

SB3768



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3768

Introduced 2/10/2012, by Sen. Mike Jacobs

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-7-1

from Ch. 38, par. 1005-7-1

Amends the Unified Code of Corrections. Provides that the court shall not impose a sentence of periodic imprisonment if it imposes a sentence of imprisonment upon the defendant and the court imposed sentence of periodic imprisonment in combination with the period of imprisonment would exceed the maximum sentence of periodic imprisonment for that offense permitted under the Code (rather than the court shall not impose a sentence of periodic imprisonment if it imposes a sentence of imprisonment upon the defendant in excess of 90 days). Effective immediately.

LRB097 19808 RLC 65078 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 5-7-1 as follows:

6 (730 ILCS 5/5-7-1) (from Ch. 38, par. 1005-7-1)

7 Sec. 5-7-1. Sentence of Periodic Imprisonment.

8 (a) A sentence of periodic imprisonment is a sentence of
9 imprisonment during which the committed person may be released
10 for periods of time during the day or night or for periods of
11 days, or both, or if convicted of a felony, other than first
12 degree murder, a Class X or Class 1 felony, committed to any
13 county, municipal, or regional correctional or detention
14 institution or facility in this State for such periods of time
15 as the court may direct. Unless the court orders otherwise, the
16 particular times and conditions of release shall be determined
17 by the Department of Corrections, the sheriff, or the
18 Superintendent of the house of corrections, who is
19 administering the program.

20 (b) A sentence of periodic imprisonment may be imposed to
21 permit the defendant to:

22 (1) seek employment;

23 (2) work;

1 (3) conduct a business or other self-employed
2 occupation including housekeeping;

3 (4) attend to family needs;

4 (5) attend an educational institution, including
5 vocational education;

6 (6) obtain medical or psychological treatment;

7 (7) perform work duties at a county, municipal, or
8 regional correctional or detention institution or
9 facility;

10 (8) continue to reside at home with or without
11 supervision involving the use of an approved electronic
12 monitoring device, subject to Article 8A of Chapter V; or

13 (9) for any other purpose determined by the court.

14 (c) Except where prohibited by other provisions of this
15 Code, the court may impose a sentence of periodic imprisonment
16 for a felony or misdemeanor on a person who is 17 years of age
17 or older. The court shall not impose a sentence of periodic
18 imprisonment if it imposes a sentence of imprisonment upon the
19 defendant and the court imposed sentence of periodic
20 imprisonment in combination with the period of imprisonment
21 would exceed the maximum sentence permitted under subsection
22 (d) for that offense in excess of 90 days.

23 (d) A sentence of periodic imprisonment shall be for a
24 definite term of from 3 to 4 years for a Class 1 felony, 18 to
25 30 months for a Class 2 felony, and up to 18 months, or the
26 longest sentence of imprisonment that could be imposed for the

1 offense, whichever is less, for all other offenses; however, no
2 person shall be sentenced to a term of periodic imprisonment
3 longer than one year if he is committed to a county
4 correctional institution or facility, and in conjunction with
5 that sentence participate in a county work release program
6 comparable to the work and day release program provided for in
7 Article 13 of the Unified Code of Corrections in State
8 facilities. The term of the sentence shall be calculated upon
9 the basis of the duration of its term rather than upon the
10 basis of the actual days spent in confinement. No sentence of
11 periodic imprisonment shall be subject to the good time credit
12 provisions of Section 3-6-3 of this Code.

13 (e) When the court imposes a sentence of periodic
14 imprisonment, it shall state:

15 (1) the term of such sentence;

16 (2) the days or parts of days which the defendant is to
17 be confined;

18 (3) the conditions.

19 (f) The court may issue an order of protection pursuant to
20 the Illinois Domestic Violence Act of 1986 as a condition of a
21 sentence of periodic imprisonment. The Illinois Domestic
22 Violence Act of 1986 shall govern the issuance, enforcement and
23 recording of orders of protection issued under this Section. A
24 copy of the order of protection shall be transmitted to the
25 person or agency having responsibility for the case.

26 (f-5) An offender sentenced to a term of periodic

1 imprisonment for a felony sex offense as defined in the Sex
2 Offender Management Board Act shall be required to undergo and
3 successfully complete sex offender treatment by a treatment
4 provider approved by the Board and conducted in conformance
5 with the standards developed under the Sex Offender Management
6 Board Act.

7 (g) An offender sentenced to periodic imprisonment who
8 undergoes mandatory drug or alcohol testing, or both, or is
9 assigned to be placed on an approved electronic monitoring
10 device, shall be ordered to pay the costs incidental to such
11 mandatory drug or alcohol testing, or both, and costs
12 incidental to such approved electronic monitoring in
13 accordance with the defendant's ability to pay those costs. The
14 county board with the concurrence of the Chief Judge of the
15 judicial circuit in which the county is located shall establish
16 reasonable fees for the cost of maintenance, testing, and
17 incidental expenses related to the mandatory drug or alcohol
18 testing, or both, and all costs incidental to approved
19 electronic monitoring, of all offenders with a sentence of
20 periodic imprisonment. The concurrence of the Chief Judge shall
21 be in the form of an administrative order. The fees shall be
22 collected by the clerk of the circuit court. The clerk of the
23 circuit court shall pay all moneys collected from these fees to
24 the county treasurer who shall use the moneys collected to
25 defray the costs of drug testing, alcohol testing, and
26 electronic monitoring. The county treasurer shall deposit the

1 fees collected in the county working cash fund under Section
2 6-27001 or Section 6-29002 of the Counties Code, as the case
3 may be.

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

11 (i) A defendant at least 17 years of age who is convicted
12 of a misdemeanor or felony in a county of 3,000,000 or more
13 inhabitants and who has not been previously convicted of a
14 misdemeanor or a felony and who is sentenced to a term of
15 periodic imprisonment may as a condition of his or her sentence
16 be required by the court to attend educational courses designed
17 to prepare the defendant for a high school diploma and to work
18 toward receiving a high school diploma or to work toward
19 passing the high school level Test of General Educational
20 Development (GED) or to work toward completing a vocational
21 training program approved by the court. The defendant sentenced
22 to periodic imprisonment must attend a public institution of
23 education to obtain the educational or vocational training
24 required by this subsection (i). The defendant sentenced to a
25 term of periodic imprisonment shall be required to pay for the
26 cost of the educational courses or GED test, if a fee is

1 charged for those courses or test. The court shall revoke the
2 sentence of periodic imprisonment of the defendant who wilfully
3 fails to comply with this subsection (i). The court shall
4 resentence the defendant whose sentence of periodic
5 imprisonment has been revoked as provided in Section 5-7-2.
6 This subsection (i) does not apply to a defendant who has a
7 high school diploma or has successfully passed the GED test.
8 This subsection (i) does not apply to a defendant who is
9 determined by the court to be developmentally disabled or
10 otherwise mentally incapable of completing the educational or
11 vocational program.

12 (Source: P.A. 93-616, eff. 1-1-04.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.