



Sen. Jacqueline Y. Collins

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10100SB1583sam001

LRB101 08709 SLF 59426 a

1 AMENDMENT TO SENATE BILL 1583

2 AMENDMENT NO. _____. Amend Senate Bill 1583 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 5-6-4 as follows:

6 (730 ILCS 5/5-6-4) (from Ch. 38, par. 1005-6-4)

7 Sec. 5-6-4. Violation, Modification or Revocation of
8 Probation, of Conditional Discharge or Supervision or of a
9 sentence of county impact incarceration - Hearing.

10 (a) Except in cases where conditional discharge or
11 supervision was imposed for a petty offense as defined in
12 Section 5-1-17, when a petition is filed charging a violation
13 of a condition, the court may:

14 (1) in the case of probation violations, order the
15 issuance of a notice to the offender to be present by the
16 County Probation Department or such other agency

1 designated by the court to handle probation matters; and in
2 the case of conditional discharge or supervision
3 violations, such notice to the offender shall be issued by
4 the Circuit Court Clerk; and in the case of a violation of
5 a sentence of county impact incarceration, such notice
6 shall be issued by the Sheriff;

7 (2) order a summons to the offender to be present for
8 hearing; or

9 (3) order a warrant for the offender's arrest where
10 there is danger of his fleeing the jurisdiction or causing
11 serious harm to others or when the offender fails to answer
12 a summons or notice from the clerk of the court or Sheriff.

13 Personal service of the petition for violation of probation
14 or the issuance of such warrant, summons or notice shall toll
15 the period of probation, conditional discharge, supervision,
16 or sentence of county impact incarceration until the final
17 determination of the charge, and the term of probation,
18 conditional discharge, supervision, or sentence of county
19 impact incarceration shall not run until the hearing and
20 disposition of the petition for violation.

21 (b) The court shall conduct a hearing of the alleged
22 violation. The court shall admit the offender to bail pending
23 the hearing unless the alleged violation is itself a criminal
24 offense in which case the offender shall be admitted to bail on
25 such terms as are provided in the Code of Criminal Procedure of
26 1963, as amended. In any case where an offender remains

1 incarcerated only as a result of his alleged violation of the
2 court's earlier order of probation, supervision, conditional
3 discharge, or county impact incarceration such hearing shall be
4 held within 14 days of the onset of said incarceration, unless
5 the alleged violation is the commission of another offense by
6 the offender during the period of probation, supervision or
7 conditional discharge in which case such hearing shall be held
8 within the time limits described in Section 103-5 of the Code
9 of Criminal Procedure of 1963, as amended.

10 (c) The State has the burden of going forward with the
11 evidence and proving the violation by the preponderance of the
12 evidence. The evidence shall be presented in open court with
13 the right of confrontation, cross-examination, and
14 representation by counsel.

15 (d) Probation, conditional discharge, periodic
16 imprisonment and supervision shall not be revoked for failure
17 to comply with conditions of a sentence or supervision, which
18 imposes financial obligations upon the offender unless such
19 failure is due to his willful refusal to pay.

20 (e) If the court finds that the offender has violated a
21 condition at any time prior to the expiration or termination of
22 the period, it may continue him on the existing sentence, with
23 or without modifying or enlarging the conditions, or may impose
24 any other sentence that was available under Article 4.5 of
25 Chapter V of this Code or Section 11-501 of the Illinois
26 Vehicle Code at the time of initial sentencing. If the court

1 finds that the person has failed to successfully complete his
2 or her sentence to a county impact incarceration program, the
3 court may impose any other sentence that was available under
4 Article 4.5 of Chapter V of this Code or Section 11-501 of the
5 Illinois Vehicle Code at the time of initial sentencing, except
6 for a sentence of probation or conditional discharge. If the
7 court finds that the offender has violated paragraph (8.6) of
8 subsection (a) of Section 5-6-3, the court shall revoke the
9 probation of the offender. If the court finds that the offender
10 has violated subsection (o) of Section 5-6-3.1, the court shall
11 revoke the supervision of the offender.

12 (f) The conditions of probation, of conditional discharge,
13 of supervision, or of a sentence of county impact incarceration
14 may be modified by the court on motion of the supervising
15 agency or on its own motion or at the request of the offender
16 after notice and a hearing.

17 (g) A judgment revoking supervision, probation,
18 conditional discharge, or a sentence of county impact
19 incarceration is a final appealable order.

20 (h) Resentencing after revocation of probation,
21 conditional discharge, supervision, or a sentence of county
22 impact incarceration shall be under Article 4. The term on
23 probation, conditional discharge or supervision shall not be
24 credited by the court against a sentence of imprisonment or
25 periodic imprisonment unless the court orders otherwise. The
26 amount of credit to be applied against a sentence of

1 imprisonment or periodic imprisonment when the defendant
2 served a term or partial term of periodic imprisonment shall be
3 calculated upon the basis of the actual days spent in
4 confinement rather than the duration of the term.

5 (i) Instead of filing a violation of probation, conditional
6 discharge, supervision, or a sentence of county impact
7 incarceration, an agent or employee of the supervising agency
8 with the concurrence of his or her supervisor may serve on the
9 defendant a Notice of Intermediate Sanctions. The Notice shall
10 contain the technical violation or violations involved, the
11 date or dates of the violation or violations, and the
12 intermediate sanctions to be imposed. Upon receipt of the
13 Notice, the defendant shall immediately accept or reject the
14 intermediate sanctions. If the sanctions are accepted, they
15 shall be imposed immediately. If the intermediate sanctions are
16 rejected or the defendant does not respond to the Notice, a
17 violation of probation, conditional discharge, supervision, or
18 a sentence of county impact incarceration shall be immediately
19 filed with the court. The State's Attorney and the sentencing
20 court shall be notified of the Notice of Sanctions. Upon
21 successful completion of the intermediate sanctions, a court
22 may not revoke probation, conditional discharge, supervision,
23 or a sentence of county impact incarceration or impose
24 additional sanctions for the same violation. A notice of
25 intermediate sanctions may not be issued for any violation of
26 probation, conditional discharge, supervision, or a sentence

1 of county impact incarceration which could warrant an
2 additional, separate felony charge. The intermediate sanctions
3 shall include a term of home detention as provided in Article
4 8A of Chapter V of this Code for multiple or repeat violations
5 of the terms and conditions of a sentence of probation,
6 conditional discharge, or supervision.

7 (j) When an offender is re-sentenced after revocation of
8 probation that was imposed in combination with a sentence of
9 imprisonment for the same offense, the aggregate of the
10 sentences may not exceed the maximum term authorized under
11 Article 4.5 of Chapter V.

12 (k)(1) An arrest warrant issued under paragraph (3) of
13 subsection (a) when the underlying conviction is for the
14 offense of theft, retail theft, or possession of a controlled
15 substance shall remain active for a period not to exceed 10
16 years from the date the warrant was issued unless a motion to
17 extend the warrant is filed by the office of the State's
18 Attorney or by, or on behalf of, the agency supervising the
19 wanted person. A motion to extend the warrant shall be filed
20 within one year before the warrant expiration date and notice
21 shall be provided to the office of the sheriff.

22 (2) If a motion to extend a warrant issued under paragraph
23 (3) of subsection (a) is not filed, the warrant shall be
24 quashed and recalled as a matter of law under paragraph (1) of
25 this subsection (k) and the wanted person's period of
26 probation, conditional discharge, or supervision shall

1 terminate unsatisfactorily as a matter of law.

2 (Source: P.A. 95-35, eff. 1-1-08; 95-1052, eff. 7-1-09;
3 96-1200, eff. 7-22-10.)

4 Section 99. Effective date. This Act takes effect January
5 1, 2020.".