

# HB4961



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

**HB4961**

Introduced 1/27/2022, by Rep. Edgar Gonzalez, Jr.

### SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-6-3.6

Amends the Unified Code of Corrections. Eliminates the January 1, 2023 repeal date of the First Time Weapon Offender Program. Effective immediately.

LRB102 24499 RLC 33733 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 5-6-3.6 as follows:

6 (730 ILCS 5/5-6-3.6)

7 (Section scheduled to be repealed on January 1, 2023)

8 Sec. 5-6-3.6. First Time Weapon Offender Program.

9 (a) The General Assembly has sought to promote public  
10 safety, reduce recidivism, and conserve valuable resources of  
11 the criminal justice system through the creation of diversion  
12 programs for non-violent offenders. This amendatory Act of the  
13 100th General Assembly establishes a pilot program for  
14 first-time, non-violent offenders charged with certain weapons  
15 offenses. The General Assembly recognizes some persons,  
16 particularly young adults in areas of high crime or poverty,  
17 may have experienced trauma that contributes to poor decision  
18 making skills, and the creation of a diversionary program  
19 poses a greater benefit to the community and the person than  
20 incarceration. Under this program, a court, with the consent  
21 of the defendant and the State's Attorney, may sentence a  
22 defendant charged with an unlawful use of weapons offense  
23 under Section 24-1 of the Criminal Code of 2012 or aggravated

1 unlawful use of a weapon offense under Section 24-1.6 of the  
2 Criminal Code of 2012, if punishable as a Class 4 felony or  
3 lower, to a First Time Weapon Offender Program.

4 (b) A defendant is not eligible for this Program if:

5 (1) the offense was committed during the commission of  
6 a violent offense as defined in subsection (h) of this  
7 Section;

8 (2) he or she has previously been convicted or placed  
9 on probation or conditional discharge for any violent  
10 offense under the laws of this State, the laws of any other  
11 state, or the laws of the United States;

12 (3) he or she had a prior successful completion of the  
13 First Time Weapon Offender Program under this Section;

14 (4) he or she has previously been adjudicated a  
15 delinquent minor for the commission of a violent offense;

16 (5) he or she is 21 years of age or older; or

17 (6) he or she has an existing order of protection  
18 issued against him or her.

19 (b-5) In considering whether a defendant shall be  
20 sentenced to the First Time Weapon Offender Program, the court  
21 shall consider the following:

22 (1) the age, immaturity, or limited mental capacity of  
23 the defendant;

24 (2) the nature and circumstances of the offense;

25 (3) whether participation in the Program is in the  
26 interest of the defendant's rehabilitation, including any

1 employment or involvement in community, educational,  
2 training, or vocational programs;

3 (4) whether the defendant suffers from trauma, as  
4 supported by documentation or evaluation by a licensed  
5 professional; and

6 (5) the potential risk to public safety.

7 (c) For an offense committed on or after the effective  
8 date of this amendatory Act of the 100th General Assembly and  
9 before January 1, 2023, whenever an eligible person pleads  
10 guilty to an unlawful use of weapons offense under Section  
11 24-1 of the Criminal Code of 2012 or aggravated unlawful use of  
12 a weapon offense under Section 24-1.6 of the Criminal Code of  
13 2012, which is punishable as a Class 4 felony or lower, the  
14 court, with the consent of the defendant and the State's  
15 Attorney, may, without entering a judgment, sentence the  
16 defendant to complete the First Time Weapon Offender Program.  
17 When a defendant is placed in the Program, the court shall  
18 defer further proceedings in the case until the conclusion of  
19 the period or until the filing of a petition alleging  
20 violation of a term or condition of the Program. Upon  
21 violation of a term or condition of the Program, the court may  
22 enter a judgment on its original finding of guilt and proceed  
23 as otherwise provided by law. Upon fulfillment of the terms  
24 and conditions of the Program, the court shall discharge the  
25 person and dismiss the proceedings against the person.

26 (d) The Program shall be at least 18 months and not to

1 exceed 24 months, as determined by the court at the  
2 recommendation of the Program administrator and the State's  
3 Attorney. The Program administrator may be appointed by the  
4 Chief Judge of each Judicial Circuit.

5 (e) The conditions of the Program shall be that the  
6 defendant:

7 (1) not violate any criminal statute of this State or  
8 any other jurisdiction;

9 (2) refrain from possessing a firearm or other  
10 dangerous weapon;

11 (3) obtain or attempt to obtain employment;

12 (4) attend educational courses designed to prepare the  
13 defendant for obtaining a high school diploma or to work  
14 toward passing high school equivalency testing or to work  
15 toward completing a vocational training program;

16 (5) refrain from having in his or her body the  
17 presence of any illicit drug prohibited by the  
18 Methamphetamine Control and Community Protection Act, the  
19 Cannabis Control Act, or the Illinois Controlled  
20 Substances Act, unless prescribed by a physician, and  
21 submit samples of his or her blood or urine or both for  
22 tests to determine the presence of any illicit drug;

23 (6) perform a minimum of 50 hours of community  
24 service;

25 (7) attend and participate in any Program activities  
26 deemed required by the Program administrator, including

1 but not limited to: counseling sessions, in-person and  
2 over the phone check-ins, and educational classes; and

3 (8) pay all fines, assessments, fees, and costs.

4 (f) The Program may, in addition to other conditions,  
5 require that the defendant:

6 (1) wear an ankle bracelet with GPS tracking;

7 (2) undergo medical or psychiatric treatment, or  
8 treatment or rehabilitation approved by the Department of  
9 Human Services; and

10 (3) attend or reside in a facility established for the  
11 instruction or residence of defendants on probation.

12 (g) There may be only one discharge and dismissal under  
13 this Section. If a person is convicted of any offense which  
14 occurred within 5 years subsequent to a discharge and  
15 dismissal under this Section, the discharge and dismissal  
16 under this Section shall be admissible in the sentencing  
17 proceeding for that conviction as evidence in aggravation.

18 (h) For purposes of this Section, "violent offense" means  
19 any offense in which bodily harm was inflicted or force was  
20 used against any person or threatened against any person; any  
21 offense involving the possession of a firearm or dangerous  
22 weapon; any offense involving sexual conduct, sexual  
23 penetration, or sexual exploitation; violation of an order of  
24 protection, stalking, hate crime, domestic battery, or any  
25 offense of domestic violence.

26 (i) (Blank). ~~This Section is repealed on January 1, 2023.~~

1 (Source: P.A. 102-245, eff. 8-3-21.)

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