



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5950

by Rep. Ed Sullivan, Jr.

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-6-2

from Ch. 38, par. 1005-6-2

730 ILCS 5/5-6-3.1

from Ch. 38, par. 1005-6-3.1

Amends the Unified Code of Corrections concerning restitution payments by persons on probation, conditional discharge, or supervision. Provides that if payment of restitution as ordered has not been made, the victim shall file a petition notifying the sentencing court, any other person to whom restitution is owed, and the State's Attorney of the status of the ordered restitution payments unpaid at least 90 days before the probation, conditional discharge, or supervision expiration date. Provides that if payment as ordered has not been made, the court shall hold a review hearing prior to the expiration date, unless the hearing is voluntarily waived by the defendant with the knowledge that waiver may result in an extension of the probation, conditional discharge, or supervision period or in a revocation of probation, conditional discharge, or supervision. Provides that if the court does not extend probation, conditional discharge, or supervision, it shall issue a judgment for the unpaid restitution and direct the clerk of circuit court to file and enter the judgment in the judgment and lien docket, without fee, unless it finds that the victim has already recovered a judgment against the defendant for the amount covered by the restitution order. Provides that if the court issues a judgment for the unpaid restitution, the court shall send to the defendant at his or her last known address written notification that a civil judgment has been issued for the unpaid restitution.

LRB098 18667 RLC 53810 b

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 Sections 5-6-2 and 5-6-3.1 as follows:

6 (730 ILCS 5/5-6-2) (from Ch. 38, par. 1005-6-2)

7 Sec. 5-6-2. Incidents of Probation and of Conditional
8 Discharge.

9 (a) When an offender is sentenced to probation or
10 conditional discharge, the court shall impose a period as
11 provided in Article 4.5 of Chapter V, and shall specify the
12 conditions under Section 5-6-3.

13 (b) Multiple terms of probation imposed at the same time
14 shall run concurrently.

15 (c) The court may at any time terminate probation or
16 conditional discharge if warranted by the conduct of the
17 offender and the ends of justice, as provided in Section 5-6-4.

18 (d) Upon the expiration or termination of the period of
19 probation or of conditional discharge, the court shall enter an
20 order discharging the offender.

21 (e) The court may extend any period of probation or
22 conditional discharge beyond the limits set forth in Article
23 4.5 of Chapter V upon a violation of a condition of the

1 probation or conditional discharge, for the payment of an
2 assessment required by Section 10.3 of the Cannabis Control
3 Act, Section 411.2 of the Illinois Controlled Substances Act,
4 or Section 80 of the Methamphetamine Control and Community
5 Protection Act, or for the payment of restitution as provided
6 by an order of restitution under Section 5-5-6 of this Code.

7 (e-5) If payment of restitution as ordered has not been
8 made, the victim shall file a petition notifying the sentencing
9 court, any other person to whom restitution is owed, and the
10 State's Attorney of the status of the ordered restitution
11 payments unpaid at least 90 days before the probation or
12 conditional discharge expiration date. If payment as ordered
13 has not been made, the court shall hold a review hearing prior
14 to the expiration date, unless the hearing is voluntarily
15 waived by the defendant with the knowledge that waiver may
16 result in an extension of the probation or conditional
17 discharge period or in a revocation of probation or conditional
18 discharge. If the court does not extend probation or
19 conditional discharge, it shall issue a judgment for the unpaid
20 restitution and direct the clerk of the circuit court to file
21 and enter the judgment in the judgment and lien docket, without
22 fee, unless it finds that the victim has recovered a judgment
23 against the defendant for the amount covered by the restitution
24 order. If the court issues a judgment for the unpaid
25 restitution, the court shall send to the defendant at his or
26 her last known address written notification that a civil

1 judgment has been issued for the unpaid restitution.

2 (f) The court may impose a term of probation that is
3 concurrent or consecutive to a term of imprisonment so long as
4 the maximum term imposed does not exceed the maximum term
5 provided under Article 4.5 of Chapter V or Article 8 of this
6 Chapter. The court may provide that probation may commence
7 while an offender is on mandatory supervised release,
8 participating in a day release program, or being monitored by
9 an electronic monitoring device.

10 (Source: P.A. 94-556, eff. 9-11-05; 95-1052, eff. 7-1-09.)

11 (730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

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

13 (a) When a defendant is placed on supervision, the court
14 shall enter an order for supervision specifying the period of
15 such supervision, and shall defer further proceedings in the
16 case until the conclusion of the period.

17 (b) The period of supervision shall be reasonable under all
18 of the circumstances of the case, but may not be longer than 2
19 years, unless the defendant has failed to pay the assessment
20 required by Section 10.3 of the Cannabis Control Act, Section
21 411.2 of the Illinois Controlled Substances Act, or Section 80
22 of the Methamphetamine Control and Community Protection Act, in
23 which case the court may extend supervision beyond 2 years.
24 Additionally, the court shall order the defendant to perform no
25 less than 30 hours of community service and not more than 120

1 hours of community service, if community service is available
2 in the jurisdiction and is funded and approved by the county
3 board where the offense was committed, when the offense (1) was
4 related to or in furtherance of the criminal activities of an
5 organized gang or was motivated by the defendant's membership
6 in or allegiance to an organized gang; or (2) is a violation of
7 any Section of Article 24 of the Criminal Code of 1961 or the
8 Criminal Code of 2012 where a disposition of supervision is not
9 prohibited by Section 5-6-1 of this Code. The community service
10 shall include, but not be limited to, the cleanup and repair of
11 any damage caused by violation of Section 21-1.3 of the
12 Criminal Code of 1961 or the Criminal Code of 2012 and similar
13 damages to property located within the municipality or county
14 in which the violation occurred. Where possible and reasonable,
15 the community service should be performed in the offender's
16 neighborhood.

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

20 (c) The court may in addition to other reasonable
21 conditions relating to the nature of the offense or the
22 rehabilitation of the defendant as determined for each
23 defendant in the proper discretion of the court require that
24 the person:

25 (1) make a report to and appear in person before or
26 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;

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

6 (10) perform some reasonable public or community
7 service;

8 (11) comply with the terms and conditions of an order
9 of protection issued by the court pursuant to the Illinois
10 Domestic Violence Act of 1986 or an order of protection
11 issued by the court of another state, tribe, or United
12 States territory. If the court has ordered the defendant to
13 make a report and appear in person under paragraph (1) of
14 this subsection, a copy of the order of protection shall be
15 transmitted to the person or agency so designated by the
16 court;

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

23 (13) contribute a reasonable sum of money, not to
24 exceed the maximum amount of the fine authorized for the
25 offense for which the defendant was sentenced, (i) to a
26 "local anti-crime program", as defined in Section 7 of the

1 Anti-Crime Advisory Council Act, or (ii) for offenses under
2 the jurisdiction of the Department of Natural Resources, to
3 the fund established by the Department of Natural Resources
4 for the purchase of evidence for investigation purposes and
5 to conduct investigations as outlined in Section 805-105 of
6 the Department of Natural Resources (Conservation) Law;

7 (14) refrain from entering into a designated
8 geographic area except upon such terms as the court finds
9 appropriate. Such terms may include consideration of the
10 purpose of the entry, the time of day, other persons
11 accompanying the defendant, and advance approval by a
12 probation officer;

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

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

24 (17) refrain from operating any motor vehicle not
25 equipped with an ignition interlock device as defined in
26 Section 1-129.1 of the Illinois Vehicle Code; under this

1 condition the court may allow a defendant who is not
2 self-employed to operate a vehicle owned by the defendant's
3 employer that is not equipped with an ignition interlock
4 device in the course and scope of the defendant's
5 employment; and

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

17 (c-5) If payment of restitution as ordered has not been
18 made, the victim shall file a petition notifying the sentencing
19 court, any other person to whom restitution is owed, and the
20 State's Attorney of the status of the ordered restitution
21 payments unpaid at least 90 days before the supervision
22 expiration date. If payment as ordered has not been made, the
23 court shall hold a review hearing prior to the expiration date,
24 unless the hearing is voluntarily waived by the defendant with
25 the knowledge that waiver may result in an extension of the
26 supervision period or in a revocation of supervision. If the

1 court does not extend supervision, it shall issue a judgment
2 for the unpaid restitution and direct the clerk of the circuit
3 court to file and enter the judgment in the judgment and lien
4 docket, without fee, unless it finds that the victim has
5 recovered a judgment against the defendant for the amount
6 covered by the restitution order. If the court issues a
7 judgment for the unpaid restitution, the court shall send to
8 the defendant at his or her last known address written
9 notification that a civil judgment has been issued for the
10 unpaid restitution.

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

13 (e) At the conclusion of the period of supervision, if the
14 court determines that the defendant has successfully complied
15 with all of the conditions of supervision, the court shall
16 discharge the defendant and enter a judgment dismissing the
17 charges.

18 (f) Discharge and dismissal upon a successful conclusion of
19 a disposition of supervision shall be deemed without
20 adjudication of guilt and shall not be termed a conviction for
21 purposes of disqualification or disabilities imposed by law
22 upon conviction of a crime. Two years after the discharge and
23 dismissal under this Section, unless the disposition of
24 supervision was for a violation of Sections 3-707, 3-708,
25 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a
26 similar provision of a local ordinance, or for a violation of

1 Sections 12-3.2, 16-25, or 16A-3 of the Criminal Code of 1961
2 or the Criminal Code of 2012, in which case it shall be 5 years
3 after discharge and dismissal, a person may have his record of
4 arrest sealed or expunged as may be provided by law. However,
5 any defendant placed on supervision before January 1, 1980, may
6 move for sealing or expungement of his arrest record, as
7 provided by law, at any time after discharge and dismissal
8 under this Section. A person placed on supervision for a sexual
9 offense committed against a minor as defined in clause
10 (a) (1) (L) of Section 5.2 of the Criminal Identification Act or
11 for a violation of Section 11-501 of the Illinois Vehicle Code
12 or a similar provision of a local ordinance shall not have his
13 or her record of arrest sealed or expunged.

14 (g) A defendant placed on supervision and who during the
15 period of supervision undergoes mandatory drug or alcohol
16 testing, or both, or is assigned to be placed on an approved
17 electronic monitoring device, shall be ordered to pay the costs
18 incidental to such mandatory drug or alcohol testing, or both,
19 and costs incidental to such approved electronic monitoring in
20 accordance with the defendant's ability to pay those costs. The
21 county board with the concurrence of the Chief Judge of the
22 judicial circuit in which the county is located shall establish
23 reasonable fees for the cost of maintenance, testing, and
24 incidental expenses related to the mandatory drug or alcohol
25 testing, or both, and all costs incidental to approved
26 electronic monitoring, of all defendants placed on

1 supervision. The concurrence of the Chief Judge shall be in the
2 form of an administrative order. The fees shall be collected by
3 the clerk of the circuit court. The clerk of the circuit court
4 shall pay all moneys collected from these fees to the county
5 treasurer who shall use the moneys collected to defray the
6 costs of drug testing, alcohol testing, and electronic
7 monitoring. The county treasurer shall deposit the fees
8 collected in the county working cash fund under Section 6-27001
9 or Section 6-29002 of the Counties Code, as the case may be.

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

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

1 this fee to the county treasurer for deposit in the probation
2 and court services fund pursuant to Section 15.1 of the
3 Probation and Probation Officers Act.

4 A circuit court may not impose a probation fee in excess of
5 \$25 per month unless the circuit court has adopted, by
6 administrative order issued by the chief judge, a standard
7 probation fee guide determining an offender's ability to pay.
8 Of the amount collected as a probation fee, not to exceed \$5 of
9 that fee collected per month may be used to provide services to
10 crime victims and their families.

11 The Court may only waive probation fees based on an
12 offender's ability to pay. The probation department may
13 re-evaluate an offender's ability to pay every 6 months, and,
14 with the approval of the Director of Court Services or the
15 Chief Probation Officer, adjust the monthly fee amount. An
16 offender may elect to pay probation fees due in a lump sum. Any
17 offender that has been assigned to the supervision of a
18 probation department, or has been transferred either under
19 subsection (h) of this Section or under any interstate compact,
20 shall be required to pay probation fees to the department
21 supervising the offender, based on the offender's ability to
22 pay.

23 (j) All fines and costs imposed under this Section for any
24 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
25 Code, or a similar provision of a local ordinance, and any
26 violation of the Child Passenger Protection Act, or a similar

1 provision of a local ordinance, shall be collected and
2 disbursed by the circuit clerk as provided under Section 27.5
3 of the Clerks of Courts Act.

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

1 mentally incapable of completing the educational or vocational
2 program.

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

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

1 determined by the Secretary to be in violation of this
2 subsection.

3 (n) Any offender placed on supervision for any offense that
4 the court or probation department has determined to be sexually
5 motivated as defined in the Sex Offender Management Board Act
6 shall be required to refrain from any contact, directly or
7 indirectly, with any persons specified by the court and shall
8 be available for all evaluations and treatment programs
9 required by the court or the probation department.

10 (o) An offender placed on supervision for a sex offense as
11 defined in the Sex Offender Management Board Act shall refrain
12 from residing at the same address or in the same condominium
13 unit or apartment unit or in the same condominium complex or
14 apartment complex with another person he or she knows or
15 reasonably should know is a convicted sex offender or has been
16 placed on supervision for a sex offense. The provisions of this
17 subsection (o) do not apply to a person convicted of a sex
18 offense who is placed in a Department of Corrections licensed
19 transitional housing facility for sex offenders.

20 (p) An offender placed on supervision for an offense
21 committed on or after June 1, 2008 (the effective date of
22 Public Act 95-464) that would qualify the accused as a child
23 sex offender as defined in Section 11-9.3 or 11-9.4 of the
24 Criminal Code of 1961 or the Criminal Code of 2012 shall
25 refrain from communicating with or contacting, by means of the
26 Internet, a person who is not related to the accused and whom

1 the accused reasonably believes to be under 18 years of age.
2 For purposes of this subsection (p), "Internet" has the meaning
3 ascribed to it in Section 16-0.1 of the Criminal Code of 2012;
4 and a person is not related to the accused if the person is
5 not: (i) the spouse, brother, or sister of the accused; (ii) a
6 descendant of the accused; (iii) a first or second cousin of
7 the accused; or (iv) a step-child or adopted child of the
8 accused.

9 (q) An offender placed on supervision for an offense
10 committed on or after June 1, 2008 (the effective date of
11 Public Act 95-464) that would qualify the accused as a child
12 sex offender as defined in Section 11-9.3 or 11-9.4 of the
13 Criminal Code of 1961 or the Criminal Code of 2012 shall, if so
14 ordered by the court, refrain from communicating with or
15 contacting, by means of the Internet, a person who is related
16 to the accused and whom the accused reasonably believes to be
17 under 18 years of age. For purposes of this subsection (q),
18 "Internet" has the meaning ascribed to it in Section 16-0.1 of
19 the Criminal Code of 2012; and a person is related to the
20 accused if the person is: (i) the spouse, brother, or sister of
21 the accused; (ii) a descendant of the accused; (iii) a first or
22 second cousin of the accused; or (iv) a step-child or adopted
23 child of the accused.

24 (r) An offender placed on supervision for an offense under
25 Section 11-6, 11-9.1, 11-14.4 that involves soliciting for a
26 juvenile prostitute, 11-15.1, 11-20.1, 11-20.1B, 11-20.3, or

1 11-21 of the Criminal Code of 1961 or the Criminal Code of
2 2012, or any attempt to commit any of these offenses, committed
3 on or after the effective date of this amendatory Act of the
4 95th General Assembly shall:

5 (i) not access or use a computer or any other device
6 with Internet capability without the prior written
7 approval of the court, except in connection with the
8 offender's employment or search for employment with the
9 prior approval of the court;

10 (ii) submit to periodic unannounced examinations of
11 the offender's computer or any other device with Internet
12 capability by the offender's probation officer, a law
13 enforcement officer, or assigned computer or information
14 technology specialist, including the retrieval and copying
15 of all data from the computer or device and any internal or
16 external peripherals and removal of such information,
17 equipment, or device to conduct a more thorough inspection;

18 (iii) submit to the installation on the offender's
19 computer or device with Internet capability, at the
20 offender's expense, of one or more hardware or software
21 systems to monitor the Internet use; and

22 (iv) submit to any other appropriate restrictions
23 concerning the offender's use of or access to a computer or
24 any other device with Internet capability imposed by the
25 court.

26 (s) An offender placed on supervision for an offense that

1 is a sex offense as defined in Section 2 of the Sex Offender
2 Registration Act that is committed on or after January 1, 2010
3 (the effective date of Public Act 96-362) that requires the
4 person to register as a sex offender under that Act, may not
5 knowingly use any computer scrub software on any computer that
6 the sex offender uses.

7 (t) An offender placed on supervision for a sex offense as
8 defined in the Sex Offender Registration Act committed on or
9 after January 1, 2010 (the effective date of Public Act 96-262)
10 shall refrain from accessing or using a social networking
11 website as defined in Section 17-0.5 of the Criminal Code of
12 2012.

13 (u) Jurisdiction over an offender may be transferred from
14 the sentencing court to the court of another circuit with the
15 concurrence of both courts. Further transfers or retransfers of
16 jurisdiction are also authorized in the same manner. The court
17 to which jurisdiction has been transferred shall have the same
18 powers as the sentencing court. The probation department within
19 the circuit to which jurisdiction has been transferred may
20 impose probation fees upon receiving the transferred offender,
21 as provided in subsection (i). The probation department from
22 the original sentencing court shall retain all probation fees
23 collected prior to the transfer.

24 (Source: P.A. 96-262, eff. 1-1-10; 96-362, eff. 1-1-10; 96-409,
25 eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1414, eff. 1-1-11;
26 96-1551, Article 2, Section 1065, eff. 7-1-11; 96-1551, Article

1 10, Section 10-150, eff. 7-1-11; 97-454, eff. 1-1-12; 97-597,
2 eff. 1-1-12; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)