



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB1453

Introduced 2/6/2015, by Rep. Lawrence M. Walsh, Jr.

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-6-1

from Ch. 38, par. 1005-6-1

Amends the Unified Code of Corrections. Provides that an order of supervision is not available to a defendant charged with speeding 26 miles per hour or more in excess of the applicable maximum speed limit established under the Illinois Vehicle Code or a similar provision of a local ordinance if the defendant has been: (1) previously convicted for that violation or a similar provision of a local ordinance or any similar law of another state; or (2) previously assigned supervision for that violation of the Illinois Vehicle Code or a similar provision of a local ordinance or any similar law of another state (rather than not available for a first-time offender).

LRB099 03951 RLC 23968 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 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.

17 (a) Except where specifically prohibited by other
18 provisions of this Code, the court shall impose a sentence of
19 probation or conditional discharge upon an offender unless,
20 having regard to the nature and circumstance of the offense,
21 and to the history, character and condition of the offender,
22 the court is of the opinion that:

23 (1) his imprisonment or periodic imprisonment is

1 necessary for the protection of the public; or

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

5 (3) a combination of imprisonment with concurrent or
6 consecutive probation when an offender has been admitted
7 into a drug court program under Section 20 of the Drug
8 Court Treatment Act is necessary for the protection of the
9 public and for the rehabilitation of the offender.

10 The court shall impose as a condition of a sentence of
11 probation, conditional discharge, or supervision, that the
12 probation agency may invoke any sanction from the list of
13 intermediate sanctions adopted by the chief judge of the
14 circuit court for violations of the terms and conditions of the
15 sentence of probation, conditional discharge, or supervision,
16 subject to the provisions of Section 5-6-4 of this Act.

17 (b) The court may impose a sentence of conditional
18 discharge for an offense if the court is of the opinion that
19 neither a sentence of imprisonment nor of periodic imprisonment
20 nor of probation supervision is appropriate.

21 (b-1) Subsections (a) and (b) of this Section do not apply
22 to a defendant charged with a misdemeanor or felony under the
23 Illinois Vehicle Code or reckless homicide under Section 9-3 of
24 the Criminal Code of 1961 or the Criminal Code of 2012 if the
25 defendant within the past 12 months has been convicted of or
26 pleaded guilty to a misdemeanor or felony under the Illinois

1 Vehicle Code or reckless homicide under Section 9-3 of the
2 Criminal Code of 1961 or the Criminal Code of 2012.

3 (c) The court may, upon a plea of guilty or a stipulation
4 by the defendant of the facts supporting the charge or a
5 finding of guilt, defer further proceedings and the imposition
6 of a sentence, and enter an order for supervision of the
7 defendant, if the defendant is not charged with: (i) a Class A
8 misdemeanor, as defined by the following provisions of the
9 Criminal Code of 1961 or the Criminal Code of 2012: Sections
10 11-9.1; 12-3.2; 11-1.50 or 12-15; 26-5 or 48-1; 31-1; 31-6;
11 31-7; paragraphs (2) and (3) of subsection (a) of Section 21-1;
12 paragraph (1) through (5), (8), (10), and (11) of subsection
13 (a) of Section 24-1; (ii) a Class A misdemeanor violation of
14 Section 3.01, 3.03-1, or 4.01 of the Humane Care for Animals
15 Act; or (iii) a felony. If the defendant is not barred from
16 receiving an order for supervision as provided in this
17 subsection, the court may enter an order for supervision after
18 considering the circumstances of the offense, and the history,
19 character and condition of the offender, if the court is of the
20 opinion that:

21 (1) the offender is not likely to commit further
22 crimes;

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

25 (3) in the best interests of justice an order of
26 supervision is more appropriate than a sentence otherwise

1 permitted under this Code.

2 (c-5) Subsections (a), (b), and (c) of this Section do not
3 apply to a defendant charged with a second or subsequent
4 violation of Section 6-303 of the Illinois Vehicle Code
5 committed while his or her driver's license, permit or
6 privileges were revoked because of a violation of Section 9-3
7 of the Criminal Code of 1961 or the Criminal Code of 2012,
8 relating to the offense of reckless homicide, or a similar
9 provision of a law of another state.

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

14 (1) convicted for a violation of Section 11-501 of the
15 Illinois Vehicle Code or a similar provision of a local
16 ordinance or any similar law or ordinance of another state;
17 or

18 (2) assigned supervision for a violation of Section
19 11-501 of the Illinois Vehicle Code or a similar provision
20 of a local ordinance or any similar law or ordinance of
21 another state; or

22 (3) pleaded guilty to or stipulated to the facts
23 supporting a charge or a finding of guilty to a violation
24 of Section 11-503 of the Illinois Vehicle Code or a similar
25 provision of a local ordinance or any similar law or
26 ordinance of another state, and the plea or stipulation was

1 the result of a plea agreement.

2 The court shall consider the statement of the prosecuting
3 authority with regard to the standards set forth in this
4 Section.

5 (e) The provisions of paragraph (c) shall not apply to a
6 defendant charged with violating Section 16-25 or 16A-3 of the
7 Criminal Code of 1961 or the Criminal Code of 2012 if said
8 defendant has within the last 5 years been:

9 (1) convicted for a violation of Section 16-25 or 16A-3
10 of the Criminal Code of 1961 or the Criminal Code of 2012;
11 or

12 (2) assigned supervision for a violation of Section
13 16-25 or 16A-3 of the Criminal Code of 1961 or the Criminal
14 Code of 2012.

15 The court shall consider the statement of the prosecuting
16 authority with regard to the standards set forth in this
17 Section.

18 (f) The provisions of paragraph (c) shall not apply to a
19 defendant charged with violating Sections 15-111, 15-112,
20 15-301, paragraph (b) of Section 6-104, Section 11-605, Section
21 11-1002.5, or Section 11-1414 of the Illinois Vehicle Code or a
22 similar provision of a local ordinance.

23 (g) Except as otherwise provided in paragraph (i) of this
24 Section, the provisions of paragraph (c) shall not apply to a
25 defendant charged with violating Section 3-707, 3-708, 3-710,
26 or 5-401.3 of the Illinois Vehicle Code or a similar provision

1 of a local ordinance if the defendant has within the last 5
2 years been:

3 (1) convicted for a violation of Section 3-707, 3-708,
4 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar
5 provision of a local ordinance; or

6 (2) assigned supervision for a violation of Section
7 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle
8 Code or a similar provision of a local ordinance.

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

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

16 (1) unless the defendant, upon payment of the fines,
17 penalties, and costs provided by law, agrees to attend and
18 successfully complete a traffic safety program approved by
19 the court under standards set by the Conference of Chief
20 Circuit Judges. The accused shall be responsible for
21 payment of any traffic safety program fees. If the accused
22 fails to file a certificate of successful completion on or
23 before the termination date of the supervision order, the
24 supervision shall be summarily revoked and conviction
25 entered. The provisions of Supreme Court Rule 402 relating
26 to pleas of guilty do not apply in cases when a defendant

1 enters a guilty plea under this provision; or

2 (2) if the defendant has previously been sentenced
3 under the provisions of paragraph (c) on or after January
4 1, 1998 for any serious traffic offense as defined in
5 Section 1-187.001 of the Illinois Vehicle Code.

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

22 (i) The provisions of paragraph (c) shall not apply to a
23 defendant charged with violating Section 3-707 of the Illinois
24 Vehicle Code or a similar provision of a local ordinance if the
25 defendant has been assigned supervision for a violation of
26 Section 3-707 of the Illinois Vehicle Code or a similar

1 provision of a local ordinance.

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

10 (1) convicted for a violation of Section 6-303 of the
11 Illinois Vehicle Code or a similar provision of a local
12 ordinance; or

13 (2) assigned supervision for a violation of Section
14 6-303 of the Illinois Vehicle Code or a similar provision
15 of a local ordinance.

16 (k) The provisions of paragraph (c) shall not apply to a
17 defendant charged with violating any provision of the Illinois
18 Vehicle Code or a similar provision of a local ordinance that
19 governs the movement of vehicles if, within the 12 months
20 preceding the date of the defendant's arrest, the defendant has
21 been assigned court supervision on 2 occasions for a violation
22 that governs the movement of vehicles under the Illinois
23 Vehicle Code or a similar provision of a local ordinance. The
24 provisions of this paragraph (k) do not apply to a defendant
25 charged with violating Section 11-501 of the Illinois Vehicle
26 Code or a similar provision of a local ordinance.

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

16 (m) Any person convicted of, pleading guilty to, or placed
17 on supervision for a serious traffic violation, as defined in
18 Section 1-187.001 of the Illinois Vehicle Code, a violation of
19 Section 11-501 of the Illinois Vehicle Code, or a violation of
20 a similar provision of a local ordinance shall pay an
21 additional fee of \$35, to be disbursed as provided in Section
22 16-104d of that Code.

23 This subsection (m) becomes inoperative on January 1, 2020.

24 (n) The provisions of paragraph (c) shall not apply to any
25 person under the age of 18 who commits an offense against
26 traffic regulations governing the movement of vehicles or any

1 violation of Section 6-107 or Section 12-603.1 of the Illinois
2 Vehicle Code, except upon personal appearance of the defendant
3 in court and upon the written consent of the defendant's parent
4 or legal guardian, executed before the presiding judge. The
5 presiding judge shall have the authority to waive this
6 requirement upon the showing of good cause by the defendant.

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

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

17 (2) at the time of the violation of Section 11-501.1 of
18 the Illinois Vehicle Code, the defendant was a first
19 offender pursuant to Section 11-500 of the Illinois Vehicle
20 Code, had subsequently obtained a monitoring device
21 driving permit, but was driving a vehicle not equipped with
22 a breath alcohol ignition interlock device as defined in
23 Section 1-129.1 of the Illinois Vehicle Code.

24 (p) The provisions of paragraph (c) shall not apply to a
25 defendant charged with violating Section 11-601.5 of the
26 Illinois Vehicle Code or a similar provision of a local

1 ordinance if the defendant has been:

2 (1) previously convicted for a violation of Section
3 11-601.5 of the Illinois Vehicle Code or a similar
4 provision of a local ordinance or any similar law of
5 another state; or

6 (2) previously assigned supervision for a violation of
7 Section 11-601.5 of the Illinois Vehicle Code or a similar
8 provision of a local ordinance or any similar law of
9 another state.

10 (q) The provisions of paragraph (c) shall not apply to a
11 defendant charged with violating subsection (b) of Section
12 11-601 of the Illinois Vehicle Code when the defendant was
13 operating a vehicle, in an urban district, at a speed in excess
14 of 25 miles per hour over the posted speed limit.

15 (r) The provisions of paragraph (c) shall not apply to a
16 defendant charged with violating any provision of the Illinois
17 Vehicle Code or a similar provision of a local ordinance if the
18 violation was the proximate cause of the death of another and
19 the defendant's driving abstract contains a prior conviction or
20 disposition of court supervision for any violation of the
21 Illinois Vehicle Code, other than an equipment violation, or a
22 suspension, revocation, or cancellation of the driver's
23 license.

24 (s) The provisions of paragraph (c) shall not apply to a
25 defendant charged with violating subsection (i) of Section 70
26 of the Firearm Concealed Carry Act.

1 (Source: P.A. 97-333, eff. 8-12-11; 97-597, eff. 1-1-12;
2 97-831, eff. 7-1-13; 97-1108, eff. 1-1-13; 97-1150, eff.
3 1-25-13; 98-169, eff. 1-1-14; 98-658, eff. 6-23-14; 98-899,
4 eff. 8-15-14; revised 10-1-14.)