



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3417

Introduced 2/24/2011, by Rep. Dennis M. Reboletti

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-6-3

from Ch. 38, par. 1005-6-3

730 ILCS 5/5-6-3.1

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

Amends the Unified Code of Corrections. Provides that moneys collected from the fee imposed on defendants convicted of non-alcohol and non-drug offenses and placed on probation or conditional discharge shall be deposited in the probation and court services fund (rather than the working cash fund). Provides for transferring jurisdiction over an offender from the sentencing court to the court of another circuit.

LRB097 08616 RLC 48744 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 5-6-3 and 5-6-3.1 as follows:

6 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

7 Sec. 5-6-3. Conditions of Probation and of Conditional
8 Discharge.

9 (a) The conditions of probation and of conditional
10 discharge shall be that the person:

11 (1) not violate any criminal statute of any
12 jurisdiction;

13 (2) report to or appear in person before such person or
14 agency as directed by the court;

15 (3) refrain from possessing a firearm or other
16 dangerous weapon where the offense is a felony or, if a
17 misdemeanor, the offense involved the intentional or
18 knowing infliction of bodily harm or threat of bodily harm;

19 (4) not leave the State without the consent of the
20 court or, in circumstances in which the reason for the
21 absence is of such an emergency nature that prior consent
22 by the court is not possible, without the prior
23 notification and approval of the person's probation

1 officer. Transfer of a person's probation or conditional
2 discharge supervision to another state is subject to
3 acceptance by the other state pursuant to the Interstate
4 Compact for Adult Offender Supervision;

5 (5) permit the probation officer to visit him at his
6 home or elsewhere to the extent necessary to discharge his
7 duties;

8 (6) perform no less than 30 hours of community service
9 and not more than 120 hours of community service, if
10 community service is available in the jurisdiction and is
11 funded and approved by the county board where the offense
12 was committed, where the offense was related to or in
13 furtherance of the criminal activities of an organized gang
14 and was motivated by the offender's membership in or
15 allegiance to an organized gang. The community service
16 shall include, but not be limited to, the cleanup and
17 repair of any damage caused by a violation of Section
18 21-1.3 of the Criminal Code of 1961 and similar damage to
19 property located within the municipality or county in which
20 the violation occurred. When possible and reasonable, the
21 community service should be performed in the offender's
22 neighborhood. For purposes of this Section, "organized
23 gang" has the meaning ascribed to it in Section 10 of the
24 Illinois Streetgang Terrorism Omnibus Prevention Act;

25 (7) if he or she is at least 17 years of age and has
26 been sentenced to probation or conditional discharge for a

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

26 (8) if convicted of possession of a substance

1 prohibited by the Cannabis Control Act, the Illinois
2 Controlled Substances Act, or the Methamphetamine Control
3 and Community Protection Act after a previous conviction or
4 disposition of supervision for possession of a substance
5 prohibited by the Cannabis Control Act or Illinois
6 Controlled Substances Act or after a sentence of probation
7 under Section 10 of the Cannabis Control Act, Section 410
8 of the Illinois Controlled Substances Act, or Section 70 of
9 the Methamphetamine Control and Community Protection Act
10 and upon a finding by the court that the person is
11 addicted, undergo treatment at a substance abuse program
12 approved by the court;

13 (8.5) if convicted of a felony sex offense as defined
14 in the Sex Offender Management Board Act, the person shall
15 undergo and successfully complete sex offender treatment
16 by a treatment provider approved by the Board and conducted
17 in conformance with the standards developed under the Sex
18 Offender Management Board Act;

19 (8.6) if convicted of a sex offense as defined in the
20 Sex Offender Management Board Act, refrain from residing at
21 the same address or in the same condominium unit or
22 apartment unit or in the same condominium complex or
23 apartment complex with another person he or she knows or
24 reasonably should know is a convicted sex offender or has
25 been placed on supervision for a sex offense; the
26 provisions of this paragraph do not apply to a person

1 convicted of a sex offense who is placed in a Department of
2 Corrections licensed transitional housing facility for sex
3 offenders;

4 (8.7) if convicted for an offense committed on or after
5 June 1, 2008 (the effective date of Public Act 95-464) that
6 would qualify the accused as a child sex offender as
7 defined in Section 11-9.3 or 11-9.4 of the Criminal Code of
8 1961, refrain from communicating with or contacting, by
9 means of the Internet, a person who is not related to the
10 accused and whom the accused reasonably believes to be
11 under 18 years of age; for purposes of this paragraph
12 (8.7), "Internet" has the meaning ascribed to it in Section
13 16J-5 of the Criminal Code of 1961; and a person is not
14 related to the accused if the person is not: (i) the
15 spouse, brother, or sister of the accused; (ii) a
16 descendant of the accused; (iii) a first or second cousin
17 of the accused; or (iv) a step-child or adopted child of
18 the accused;

19 (8.8) if convicted for an offense under Section 11-6,
20 11-9.1, 11-15.1, 11-20.1, 11-20.3, or 11-21 of the Criminal
21 Code of 1961, or any attempt to commit any of these
22 offenses, committed on or after June 1, 2009 (the effective
23 date of Public Act 95-983):

24 (i) not access or use a computer or any other
25 device with Internet capability without the prior
26 written approval of the offender's probation officer,

1 except in connection with the offender's employment or
2 search for employment with the prior approval of the
3 offender's probation officer;

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

14 (iii) submit to the installation on the offender's
15 computer or device with Internet capability, at the
16 offender's expense, of one or more hardware or software
17 systems to monitor the Internet use; and

18 (iv) submit to any other appropriate restrictions
19 concerning the offender's use of or access to a
20 computer or any other device with Internet capability
21 imposed by the offender's probation officer;

22 (8.9) if convicted of a sex offense as defined in the
23 Sex Offender Registration Act committed on or after January
24 1, 2010 (the effective date of Public Act 96-262), refrain
25 from accessing or using a social networking website as
26 defined in Section 16D-2 of the Criminal Code of 1961;

1 (9) if convicted of a felony, physically surrender at a
2 time and place designated by the court, his or her Firearm
3 Owner's Identification Card and any and all firearms in his
4 or her possession;

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

15 (11) if convicted of a sex offense as defined in
16 Section 2 of the Sex Offender Registration Act committed on
17 or after January 1, 2010 (the effective date of Public Act
18 96-362) that requires the person to register as a sex
19 offender under that Act, may not knowingly use any computer
20 scrub software on any computer that the sex offender uses.

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

26 (1) serve a term of periodic imprisonment under Article

1 7 for a period not to exceed that specified in paragraph
2 (d) of Section 5-7-1;

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) and in addition, if a minor:

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

13 (ii) attend school;

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

15 (iv) contribute to his own support at home or in a
16 foster home;

17 (v) with the consent of the superintendent of the
18 facility, attend an educational program at a facility
19 other than the school in which the offense was
20 committed if he or she is convicted of a crime of
21 violence as defined in Section 2 of the Crime Victims
22 Compensation Act committed in a school, on the real
23 property comprising a school, or within 1,000 feet of
24 the real property comprising a school;

25 (8) make restitution as provided in Section 5-5-6 of
26 this Code;

1 (9) perform some reasonable public or community
2 service;

3 (10) serve a term of home confinement. In addition to
4 any other applicable condition of probation or conditional
5 discharge, the conditions of home confinement shall be that
6 the offender:

7 (i) remain within the interior premises of the
8 place designated for his confinement during the hours
9 designated by the court;

10 (ii) admit any person or agent designated by the
11 court into the offender's place of confinement at any
12 time for purposes of verifying the offender's
13 compliance with the conditions of his confinement; and

14 (iii) if further deemed necessary by the court or
15 the Probation or Court Services Department, be placed
16 on an approved electronic monitoring device, subject
17 to Article 8A of Chapter V;

18 (iv) for persons convicted of any alcohol,
19 cannabis or controlled substance violation who are
20 placed on an approved monitoring device as a condition
21 of probation or conditional discharge, the court shall
22 impose a reasonable fee for each day of the use of the
23 device, as established by the county board in
24 subsection (g) of this Section, unless after
25 determining the inability of the offender to pay the
26 fee, the court assesses a lesser fee or no fee as the

1 case may be. This fee shall be imposed in addition to
2 the fees imposed under subsections (g) and (i) of this
3 Section. The fee shall be collected by the clerk of the
4 circuit court. The clerk of the circuit court shall pay
5 all monies collected from this fee to the county
6 treasurer for deposit in the substance abuse services
7 fund under Section 5-1086.1 of the Counties Code; and

8 (v) for persons convicted of offenses other than
9 those referenced in clause (iv) above and who are
10 placed on an approved monitoring device as a condition
11 of probation or conditional discharge, the court shall
12 impose a reasonable fee for each day of the use of the
13 device, as established by the county board in
14 subsection (g) of this Section, unless after
15 determining the inability of the defendant to pay the
16 fee, the court assesses a lesser fee or no fee as the
17 case may be. This fee shall be imposed in addition to
18 the fees imposed under subsections (g) and (i) of this
19 Section. The fee shall be collected by the clerk of the
20 circuit court. The clerk of the circuit court shall pay
21 all monies collected from this fee to the county
22 treasurer who shall use the monies collected to defray
23 the costs of corrections. The county treasurer shall
24 deposit the fee collected in the probation and court
25 services fund ~~county working cash fund~~ under Section
26 ~~6-27001 or Section 6-29002 of the Counties Code, as the~~

1 ~~case may be.~~

2 (11) comply with the terms and conditions of an order
3 of protection issued by the court pursuant to the Illinois
4 Domestic Violence Act of 1986, as now or hereafter amended,
5 or an order of protection issued by the court of another
6 state, tribe, or United States territory. A copy of the
7 order of protection shall be transmitted to the probation
8 officer or agency having responsibility for the case;

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

15 (13) contribute a reasonable sum of money, not to
16 exceed the maximum amount of the fine authorized for the
17 offense for which the defendant was sentenced, (i) to a
18 "local anti-crime program", as defined in Section 7 of the
19 Anti-Crime Advisory Council Act, or (ii) for offenses under
20 the jurisdiction of the Department of Natural Resources, to
21 the fund established by the Department of Natural Resources
22 for the purchase of evidence for investigation purposes and
23 to conduct investigations as outlined in Section 805-105 of
24 the Department of Natural Resources (Conservation) Law;

25 (14) refrain from entering into a designated
26 geographic area except upon such terms as the court finds

1 appropriate. Such terms may include consideration of the
2 purpose of the entry, the time of day, other persons
3 accompanying the defendant, and advance approval by a
4 probation officer, if the defendant has been placed on
5 probation or advance approval by the court, if the
6 defendant was placed on conditional discharge;

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

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

18 (17) if convicted for an offense committed on or after
19 June 1, 2008 (the effective date of Public Act 95-464) that
20 would qualify the accused as a child sex offender as
21 defined in Section 11-9.3 or 11-9.4 of the Criminal Code of
22 1961, refrain from communicating with or contacting, by
23 means of the Internet, a person who is related to the
24 accused and whom the accused reasonably believes to be
25 under 18 years of age; for purposes of this paragraph (17),
26 "Internet" has the meaning ascribed to it in Section 16J-5

1 of the Criminal Code of 1961; and a person is related to
2 the accused if the person is: (i) the spouse, brother, or
3 sister of the accused; (ii) a descendant of the accused;
4 (iii) a first or second cousin of the accused; or (iv) a
5 step-child or adopted child of the accused;

6 (18) if convicted for an offense committed on or after
7 June 1, 2009 (the effective date of Public Act 95-983) that
8 would qualify as a sex offense as defined in the Sex
9 Offender Registration Act:

10 (i) not access or use a computer or any other
11 device with Internet capability without the prior
12 written approval of the offender's probation officer,
13 except in connection with the offender's employment or
14 search for employment with the prior approval of the
15 offender's probation officer;

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

26 (iii) submit to the installation on the offender's

1 computer or device with Internet capability, at the
2 subject's expense, of one or more hardware or software
3 systems to monitor the Internet use; and

4 (iv) submit to any other appropriate restrictions
5 concerning the offender's use of or access to a
6 computer or any other device with Internet capability
7 imposed by the offender's probation officer; and

8 (19) refrain from possessing a firearm or other
9 dangerous weapon where the offense is a misdemeanor that
10 did not involve the intentional or knowing infliction of
11 bodily harm or threat of bodily harm.

12 (c) The court may as a condition of probation or of
13 conditional discharge require that a person under 18 years of
14 age found guilty of any alcohol, cannabis or controlled
15 substance violation, refrain from acquiring a driver's license
16 during the period of probation or conditional discharge. If
17 such person is in possession of a permit or license, the court
18 may require that the minor refrain from driving or operating
19 any motor vehicle during the period of probation or conditional
20 discharge, except as may be necessary in the course of the
21 minor's lawful employment.

22 (d) An offender sentenced to probation or to conditional
23 discharge shall be given a certificate setting forth the
24 conditions thereof.

25 (e) Except where the offender has committed a fourth or
26 subsequent violation of subsection (c) of Section 6-303 of the

1 Illinois Vehicle Code, the court shall not require as a
2 condition of the sentence of probation or conditional discharge
3 that the offender be committed to a period of imprisonment in
4 excess of 6 months. This 6 month limit shall not include
5 periods of confinement given pursuant to a sentence of county
6 impact incarceration under Section 5-8-1.2.

7 Persons committed to imprisonment as a condition of
8 probation or conditional discharge shall not be committed to
9 the Department of Corrections.

10 (f) The court may combine a sentence of periodic
11 imprisonment under Article 7 or a sentence to a county impact
12 incarceration program under Article 8 with a sentence of
13 probation or conditional discharge.

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

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

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

22 (i) The court shall impose upon an offender sentenced to
23 probation after January 1, 1989 or to conditional discharge
24 after January 1, 1992 or to community service under the
25 supervision of a probation or court services department after
26 January 1, 2004, as a condition of such probation or

1 conditional discharge or supervised community service, a fee of
2 \$50 for each month of probation or conditional discharge
3 supervision or supervised community service ordered by the
4 court, unless after determining the inability of the person
5 sentenced to probation or conditional discharge or supervised
6 community service to pay the fee, the court assesses a lesser
7 fee. The court may not impose the fee on a minor who is made a
8 ward of the State under the Juvenile Court Act of 1987 while
9 the minor is in placement. The fee shall be imposed only upon
10 an offender who is actively supervised by the probation and
11 court services department. The fee shall be collected by the
12 clerk of the circuit court. The clerk of the circuit court
13 shall pay all monies collected from this fee to the county
14 treasurer for deposit in the probation and court services fund
15 under Section 15.1 of the Probation and Probation Officers Act.

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

23 The Court may only waive probation fees based on an
24 offender's ability to pay. The probation department may
25 re-evaluate an offender's ability to pay every 6 months, and,
26 with the approval of the Director of Court Services or the

1 Chief Probation Officer, adjust the monthly fee amount. An
2 offender may elect to pay probation fees due in a lump sum. Any
3 offender that has been assigned to the supervision of a
4 probation department, or has been transferred either under
5 subsection (h) of this Section or under any interstate compact,
6 shall be required to pay probation fees to the department
7 supervising the offender, based on the offender's ability to
8 pay.

9 This amendatory Act of the 93rd General Assembly deletes
10 the \$10 increase in the fee under this subsection that was
11 imposed by Public Act 93-616. This deletion is intended to
12 control over any other Act of the 93rd General Assembly that
13 retains or incorporates that fee increase.

14 (i-5) In addition to the fees imposed under subsection (i)
15 of this Section, in the case of an offender convicted of a
16 felony sex offense (as defined in the Sex Offender Management
17 Board Act) or an offense that the court or probation department
18 has determined to be sexually motivated (as defined in the Sex
19 Offender Management Board Act), the court or the probation
20 department shall assess additional fees to pay for all costs of
21 treatment, assessment, evaluation for risk and treatment, and
22 monitoring the offender, based on that offender's ability to
23 pay those costs either as they occur or under a payment plan.

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

1 violation of the Child Passenger Protection Act, or a similar
2 provision of a local ordinance, shall be collected and
3 disbursed by the circuit clerk as provided under Section 27.5
4 of the Clerks of Courts Act.

5 (k) Any offender who is sentenced to probation or
6 conditional discharge for a felony sex offense as defined in
7 the Sex Offender Management Board Act or any offense that the
8 court or probation department has determined to be sexually
9 motivated as defined in the Sex Offender Management Board Act
10 shall be required to refrain from any contact, directly or
11 indirectly, with any persons specified by the court and shall
12 be available for all evaluations and treatment programs
13 required by the court or the probation department.

14 (l) The court may order an offender who is sentenced to
15 probation or conditional discharge for a violation of an order
16 of protection be placed under electronic surveillance as
17 provided in Section 5-8A-7 of this Code.

18 (Source: P.A. 95-331, eff. 8-21-07; 95-464, eff. 6-1-08;
19 95-578, eff. 6-1-08; 95-696, eff. 6-1-08; 95-773, eff. 1-1-09;
20 95-876, eff. 8-21-08; 95-983, eff. 6-1-09; 96-262, eff. 1-1-10;
21 96-328, eff. 8-11-09; 96-362, eff. 1-1-10; 96-695, eff.
22 8-25-09; 96-1000, eff. 7-2-10; 96-1414, eff. 1-1-11.)

23 (730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

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

25 (a) When a defendant is placed on supervision, the court

1 shall enter an order for supervision specifying the period of
2 such supervision, and shall defer further proceedings in the
3 case until the conclusion of the period.

4 (b) The period of supervision shall be reasonable under all
5 of the circumstances of the case, but may not be longer than 2
6 years, unless the defendant has failed to pay the assessment
7 required by Section 10.3 of the Cannabis Control Act, Section
8 411.2 of the Illinois Controlled Substances Act, or Section 80
9 of the Methamphetamine Control and Community Protection Act, in
10 which case the court may extend supervision beyond 2 years.
11 Additionally, the court shall order the defendant to perform no
12 less than 30 hours of community service and not more than 120
13 hours of community service, if community service is available
14 in the jurisdiction and is funded and approved by the county
15 board where the offense was committed, when the offense (1) was
16 related to or in furtherance of the criminal activities of an
17 organized gang or was motivated by the defendant's membership
18 in or allegiance to an organized gang; or (2) is a violation of
19 any Section of Article 24 of the Criminal Code of 1961 where a
20 disposition of supervision is not prohibited by Section 5-6-1
21 of this Code. The community service shall include, but not be
22 limited to, the cleanup and repair of any damage caused by
23 violation of Section 21-1.3 of the Criminal Code of 1961 and
24 similar damages to property located within the municipality or
25 county in which the violation occurred. Where possible and
26 reasonable, the community service should be performed in the

1 offender's neighborhood.

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

5 (c) The court may in addition to other reasonable
6 conditions relating to the nature of the offense or the
7 rehabilitation of the defendant as determined for each
8 defendant in the proper discretion of the court require that
9 the person:

10 (1) make a report to and appear in person before or
11 participate with the court or such courts, person, or
12 social service agency as directed by the court in the order
13 of supervision;

14 (2) pay a fine and costs;

15 (3) work or pursue a course of study or vocational
16 training;

17 (4) undergo medical, psychological or psychiatric
18 treatment; or treatment for drug addiction or alcoholism;

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

21 (6) support his dependents;

22 (7) refrain from possessing a firearm or other
23 dangerous weapon;

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

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

26 (ii) attend school;

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

2 (iv) contribute to his own support at home or in a
3 foster home; or

4 (v) with the consent of the superintendent of the
5 facility, attend an educational program at a facility
6 other than the school in which the offense was
7 committed if he or she is placed on supervision for a
8 crime of violence as defined in Section 2 of the Crime
9 Victims Compensation Act committed in a school, on the
10 real property comprising a school, or within 1,000 feet
11 of the real property comprising a school;

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

17 (10) perform some reasonable public or community
18 service;

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

1 court;

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

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

18 (14) refrain from entering into a designated
19 geographic area except upon such terms as the court finds
20 appropriate. Such terms may include consideration of the
21 purpose of the entry, the time of day, other persons
22 accompanying the defendant, and advance approval by a
23 probation officer;

24 (15) refrain from having any contact, directly or
25 indirectly, with certain specified persons or particular
26 types of person, including but not limited to members of

1 street gangs and drug users or dealers;

2 (16) refrain from having in his or her body the
3 presence of any illicit drug prohibited by the Cannabis
4 Control Act, the Illinois Controlled Substances Act, or the
5 Methamphetamine Control and Community Protection Act,
6 unless prescribed by a physician, and submit samples of his
7 or her blood or urine or both for tests to determine the
8 presence of any illicit drug;

9 (17) refrain from operating any motor vehicle not
10 equipped with an ignition interlock device as defined in
11 Section 1-129.1 of the Illinois Vehicle Code; under this
12 condition the court may allow a defendant who is not
13 self-employed to operate a vehicle owned by the defendant's
14 employer that is not equipped with an ignition interlock
15 device in the course and scope of the defendant's
16 employment; and

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

1 Easter.

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

4 (e) At the conclusion of the period of supervision, if the
5 court determines that the defendant has successfully complied
6 with all of the conditions of supervision, the court shall
7 discharge the defendant and enter a judgment dismissing the
8 charges.

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

1 Criminal Identification Act or for a violation of Section
2 11-501 of the Illinois Vehicle Code or a similar provision of a
3 local ordinance shall not have his or her record of arrest
4 sealed or expunged.

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

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

3 (i) The court shall impose upon a defendant placed on
4 supervision after January 1, 1992 or to community service under
5 the supervision of a probation or court services department
6 after January 1, 2004, as a condition of supervision or
7 supervised community service, a fee of \$50 for each month of
8 supervision or supervised community service ordered by the
9 court, unless after determining the inability of the person
10 placed on supervision or supervised community service to pay
11 the fee, the court assesses a lesser fee. The court may not
12 impose the fee on a minor who is made a ward of the State under
13 the Juvenile Court Act of 1987 while the minor is in placement.
14 The fee shall be imposed only upon a defendant who is actively
15 supervised by the probation and court services department. The
16 fee shall be collected by the clerk of the circuit court. The
17 clerk of the circuit court shall pay all monies collected from
18 this fee to the county treasurer for deposit in the probation
19 and court services fund pursuant to Section 15.1 of the
20 Probation and Probation Officers Act.

21 A circuit court may not impose a probation fee in excess of
22 \$25 per month unless the circuit court has adopted, by
23 administrative order issued by the chief judge, a standard
24 probation fee guide determining an offender's ability to pay.
25 Of the amount collected as a probation fee, not to exceed \$5 of
26 that fee collected per month may be used to provide services to

1 crime victims and their families.

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

14 (j) All fines and costs imposed under this Section for any
15 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
16 Code, or a similar provision of a local ordinance, and any
17 violation of the Child Passenger Protection Act, or a similar
18 provision of a local ordinance, shall be collected and
19 disbursed by the circuit clerk as provided under Section 27.5
20 of the Clerks of Courts Act.

21 (k) A defendant at least 17 years of age who is placed on
22 supervision for a misdemeanor in a county of 3,000,000 or more
23 inhabitants and who has not been previously convicted of a
24 misdemeanor or felony may as a condition of his or her
25 supervision be required by the court to attend educational
26 courses designed to prepare the defendant for a high school

1 diploma and to work toward a high school diploma or to work
2 toward passing the high school level Test of General
3 Educational Development (GED) or to work toward completing a
4 vocational training program approved by the court. The
5 defendant placed on supervision must attend a public
6 institution of education to obtain the educational or
7 vocational training required by this subsection (k). The
8 defendant placed on supervision shall be required to pay for
9 the cost of the educational courses or GED test, if a fee is
10 charged for those courses or test. The court shall revoke the
11 supervision of a person who wilfully fails to comply with this
12 subsection (k). The court shall resentence the defendant upon
13 revocation of supervision as provided in Section 5-6-4. This
14 subsection (k) does not apply to a defendant who has a high
15 school diploma or has successfully passed the GED test. This
16 subsection (k) does not apply to a defendant who is determined
17 by the court to be developmentally disabled or otherwise
18 mentally incapable of completing the educational or vocational
19 program.

20 (1) The court shall require a defendant placed on
21 supervision for possession of a substance prohibited by the
22 Cannabis Control Act, the Illinois Controlled Substances Act,
23 or the Methamphetamine Control and Community Protection Act
24 after a previous conviction or disposition of supervision for
25 possession of a substance prohibited by the Cannabis Control
26 Act, the Illinois Controlled Substances Act, or the

1 Methamphetamine Control and Community Protection Act or a
2 sentence of probation under Section 10 of the Cannabis Control
3 Act or Section 410 of the Illinois Controlled Substances Act
4 and after a finding by the court that the person is addicted,
5 to undergo treatment at a substance abuse program approved by
6 the court.

7 (m) The Secretary of State shall require anyone placed on
8 court supervision for a violation of Section 3-707 of the
9 Illinois Vehicle Code or a similar provision of a local
10 ordinance to give proof of his or her financial responsibility
11 as defined in Section 7-315 of the Illinois Vehicle Code. The
12 proof shall be maintained by the individual in a manner
13 satisfactory to the Secretary of State for a minimum period of
14 3 years after the date the proof is first filed. The proof
15 shall be limited to a single action per arrest and may not be
16 affected by any post-sentence disposition. The Secretary of
17 State shall suspend the driver's license of any person
18 determined by the Secretary to be in violation of this
19 subsection.

20 (n) Any offender placed on supervision for any offense that
21 the court or probation department has determined to be sexually
22 motivated as defined in the Sex Offender Management Board Act
23 shall be required to refrain from any contact, directly or
24 indirectly, with any persons specified by the court and shall
25 be available for all evaluations and treatment programs
26 required by the court or the probation department.

1 (o) An offender placed on supervision for a sex offense as
2 defined in the Sex Offender Management Board Act shall refrain
3 from residing at the same address or in the same condominium
4 unit or apartment unit or in the same condominium complex or
5 apartment complex with another person he or she knows or
6 reasonably should know is a convicted sex offender or has been
7 placed on supervision for a sex offense. The provisions of this
8 subsection (o) do not apply to a person convicted of a sex
9 offense who is placed in a Department of Corrections licensed
10 transitional housing facility for sex offenders.

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

25 (q) An offender placed on supervision for an offense
26 committed on or after June 1, 2008 (the effective date of

1 Public Act 95-464) that would qualify the accused as a child
2 sex offender as defined in Section 11-9.3 or 11-9.4 of the
3 Criminal Code of 1961 shall, if so ordered by the court,
4 refrain from communicating with or contacting, by means of the
5 Internet, a person who is related to the accused and whom the
6 accused reasonably believes to be under 18 years of age. For
7 purposes of this subsection (q), "Internet" has the meaning
8 ascribed to it in Section 16J-5 of the Criminal Code of 1961;
9 and a person is related to the accused if the person is: (i)
10 the spouse, brother, or sister of the accused; (ii) a
11 descendant of the accused; (iii) a first or second cousin of
12 the accused; or (iv) a step-child or adopted child of the
13 accused.

14 (r) An offender placed on supervision for an offense under
15 Section 11-6, 11-9.1, 11-15.1, 11-20.1, 11-20.3, or 11-21 of
16 the Criminal Code of 1961, or any attempt to commit any of
17 these offenses, committed on or after the effective date of
18 this amendatory Act of the 95th General Assembly shall:

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

24 (ii) submit to periodic unannounced examinations of
25 the offender's computer or any other device with Internet
26 capability by the offender's probation officer, a law

1 enforcement officer, or assigned computer or information
2 technology specialist, including the retrieval and copying
3 of all data from the computer or device and any internal or
4 external peripherals and removal of such information,
5 equipment, or device to conduct a more thorough inspection;

6 (iii) submit to the installation on the offender's
7 computer or device with Internet capability, at the
8 offender's expense, of one or more hardware or software
9 systems to monitor the Internet use; and

10 (iv) submit to any other appropriate restrictions
11 concerning the offender's use of or access to a computer or
12 any other device with Internet capability imposed by the
13 court.

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

21 (t) An offender placed on supervision for a sex offense as
22 defined in the Sex Offender Registration Act committed on or
23 after January 1, 2010 (the effective date of Public Act 96-262)
24 shall refrain from accessing or using a social networking
25 website as defined in Section 16D-2 of the Criminal Code of
26 1961.

1 (u) Jurisdiction over an offender may be transferred from
2 the sentencing court to the court of another circuit with the
3 concurrence of both courts. Further transfers or retransfers of
4 jurisdiction are also authorized in the same manner. The court
5 to which jurisdiction has been transferred shall have the same
6 powers as the sentencing court. The probation department within
7 the circuit to which jurisdiction has been transferred may
8 impose probation fees upon receiving the transferred offender,
9 as provided in subsection (i). The probation department from
10 the original sentencing court shall retain all probation fees
11 collected prior to the transfer.

12 (Source: P.A. 95-211, eff. 1-1-08; 95-331, eff. 8-21-07;
13 95-464, eff. 6-1-08; 95-696, eff. 6-1-08; 95-876, eff. 8-21-08;
14 95-983, eff. 6-1-09; 96-262, eff. 1-1-10; 96-362, eff. 1-1-10;
15 96-409, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1414, eff.
16 1-1-11.)