



Rep. Jil Tracy

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LRB098 10448 MLW 45007 a

1 AMENDMENT TO SENATE BILL 1817

2 AMENDMENT NO. _____. Amend Senate Bill 1817 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 5-6-3.1 as follows:

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

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

8 (a) When a defendant is placed on supervision, the court
9 shall enter an order for supervision specifying the period of
10 such supervision, and shall defer further proceedings in the
11 case until the conclusion of the period.

12 (b) The period of supervision shall be reasonable under all
13 of the circumstances of the case, but may not be longer than 2
14 years, unless the defendant has failed to pay the assessment
15 required by Section 10.3 of the Cannabis Control Act, Section
16 411.2 of the Illinois Controlled Substances Act, or Section 80

1 of the Methamphetamine Control and Community Protection Act, in
2 which case the court may extend supervision beyond 2 years.
3 Additionally, the court shall order the defendant to perform no
4 less than 30 hours of community service and not more than 120
5 hours of community service, if community service is available
6 in the jurisdiction and is funded and approved by the county
7 board where the offense was committed, when the offense (1) was
8 related to or in furtherance of the criminal activities of an
9 organized gang or was motivated by the defendant's membership
10 in or allegiance to an organized gang; or (2) is a violation of
11 any Section of Article 24 of the Criminal Code of 1961 or the
12 Criminal Code of 2012 where a disposition of supervision is not
13 prohibited by Section 5-6-1 of this Code. The community service
14 shall include, but not be limited to, the cleanup and repair of
15 any damage caused by violation of Section 21-1.3 of the
16 Criminal Code of 1961 or the Criminal Code of 2012 and similar
17 damages to property located within the municipality or county
18 in which the violation occurred. Where possible and reasonable,
19 the community service should be performed in the offender's
20 neighborhood.

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

24 (c) The court may in addition to other reasonable
25 conditions relating to the nature of the offense or the
26 rehabilitation of the defendant as determined for each

1 defendant in the proper discretion of the court require that
2 the person:

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

7 (2) pay a fine and costs;

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

10 (4) undergo medical, psychological or psychiatric
11 treatment; or treatment for drug addiction or alcoholism;

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

14 (6) support his dependents;

15 (7) refrain from possessing a firearm or other
16 dangerous weapon;

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

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

19 (ii) attend school;

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

21 (iv) contribute to his own support at home or in a
22 foster home; or

23 (v) with the consent of the superintendent of the
24 facility, attend an educational program at a facility
25 other than the school in which the offense was
26 committed if he or she is placed on supervision for a

1 crime of violence as defined in Section 2 of the Crime
2 Victims Compensation Act committed in a school, on the
3 real property comprising a school, or within 1,000 feet
4 of the real property comprising a school;

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

10 (10) perform some reasonable public or community
11 service;

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

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

1 (13) contribute a reasonable sum of money, not to
2 exceed the maximum amount of the fine authorized for the
3 offense for which the defendant was sentenced, (i) to a
4 "local anti-crime program", as defined in Section 7 of the
5 Anti-Crime Advisory Council Act, or (ii) for offenses under
6 the jurisdiction of the Department of Natural Resources, to
7 the fund established by the Department of Natural Resources
8 for the purchase of evidence for investigation purposes and
9 to conduct investigations as outlined in Section 805-105 of
10 the Department of Natural Resources (Conservation) Law;

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

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

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

1 presence of any illicit drug;

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

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

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

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

1 charges.

2 (f) Discharge and dismissal upon a successful conclusion of
3 a disposition of supervision shall be deemed without
4 adjudication of guilt and shall not be termed a conviction for
5 purposes of disqualification or disabilities imposed by law
6 upon conviction of a crime. Two years after the discharge and
7 dismissal under this Section, unless the disposition of
8 supervision was for a violation of Sections 3-707, 3-708,
9 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a
10 similar provision of a local ordinance, or for a violation of
11 Sections 12-3.2, 16-25, or 16A-3 of the Criminal Code of 1961
12 or the Criminal Code of 2012, in which case it shall be 5 years
13 after discharge and dismissal, a person may have his record of
14 arrest sealed or expunged as may be provided by law. However,
15 any defendant placed on supervision before January 1, 1980, may
16 move for sealing or expungement of his arrest record, as
17 provided by law, at any time after discharge and dismissal
18 under this Section. A person placed on supervision for a sexual
19 offense committed against a minor as defined in clause
20 (a)(1)(L) of Section 5.2 of the Criminal Identification Act or
21 for a violation of Section 11-501 of the Illinois Vehicle Code
22 or a similar provision of a local ordinance shall not have his
23 or her record of arrest sealed or expunged.

24 (g) A defendant placed on supervision and who during the
25 period of supervision undergoes mandatory drug or alcohol
26 testing, or both, or is assigned to be placed on an approved

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

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

22 (i) The court shall impose upon a defendant placed on
23 supervision after January 1, 1992 or to community service under
24 the supervision of a probation or court services department
25 after January 1, 2004, as a condition of supervision or
26 supervised community service, a fee of \$50 for each month of

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

14 A circuit court may not impose a probation fee in excess of
15 \$25 per month unless the circuit court has adopted, by
16 administrative order issued by the chief judge, a standard
17 probation fee guide determining an offender's ability to pay.
18 Of the amount collected as a probation fee, not to exceed \$5 of
19 that fee collected per month may be used to provide services to
20 crime victims and their families.

21 The Court may only waive probation fees based on an
22 offender's ability to pay. The probation department may
23 re-evaluate an offender's ability to pay every 6 months, and,
24 with the approval of the Director of Court Services or the
25 Chief Probation Officer, adjust the monthly fee amount. An
26 offender may elect to pay probation fees due in a lump sum. Any

1 offender that has been assigned to the supervision of a
2 probation department, or has been transferred either under
3 subsection (h) of this Section or under any interstate compact,
4 shall be required to pay probation fees to the department
5 supervising the offender, based on the offender's ability to
6 pay.

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

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

1 defendant placed on supervision shall be required to pay for
2 the cost of the educational courses or GED test, if a fee is
3 charged for those courses or test. The court shall revoke the
4 supervision of a person who wilfully fails to comply with this
5 subsection (k). The court shall resentence the defendant upon
6 revocation of supervision as provided in Section 5-6-4. This
7 subsection (k) does not apply to a defendant who has a high
8 school diploma or has successfully passed the GED test. This
9 subsection (k) does not apply to a defendant who is determined
10 by the court to be developmentally disabled or otherwise
11 mentally incapable of completing the educational or vocational
12 program.

13 (l) The court shall require a defendant placed on
14 supervision for possession of a substance prohibited by the
15 Cannabis Control Act, the Illinois Controlled Substances Act,
16 or the Methamphetamine Control and Community Protection Act
17 after a previous conviction or disposition of supervision for
18 possession of a substance prohibited by the Cannabis Control
19 Act, the Illinois Controlled Substances Act, or the
20 Methamphetamine Control and Community Protection Act or a
21 sentence of probation under Section 10 of the Cannabis Control
22 Act or Section 410 of the Illinois Controlled Substances Act
23 and after a finding by the court that the person is addicted,
24 to undergo treatment at a substance abuse program approved by
25 the court.

26 (m) (Blank). ~~The Secretary of State shall require anyone~~

1 ~~placed on court supervision for a violation of Section 3-707 of~~
2 ~~the Illinois Vehicle Code or a similar provision of a local~~
3 ~~ordinance to give proof of his or her financial responsibility~~
4 ~~as defined in Section 7-315 of the Illinois Vehicle Code. The~~
5 ~~proof shall be maintained by the individual in a manner~~
6 ~~satisfactory to the Secretary of State for a minimum period of~~
7 ~~3 years after the date the proof is first filed. The proof~~
8 ~~shall be limited to a single action per arrest and may not be~~
9 ~~affected by any post-sentence disposition. The Secretary of~~
10 ~~State shall suspend the driver's license of any person~~
11 ~~determined by the Secretary to be in violation of this~~
12 ~~subsection.~~

13 (n) Any offender placed on supervision for any offense that
14 the court or probation department has determined to be sexually
15 motivated as defined in the Sex Offender Management Board Act
16 shall be required to refrain from any contact, directly or
17 indirectly, with any persons specified by the court and shall
18 be available for all evaluations and treatment programs
19 required by the court or the probation department.

20 (o) An offender placed on supervision for a sex offense as
21 defined in the Sex Offender Management Board Act shall refrain
22 from residing at the same address or in the same condominium
23 unit or apartment unit or in the same condominium complex or
24 apartment complex with another person he or she knows or
25 reasonably should know is a convicted sex offender or has been
26 placed on supervision for a sex offense. The provisions of this

1 subsection (o) do not apply to a person convicted of a sex
2 offense who is placed in a Department of Corrections licensed
3 transitional housing facility for sex offenders.

4 (p) An offender placed on supervision for an offense
5 committed on or after June 1, 2008 (the effective date of
6 Public Act 95-464) that would qualify the accused as a child
7 sex offender as defined in Section 11-9.3 or 11-9.4 of the
8 Criminal Code of 1961 or the Criminal Code of 2012 shall
9 refrain from communicating with or contacting, by means of the
10 Internet, a person who is not related to the accused and whom
11 the accused reasonably believes to be under 18 years of age.
12 For purposes of this subsection (p), "Internet" has the meaning
13 ascribed to it in Section 16-0.1 of the Criminal Code of 2012;
14 and a person is not related to the accused if the person is
15 not: (i) the spouse, brother, or sister of the accused; (ii) a
16 descendant of the accused; (iii) a first or second cousin of
17 the accused; or (iv) a step-child or adopted child of the
18 accused.

19 (q) An offender placed on supervision for an offense
20 committed on or after June 1, 2008 (the effective date of
21 Public Act 95-464) that would qualify the accused as a child
22 sex offender as defined in Section 11-9.3 or 11-9.4 of the
23 Criminal Code of 1961 or the Criminal Code of 2012 shall, if so
24 ordered by the court, refrain from communicating with or
25 contacting, by means of the Internet, a person who is related
26 to the accused and whom the accused reasonably believes to be

1 under 18 years of age. For purposes of this subsection (q),
2 "Internet" has the meaning ascribed to it in Section 16-0.1 of
3 the Criminal Code of 2012; and a person is related to the
4 accused if the person is: (i) the spouse, brother, or sister of
5 the accused; (ii) a descendant of the accused; (iii) a first or
6 second cousin of the accused; or (iv) a step-child or adopted
7 child of the accused.

8 (r) An offender placed on supervision for an offense under
9 Section 11-6, 11-9.1, 11-14.4 that involves soliciting for a
10 juvenile prostitute, 11-15.1, 11-20.1, 11-20.1B, 11-20.3, or
11 11-21 of the Criminal Code of 1961 or the Criminal Code of
12 2012, or any attempt to commit any of these offenses, committed
13 on or after the effective date of this amendatory Act of the
14 95th General Assembly shall:

15 (i) not access or use a computer or any other device
16 with Internet capability without the prior written
17 approval of the court, except in connection with the
18 offender's employment or search for employment with the
19 prior approval of the court;

20 (ii) submit to periodic unannounced examinations of
21 the offender's computer or any other device with Internet
22 capability by the offender's probation officer, a law
23 enforcement officer, or assigned computer or information
24 technology specialist, including the retrieval and copying
25 of all data from the computer or device and any internal or
26 external peripherals and removal of such information,

1 equipment, or device to conduct a more thorough inspection;

2 (iii) submit to the installation on the offender's
3 computer or device with Internet capability, at the
4 offender's expense, of one or more hardware or software
5 systems to monitor the Internet use; and

6 (iv) submit to any other appropriate restrictions
7 concerning the offender's use of or access to a computer or
8 any other device with Internet capability imposed by the
9 court.

10 (s) An offender placed on supervision for an offense that
11 is a sex offense as defined in Section 2 of the Sex Offender
12 Registration Act that is committed on or after January 1, 2010
13 (the effective date of Public Act 96-362) that requires the
14 person to register as a sex offender under that Act, may not
15 knowingly use any computer scrub software on any computer that
16 the sex offender uses.

17 (t) An offender placed on supervision for a sex offense as
18 defined in the Sex Offender Registration Act committed on or
19 after January 1, 2010 (the effective date of Public Act 96-262)
20 shall refrain from accessing or using a social networking
21 website as defined in Section 17-0.5 of the Criminal Code of
22 2012.

23 (u) 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

1 to which jurisdiction has been transferred shall have the same
2 powers as the sentencing court. The probation department within
3 the circuit to which jurisdiction has been transferred may
4 impose probation fees upon receiving the transferred offender,
5 as provided in subsection (i). The probation department from
6 the original sentencing court shall retain all probation fees
7 collected prior to the transfer.

8 (Source: P.A. 96-262, eff. 1-1-10; 96-362, eff. 1-1-10; 96-409,
9 eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1414, eff. 1-1-11;
10 96-1551, Article 2, Section 1065, eff. 7-1-11; 96-1551, Article
11 10, Section 10-150, eff. 7-1-11; 97-454, eff. 1-1-12; 97-597,
12 eff. 1-1-12; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)".