



Sen. Jacqueline Y. Collins

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10100SB1583sam002

LRB101 08709 SLF 59459 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) On and after the effective date of this amendatory  
13 Act of the 101st General Assembly, this subsection (k) shall  
14 apply to arrest warrants in Cook County only. An arrest warrant  
15 issued under paragraph (3) of subsection (a) when the  
16 underlying conviction is for the offense of theft, retail  
17 theft, or possession of a controlled substance shall remain  
18 active for a period not to exceed 10 years from the date the  
19 warrant was issued unless a motion to extend the warrant is  
20 filed by the office of the State's Attorney or by, or on behalf  
21 of, the agency supervising the wanted person. A motion to  
22 extend the warrant shall be filed within one year before the  
23 warrant expiration date and notice shall be provided to the  
24 office of the sheriff.

25 (2) If a motion to extend a warrant issued under paragraph  
26 (3) of subsection (a) is not filed, the warrant shall be

1 quashed and recalled as a matter of law under paragraph (1) of  
2 this subsection (k) and the wanted person's period of  
3 probation, conditional discharge, or supervision shall  
4 terminate unsatisfactorily as a matter of law.

5 (Source: P.A. 95-35, eff. 1-1-08; 95-1052, eff. 7-1-09;  
6 96-1200, eff. 7-22-10.)

7 Section 99. Effective date. This Act takes effect January  
8 1, 2020."