



Sen. Scott M. Bennett

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10200SB0765sam001

LRB102 04583 KMF 24626 a

1 AMENDMENT TO SENATE BILL 765

2 AMENDMENT NO. _____. Amend Senate Bill 765 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 5-6-3.6 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7 (Section scheduled to be repealed on January 1, 2023)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,

1 may have experienced trauma that contributes to poor decision
2 making skills, and the creation of a diversionary program
3 poses a greater benefit to the community and the person than
4 incarceration. Under this program, a court, with the consent
5 of the defendant and the State's Attorney, may sentence a
6 defendant charged with an unlawful use of weapons offense
7 under Section 24-1 of the Criminal Code of 2012 or aggravated
8 unlawful use of a weapon offense under Section 24-1.6 of the
9 Criminal Code of 2012, if punishable as a Class 4 felony or
10 lower, to a First Time Weapon Offender Program.

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

12 (1) the offense was committed during the commission of
13 a violent offense as defined in subsection (h) of this
14 Section;

15 (2) he or she has previously been convicted or placed
16 on probation or conditional discharge for any violent
17 offense under the laws of this State, the laws of any other
18 state, or the laws of the United States;

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

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

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

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

26 (b-5) In considering whether a defendant shall be

1 sentenced to the First Time Weapon Offender Program, the court
2 shall consider the following:

3 (1) the age, immaturity, or limited mental capacity of
4 the defendant;

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

6 (3) whether participation in the Program is in the
7 interest of the defendant's rehabilitation, including any
8 employment or involvement in community, educational,
9 training, or vocational programs;

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

13 (5) the potential risk to public safety.

14 (c) For an offense committed on or after the effective
15 date of this amendatory Act of the 100th General Assembly and
16 before January 1, 2023, whenever an eligible person pleads
17 guilty to an unlawful use of weapons offense under Section
18 24-1 of the Criminal Code of 2012 or aggravated unlawful use of
19 a weapon offense under Section 24-1.6 of the Criminal Code of
20 2012, which is punishable as a Class 4 felony or lower, the
21 court, with the consent of the defendant and the State's
22 Attorney, may, without entering a judgment, sentence the
23 defendant to complete the First Time Weapon Offender Program.
24 When a defendant is placed in the Program, the court shall
25 defer further proceedings in the case until the conclusion of
26 the period or until the filing of a petition alleging

1 violation of a term or condition of the Program. Upon
2 violation of a term or condition of the Program, the court may
3 enter a judgment on its original finding of guilt and proceed
4 as otherwise provided by law. Upon fulfillment of the terms
5 and conditions of the Program, the court shall discharge the
6 person and dismiss the proceedings against the person.

7 (d) The Program shall be at least 18 months and not to
8 exceed 24 months, as determined by the court at the
9 recommendation of the Program ~~program~~ administrator and the
10 State's Attorney. The Program administrator may be appointed
11 by the Chief Judge of each Judicial Circuit.

12 (e) The conditions of the Program shall be that the
13 defendant:

14 (1) not violate any criminal statute of this State or
15 any other jurisdiction;

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

18 (3) obtain or attempt to obtain employment;

19 (4) attend educational courses designed to prepare the
20 defendant for obtaining a high school diploma or to work
21 toward passing high school equivalency testing or to work
22 toward completing a vocational training program;

23 (5) refrain from having in his or her body the
24 presence of any illicit drug prohibited by the
25 Methamphetamine Control and Community Protection Act, the
26 Cannabis Control Act, or the Illinois Controlled

1 Substances Act, unless prescribed by a physician, and
2 submit samples of his or her blood or urine or both for
3 tests to determine the presence of any illicit drug;

4 (6) perform a minimum of 50 hours of community
5 service;

6 (7) attend and participate in any Program activities
7 deemed required by the Program administrator, including
8 but not limited to: counseling sessions, in-person and
9 over the phone check-ins, and educational classes; and

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

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

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

14 (2) undergo medical or psychiatric treatment, or
15 treatment or rehabilitation approved by the Department of
16 Human Services; and

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

19 (g) There may be only one discharge and dismissal under
20 this Section. If a person is convicted of any offense which
21 occurred within 5 years subsequent to a discharge and
22 dismissal under this Section, the discharge and dismissal
23 under this Section shall be admissible in the sentencing
24 proceeding for that conviction as evidence in aggravation.

25 (h) For purposes of this Section, "violent offense" means
26 any offense in which bodily harm was inflicted or force was

1 used against any person or threatened against any person; any
2 offense involving the possession of a firearm or dangerous
3 weapon; any offense involving sexual conduct, sexual
4 penetration, or sexual exploitation; violation of an order of
5 protection, stalking, hate crime, domestic battery, or any
6 offense of domestic violence.

7 (i) This Section is repealed on January 1, 2023.

8 (Source: P.A. 100-3, eff. 1-1-18.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law."