



Filed: 3/1/2006

09400HB4885ham004

LRB094 18448 RLC 56815 a

1 AMENDMENT TO HOUSE BILL 4885

2 AMENDMENT NO. _____. Amend House Bill 4885 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Cannabis Control Act is amended by changing
5 Section 10 as follows:

6 (720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

7 Sec. 10. (a) Whenever any person ~~who has not previously~~
8 ~~been convicted of, or placed on probation or court supervision~~
9 ~~for, any offense under this Act or any law of the United States~~
10 ~~or of any State relating to cannabis, or controlled substances~~
11 ~~as defined in the Illinois Controlled Substances Act,~~ pleads
12 guilty to or is found guilty of violating Sections 4(a), 4(b),
13 4(c), 5(a), 5(b), 5(c) or 8 of this Act, the court may, without
14 entering a judgment and with the consent of such person,
15 sentence him or her to probation pursuant to the terms of this
16 Section.

17 (b) When a person is placed on probation, the court shall
18 enter an order specifying a period of probation of 6 to 36 ~~24~~
19 months, and shall defer further proceedings in the case until
20 the conclusion of the period or until the filing of a petition
21 alleging violation of a term or condition of probation.

22 (c) The conditions of probation shall be that the person:
23 (1) not violate any criminal statute of any jurisdiction; (2)
24 refrain from possession of a firearm or other dangerous weapon;

1 (3) submit to periodic drug testing at a time and in a manner
2 as ordered by the court, but no less than 3 times during the
3 period of the probation, with the cost of the testing to be
4 paid by the probationer; ~~and~~ (4) perform no less than 30 hours
5 of community service, provided community service is available
6 in the jurisdiction; and (5) for first and second time
7 offenders, attend a drug school program, provided a drug school
8 program is available. For third time offenders, the State's
9 Attorney of the county in which the offense was committed may
10 recommend and the court shall order the offender to attend a
11 drug school program, provided a drug school program is
12 available. If a drug school program is not available, the court
13 shall seek recommendations for treatment or other intervention
14 by a licensed program designated by the State to provide
15 assessment services to the courts ~~and is funded and approved by~~
16 ~~the county board.~~

17 (d) The court may, in addition to other conditions, require
18 that the person:

19 (1) make a report to and appear in person before or
20 participate with the court or such courts, person, or
21 social service agency as directed by the court in the order
22 of probation;

23 (2) pay a fine and costs;

24 (3) work or pursue a course of study or vocational
25 training;

26 (4) undergo medical or psychiatric treatment; or
27 treatment for drug addiction or alcoholism;

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

30 (6) support his dependents;

31 (7) refrain from possessing a firearm or other
32 dangerous weapon;

33 (7-5) refrain from having in his or her body the
34 presence of any illicit drug prohibited by the Cannabis

1 Control Act, the Illinois Controlled Substances Act, or the
2 Methamphetamine Control and Community Protection Act,
3 unless prescribed by a physician, and submit samples of his
4 or her blood or urine or both for tests to determine the
5 presence of any illicit drug;

6 (7-6) undergo treatment under the supervision of a
7 licensed program designated by the Department of Human
8 Services, and according to the terms of Article 40 of the
9 Alcoholism and Other Drug Abuse and Dependency Act;

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

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

12 (ii) attend school;

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

14 (iv) contribute to his own support at home or in a
15 foster home.

16 (d-1) In addition to any other criminal or administrative
17 sanction for any second conviction of violating Section 4(a),
18 4(b), 4(c), 5(a), 5(b), 5(c), or 8 of this Act or a similar law
19 of another state or of the United States committed within 5
20 years of a previous violation of Section 4(a), 4(b), 4(c),
21 5(a), 5(b), 5(c), or 8 of this Act or a similar law of another
22 state or of the United States, the defendant shall be sentenced
23 to a mandatory minimum of 5 days of imprisonment or assigned a
24 mandatory minimum of 40 hours of community service as may be
25 determined by the court.

26 (d-2) In addition to any other criminal or administrative
27 sanction for any third conviction of violating Section 4(a),
28 4(b), 4(c), 5(a), 5(b), 5(c), or 8 of this Act or a similar law
29 of another state or of the United States committed within 5
30 years of a previous violation of Section 4(a), 4(b), 4(c),
31 5(a), 5(b), 5(c), or 8 of this Act or a similar law of another
32 state or of the United States, the defendant shall be sentenced
33 to a mandatory minimum of 10 days of imprisonment or assigned a
34 mandatory minimum of 80 hours of community service as may be

1 determined by the court.

2 (d-3) Whenever any person who has previously been convicted
3 of, or placed on probation or court supervision for, any
4 offense under this Act or any law of the United States or of
5 any state relating to cannabis or controlled substances pleads
6 guilty to or is found guilty of possession of cannabis under
7 this Act, that person also may be required to undergo (i) an
8 assessment conducted by a licensed program designated by the
9 State to provide assessment services to the courts to determine
10 if an alcohol, drug, or intoxicating compound abuse problem
11 exists and the extent of the problem, and (ii) a professional
12 mental health screening, and undergo the imposition of
13 treatment as appropriate. Whenever the professional evaluation
14 or mental health screening recommends remedial or
15 rehabilitative treatment or education, the court may monitor
16 compliance with any remedial education or treatment
17 recommendations contained in the professional evaluation or
18 mental health screening. Assessments or screenings under this
19 subsection (d-3) shall be conducted by an agent independent of
20 any treatment provider to which the person may be referred.

21 (d-4) In addition to any other criminal or administrative
22 sanction for any third conviction of violating Section 4(a),
23 4(b), 4(c), 5(a), 5(b), 5(c), or 8 of this Act or a similar law
24 of another state or of the United States within 5 years of a
25 previous violation of Section 4(a), 4(b), 4(c), 5(a), 5(b),
26 5(c), or 8 of this Act or a similar law of another state or of
27 the United States, the court may also order the defendant to
28 participate in a treatment intervention consistent with his or
29 her clinical and supervisory needs, including but not limited
30 to supervision under Article 40 of the Alcoholism and Other
31 Drug Abuse and Dependency Act or supervision under the Drug
32 Court Treatment Act.

33 (e) Upon violation of a term or condition of probation, the
34 court may enter a judgment on its original finding of guilt and

1 proceed as otherwise provided.

2 (f) Upon fulfillment of the terms and conditions of
3 probation, the court shall discharge such person and dismiss
4 the proceedings against him.

5 (g) A disposition of probation is considered to be a
6 conviction for the purposes of imposing the conditions of
7 probation and for appeal, however, discharge and dismissal
8 under this Section is not a conviction for purposes of
9 disqualification or disabilities imposed by law upon
10 conviction of a crime (including the additional penalty imposed
11 for subsequent offenses under Section 4(c), 4(d), 5(c) or 5(d)
12 of this Act).

13 (h) (Blank). ~~Discharge and dismissal under this Section,~~
14 ~~Section 410 of the Illinois Controlled Substances Act, or~~
15 ~~Section 70 of the Methamphetamine Control and Community~~
16 ~~Protection Act may occur only once with respect to any person.~~

17 (h-1) A sentence of probation under this Section is
18 immediately expungeable upon the successful completion of the
19 probation.

20 (i) If a person is convicted of an offense under this Act,
21 the Illinois Controlled Substances Act, or the Methamphetamine
22 Control and Community Protection Act within 5 years subsequent
23 to a discharge and dismissal under this Section, the discharge
24 and dismissal under this Section shall be admissible in the
25 sentencing proceeding for that conviction as a factor in
26 aggravation.

27 (j) A person is not eligible for a disposition of probation
28 under this Section if he or she has during the course of the
29 act giving rise to the offense under Section 4(a), 4(b), 4(c),
30 5(a), 5(b), 5(c), or 8 of this Act committed any violation of
31 Section 5.1, 5.2, or 7 of this Act, any violation of Section
32 401, 405, 405.1, 405.2, 405.3, 406, 406.1, 407, 407.1, 407.2,
33 or 408 of the Illinois Controlled Substances Act, any violation
34 of the Methamphetamine Control and Community Protection Act

1 involving the manufacture, delivery, or possession with intent
2 to deliver of methamphetamine or a methamphetamine precursor,
3 or any offense that is a violent crime under the Rights of
4 Crime Victims and Witnesses Act.

5 (Source: P.A. 94-556, eff. 9-11-05.)

6 Section 10. The Illinois Controlled Substances Act is
7 amended by changing Section 410 as follows:

8 (720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

9 Sec. 410. (a) Whenever any person ~~who has not previously~~
10 ~~been convicted of, or placed on probation or court supervision~~
11 ~~for any offense under this Act or any law of the United States~~
12 ~~or of any State relating to cannabis or controlled substances,~~
13 pleads guilty to or is found guilty of possession of a
14 controlled or counterfeit substance under subsection (c) of
15 Section 402, the court, without entering a judgment and with
16 the consent of such person, may sentence him or her to
17 probation pursuant to the terms of this Section.

18 (b) When a person is placed on probation, the court shall
19 enter an order specifying a period of probation of 6 to 36 ~~24~~
20 months and shall defer further proceedings in the case until
21 the conclusion of the period or until the filing of a petition
22 alleging violation of a term or condition of probation.

23 (c) The conditions of probation shall be that the person:
24 (1) not violate any criminal statute of any jurisdiction; (2)
25 refrain from possessing a firearm or other dangerous weapon;
26 (3) submit to periodic drug testing at a time and in a manner
27 as ordered by the court, but no less than 3 times during the
28 period of the probation, with the cost of the testing to be
29 paid by the probationer; ~~and~~ (4) perform no less than 30 hours
30 of community service, provided community service is available
31 in the jurisdiction; and (5) for first and second time
32 offenders, attend a drug school program, provided a drug school

1 program is available. For third time offenders, the State's
2 Attorney of the county in which the offense was committed may
3 recommend and the court shall order the offender to attend a
4 drug school program, provided a drug school program is
5 available. If a drug school program is not available, the court
6 shall seek recommendations for treatment or other intervention
7 by a licensed program designated by the State to provide
8 assessment services to the courts and is funded and approved by
9 the county board.

10 (d) The court may, in addition to other conditions, require
11 that the person:

12 (1) make a report to and appear in person before or
13 participate with the court or such courts, person, or
14 social service agency as directed by the court in the order
15 of probation;

16 (2) pay a fine and costs;

17 (3) work or pursue a course of study or vocational
18 training;

19 (4) undergo medical or psychiatric treatment; or
20 treatment or rehabilitation approved by the Illinois
21 Department of Human Services;

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

24 (6) support his dependents;

25 (6-5) refrain from having in his or her body the
26 presence of any illicit drug prohibited by the Cannabis
27 Control Act, the Illinois Controlled Substances Act, or the
28 Methamphetamine Control and Community Protection Act,
29 unless prescribed by a physician, and submit samples of his
30 or her blood or urine or both for tests to determine the
31 presence of any illicit drug;

32 (6-6) undergo treatment under the supervision of a
33 licensed program designated by the Department of Human
34 Services, and according to the terms of Article 40 of the

1 Alcoholism and Other Drug Abuse and Dependency Act;

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

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

4 (ii) attend school;

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

6 (iv) contribute to his own support at home or in a
7 foster home.

8 (d-1) In addition to any other criminal or administrative
9 sanction for any second conviction of violating subsection (c)
10 of Section 402 or a similar law of another state or of the
11 United States committed within 5 years of a previous violation
12 of subsection (c) of Section 402 or a similar law of another
13 state or of the United States, the defendant shall be sentenced
14 to a mandatory minimum of 5 days of imprisonment or assigned a
15 mandatory minimum of 40 hours of community service as may be
16 determined by the court.

17 (d-2) In addition to any other criminal or administrative
18 sanction for any third conviction of violating subsection (c)
19 of Section 402 or a similar law of another state or of the
20 United States committed within 5 years of a previous violation
21 of subsection (c) of Section 402 or a similar law of another
22 state or of the United States, the defendant shall be sentenced
23 to a mandatory minimum of 10 days of imprisonment or assigned a
24 mandatory minimum of 80 hours of community service as may be
25 determined by the court.

26 (d-3) Whenever any person who has previously been convicted
27 of, or placed on probation or court supervision for, any
28 offense under this Act or any law of the United States or of
29 any state relating to cannabis or controlled substances pleads
30 guilty to or is found guilty of possession of a controlled
31 substance under this Act, that person also may be required to
32 undergo (i) an assessment conducted by a licensed program
33 designated by the State to provide assessment services to the
34 courts to determine if an alcohol, drug, or intoxicating

1 compound abuse problem exists and the extent of the problem,
2 and (ii) a professional mental health screening, and undergo
3 the imposition of treatment as appropriate. Whenever the
4 professional evaluation or mental health screening recommends
5 remedial or rehabilitative treatment or education, the court
6 may monitor compliance with any remedial education or treatment
7 recommendations contained in the professional evaluation or
8 mental health screening. Assessments or screenings under this
9 subsection (d-3) shall be conducted by an agent independent of
10 any treatment provider to which the person may be referred.

11 (d-4) In addition to any other criminal or administrative
12 sanction for any third conviction of violating subsection (c)
13 of Section 402 or a similar law of another state or of the
14 United States within 5 years of a previous violation of
15 subsection (c) of Section 402 or a similar law of another state
16 or of the United States, the court may also order the defendant
17 to participate in a treatment intervention consistent with his
18 or her clinical and supervisory needs, including but not
19 limited to supervision under Article 40 of the Alcoholism and
20 Other Drug Abuse and Dependency Act or supervision under the
21 Drug Court Treatment Act.

22 (e) Upon violation of a term or condition of probation, the
23 court may enter a judgment on its original finding of guilt and
24 proceed as otherwise provided.

25 (f) Upon fulfillment of the terms and conditions of
26 probation, the court shall discharge the person and dismiss the
27 proceedings against him.

28 (g) A disposition of probation is considered to be a
29 conviction for the purposes of imposing the conditions of
30 probation and for appeal, however, discharge and dismissal
31 under this Section is not a conviction for purposes of this Act
32 or for purposes of disqualifications or disabilities imposed by
33 law upon conviction of a crime.

34 (h) (Blank). ~~There may be only one discharge and dismissal~~

1 ~~under this Section, Section 10 of the Cannabis Control Act, or~~
2 ~~Section 70 of the Methamphetamine Control and Community~~
3 ~~Protection Act with respect to any person.~~

4 (h-1) A sentence of probation under this Section is
5 immediately expungeable upon the successful completion of the
6 probation.

7 (i) If a person is convicted of an offense under this Act,
8 the Cannabis Control Act, or the Methamphetamine Control and
9 Community Protection Act within 5 years subsequent to a
10 discharge and dismissal under this Section, the discharge and
11 dismissal under this Section shall be admissible in the
12 sentencing proceeding for that conviction as evidence in
13 aggravation.

14 (j) A person is not eligible for a disposition of probation
15 under this Section if he or she has during the course of the
16 act giving rise to the offense under Section 402 of this Act
17 committed any violation of Section 5, 5.1, 5.2, 7, or 8 of the
18 Cannabis Control Act, any violation of Section 401, 405, 405.1,
19 405.2, 405.3, 406, 406.1, 407, 407.1, 407.2, or 408 of this
20 Act, any violation of the Methamphetamine Control and Community
21 Protection Act involving the manufacture, delivery, or
22 possession with intent to deliver of methamphetamine or a
23 methamphetamine precursor, or any offense that is a violent
24 crime under the Rights of Crime Victims and Witnesses Act.

25 (Source: P.A. 94-556, eff. 9-11-05.)

26 Section 15. The Methamphetamine Control and Community
27 Protection Act is amended by changing Section 70 as follows:

28 (720 ILCS 646/70)

29 Sec. 70. Probation.

30 (a) Whenever any person ~~who has not previously been~~
31 ~~convicted of, or placed on probation or court supervision for~~
32 ~~any offense under this Act, the Illinois Controlled Substances~~

1 ~~Act, the Cannabis Control Act, or any law of the United States~~
2 ~~or of any state relating to cannabis or controlled substances,~~
3 pleads guilty to or is found guilty of possession of less than
4 15 grams of methamphetamine under paragraph (1) or (2) of
5 subsection (b) of Section 60 of this Act, the court, without
6 entering a judgment and with the consent of the person, may
7 sentence him or her to probation pursuant to the terms of this
8 Section.

9 (b) When a person is placed on probation, the court shall
10 enter an order specifying a period of probation of 6 to 36 ~~24~~
11 months and shall defer further proceedings in the case until
12 the conclusion of the period or until the filing of a petition
13 alleging violation of a term or condition of probation.

14 (c) The conditions of probation shall be that the person:

15 (1) not violate any criminal statute of any
16 jurisdiction;

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

19 (3) submit to periodic drug testing at a time and in a
20 manner as ordered by the court, but no less than 3 times
21 during the period of the probation, with the cost of the
22 testing to be paid by the probationer; ~~and~~

23 (4) perform no less than 30 hours of community service,
24 if community service is available in the jurisdiction; and
25 ~~and is funded and approved by the county board.~~

26 (5) for first and second time offenders, attend a drug
27 school program, provided a drug school program is
28 available. For third time offenders, the State's Attorney
29 of the county in which the offense was committed may
30 recommend and the court shall order the offender to attend
31 a drug school program, provided a drug school program is
32 available. If a drug school program is not available, the
33 court shall seek recommendations for treatment or other
34 intervention by a licensed program designated by the State

1 to provide assessment services to the courts.

2 (d) The court may, in addition to other conditions, require
3 that the person take one or more of the following actions:

4 (1) make a report to and appear in person before or
5 participate with the court or such courts, person, or
6 social service agency as directed by the court in the order
7 of probation;

8 (2) pay a fine and costs;

9 (3) work or pursue a course of study or vocational
10 training;

11 (4) undergo medical or psychiatric treatment; or
12 treatment or rehabilitation approved by the Illinois
13 Department of Human Services;

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

16 (6) support his or her dependents;

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

23 (7-5) undergo treatment under the supervision of a
24 licensed program designated by the Department of Human
25 Services, and according to the terms of Article 40 of the
26 Alcoholism and Other Drug Abuse and Dependency Act; or

27 (8) if a minor:

28 (i) reside with his or her parents or in a foster
29 home;

30 (ii) attend school;

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

32 or

33 (iv) contribute to his or her own support at home
34 or in a foster home.

1 (d-1) In addition to any other criminal or administrative
2 sanction for any second conviction of violating this Act or a
3 similar law of another state or of the United States committed
4 within 5 years of a previous violation of this Act or a similar
5 law of another state or of the United States, the defendant
6 shall be sentenced to a mandatory minimum of 5 days of
7 imprisonment or assigned a mandatory minimum of 40 hours of
8 community service as may be determined by the court.

9 (d-2) In addition to any other criminal or administrative
10 sanction for any third conviction of violating this Act or a
11 similar law of another state or of the United States committed
12 within 5 years of a previous violation of this Act or a similar
13 law of another state or of the United States, the defendant
14 shall be sentenced to a mandatory minimum of 10 days of
15 imprisonment or assigned a mandatory minimum of 80 hours of
16 community service as may be determined by the court.

17 (d-3) Whenever any person who has previously been convicted
18 of, or placed on probation or court supervision for, any
19 offense under this Act or any law of the United States or of
20 any state relating to cannabis or controlled substances pleads
21 guilty to or is found guilty of possession of methamphetamine
22 under this Act, that person also may be required to undergo (i)
23 an assessment conducted by a licensed program designated by the
24 State to provide assessment services to the courts to determine
25 if an alcohol, drug, or intoxicating compound abuse problem
26 exists and the extent of the problem, and (ii) a professional
27 mental health screening, and undergo the imposition of
28 treatment as appropriate. Whenever the professional evaluation
29 or mental health screening recommends remedial or
30 rehabilitative treatment or education, the court may monitor
31 compliance with any remedial education or treatment
32 recommendations contained in the professional evaluation or
33 mental health screening. Assessments or screenings under this
34 subsection (d-3) shall be conducted by an agent independent of

1 any treatment provider to which the person may be referred.

2 (d-4) In addition to any other criminal or administrative
3 sanction for any third conviction of violating this Act or a
4 similar law of another state or of the United States within 5
5 years of a previous violation of this Act or a similar law of
6 another state or of the United States, the court may also order
7 the defendant to participate in a treatment intervention
8 consistent with his or her clinical and supervisory needs,
9 including but not limited to supervision under Article 40 of
10 the Alcoholism and Other Drug Abuse and Dependency Act or
11 supervision under the Drug Court Treatment Act.

12 (e) Upon violation of a term or condition of probation, the
13 court may enter a judgment on its original finding of guilt and
14 proceed as otherwise provided.

15 (f) Upon fulfillment of the terms and conditions of
16 probation, the court shall discharge the person and dismiss the
17 proceedings against the person.

18 (g) A disposition of probation is considered to be a
19 conviction for the purposes of imposing the conditions of
20 probation and for appeal, however, discharge and dismissal
21 under this Section is not a conviction for purposes of this Act
22 or for purposes of disqualifications or disabilities imposed by
23 law upon conviction of a crime.

24 (h) (Blank). ~~There may be only one discharge and dismissal~~
25 ~~under this Section, Section 410 of the Illinois Controlled~~
26 ~~Substances Act, or Section 10 of the Cannabis Control Act with~~
27 ~~respect to any person.~~

28 (h-1) A sentence of probation under this Section is
29 immediately expungeable upon the successful completion of the
30 probation.

31 (i) If a person is convicted of an offense under this Act,
32 the Cannabis Control Act, or the Illinois Controlled Substances
33 Act within 5 years subsequent to a discharge and dismissal
34 under this Section, the discharge and dismissal under this

1 Section are admissible in the sentencing proceeding for that
2 conviction as evidence in aggravation.

3 (j) A person is not eligible for a disposition of probation
4 under this Section if he or she has during the course of the
5 act giving rise to the offense under this Act committed any
6 violation of Section 5, 5.1, 5.2, 7, or 8 of the Cannabis
7 Control Act, any violation of Section 401, 405, 405.1, 405.2,
8 405.3, 406, 406.1, 407, 407.1, 407.2, or 408 of the Illinois
9 Controlled Substances Act, any violation of this Act involving
10 the manufacture, delivery, or possession with intent to deliver
11 of methamphetamine or a methamphetamine precursor, or any
12 offense that is a violent crime under the Rights of Crime
13 Victims and Witnesses Act.

14 (Source: P.A. 94-556, eff. 9-11-05.)".