



Rep. John D'Amico

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LRB096 21098 RLC 39160 a

1 AMENDMENT TO HOUSE BILL 6463

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 6463 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 5-6-1 as follows:

6 (730 ILCS 5/5-6-1) (from Ch. 38, par. 1005-6-1)

7 Sec. 5-6-1. Sentences of Probation and of Conditional  
8 Discharge and Disposition of Supervision. The General Assembly  
9 finds that in order to protect the public, the criminal justice  
10 system must compel compliance with the conditions of probation  
11 by responding to violations with swift, certain and fair  
12 punishments and intermediate sanctions. The Chief Judge of each  
13 circuit shall adopt a system of structured, intermediate  
14 sanctions for violations of the terms and conditions of a  
15 sentence of probation, conditional discharge or disposition of  
16 supervision.

1           (a) Except where specifically prohibited by other  
2 provisions of this Code, the court shall impose a sentence of  
3 probation or conditional discharge upon an offender unless,  
4 having regard to the nature and circumstance of the offense,  
5 and to the history, character and condition of the offender,  
6 the court is of the opinion that:

7           (1) his imprisonment or periodic imprisonment is  
8 necessary for the protection of the public; or

9           (2) probation or conditional discharge would deprecate  
10 the seriousness of the offender's conduct and would be  
11 inconsistent with the ends of justice; or

12           (3) a combination of imprisonment with concurrent or  
13 consecutive probation when an offender has been admitted  
14 into a drug court program under Section 20 of the Drug  
15 Court Treatment Act is necessary for the protection of the  
16 public and for the rehabilitation of the offender.

17           The court shall impose as a condition of a sentence of  
18 probation, conditional discharge, or supervision, that the  
19 probation agency may invoke any sanction from the list of  
20 intermediate sanctions adopted by the chief judge of the  
21 circuit court for violations of the terms and conditions of the  
22 sentence of probation, conditional discharge, or supervision,  
23 subject to the provisions of Section 5-6-4 of this Act.

24           (b) The court may impose a sentence of conditional  
25 discharge for an offense if the court is of the opinion that  
26 neither a sentence of imprisonment nor of periodic imprisonment

1 nor of probation supervision is appropriate.

2 (b-1) Subsections (a) and (b) of this Section do not apply  
3 to a defendant charged with a misdemeanor or felony under the  
4 Illinois Vehicle Code or reckless homicide under Section 9-3 of  
5 the Criminal Code of 1961 if the defendant within the past 12  
6 months has been convicted of or pleaded guilty to a misdemeanor  
7 or felony under the Illinois Vehicle Code or reckless homicide  
8 under Section 9-3 of the Criminal Code of 1961.

9 (c) The court may, upon a plea of guilty or a stipulation  
10 by the defendant of the facts supporting the charge or a  
11 finding of guilt, defer further proceedings and the imposition  
12 of a sentence, and enter an order for supervision of the  
13 defendant, if the defendant is not charged with: (i) a Class A  
14 misdemeanor, as defined by the following provisions of the  
15 Criminal Code of 1961: Sections 11-9.1; 12-3.2; 12-15; 26-5;  
16 31-1; 31-6; 31-7; subsections (b) and (c) of Section 21-1;  
17 paragraph (1) through (5), (8), (10), and (11) of subsection  
18 (a) of Section 24-1; (ii) a Class A misdemeanor violation of  
19 Section 3.01, 3.03-1, or 4.01 of the Humane Care for Animals  
20 Act; or (iii) a felony. If the defendant is not barred from  
21 receiving an order for supervision as provided in this  
22 subsection, the court may enter an order for supervision after  
23 considering the circumstances of the offense, and the history,  
24 character and condition of the offender, if the court is of the  
25 opinion that:

26 (1) the offender is not likely to commit further

1 crimes;

2 (2) the defendant and the public would be best served  
3 if the defendant were not to receive a criminal record; and

4 (3) in the best interests of justice an order of  
5 supervision is more appropriate than a sentence otherwise  
6 permitted under this Code.

7 (c-5) Subsections (a), (b), and (c) of this Section do not  
8 apply to a defendant charged with a second or subsequent  
9 violation of Section 6-303 of the Illinois Vehicle Code  
10 committed while his or her driver's license, permit or  
11 privileges were revoked because of a violation of Section 9-3  
12 of the Criminal Code of 1961, relating to the offense of  
13 reckless homicide, or a similar provision of a law of another  
14 state.

15 (d) The provisions of paragraph (c) shall not apply to a  
16 defendant charged with violating Section 11-501 of the Illinois  
17 Vehicle Code or a similar provision of a local ordinance when  
18 the defendant has previously been:

19 (1) convicted for a violation of Section 11-501 of the  
20 Illinois Vehicle Code or a similar provision of a local  
21 ordinance or any similar law or ordinance of another state;  
22 or

23 (2) assigned supervision for a violation of Section  
24 11-501 of the Illinois Vehicle Code or a similar provision  
25 of a local ordinance or any similar law or ordinance of  
26 another state; or

1           (3) pleaded guilty to or stipulated to the facts  
2           supporting a charge or a finding of guilty to a violation  
3           of Section 11-503 of the Illinois Vehicle Code or a similar  
4           provision of a local ordinance or any similar law or  
5           ordinance of another state, and the plea or stipulation was  
6           the result of a plea agreement.

7           The court shall consider the statement of the prosecuting  
8           authority with regard to the standards set forth in this  
9           Section.

10          (e) The provisions of paragraph (c) shall not apply to a  
11          defendant charged with violating Section 16A-3 of the Criminal  
12          Code of 1961 if said defendant has within the last 5 years  
13          been:

14                (1) convicted for a violation of Section 16A-3 of the  
15                Criminal Code of 1961; or

16                (2) assigned supervision for a violation of Section  
17                16A-3 of the Criminal Code of 1961.

18          The court shall consider the statement of the prosecuting  
19          authority with regard to the standards set forth in this  
20          Section.

21          (f) The provisions of paragraph (c) shall not apply to a  
22          defendant charged with violating Sections 15-111, 15-112,  
23          15-301, paragraph (b) of Section 6-104, Section 11-605, Section  
24          11-1002.5, or Section 11-1414 of the Illinois Vehicle Code or a  
25          similar provision of a local ordinance.

26          (g) Except as otherwise provided in paragraph (i) of this

1 Section, the provisions of paragraph (c) shall not apply to a  
2 defendant charged with violating Section 3-707, 3-708, 3-710,  
3 or 5-401.3 of the Illinois Vehicle Code or a similar provision  
4 of a local ordinance if the defendant has within the last 5  
5 years been:

6 (1) convicted for a violation of Section 3-707, 3-708,  
7 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar  
8 provision of a local ordinance; or

9 (2) assigned supervision for a violation of Section  
10 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle  
11 Code or a similar provision of a local ordinance.

12 The court shall consider the statement of the prosecuting  
13 authority with regard to the standards set forth in this  
14 Section.

15 (h) The provisions of paragraph (c) shall not apply to a  
16 defendant under the age of 21 years charged with violating a  
17 serious traffic offense as defined in Section 1-187.001 of the  
18 Illinois Vehicle Code:

19 (1) unless the defendant, upon payment of the fines,  
20 penalties, and costs provided by law, agrees to attend and  
21 successfully complete a traffic safety program approved by  
22 the court under standards set by the Conference of Chief  
23 Circuit Judges. The accused shall be responsible for  
24 payment of any traffic safety program fees. If the accused  
25 fails to file a certificate of successful completion on or  
26 before the termination date of the supervision order, the

1 supervision shall be summarily revoked and conviction  
2 entered. The provisions of Supreme Court Rule 402 relating  
3 to pleas of guilty do not apply in cases when a defendant  
4 enters a guilty plea under this provision; or

5 (2) if the defendant has previously been sentenced  
6 under the provisions of paragraph (c) on or after January  
7 1, 1998 for any serious traffic offense as defined in  
8 Section 1-187.001 of the Illinois Vehicle Code.

9 (h-1) The provisions of paragraph (c) shall not apply to a  
10 defendant under the age of 21 years charged with an offense  
11 against traffic regulations governing the movement of vehicles  
12 or any violation of Section 6-107 or Section 12-603.1 of the  
13 Illinois Vehicle Code, unless the defendant, upon payment of  
14 the fines, penalties, and costs provided by law, agrees to  
15 attend and successfully complete a traffic safety program  
16 approved by the court under standards set by the Conference of  
17 Chief Circuit Judges. The accused shall be responsible for  
18 payment of any traffic safety program fees. If the accused  
19 fails to file a certificate of successful completion on or  
20 before the termination date of the supervision order, the  
21 supervision shall be summarily revoked and conviction entered.  
22 The provisions of Supreme Court Rule 402 relating to pleas of  
23 guilty do not apply in cases when a defendant enters a guilty  
24 plea under this provision.

25 (i) The provisions of paragraph (c) shall not apply to a  
26 defendant charged with violating Section 3-707 of the Illinois

1 Vehicle Code or a similar provision of a local ordinance if the  
2 defendant has been assigned supervision for a violation of  
3 Section 3-707 of the Illinois Vehicle Code or a similar  
4 provision of a local ordinance.

5 (j) The provisions of paragraph (c) shall not apply to a  
6 defendant charged with violating Section 6-303 of the Illinois  
7 Vehicle Code or a similar provision of a local ordinance when  
8 the revocation or suspension was for a violation of Section  
9 11-501 or a similar provision of a local ordinance or a  
10 violation of Section 11-501.1 or paragraph (b) of Section  
11 11-401 of the Illinois Vehicle Code if the defendant has within  
12 the last 10 years been:

13 (1) convicted for a violation of Section 6-303 of the  
14 Illinois Vehicle Code or a similar provision of a local  
15 ordinance; or

16 (2) assigned supervision for a violation of Section  
17 6-303 of the Illinois Vehicle Code or a similar provision  
18 of a local ordinance.

19 (k) The provisions of paragraph (c) shall not apply to a  
20 defendant charged with violating any provision of the Illinois  
21 Vehicle Code or a similar provision of a local ordinance that  
22 governs the movement of vehicles if, within the 12 months  
23 preceding the date of the defendant's arrest, the defendant has  
24 been assigned court supervision on 2 occasions for a violation  
25 that governs the movement of vehicles under the Illinois  
26 Vehicle Code or a similar provision of a local ordinance. The



1 provisions of this paragraph (k) do not apply to a defendant  
2 charged with violating Section 11-501 of the Illinois Vehicle  
3 Code or a similar provision of a local ordinance.

4 (l) A defendant charged with violating any provision of the  
5 Illinois Vehicle Code or a similar provision of a local  
6 ordinance who receives a disposition of supervision under  
7 subsection (c) shall pay an additional fee of \$29, to be  
8 collected as provided in Sections 27.5 and 27.6 of the Clerks  
9 of Courts Act. In addition to the \$29 fee, the person shall  
10 also pay a fee of \$6, which, if not waived by the court, shall  
11 be collected as provided in Sections 27.5 and 27.6 of the  
12 Clerks of Courts Act. The \$29 fee shall be disbursed as  
13 provided in Section 16-104c of the Illinois Vehicle Code. If  
14 the \$6 fee is collected, \$5.50 of the fee shall be deposited  
15 into the Circuit Court Clerk Operation and Administrative Fund  
16 created by the Clerk of the Circuit Court and 50 cents of the  
17 fee shall be deposited into the Prisoner Review Board Vehicle  
18 and Equipment Fund in the State treasury.

19 (m) Any person convicted of, pleading guilty to, or placed  
20 on supervision for a serious traffic violation, as defined in  
21 Section 1-187.001 of the Illinois Vehicle Code, a violation of  
22 Section 11-501 of the Illinois Vehicle Code, or a violation of  
23 a similar provision of a local ordinance shall pay an  
24 additional fee of \$20, to be disbursed as provided in Section  
25 16-104d of that Code.

26 This subsection (m) becomes inoperative 7 years after

1 October 13, 2007 (the effective date of Public Act 95-154).

2 (n) The provisions of paragraph (c) shall not apply to any  
3 person under the age of 18 who commits an offense against  
4 traffic regulations governing the movement of vehicles or any  
5 violation of Section 6-107 or Section 12-603.1 of the Illinois  
6 Vehicle Code, except upon personal appearance of the defendant  
7 in court and upon the written consent of the defendant's parent  
8 or legal guardian, executed before the presiding judge. The  
9 presiding judge shall have the authority to waive this  
10 requirement upon the showing of good cause by the defendant.

11 (o) The provisions of paragraph (c) shall not apply to a  
12 defendant charged with violating Section 6-303 of the Illinois  
13 Vehicle Code or a similar provision of a local ordinance when  
14 the suspension was for a violation of Section 11-501.1 of the  
15 Illinois Vehicle Code and when:

16 (1) at the time of the violation of Section 11-501.1 of  
17 the Illinois Vehicle Code, the defendant was a first  
18 offender pursuant to Section 11-500 of the Illinois Vehicle  
19 Code and the defendant failed to obtain a monitoring device  
20 driving permit; or

21 (2) at the time of the violation of Section 11-501.1 of  
22 the Illinois Vehicle Code, the defendant was a first  
23 offender pursuant to Section 11-500 of the Illinois Vehicle  
24 Code, had subsequently obtained a monitoring device  
25 driving permit, but was driving a vehicle not equipped with  
26 a breath alcohol ignition interlock device as defined in

1 Section 1-129.1 of the Illinois Vehicle Code.

2 (p) The provisions of paragraph (c) shall not apply to a  
3 defendant charged with violating Section 11-601.5 of the  
4 Illinois Vehicle Code or a similar provision of a local  
5 ordinance.

6 (Source: P.A. 95-154, eff. 10-13-07; 95-302, eff. 1-1-08;  
7 95-310, eff. 1-1-08; 95-377, eff. 1-1-08; 95-400, eff. 1-1-09;  
8 95-428, 8-24-07; 95-876, eff. 8-21-08; 96-253, eff. 8-11-09;  
9 96-286, eff. 8-11-09; 96-328, eff. 8-11-09; 96-625, eff.  
10 1-1-10; revised 10-1-09.)".