



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB1896

Introduced 2/25/2005, by Sen. Christine Radogno

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-6-3	from Ch. 38, par. 1005-6-3
730 ILCS 125/20	from Ch. 75, par. 120
730 ILCS 130/3	from Ch. 75, par. 32

Amends the Unified Code of Corrections. Provides that as a condition of probation, a prisoner who has served pretrial detention in the county jail may be ordered to reimburse the county for those expenses. Amends the County Jail Act. Provides that the county may seek reimbursement for any expenses incurred by the county in relation to a charge for which a person was sentenced to a county jail as follows: (1) from each person who is or was a prisoner, not more than \$60 per day for the expenses of maintaining that prisoner or the actual per diem cost of maintaining that prisoner, whichever is less, for the entire period of time the person was confined in the county jail, including any period of pretrial detention; (2) to investigate the financial status of the person; and (3) any other expenses incurred by the county to collect payments. Amends the County Jail Good Behavior Allowance Act. Provides that a prisoner who willfully refuses to cooperate in the collection of expenses of his or her incarceration shall not receive a reduction in his or her term of incarceration under the Act. Effective immediately.

LRB094 11276 RLC 42052 b

FISCAL NOTE ACT
MAY APPLY

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 5-6-3 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;

17 (4) not leave the State without the consent of the
18 court or, in circumstances in which the reason for the
19 absence is of such an emergency nature that prior consent
20 by the court is not possible, without the prior
21 notification and approval of the person's probation
22 officer. Transfer of a person's probation or conditional
23 discharge supervision to another state is subject to
24 acceptance by the other state pursuant to the Interstate
25 Compact for Adult Offender Supervision;

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

29 (6) perform no less than 30 hours of community service
30 and not more than 120 hours of community service, if
31 community service is available in the jurisdiction and is
32 funded and approved by the county board where the offense

1 was committed, where the offense was related to or in
2 furtherance of the criminal activities of an organized gang
3 and was motivated by the offender's membership in or
4 allegiance to an organized gang. The community service
5 shall include, but not be limited to, the cleanup and
6 repair of any damage caused by a violation of Section
7 21-1.3 of the Criminal Code of 1961 and similar damage to
8 property located within the municipality or county in which
9 the violation occurred. When possible and reasonable, the
10 community service should be performed in the offender's
11 neighborhood. For purposes of this Section, "organized
12 gang" has the meaning ascribed to it in Section 10 of the
13 Illinois Streetgang Terrorism Omnibus Prevention Act;

14 (7) if he or she is at least 17 years of age and has
15 been sentenced to probation or conditional discharge for a
16 misdemeanor or felony in a county of 3,000,000 or more
17 inhabitants and has not been previously convicted of a
18 misdemeanor or felony, may be required by the sentencing
19 court to attend educational courses designed to prepare the
20 defendant for a high school diploma and to work toward a
21 high school diploma or to work toward passing the high
22 school level Test of General Educational Development (GED)
23 or to work toward completing a vocational training program
24 approved by the court. The person on probation or
25 conditional discharge must attend a public institution of
26 education to obtain the educational or vocational training
27 required by this clause (7). The court shall revoke the
28 probation or conditional discharge of a person who wilfully
29 fails to comply with this clause (7). The person on
30 probation or conditional discharge shall be required to pay
31 for the cost of the educational courses or GED test, if a
32 fee is charged for those courses or test. The court shall
33 resentence the offender whose probation or conditional
34 discharge has been revoked as provided in Section 5-6-4.
35 This clause (7) does not apply to a person who has a high
36 school diploma or has successfully passed the GED test.

1 This clause (7) does not apply to a person who is
2 determined by the court to be developmentally disabled or
3 otherwise mentally incapable of completing the educational
4 or vocational program;

5 (8) if convicted of possession of a substance
6 prohibited by the Cannabis Control Act or Illinois
7 Controlled Substances Act after a previous conviction or
8 disposition of supervision for possession of a substance
9 prohibited by the Cannabis Control Act or Illinois
10 Controlled Substances Act or after a sentence of probation
11 under Section 10 of the Cannabis Control Act or Section 410
12 of the Illinois Controlled Substances Act and upon a
13 finding by the court that the person is addicted, undergo
14 treatment at a substance abuse program approved by the
15 court;

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

22 (9) if convicted of a felony, physically surrender at a
23 time and place designated by the court, his or her Firearm
24 Owner's Identification Card and any and all firearms in his
25 or her possession; and -

26 (10) reimburse the county for expenses of pretrial
27 detention in a county jail as provided in Section 20 of the
28 County Jail Act.

29

30 (b) The Court may in addition to other reasonable
31 conditions relating to the nature of the offense or the
32 rehabilitation of the defendant as determined for each
33 defendant in the proper discretion of the Court require that
34 the person:

35 (1) serve a term of periodic imprisonment under Article
36 7 for a period not to exceed that specified in paragraph

- 1 (d) of Section 5-7-1;
- 2 (2) pay a fine and costs;
- 3 (3) work or pursue a course of study or vocational
4 training;
- 5 (4) undergo medical, psychological or psychiatric
6 treatment; or treatment for drug addiction or alcoholism;
- 7 (5) attend or reside in a facility established for the
8 instruction or residence of defendants on probation;
- 9 (6) support his dependents;
- 10 (7) and in addition, if a minor:
- 11 (i) reside with his parents or in a foster home;
- 12 (ii) attend school;
- 13 (iii) attend a non-residential program for youth;
- 14 (iv) contribute to his own support at home or in a
15 foster home;
- 16 (v) with the consent of the superintendent of the
17 facility, attend an educational program at a facility
18 other than the school in which the offense was
19 committed if he or she is convicted of a crime of
20 violence as defined in Section 2 of the Crime Victims
21 Compensation Act committed in a school, on the real
22 property comprising a school, or within 1,000 feet of
23 the real property comprising a school;
- 24 (8) make restitution as provided in Section 5-5-6 of
25 this Code;
- 26 (9) perform some reasonable public or community
27 service;
- 28 (10) serve a term of home confinement. In addition to
29 any other applicable condition of probation or conditional
30 discharge, the conditions of home confinement shall be that
31 the offender:
- 32 (i) remain within the interior premises of the
33 place designated for his confinement during the hours
34 designated by the court;
- 35 (ii) admit any person or agent designated by the
36 court into the offender's place of confinement at any

1 time for purposes of verifying the offender's
2 compliance with the conditions of his confinement; and

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

7 (iv) for persons convicted of any alcohol,
8 cannabis or controlled substance violation who are
9 placed on an approved monitoring device as a condition
10 of probation or conditional discharge, the court shall
11 impose a reasonable fee for each day of the use of the
12 device, as established by the county board in
13 subsection (g) of this Section, unless after
14 determining the inability of the offender to pay the
15 fee, the court assesses a lesser fee or no fee as the
16 case may be. This fee shall be imposed in addition to
17 the fees imposed under subsections (g) and (i) of this
18 Section. The fee shall be collected by the clerk of the
19 circuit court. The clerk of the circuit court shall pay
20 all monies collected from this fee to the county
21 treasurer for deposit in the substance abuse services
22 fund under Section 5-1086.1 of the Counties Code; and

23 (v) for persons convicted of offenses other than
24 those referenced in clause (iv) above and who are
25 placed on an approved monitoring device as a condition
26 of probation or conditional discharge, the court shall
27 impose a reasonable fee for each day of the use of the
28 device, as established by the county board in
29 subsection (g) of this Section, unless after
30 determining the inability of the defendant to pay the
31 fee, the court assesses a lesser fee or no fee as the
32 case may be. This fee shall be imposed in addition to
33 the fees imposed under subsections (g) and (i) of this
34 Section. The fee shall be collected by the clerk of the
35 circuit court. The clerk of the circuit court shall pay
36 all monies collected from this fee to the county

1 treasurer who shall use the monies collected to defray
2 the costs of corrections. The county treasurer shall
3 deposit the fee collected in the county working cash
4 fund under Section 6-27001 or Section 6-29002 of the
5 Counties Code, as the case may be.

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

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

19 (13) contribute a reasonable sum of money, not to
20 exceed the maximum amount of the fine authorized for the
21 offense for which the defendant was sentenced, to a "local
22 anti-crime program", as defined in Section 7 of the
23 Anti-Crime Advisory Council Act;

24 (14) refrain from entering into a designated
25 geographic area except upon such terms as the court finds
26 appropriate. Such terms may include consideration of the
27 purpose of the entry, the time of day, other persons
28 accompanying the defendant, and advance approval by a
29 probation officer, if the defendant has been placed on
30 probation or advance approval by the court, if the
31 defendant was placed on conditional discharge;

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

36 (16) refrain from having in his or her body the

1 presence of any illicit drug prohibited by the Cannabis
2 Control Act or the Illinois Controlled Substances Act,
3 unless prescribed by a physician, and submit samples of his
4 or her blood or urine or both for tests to determine the
5 presence of any illicit drug.

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

16 (d) An offender sentenced to probation or to conditional
17 discharge shall be given a certificate setting forth the
18 conditions thereof.

19 (e) Except where the offender has committed a fourth or
20 subsequent violation of subsection (c) of Section 6-303 of the
21 Illinois Vehicle Code, the court shall not require as a
22 condition of the sentence of probation or conditional discharge
23 that the offender be committed to a period of imprisonment in
24 excess of 6 months. This 6 month limit shall not include
25 periods of confinement given pursuant to a sentence of county
26 impact incarceration under Section 5-8-1.2. This 6 month limit
27 does not apply to a person sentenced to probation as a result
28 of a conviction of a fourth or subsequent violation of
29 subsection (c-4) of Section 11-501 of the Illinois Vehicle Code
30 or a similar provision of a local ordinance.

31 Persons committed to imprisonment as a condition of
32 probation or conditional discharge shall not be committed to
33 the Department of Corrections.

34 (f) The court may combine a sentence of periodic
35 imprisonment under Article 7 or a sentence to a county impact
36 incarceration program under Article 8 with a sentence of

1 probation or conditional discharge.

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

25 (h) Jurisdiction over an offender may be transferred from
26 the sentencing court to the court of another circuit with the
27 concurrence of both courts. Further transfers or retransfers of
28 jurisdiction are also authorized in the same manner. The court
29 to which jurisdiction has been transferred shall have the same
30 powers as the sentencing court.

31 (i) The court shall impose upon an offender sentenced to
32 probation after January 1, 1989 or to conditional discharge
33 after January 1, 1992 or to community service under the
34 supervision of a probation or court services department after
35 January 1, 2004, as a condition of such probation or
36 conditional discharge or supervised community service, a fee of

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

15 A circuit court may not impose a probation fee under this
16 subsection (i) in excess of \$25 per month unless: (1) the
17 circuit court has adopted, by administrative order issued by
18 the chief judge, a standard probation fee guide determining an
19 offender's ability to pay, under guidelines developed by the
20 Administrative Office of the Illinois Courts; and (2) the
21 circuit court has authorized, by administrative order issued by
22 the chief judge, the creation of a Crime Victim's Services
23 Fund, to be administered by the Chief Judge or his or her
24 designee, for services to crime victims and their families. Of
25 the amount collected as a probation fee, up to \$5 of that fee
26 collected per month may be used to provide services to crime
27 victims and their families.

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

33 (i-5) In addition to the fees imposed under subsection (i)
34 of this Section, in the case of an offender convicted of a
35 felony sex offense (as defined in the Sex Offender Management
36 Board Act) or an offense that the court or probation department

1 has determined to be sexually motivated (as defined in the Sex
2 Offender Management Board Act), the court or the probation
3 department shall assess additional fees to pay for all costs of
4 treatment, assessment, evaluation for risk and treatment, and
5 monitoring the offender, based on that offender's ability to
6 pay those costs either as they occur or under a payment plan.

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) Any offender who is sentenced to probation or
15 conditional discharge for a felony sex offense as defined in
16 the Sex Offender Management Board Act or any offense that the
17 court or probation department has determined to be sexually
18 motivated as defined in the Sex Offender Management Board Act
19 shall be required to refrain from any contact, directly or
20 indirectly, with any persons specified by the court and shall
21 be available for all evaluations and treatment programs
22 required by the court or the probation department.

23 (Source: P.A. 92-282, eff. 8-7-01; 92-340, eff. 8-10-01;
24 92-418, eff. 8-17-01; 92-442, eff. 8-17-01; 92-571, eff.
25 6-26-02; 92-651, eff. 7-11-02; 93-475, eff. 8-8-03; 93-616,
26 eff. 1-1-04; 93-970, eff. 8-20-04.)

27 Section 10. The County Jail Act is amended by changing
28 Section 20 as follows:

29 (730 ILCS 125/20) (from Ch. 75, par. 120)

30 Sec. 20. Cost and expense; commissary fund.

31 (a) The cost and expense of keeping, maintaining and
32 furnishing the jail of each county, and of keeping and
33 maintaining the prisoner thereof, except as otherwise provided
34 by law, shall be paid from the county treasury, the account

1 therefor being first settled and allowed by the county board.

2 The county may seek reimbursement for any expenses incurred
3 by the county in relation to a charge for which a person was
4 sentenced to a county jail as follows:

5 (1) From each person who is or was a prisoner, not more
6 than \$60 per day for the expenses of maintaining that
7 prisoner or the actual per diem cost of maintaining that
8 prisoner, whichever is less, for the entire period of time
9 the person was confined in the county jail, including any
10 period of pretrial detention.

11 (2) To investigate the financial status of the person.

12 (3) Any other expenses incurred by the county to
13 collect payments under this subsection (a).

14 (a-1) Reimbursement under subsection (a) may be ordered as
15 a probation condition entered pursuant to Section 5-6-3 of the
16 Unified Code of Corrections.

17 (a-2) Before seeking any reimbursement under subsection
18 (a), the county shall develop a form to be used for determining
19 the financial status of prisoners. The form shall provide for
20 obtaining the age and marital status of a prisoner, number and
21 ages of children of a prisoner, number and ages of other
22 dependents, type and value of real estate, type and value of
23 personal property, cash and bank accounts, type and value of
24 investments, pensions and annuities, and any other personalty
25 of significant cash value. The county shall use the form when
26 investigating the financial status of prisoners.

27 (a-3) A prisoner in a county jail shall cooperate with the
28 county in seeking reimbursement under subsection (a) for
29 expenses incurred by the county for that prisoner. ~~The county~~
30 ~~board may require convicted persons confined in its jail to~~
31 ~~reimburse the county for the expenses incurred by their~~
32 ~~incarceration to the extent of their ability to pay for such~~
33 ~~expenses. The warden of the jail shall establish by regulation~~
34 ~~criteria for a reasonable deduction from money credited to any~~
35 ~~account of an inmate to defray the costs to the county for an~~
36 ~~inmate's medical care. The State's Attorney of the county in~~

1 ~~which such jail is located may, if requested by the County~~
2 ~~Board, institute civil actions in the circuit court of the~~
3 ~~county in which the jail is located to recover from such~~
4 ~~convicted confined persons the expenses incurred by their~~
5 ~~confinement. The funds recovered shall be paid into the county~~
6 ~~treasury.~~

7 (b) When a prisoner is released from the county jail after
8 the completion of his or her sentence and has money credited to
9 his or her account in the commissary fund, the sheriff or a
10 person acting on the authority of the sheriff must mail a check
11 in the amount credited to the prisoner's account to the
12 prisoner's last known address. If after 30 days from the date
13 of mailing of the check, the check is returned undelivered, the
14 sheriff must transmit the amount of the check to the county
15 treasurer for deposit into the commissary fund. Nothing in this
16 subsection (b) constitutes a forfeiture of the prisoner's right
17 to claim the money accredited to his or her account after the
18 30-day period.

19 (Source: P.A. 91-288, eff. 1-1-00.)

20 Section 15. The County Jail Good Behavior Allowance Act is
21 amended by changing Section 3 as follows:

22 (730 ILCS 130/3) (from Ch. 75, par. 32)

23 Sec. 3. The good behavior of any person who commences a
24 sentence of confinement in a county jail for a fixed term of
25 imprisonment after January 1, 1987 shall entitle such person to
26 a good behavior allowance, except that: (1) a person who
27 inflicted physical harm upon another person in committing the
28 offense for which he is confined shall receive no good behavior
29 allowance; and (2) a person sentenced for an offense for which
30 the law provides a mandatory minimum sentence shall not receive
31 any portion of a good behavior allowance that would reduce the
32 sentence below the mandatory minimum; and (3) a person
33 sentenced to a county impact incarceration program; and (4) a
34 person who is convicted of criminal sexual assault under

1 paragraph (a) (3) of Section 12-13 of the Criminal Code of 1961,
2 criminal sexual abuse, or aggravated criminal sexual abuse
3 shall receive no good behavior allowance. The good behavior
4 allowance provided for in this Section shall not apply to
5 individuals sentenced for a felony to probation or conditional
6 discharge where a condition of such probation or conditional
7 discharge is that the individual serve a sentence of periodic
8 imprisonment or to individuals sentenced under an order of
9 court for civil contempt.

10 Such good behavior allowance shall be cumulative and
11 awarded as provided in this Section.

12 The good behavior allowance rate shall be cumulative and
13 awarded on the following basis:

14 The prisoner shall receive one day of good behavior
15 allowance for each day of service of sentence in the county
16 jail, and one day of good behavior allowance for each day of
17 incarceration in the county jail before sentencing for the
18 offense that he or she is currently serving sentence but was
19 unable to post bail before sentencing, except that a prisoner
20 serving a sentence of periodic imprisonment under Section 5-7-1
21 of the Unified Code of Corrections shall only be eligible to
22 receive good behavior allowance if authorized by the sentencing
23 judge. Each day of good behavior allowance shall reduce by one
24 day the prisoner's period of incarceration set by the court.
25 For the purpose of calculating a prisoner's good behavior
26 allowance, a fractional part of a day shall not be calculated
27 as a day of service of sentence in the county jail unless the
28 fractional part of the day is over 12 hours in which case a
29 whole day shall be credited on the good behavior allowance.

30 If consecutive sentences are served and the time served
31 amounts to a total of one year or more, the good behavior
32 allowance shall be calculated on a continuous basis throughout
33 the entire time served beginning on the first date of sentence
34 or incarceration, as the case may be.

35 A prisoner who willfully refuses to cooperate as provided
36 in subsection (a-3) of Section 20 of the County Jail Act shall

1 not receive a reduction in his or her term of incarceration
2 under this Section. If a prisoner is ordered to reimburse the
3 county under Section 20 of the County Jail Act as a probation
4 condition entered pursuant to Section 5-6-3 of the Unified Code
5 of Corrections, the prisoner is in addition subject to
6 probation revocation as provided in Section 5-6-4 of the
7 Unified Code of Corrections.

8 (Source: P.A. 91-117, eff. 7-15-99.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.