not limited to visual, auditory, telephonic,

1 or electronic media, or any matter obtained through access
2 to any computer or material linked to computer access use;

3 (11) not patronize any business providing sexually
4 stimulating or sexually oriented entertainment nor utilize
5 "900" or adult telephone numbers;

6 (12) not reside near, visit, or be in or about parks,
7 schools, day care centers, swimming pools, beaches,
8 theaters, or any other places where minor children
9 congregate without advance approval of an agent of the
10 Department of Corrections and immediately report any
11 incidental contact with minor children to the Department;

12 (13) not possess or have under his or her control
13 certain specified items of contraband related to the
14 incidence of sexually offending as determined by an agent
15 of the Department of Corrections;

16 (14) may be required to provide a written daily log of
17 activities if directed by an agent of the Department of
18 Corrections;

19 (15) comply with all other special conditions that the
20 Department may impose that restrict the person from
21 high-risk situations and limit access to potential
22 victims;

23 (16) take an annual polygraph exam;

24 (17) maintain a log of his or her travel; or

25 (18) obtain prior approval of his or her parole officer
26 before driving alone in a motor vehicle.

1 (c) The conditions under which the parole or mandatory
2 supervised release is to be served shall be communicated to the
3 person in writing prior to his or her release, and he or she
4 shall sign the same before release. A signed copy of these
5 conditions, including a copy of an order of protection where
6 one had been issued by the criminal court, shall be retained by
7 the person and another copy forwarded to the officer in charge
8 of his or her supervision.

9 (d) After a hearing under Section 3-3-9, the Prisoner
10 Review Board may modify or enlarge the conditions of parole or
11 mandatory supervised release.

12 (e) The Department shall inform all offenders committed to
13 the Department of the optional services available to them upon
14 release and shall assist inmates in availing themselves of such
15 optional services upon their release on a voluntary basis.

16 (e-5) The Department may not discriminate against any
17 offender on the basis of any of the protected classes under
18 subsection (A) of Section 1-102 of the Illinois Human Rights
19 Act.

20 (f) (Blank).

21 (Source: P.A. 99-628, eff. 1-1-17; 99-698, eff. 7-29-16;
22 100-201, eff. 8-18-17; 100-260, eff. 1-1-18; 100-575, eff.
23 1-8-18.)