

HB3961



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3961

by Rep. Joe Sosnowski

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-6-1

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

Amends the Unified Code of Corrections. Prohibits the court from entering an order for supervision of the defendant on a driving under the influence offense if during the commission of the offense a minor under 18 years of age was a passenger in the motor vehicle.

LRB099 09279 MRW 29483 b

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 5-6-1 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 (d-5) The provisions of paragraph (c) shall not apply to a
6 defendant charged with violating Section 11-501 of the Illinois
7 Vehicle Code or a similar provision of a local ordinance if
8 during the commission of the offense a minor under 18 years of
9 age was a passenger in the motor vehicle.

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

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

17 (2) assigned supervision for a violation of Section
18 16-25 or 16A-3 of the Criminal Code of 1961 or the Criminal
19 Code of 2012.

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

23 (f) The provisions of paragraph (c) shall not apply to a
24 defendant charged with violating Sections 15-111, 15-112,
25 15-301, paragraph (b) of Section 6-104, Section 11-605, Section
26 11-1002.5, or Section 11-1414 of the Illinois Vehicle Code or a

1 similar provision of a local ordinance.

2 (g) Except as otherwise provided in paragraph (i) of this
3 Section, the provisions of paragraph (c) shall not apply to a
4 defendant charged with violating Section 3-707, 3-708, 3-710,
5 or 5-401.3 of the Illinois Vehicle Code or a similar provision
6 of a local ordinance if the defendant has within the last 5
7 years been:

8 (1) convicted for a violation of Section 3-707, 3-708,
9 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar
10 provision of a local ordinance; or

11 (2) assigned supervision for a violation of Section
12 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle
13 Code or a similar provision of a local ordinance.

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

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

21 (1) unless the defendant, upon payment of the fines,
22 penalties, and costs provided by law, agrees to attend and
23 successfully complete a traffic safety program approved by
24 the court under standards set by the Conference of Chief
25 Circuit Judges. The accused shall be responsible for
26 payment of any traffic safety program fees. If the accused

1 fails to file a certificate of successful completion on or
2 before the termination date of the supervision order, the
3 supervision shall be summarily revoked and conviction
4 entered. The provisions of Supreme Court Rule 402 relating
5 to pleas of guilty do not apply in cases when a defendant
6 enters a guilty plea under this provision; or

7 (2) if the defendant has previously been sentenced
8 under the provisions of paragraph (c) on or after January
9 1, 1998 for any serious traffic offense as defined in
10 Section 1-187.001 of the Illinois Vehicle Code.

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

1 (i) The provisions of paragraph (c) shall not apply to a
2 defendant charged with violating Section 3-707 of the Illinois
3 Vehicle Code or a similar provision of a local ordinance if the
4 defendant has been assigned supervision for a violation of
5 Section 3-707 of the Illinois Vehicle Code or a similar
6 provision of a local ordinance.

7 (j) 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 revocation or suspension was for a violation of Section
11 11-501 or a similar provision of a local ordinance or a
12 violation of Section 11-501.1 or paragraph (b) of Section
13 11-401 of the Illinois Vehicle Code if the defendant has within
14 the last 10 years been:

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

18 (2) assigned supervision for a violation of Section
19 6-303 of the Illinois Vehicle Code or a similar provision
20 of a local ordinance.

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

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

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

21 (m) Any person convicted of, pleading guilty to, or placed
22 on supervision for a serious traffic violation, as defined in
23 Section 1-187.001 of the Illinois Vehicle Code, a violation of
24 Section 11-501 of the Illinois Vehicle Code, or a violation of
25 a similar provision of a local ordinance shall pay an
26 additional fee of \$35, to be disbursed as provided in Section

1 16-104d of that Code.

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

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

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

17 (1) 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 and the defendant failed to obtain a monitoring device
21 driving permit; or

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

1 a breath alcohol ignition interlock device as defined in
2 Section 1-129.1 of the Illinois Vehicle Code.

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

7 (q) The provisions of paragraph (c) shall not apply to a
8 defendant charged with violating subsection (b) of Section
9 11-601 of the Illinois Vehicle Code when the defendant was
10 operating a vehicle, in an urban district, at a speed in excess
11 of 25 miles per hour over the posted speed limit.

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

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

24 (Source: P.A. 97-333, eff. 8-12-11; 97-597, eff. 1-1-12;
25 97-831, eff. 7-1-13; 97-1108, eff. 1-1-13; 97-1150, eff.
26 1-25-13; 98-169, eff. 1-1-14; 98-658, eff. 6-23-14; 98-899,

1 eff. 8-15-14; revised 10-1-14.)