



Sen. Don Harmon

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LRB094 06385 RLC 49780 a

1 AMENDMENT TO HOUSE BILL 481

2 AMENDMENT NO. _____. Amend House Bill 481 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 3-17-5, as added by Public Act 94-161, and by
6 changing Sections 3-3-7, 5-6-3, and 5-6-3.1 as follows:

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

8 Sec. 3-3-7. Conditions of Parole or Mandatory Supervised
9 Release.

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

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

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

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

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

24 (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;

10 (7.5) if convicted of a sex offense as defined in the
11 Sex Offender Management Board Act, the individual shall
12 undergo and successfully complete sex offender treatment
13 conducted in conformance with the standards developed by
14 the Sex Offender Management Board Act by a treatment
15 provider approved by the Board;

16 (7.6) if convicted of a sex offense as defined in the
17 Sex Offender Management Board Act, refrain from residing at
18 the same address or in the same condominium unit or
19 apartment unit ~~or in the same condominium complex or~~
20 ~~apartment complex~~ with another person he or she knows or
21 reasonably should know is a convicted sex offender or has
22 been placed on supervision for a sex offense; the
23 provisions of this paragraph do not apply to a person
24 convicted of a sex offense who is placed in a Department of
25 Corrections licensed transitional housing facility for sex
26 offenders, or is in any facility operated or licensed by
27 the Department of Children and Family Services or by the
28 Department of Human Services, or is in any licensed medical
29 facility;

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

32 (9) obtain permission of an agent of the Department of
33 Corrections before changing his or her residence or
34 employment;

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

3 (11) refrain from the use or possession of narcotics or
4 other controlled substances in any form, or both, or any
5 paraphernalia related to those substances and submit to a
6 urinalysis test as instructed by a parole agent of the
7 Department of Corrections;

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

10 (13) not knowingly associate with other persons on
11 parole or mandatory supervised release without prior
12 written permission of his or her parole agent and not
13 associate with persons who are members of an organized gang
14 as that term is defined in the Illinois Streetgang
15 Terrorism Omnibus Prevention Act;

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

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

29 (16) if convicted of a sex offense as defined in
30 subsection (a-5) of Section 3-1-2 of this Code, unless the
31 offender is a parent or guardian of the person under 18
32 years of age present in the home and no non-familial minors
33 are present, not participate in a holiday event involving
34 children under 18 years of age, such as distributing candy

1 or other items to children on Halloween, wearing a Santa
2 Claus costume on or preceding Christmas, being employed as
3 a department store Santa Claus, or wearing an Easter Bunny
4 costume on or preceding Easter.

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

7 (1) work or pursue a course of study or vocational
8 training;

9 (2) undergo medical or psychiatric treatment, or
10 treatment for drug addiction or alcoholism;

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

13 (4) support his dependents;

14 (5) (blank);

15 (6) (blank);

16 (7) comply with the terms and conditions of an order of
17 protection issued pursuant to the Illinois Domestic
18 Violence Act of 1986, enacted by the 84th General Assembly,
19 or an order of protection issued by the court of another
20 state, tribe, or United States territory; and

21 (8) in addition, if a minor:

22 (i) reside with his parents or in a foster home;

23 (ii) attend school;

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

25 or

26 (iv) contribute to his own support at home or in a
27 foster home.

28 (b-1) In addition to the conditions set forth in
29 subsections (a) and (b), persons required to register as sex
30 offenders pursuant to the Sex Offender Registration Act, upon
31 release from the custody of the Illinois Department of
32 Corrections, may be required by the Board to comply with the
33 following specific conditions of release:

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

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

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

5 (4) obtain the approval of an agent of the Department
6 of Corrections prior to accepting employment or pursuing a
7 course of study or vocational training and notify the
8 Department prior to any change in employment, study, or
9 training;

10 (5) not be employed or participate in any volunteer
11 activity that involves contact with children, except under
12 circumstances approved in advance and in writing by an
13 agent of the Department of Corrections;

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

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

21 (8) refrain from having any contact, including written
22 or oral communications, directly or indirectly, personally
23 or by telephone, letter, or through a third party with
24 certain specified persons including, but not limited to,
25 the victim or the victim's family without the prior written
26 approval of an agent of the Department of Corrections;

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

31 (10) neither possess or have under his or her control
32 any material that is sexually oriented, sexually
33 stimulating, or that shows male or female sex organs or any
34 pictures depicting children under 18 years of age nude or

1 any written or audio material describing sexual
2 intercourse or that depicts or alludes to sexual activity,
3 including but not limited to visual, auditory, telephonic,
4 or electronic media, or any matter obtained through access
5 to any computer or material linked to computer access use;

6 (11) not patronize any business providing sexually
7 stimulating or sexually oriented entertainment nor utilize
8 "900" or adult telephone numbers;

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

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

19 (14) may be required to provide a written daily log of
20 activities if directed by an agent of the Department of
21 Corrections;

22 (15) comply with all other special conditions that the
23 Department may impose that restrict the person from
24 high-risk situations and limit access to potential
25 victims.

26 (c) The conditions under which the parole or mandatory
27 supervised release is to be served shall be communicated to the
28 person in writing prior to his release, and he shall sign the
29 same before release. A signed copy of these conditions,
30 including a copy of an order of protection where one had been
31 issued by the criminal court, shall be retained by the person
32 and another copy forwarded to the officer in charge of his
33 supervision.

34 (d) After a hearing under Section 3-3-9, the Prisoner

1 Review Board may modify or enlarge the conditions of parole or
2 mandatory supervised release.

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

7 (Source: P.A. 93-616, eff. 1-1-04; 93-865, eff. 1-1-05; 94-159,
8 eff. 7-11-05; 94-161, eff. 7-11-05; revised 8-19-05.)

9 (730 ILCS 5/3-17-5)

10 (Text of Section from P.A. 94-161)

11 Sec. 3-17-5. Transitional housing; licensing.

12 (a) The Department of Corrections shall license
13 transitional housing facilities for persons convicted of or
14 placed on supervision for sex offenses as defined in the Sex
15 Offender Management Board Act.

16 (b) A transitional housing facility must meet the following
17 criteria to be licensed by the Department:

18 (1) The facility shall provide housing to a sex
19 offender who is in compliance with his or her parole,
20 mandatory supervised release, probation, or supervision
21 order for a period not to exceed 90 days, unless extended
22 with approval from the Director or his or her designee.
23 Notice of any extension approved shall be provided to the
24 Prisoner Review Board.

25 (2) The Department of Corrections or county with
26 supervision over sex offenders must approve a treatment
27 plan and counseling for each sex offender residing in the
28 transitional housing.

29 (3) The transitional housing facility must provide
30 security 24 hours each day and 7 days each week as defined
31 and approved by the Department.

32 (4) The facility must notify the police department,
33 public and private elementary and secondary schools,

1 public libraries, and each residential home and apartment
2 complex located within 500 feet of the transitional housing
3 facility of its initial licensure as a transitional housing
4 facility, and of its continuing operation as a transitional
5 housing facility annually thereafter.

6 (5) Upon its initial licensure as a transitional
7 housing facility and during its licensure, each facility
8 shall maintain at its main entrance a visible and
9 conspicuous exterior sign identifying itself as, in
10 letters at least 4 inches tall, a "Department of
11 Corrections Licensed Transitional Housing Facility".

12 (6) Upon its initial licensure as a transitional
13 housing facility, each facility shall file in the office of
14 the county clerk of the county in which such facility is
15 located, a certificate setting forth the name under which
16 the facility is, or is to be, operated, and the true or
17 real full name or names of the person, persons or entity
18 operating the same, with the address of the facility. The
19 certificate shall be executed and duly acknowledged by the
20 person or persons so operating or intending to operate the
21 facility. Notice of the filing of the certificate shall be
22 published in a newspaper of general circulation published
23 within the county in which the certificate is filed. The
24 notice shall be published once a week for 3 consecutive
25 weeks. The first publication shall be within 15 days after
26 the certificate is filed in the office of the county clerk.
27 Proof of publication shall be filed with the county clerk
28 within 50 days from the date of filing the certificate.
29 Upon receiving proof of publication, the clerk shall issue
30 a receipt to the person filing the certificate, but no
31 additional charge shall be assessed by the clerk for giving
32 such receipt. Unless proof of publication is made to the
33 clerk, the notification is void.

34 (7) Each licensed transitional housing facility shall

1 be identified on the Illinois State Police Sex Offender
2 Registry website, including the address of the facility
3 together with the maximum possible number of sex offenders
4 that the facility could house.

5 (c) The Department of Corrections shall establish rules
6 consistent with this Section establishing licensing procedures
7 and criteria for transitional housing facilities for sex
8 offenders, and may create criteria for, and issue licenses for,
9 different levels of facilities to be licensed. The Department
10 is authorized to set and charge a licensing fee for each
11 application for a transitional housing license. The rules shall
12 be adopted within 60 days after the effective date of this
13 amendatory Act of the 94th General Assembly. Facilities which
14 on the effective date of this amendatory Act of the 94th
15 General Assembly are currently housing and providing sex
16 offender treatment to sex offenders may continue housing more
17 than one sex offender on parole, mandatory supervised release,
18 probation, or supervision for a period of 120 days after the
19 adoption of licensure rules during which time the facility
20 shall apply for a transitional housing license.

21 (d) The Department of Corrections or county with
22 supervision over sex offenders shall maintain a file on each
23 sex offender housed in a transitional housing facility. The
24 file shall contain efforts of the Department or county in
25 placing a sex offender in non-transitional housing, efforts of
26 the Department or county to place the sex offender in a county
27 from which he or she was convicted, the anticipated length of
28 stay of each sex offender in the transitional housing facility,
29 the number of sex offenders residing in the transitional
30 housing facility, and the services to be provided the sex
31 offender while he or she resides in the transitional housing
32 facility.

33 (e) The Department of Corrections shall, on or before
34 December 31 of each year, file a report with the General

1 Assembly on the number of transitional housing facilities for
2 sex offenders licensed by the Department, the addresses of each
3 licensed facility, how many sex offenders are housed in each
4 facility, and the particular sex offense that each resident of
5 the transitional housing facility committed.

6 (Source: P.A. 94-161, eff. 7-11-05.)

7 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

8 Sec. 5-6-3. Conditions of Probation and of Conditional
9 Discharge.

10 (a) The conditions of probation and of conditional
11 discharge shall be that the person:

12 (1) not violate any criminal statute of any
13 jurisdiction;

14 (2) report to or appear in person before such person or
15 agency as directed by the court;

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

18 (4) not leave the State without the consent of the
19 court or, in circumstances in which the reason for the
20 absence is of such an emergency nature that prior consent
21 by the court is not possible, without the prior
22 notification and approval of the person's probation
23 officer. Transfer of a person's probation or conditional
24 discharge supervision to another state is subject to
25 acceptance by the other state pursuant to the Interstate
26 Compact for Adult Offender Supervision;

27 (5) permit the probation officer to visit him at his
28 home or elsewhere to the extent necessary to discharge his
29 duties;

30 (6) perform no less than 30 hours of community service
31 and not more than 120 hours of community service, if
32 community service is available in the jurisdiction and is
33 funded and approved by the county board where the offense

1 was committed, where the offense was related to or in
2 furtherance of the criminal activities of an organized gang
3 and was motivated by the offender's membership in or
4 allegiance to an organized gang. The community service
5 shall include, but not be limited to, the cleanup and
6 repair of any damage caused by a violation of Section
7 21-1.3 of the Criminal Code of 1961 and similar damage to
8 property located within the municipality or county in which
9 the violation occurred. When possible and reasonable, the
10 community service should be performed in the offender's
11 neighborhood. For purposes of this Section, "organized
12 gang" has the meaning ascribed to it in Section 10 of the
13 Illinois Streetgang Terrorism Omnibus Prevention Act;

14 (7) if he or she is at least 17 years of age and has
15 been sentenced to probation or conditional discharge for a
16 misdemeanor or felony in a county of 3,000,000 or more
17 inhabitants and has not been previously convicted of a
18 misdemeanor or felony, may be required by the sentencing
19 court to attend educational courses designed to prepare the
20 defendant for a high school diploma and to work toward a
21 high school diploma or to work toward passing the high
22 school level Test of General Educational Development (GED)
23 or to work toward completing a vocational training program
24 approved by the court. The person on probation or
25 conditional discharge must attend a public institution of
26 education to obtain the educational or vocational training
27 required by this clause (7). The court shall revoke the
28 probation or conditional discharge of a person who wilfully
29 fails to comply with this clause (7). The person on
30 probation or conditional discharge shall be required to pay
31 for the cost of the educational courses or GED test, if a
32 fee is charged for those courses or test. The court shall
33 resentence the offender whose probation or conditional
34 discharge has been revoked as provided in Section 5-6-4.

1 This clause (7) does not apply to a person who has a high
2 school diploma or has successfully passed the GED test.
3 This clause (7) does not apply to a person who is
4 determined by the court to be developmentally disabled or
5 otherwise mentally incapable of completing the educational
6 or vocational program;

7 (8) if convicted of possession of a substance
8 prohibited by the Cannabis Control Act, the Illinois
9 Controlled Substances Act, or the Methamphetamine Control
10 and Community Protection Act after a previous conviction or
11 disposition of supervision for possession of a substance
12 prohibited by the Cannabis Control Act or Illinois
13 Controlled Substances Act or after a sentence of probation
14 under Section 10 of the Cannabis Control Act, Section 410
15 of the Illinois Controlled Substances Act, or Section 70 of
16 the Methamphetamine Control and Community Protection Act
17 and upon a finding by the court that the person is
18 addicted, undergo treatment at a substance abuse program
19 approved by the court;

20 (8.5) if convicted of a felony sex offense as defined
21 in the Sex Offender Management Board Act, the person shall
22 undergo and successfully complete sex offender treatment
23 by a treatment provider approved by the Board and conducted
24 in conformance with the standards developed under the Sex
25 Offender Management Board Act;

26 (8.6) if convicted of a sex offense as defined in the
27 Sex Offender Management Board Act, refrain from residing at
28 the same address or in the same condominium unit or
29 apartment unit ~~or in the same condominium complex or~~
30 ~~apartment complex~~ with another person he or she knows or
31 reasonably should know is a convicted sex offender or has
32 been placed on supervision for a sex offense; the
33 provisions of this paragraph do not apply to a person
34 convicted of a sex offense who is placed in a Department of

1 Corrections licensed transitional housing facility for sex
2 offenders; ~~and~~

3 (9) if convicted of a felony, physically surrender at a
4 time and place designated by the court, his or her Firearm
5 Owner's Identification Card and any and all firearms in his
6 or her possession; and

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

17 (b) The Court may in addition to other reasonable
18 conditions relating to the nature of the offense or the
19 rehabilitation of the defendant as determined for each
20 defendant in the proper discretion of the Court require that
21 the person:

22 (1) serve a term of periodic imprisonment under Article
23 7 for a period not to exceed that specified in paragraph
24 (d) of Section 5-7-1;

25 (2) pay a fine and costs;

26 (3) work or pursue a course of study or vocational
27 training;

28 (4) undergo medical, psychological or psychiatric
29 treatment; or treatment for drug addiction or alcoholism;

30 (5) attend or reside in a facility established for the
31 instruction or residence of defendants on probation;

32 (6) support his dependents;

33 (7) and in addition, if a minor:

34 (i) reside with his parents or in a foster home;

- 1 (ii) attend school;
- 2 (iii) attend a non-residential program for youth;
- 3 (iv) contribute to his own support at home or in a
4 foster home;
- 5 (v) with the consent of the superintendent of the
6 facility, attend an educational program at a facility
7 other than the school in which the offense was
8 committed if he or she is convicted of a crime of
9 violence as defined in Section 2 of the Crime Victims
10 Compensation Act committed in a school, on the real
11 property comprising a school, or within 1,000 feet of
12 the real property comprising a school;
- 13 (8) make restitution as provided in Section 5-5-6 of
14 this Code;
- 15 (9) perform some reasonable public or community
16 service;
- 17 (10) serve a term of home confinement. In addition to
18 any other applicable condition of probation or conditional
19 discharge, the conditions of home confinement shall be that
20 the offender:
- 21 (i) remain within the interior premises of the
22 place designated for his confinement during the hours
23 designated by the court;
- 24 (ii) admit any person or agent designated by the
25 court into the offender's place of confinement at any
26 time for purposes of verifying the offender's
27 compliance with the conditions of his confinement; and
- 28 (iii) if further deemed necessary by the court or
29 the Probation or Court Services Department, be placed
30 on an approved electronic monitoring device, subject
31 to Article 8A of Chapter V;
- 32 (iv) for persons convicted of any alcohol,
33 cannabis or controlled substance violation who are
34 placed on an approved monitoring device as a condition

1 of probation or conditional discharge, the court shall
2 impose a reasonable fee for each day of the use of the
3 device, as established by the county board in
4 subsection (g) of this Section, unless after
5 determining the inability of the offender to pay the
6 fee, the court assesses a lesser fee or no fee as the
7 case may be. This fee shall be imposed in addition to
8 the fees imposed under subsections (g) and (i) of this
9 Section. The fee shall be collected by the clerk of the
10 circuit court. The clerk of the circuit court shall pay
11 all monies collected from this fee to the county
12 treasurer for deposit in the substance abuse services
13 fund under Section 5-1086.1 of the Counties Code; and

14 (v) for persons convicted of offenses other than
15 those referenced in clause (iv) above and who are
16 placed on an approved monitoring device as a condition
17 of probation or conditional discharge, the court shall
18 impose a reasonable fee for each day of the use of the
19 device, as established by the county board in
20 subsection (g) of this Section, unless after
21 determining the inability of the defendant to pay the
22 fee, the court assesses a lesser fee or no fee as the
23 case may be. This fee shall be imposed in addition to
24 the fees imposed under subsections (g) and (i) of this
25 Section. The fee shall be collected by the clerk of the
26 circuit court. The clerk of the circuit court shall pay
27 all monies collected from this fee to the county
28 treasurer who shall use the monies collected to defray
29 the costs of corrections. The county treasurer shall
30 deposit the fee collected in the county working cash
31 fund under Section 6-27001 or Section 6-29002 of the
32 Counties Code, as the case may be.

33 (11) comply with the terms and conditions of an order
34 of protection issued by the court pursuant to the Illinois

1 Domestic Violence Act of 1986, as now or hereafter amended,
2 or an order of protection issued by the court of another
3 state, tribe, or United States territory. A copy of the
4 order of protection shall be transmitted to the probation
5 officer or agency having responsibility for the case;

6 (12) reimburse any "local anti-crime program" as
7 defined in Section 7 of the Anti-Crime Advisory Council Act
8 for any reasonable expenses incurred by the program on the
9 offender's case, not to exceed the maximum amount of the
10 fine authorized for the offense for which the defendant was
11 sentenced;

12 (13) contribute a reasonable sum of money, not to
13 exceed the maximum amount of the fine authorized for the
14 offense for which the defendant was sentenced, to a "local
15 anti-crime program", as defined in Section 7 of the
16 Anti-Crime Advisory Council Act;

17 (14) refrain from entering into a designated
18 geographic area except upon such terms as the court finds
19 appropriate. Such terms may include consideration of the
20 purpose of the entry, the time of day, other persons
21 accompanying the defendant, and advance approval by a
22 probation officer, if the defendant has been placed on
23 probation or advance approval by the court, if the
24 defendant was placed on conditional discharge;

25 (15) refrain from having any contact, directly or
26 indirectly, with certain specified persons or particular
27 types of persons, including but not limited to members of
28 street gangs and drug users or dealers;

29 (16) refrain from having in his or her body the
30 presence of any illicit drug prohibited by the Cannabis
31 Control Act, the Illinois Controlled Substances Act, or the
32 Methamphetamine Control and Community Protection Act,
33 unless prescribed by a physician, and submit samples of his
34 or her blood or urine or both for tests to determine the

1 presence of any illicit drug.

2 (c) The court may as a condition of probation or of
3 conditional discharge require that a person under 18 years of
4 age found guilty of any alcohol, cannabis or controlled
5 substance violation, refrain from acquiring a driver's license
6 during the period of probation or conditional discharge. If
7 such person is in possession of a permit or license, the court
8 may require that the minor refrain from driving or operating
9 any motor vehicle during the period of probation or conditional
10 discharge, except as may be necessary in the course of the
11 minor's lawful employment.

12 (d) An offender sentenced to probation or to conditional
13 discharge shall be given a certificate setting forth the
14 conditions thereof.

15 (e) Except where the offender has committed a fourth or
16 subsequent violation of subsection (c) of Section 6-303 of the
17 Illinois Vehicle Code, the court shall not require as a
18 condition of the sentence of probation or conditional discharge
19 that the offender be committed to a period of imprisonment in
20 excess of 6 months. This 6 month limit shall not include
21 periods of confinement given pursuant to a sentence of county
22 impact incarceration under Section 5-8-1.2. This 6 month limit
23 does not apply to a person sentenced to probation as a result
24 of a conviction of a fourth or subsequent violation of
25 subsection (c-4) of Section 11-501 of the Illinois Vehicle Code
26 or a similar provision of a local ordinance.

27 Persons committed to imprisonment as a condition of
28 probation or conditional discharge shall not be committed to
29 the Department of Corrections.

30 (f) The court may combine a sentence of periodic
31 imprisonment under Article 7 or a sentence to a county impact
32 incarceration program under Article 8 with a sentence of
33 probation or conditional discharge.

34 (g) An offender sentenced to probation or to conditional

1 discharge and who during the term of either undergoes mandatory
2 drug or alcohol testing, or both, or is assigned to be placed
3 on an approved electronic monitoring device, shall be ordered
4 to pay all costs incidental to such mandatory drug or alcohol
5 testing, or both, and all costs incidental to such approved
6 electronic monitoring in accordance with the defendant's
7 ability to pay those costs. The county board with the
8 concurrence of the Chief Judge of the judicial circuit in which
9 the county is located shall establish reasonable fees for the
10 cost of maintenance, testing, and incidental expenses related
11 to the mandatory drug or alcohol testing, or both, and all
12 costs incidental to approved electronic monitoring, involved
13 in a successful probation program for the county. The
14 concurrence of the Chief Judge shall be in the form of an
15 administrative order. The fees shall be collected by the clerk
16 of the circuit court. The clerk of the circuit court shall pay
17 all moneys collected from these fees to the county treasurer
18 who shall use the moneys collected to defray the costs of drug
19 testing, alcohol testing, and electronic monitoring. The
20 county treasurer shall deposit the fees collected in the county
21 working cash fund under Section 6-27001 or Section 6-29002 of
22 the Counties Code, as the case may be.

23 (h) Jurisdiction over an offender may be transferred from
24 the sentencing court to the court of another circuit with the
25 concurrence of both courts. Further transfers or retransfers of
26 jurisdiction are also authorized in the same manner. The court
27 to which jurisdiction has been transferred shall have the same
28 powers as the sentencing court.

29 (i) The court shall impose upon an offender sentenced to
30 probation after January 1, 1989 or to conditional discharge
31 after January 1, 1992 or to community service under the
32 supervision of a probation or court services department after
33 January 1, 2004, as a condition of such probation or
34 conditional discharge or supervised community service, a fee of

1 \$50 for each month of probation or conditional discharge
2 supervision or supervised community service ordered by the
3 court, unless after determining the inability of the person
4 sentenced to probation or conditional discharge or supervised
5 community service to pay the fee, the court assesses a lesser
6 fee. The court may not impose the fee on a minor who is made a
7 ward of the State under the Juvenile Court Act of 1987 while
8 the minor is in placement. The fee shall be imposed only upon
9 an offender who is actively supervised by the probation and
10 court services department. The fee shall be collected by the
11 clerk of the circuit court. The clerk of the circuit court
12 shall pay all monies collected from this fee to the county
13 treasurer for deposit in the probation and court services fund
14 under Section 15.1 of the Probation and Probation Officers Act.

15 A circuit court may not impose a probation fee under this
16 subsection (i) in excess of \$25 per month unless: (1) the
17 circuit court has adopted, by administrative order issued by
18 the chief judge, a standard probation fee guide determining an
19 offender's ability to pay, under guidelines developed by the
20 Administrative Office of the Illinois Courts; and (2) the
21 circuit court has authorized, by administrative order issued by
22 the chief judge, the creation of a Crime Victim's Services
23 Fund, to be administered by the Chief Judge or his or her
24 designee, for services to crime victims and their families. Of
25 the amount collected as a probation fee, up to \$5 of that fee
26 collected per month may be used to provide services to crime
27 victims and their families.

28 This amendatory Act of the 93rd General Assembly deletes
29 the \$10 increase in the fee under this subsection that was
30 imposed by Public Act 93-616. This deletion is intended to
31 control over any other Act of the 93rd General Assembly that
32 retains or incorporates that fee increase.

33 (i-5) In addition to the fees imposed under subsection (i)
34 of this Section, in the case of an offender convicted of a

1 felony sex offense (as defined in the Sex Offender Management
2 Board Act) or an offense that the court or probation department
3 has determined to be sexually motivated (as defined in the Sex
4 Offender Management Board Act), the court or the probation
5 department shall assess additional fees to pay for all costs of
6 treatment, assessment, evaluation for risk and treatment, and
7 monitoring the offender, based on that offender's ability to
8 pay those costs either as they occur or under a payment plan.

9 (j) All fines and costs imposed under this Section for any
10 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
11 Code, or a similar provision of a local ordinance, and any
12 violation of the Child Passenger Protection Act, or a similar
13 provision of a local ordinance, shall be collected and
14 disbursed by the circuit clerk as provided under Section 27.5
15 of the Clerks of Courts Act.

16 (k) Any offender who is sentenced to probation or
17 conditional discharge for a felony sex offense as defined in
18 the Sex Offender Management Board Act or any offense that the
19 court or probation department has determined to be sexually
20 motivated as defined in the Sex Offender Management Board Act
21 shall be required to refrain from any contact, directly or
22 indirectly, with any persons specified by the court and shall
23 be available for all evaluations and treatment programs
24 required by the court or the probation department.

25 (Source: P.A. 93-475, eff. 8-8-03; 93-616, eff. 1-1-04; 93-970,
26 eff. 8-20-04; 94-159, eff. 7-11-05; 94-161, eff. 7-11-05;
27 94-556, eff. 9-11-05; revised 8-19-05.)

28 (730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

29 Sec. 5-6-3.1. Incidents and Conditions of Supervision.

30 (a) When a defendant is placed on supervision, the court
31 shall enter an order for supervision specifying the period of
32 such supervision, and shall defer further proceedings in the
33 case until the conclusion of the period.

1 (b) The period of supervision shall be reasonable under all
2 of the circumstances of the case, but may not be longer than 2
3 years, unless the defendant has failed to pay the assessment
4 required by Section 10.3 of the Cannabis Control Act, Section
5 411.2 of the Illinois Controlled Substances Act, or Section 80
6 of the Methamphetamine Control and Community Protection Act, in
7 which case the court may extend supervision beyond 2 years.
8 Additionally, the court shall order the defendant to perform no
9 less than 30 hours of community service and not more than 120
10 hours of community service, if community service is available
11 in the jurisdiction and is funded and approved by the county
12 board where the offense was committed, when the offense (1) was
13 related to or in furtherance of the criminal activities of an
14 organized gang or was motivated by the defendant's membership
15 in or allegiance to an organized gang; or (2) is a violation of
16 any Section of Article 24 of the Criminal Code of 1961 where a
17 disposition of supervision is not prohibited by Section 5-6-1
18 of this Code. The community service shall include, but not be
19 limited to, the cleanup and repair of any damage caused by
20 violation of Section 21-1.3 of the Criminal Code of 1961 and
21 similar damages to property located within the municipality or
22 county in which the violation occurred. Where possible and
23 reasonable, the community service should be performed in the
24 offender's neighborhood.

25 For the purposes of this Section, "organized gang" has the
26 meaning ascribed to it in Section 10 of the Illinois Streetgang
27 Terrorism Omnibus Prevention Act.

28 (c) The court may in addition to other reasonable
29 conditions relating to the nature of the offense or the
30 rehabilitation of the defendant as determined for each
31 defendant in the proper discretion of the court require that
32 the person:

33 (1) make a report to and appear in person before or
34 participate with the court or such courts, person, or

1 social service agency as directed by the court in the order
2 of supervision;

3 (2) pay a fine and costs;

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

6 (4) undergo medical, psychological or psychiatric
7 treatment; or treatment for drug addiction or alcoholism;

8 (5) attend or reside in a facility established for the
9 instruction or residence of defendants on probation;

10 (6) support his dependents;

11 (7) refrain from possessing a firearm or other
12 dangerous weapon;

13 (8) and in addition, if a minor:

14 (i) reside with his parents or in a foster home;

15 (ii) attend school;

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

17 (iv) contribute to his own support at home or in a
18 foster home; or

19 (v) with the consent of the superintendent of the
20 facility, attend an educational program at a facility
21 other than the school in which the offense was
22 committed if he or she is placed on supervision for a
23 crime of violence as defined in Section 2 of the Crime
24 Victims Compensation Act committed in a school, on the
25 real property comprising a school, or within 1,000 feet
26 of the real property comprising a school;

27 (9) make restitution or reparation in an amount not to
28 exceed actual loss or damage to property and pecuniary loss
29 or make restitution under Section 5-5-6 to a domestic
30 violence shelter. The court shall determine the amount and
31 conditions of payment;

32 (10) perform some reasonable public or community
33 service;

34 (11) comply with the terms and conditions of an order

1 of protection issued by the court pursuant to the Illinois
2 Domestic Violence Act of 1986 or an order of protection
3 issued by the court of another state, tribe, or United
4 States territory. If the court has ordered the defendant to
5 make a report and appear in person under paragraph (1) of
6 this subsection, a copy of the order of protection shall be
7 transmitted to the person or agency so designated by the
8 court;

9 (12) reimburse any "local anti-crime program" as
10 defined in Section 7 of the Anti-Crime Advisory Council Act
11 for any reasonable expenses incurred by the program on the
12 offender's case, not to exceed the maximum amount of the
13 fine authorized for the offense for which the defendant was
14 sentenced;

15 (13) contribute a reasonable sum of money, not to
16 exceed the maximum amount of the fine authorized for the
17 offense for which the defendant was sentenced, to a "local
18 anti-crime program", as defined in Section 7 of the
19 Anti-Crime Advisory Council Act;

20 (14) refrain from entering into a designated
21 geographic area except upon such terms as the court finds
22 appropriate. Such terms may include consideration of the
23 purpose of the entry, the time of day, other persons
24 accompanying the defendant, and advance approval by a
25 probation officer;

26 (15) refrain from having any contact, directly or
27 indirectly, with certain specified persons or particular
28 types of person, including but not limited to members of
29 street gangs and drug users or dealers;

30 (16) refrain from having in his or her body the
31 presence of any illicit drug prohibited by the Cannabis
32 Control Act, the Illinois Controlled Substances Act, or the
33 Methamphetamine Control and Community Protection Act,
34 unless prescribed by a physician, and submit samples of his

1 or her blood or urine or both for tests to determine the
2 presence of any illicit drug;

3 (17) refrain from operating any motor vehicle not
4 equipped with an ignition interlock device as defined in
5 Section 1-129.1 of the Illinois Vehicle Code. Under this
6 condition the court may allow a defendant who is not
7 self-employed to operate a vehicle owned by the defendant's
8 employer that is not equipped with an ignition interlock
9 device in the course and scope of the defendant's
10 employment; and

11 (18) if placed on supervision for a sex offense as
12 defined in subsection (a-5) of Section 3-1-2 of this Code,
13 unless the offender is a parent or guardian of the person
14 under 18 years of age present in the home and no
15 non-familial minors are present, not participate in a
16 holiday event involving children under 18 years of age,
17 such as distributing candy or other items to children on
18 Halloween, wearing a Santa Claus costume on or preceding
19 Christmas, being employed as a department store Santa
20 Claus, or wearing an Easter Bunny costume on or preceding
21 Easter.

22 (d) The court shall defer entering any judgment on the
23 charges until the conclusion of the supervision.

24 (e) At the conclusion of the period of supervision, if the
25 court determines that the defendant has successfully complied
26 with all of the conditions of supervision, the court shall
27 discharge the defendant and enter a judgment dismissing the
28 charges.

29 (f) Discharge and dismissal upon a successful conclusion of
30 a disposition of supervision shall be deemed without
31 adjudication of guilt and shall not be termed a conviction for
32 purposes of disqualification or disabilities imposed by law
33 upon conviction of a crime. Two years after the discharge and
34 dismissal under this Section, unless the disposition of

1 supervision was for a violation of Sections 3-707, 3-708,
2 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a
3 similar provision of a local ordinance, or for a violation of
4 Sections 12-3.2 or 16A-3 of the Criminal Code of 1961, in which
5 case it shall be 5 years after discharge and dismissal, a
6 person may have his record of arrest sealed or expunged as may
7 be provided by law. However, any defendant placed on
8 supervision before January 1, 1980, may move for sealing or
9 expungement of his arrest record, as provided by law, at any
10 time after discharge and dismissal under this Section. A person
11 placed on supervision for a sexual offense committed against a
12 minor as defined in subsection (g) of Section 5 of the Criminal
13 Identification Act or for a violation of Section 11-501 of the
14 Illinois Vehicle Code or a similar provision of a local
15 ordinance shall not have his or her record of arrest sealed or
16 expunged.

17 (g) A defendant placed on supervision and who during the
18 period of supervision undergoes mandatory drug or alcohol
19 testing, or both, or is assigned to be placed on an approved
20 electronic monitoring device, shall be ordered to pay the costs
21 incidental to such mandatory drug or alcohol testing, or both,
22 and costs incidental to such approved electronic monitoring in
23 accordance with the defendant's ability to pay those costs. The
24 county board with the concurrence of the Chief Judge of the
25 judicial circuit in which the county is located shall establish
26 reasonable fees for the cost of maintenance, testing, and
27 incidental expenses related to the mandatory drug or alcohol
28 testing, or both, and all costs incidental to approved
29 electronic monitoring, of all defendants placed on
30 supervision. The concurrence of the Chief Judge shall be in the
31 form of an administrative order. The fees shall be collected by
32 the clerk of the circuit court. The clerk of the circuit court
33 shall pay all moneys collected from these fees to the county
34 treasurer who shall use the moneys collected to defray the

1 costs of drug testing, alcohol testing, and electronic
2 monitoring. The county treasurer shall deposit the fees
3 collected in the county working cash fund under Section 6-27001
4 or Section 6-29002 of the Counties Code, as the case may be.

5 (h) A disposition of supervision is a final order for the
6 purposes of appeal.

7 (i) The court shall impose upon a defendant placed on
8 supervision after January 1, 1992 or to community service under
9 the supervision of a probation or court services department
10 after January 1, 2004, as a condition of supervision or
11 supervised community service, a fee of \$50 for each month of
12 supervision or supervised community service ordered by the
13 court, unless after determining the inability of the person
14 placed on supervision or supervised community service to pay
15 the fee, the court assesses a lesser fee. The court may not
16 impose the fee on a minor who is made a ward of the State under
17 the Juvenile Court Act of 1987 while the minor is in placement.
18 The fee shall be imposed only upon a defendant who is actively
19 supervised by the probation and court services department. The
20 fee shall be collected by the clerk of the circuit court. The
21 clerk of the circuit court shall pay all monies collected from
22 this fee to the county treasurer for deposit in the probation
23 and court services fund pursuant to Section 15.1 of the
24 Probation and Probation Officers Act.

25 A circuit court may not impose a probation fee in excess of
26 \$25 per month unless: (1) the circuit court has adopted, by
27 administrative order issued by the chief judge, a standard
28 probation fee guide determining an offender's ability to pay,
29 under guidelines developed by the Administrative Office of the
30 Illinois Courts; and (2) the circuit court has authorized, by
31 administrative order issued by the chief judge, the creation of
32 a Crime Victim's Services Fund, to be administered by the Chief
33 Judge or his or her designee, for services to crime victims and
34 their families. Of the amount collected as a probation fee, not

1 to exceed \$5 of that fee collected per month may be used to
2 provide services to crime victims and their families.

3 (j) All fines and costs imposed under this Section for any
4 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
5 Code, or a similar provision of a local ordinance, and any
6 violation of the Child Passenger Protection Act, or a similar
7 provision of a local ordinance, shall be collected and
8 disbursed by the circuit clerk as provided under Section 27.5
9 of the Clerks of Courts Act.

10 (k) A defendant at least 17 years of age who is placed on
11 supervision for a misdemeanor in a county of 3,000,000 or more
12 inhabitants and who has not been previously convicted of a
13 misdemeanor or felony may as a condition of his or her
14 supervision be required by the court to attend educational
15 courses designed to prepare the defendant for a high school
16 diploma and to work toward a high school diploma or to work
17 toward passing the high school level Test of General
18 Educational Development (GED) or to work toward completing a
19 vocational training program approved by the court. The
20 defendant placed on supervision must attend a public
21 institution of education to obtain the educational or
22 vocational training required by this subsection (k). The
23 defendant placed on supervision shall be required to pay for
24 the cost of the educational courses or GED test, if a fee is
25 charged for those courses or test. The court shall revoke the
26 supervision of a person who wilfully fails to comply with this
27 subsection (k). The court shall resentence the defendant upon
28 revocation of supervision as provided in Section 5-6-4. This
29 subsection (k) does not apply to a defendant who has a high
30 school diploma or has successfully passed the GED test. This
31 subsection (k) does not apply to a defendant who is determined
32 by the court to be developmentally disabled or otherwise
33 mentally incapable of completing the educational or vocational
34 program.

1 (1) The court shall require a defendant placed on
2 supervision for possession of a substance prohibited by the
3 Cannabis Control Act, the Illinois Controlled Substances Act,
4 or the Methamphetamine Control and Community Protection Act
5 after a previous conviction or disposition of supervision for
6 possession of a substance prohibited by the Cannabis Control
7 Act, the Illinois Controlled Substances Act, or the
8 Methamphetamine Control and Community Protection Act or a
9 sentence of probation under Section 10 of the Cannabis Control
10 Act or Section 410 of the Illinois Controlled Substances Act
11 and after a finding by the court that the person is addicted,
12 to undergo treatment at a substance abuse program approved by
13 the court.

14 (m) The Secretary of State shall require anyone placed on
15 court supervision for a violation of Section 3-707 of the
16 Illinois Vehicle Code or a similar provision of a local
17 ordinance to give proof of his or her financial responsibility
18 as defined in Section 7-315 of the Illinois Vehicle Code. The
19 proof shall be maintained by the individual in a manner
20 satisfactory to the Secretary of State for a minimum period of
21 one year after the date the proof is first filed. The proof
22 shall be limited to a single action per arrest and may not be
23 affected by any post-sentence disposition. The Secretary of
24 State shall suspend the driver's license of any person
25 determined by the Secretary to be in violation of this
26 subsection.

27 (n) Any offender placed on supervision for any offense that
28 the court or probation department has determined to be sexually
29 motivated as defined in the Sex Offender Management Board Act
30 shall be required to refrain from any contact, directly or
31 indirectly, with any persons specified by the court and shall
32 be available for all evaluations and treatment programs
33 required by the court or the probation department.

34 (o) An offender placed on supervision for a sex offense as

1 defined in the Sex Offender Management Board Act shall refrain
2 from residing at the same address or in the same condominium
3 unit or apartment unit ~~or in the same condominium complex or~~
4 ~~apartment complex~~ with another person he or she knows or
5 reasonably should know is a convicted sex offender or has been
6 placed on supervision for a sex offense. The provisions of this
7 subsection (o) do not apply to a person convicted of a sex
8 offense who is placed in a Department of Corrections licensed
9 transitional housing facility for sex offenders.

10 (Source: P.A. 93-475, eff. 8-8-03; 93-970, eff. 8-20-04;
11 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-556, eff.
12 9-11-05; revised 8-19-05.)

13 Section 10. The Private Correctional Facility Moratorium
14 Act is amended by changing Section 3 as follows:

15 (730 ILCS 140/3) (from Ch. 38, par. 1583)

16 Sec. 3. Certain contracts prohibited. After the effective
17 date of this Act, the State shall not contract with a private
18 contractor or private vendor for the provision of services
19 relating to the operation of a correctional facility or the
20 incarceration of persons in the custody of the Department of
21 Corrections; however, this Act does not apply to (1) State work
22 release centers or juvenile residential facilities that
23 provide separate care or special treatment operated in whole or
24 part by private contractors, (2) residential facilities for
25 individuals under the supervision of the Illinois Department of
26 Corrections Parole Division, or (3) ~~(2)~~ contracts for ancillary
27 services, including medical services, educational services,
28 repair and maintenance contracts, or other services not
29 directly related to the ownership, management or operation of
30 security services in a correctional facility.

31 (Source: P.A. 88-680, eff. 1-1-95.)".