



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

**HB4598**

by Rep. LaShawn K. Ford - Dennis M. Reboletti

#### SYNOPSIS AS INTRODUCED:

720 ILCS 550/10	from Ch. 56 1/2, par. 710
720 ILCS 570/410	from Ch. 56 1/2, par. 1410
720 ILCS 646/70	

Amends the Cannabis Control Act, the Illinois Controlled Substances Act, and the Methamphetamine Control and Community Protection Act. Provides that the first time probation provisions for certain drug possession offenses apply to persons who committed previous misdemeanor cannabis violations.

LRB096 13433 RLC 28162 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 Cannabis Control Act is amended by changing  
5 Section 10 as follows:

6 (720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

7 Sec. 10. (a) Whenever any person who has not previously  
8 been convicted of, or placed on probation or court supervision  
9 for, any offense under this Act or any law of the United States  
10 or of any State relating to a felony cannabis violation, or  
11 controlled substances as defined in the Illinois Controlled  
12 Substances Act, pleads guilty to or is found guilty of  
13 violating Sections 4(a), 4(b), 4(c), 5(a), 5(b), 5(c) or 8 of  
14 this Act, the court may, without entering a judgment and with  
15 the consent of such person, sentence him to probation.

16 (b) When a person is placed on probation, the court shall  
17 enter an order specifying a period of probation of 24 months,  
18 and shall defer further proceedings in the case until the  
19 conclusion of the period or until the filing of a petition  
20 alleging violation of a term or condition of probation.

21 (c) The conditions of probation shall be that the person:  
22 (1) not violate any criminal statute of any jurisdiction; (2)  
23 refrain from possession of a firearm or other dangerous weapon;

1 (3) submit to periodic drug testing at a time and in a manner  
2 as ordered by the court, but no less than 3 times during the  
3 period of the probation, with the cost of the testing to be  
4 paid by the probationer; and (4) perform no less than 30 hours  
5 of community service, provided community service is available  
6 in the jurisdiction and is funded and approved by the county  
7 board.

8 (d) The court may, in addition to other conditions, require  
9 that 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 probation;

14 (2) pay a fine and costs;

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

17 (4) undergo medical or psychiatric treatment; or  
18 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 (7-5) refrain from having in his or her body the  
25 presence of any illicit drug prohibited by the Cannabis  
26 Control Act, the Illinois Controlled Substances Act, or the

1 Methamphetamine Control and Community Protection Act,  
2 unless prescribed by a physician, and submit samples of his  
3 or her blood or urine or both for tests to determine the  
4 presence of any illicit drug;

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

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

7 (ii) attend school;

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

9 (iv) contribute to his own support at home or in a  
10 foster home.

11 (e) Upon violation of a term or condition of probation, the  
12 court may enter a judgment on its original finding of guilt and  
13 proceed as otherwise provided.

14 (f) Upon fulfillment of the terms and conditions of  
15 probation, the court shall discharge such person and dismiss  
16 the proceedings against him.

17 (g) A disposition of probation is considered to be a  
18 conviction for the purposes of imposing the conditions of  
19 probation and for appeal, however, discharge and dismissal  
20 under this Section is not a conviction for purposes of  
21 disqualification or disabilities imposed by law upon  
22 conviction of a crime (including the additional penalty imposed  
23 for subsequent offenses under Section 4(c), 4(d), 5(c) or 5(d)  
24 of this Act).

25 (h) Discharge and dismissal under this Section, Section 410  
26 of the Illinois Controlled Substances Act, or Section 70 of the

1 Methamphetamine Control and Community Protection Act may occur  
2 only once with respect to any person.

3 (i) If a person is convicted of an offense under this Act,  
4 the Illinois Controlled Substances Act, or the Methamphetamine  
5 Control and Community Protection Act within 5 years subsequent  
6 to a discharge and dismissal under this Section, the discharge  
7 and dismissal under this Section shall be admissible in the  
8 sentencing proceeding for that conviction as a factor in  
9 aggravation.

10 (Source: P.A. 94-556, eff. 9-11-05.)

11 Section 10. The Illinois Controlled Substances Act is  
12 amended by changing Section 410 as follows:

13 (720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

14 Sec. 410. (a) Whenever any person who has not previously  
15 been convicted of, or placed on probation or court supervision  
16 for any offense under this Act or any law of the United States  
17 or of any State relating to ~~cannabis or~~ controlled substances  
18 or a felony cannabis violation, pleads guilty to or is found  
19 guilty of possession of a controlled or counterfeit substance  
20 under subsection (c) of Section 402 or of unauthorized  
21 possession of prescription form under Section 406.2, the court,  
22 without entering a judgment and with the consent of such  
23 person, may sentence him to probation.

24 (b) When a person is placed on probation, the court shall

1 enter an order specifying a period of probation of 24 months  
2 and shall defer further proceedings in the case until the  
3 conclusion of the period or until the filing of a petition  
4 alleging violation of a term or condition of probation.

5 (c) The conditions of probation shall be that the person:

6 (1) not violate any criminal statute of any jurisdiction; (2)  
7 refrain from possessing a firearm or other dangerous weapon;  
8 (3) submit to periodic drug testing at a time and in a manner  
9 as ordered by the court, but no less than 3 times during the  
10 period of the probation, with the cost of the testing to be  
11 paid by the probationer; and (4) perform no less than 30 hours  
12 of community service, provided community service is available  
13 in the jurisdiction and is funded and approved by the county  
14 board.

15 (d) The court may, in addition to other conditions, require  
16 that the person:

17 (1) make a report to and appear in person before or  
18 participate with the court or such courts, person, or  
19 social service agency as directed by the court in the order  
20 of probation;

21 (2) pay a fine and costs;

22 (3) work or pursue a course of study or vocational  
23 training;

24 (4) undergo medical or psychiatric treatment; or  
25 treatment or rehabilitation approved by the Illinois  
26 Department of Human Services;

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

3 (6) support his dependents;

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

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 (e) Upon violation of a term or condition of probation, the  
18 court may enter a judgment on its original finding of guilt and  
19 proceed as otherwise provided.

20 (f) Upon fulfillment of the terms and conditions of  
21 probation, the court shall discharge the person and dismiss the  
22 proceedings against him.

23 (g) A disposition of probation is considered to be a  
24 conviction for the purposes of imposing the conditions of  
25 probation and for appeal, however, discharge and dismissal  
26 under this Section is not a conviction for purposes of this Act

1 or for purposes of disqualifications or disabilities imposed by  
2 law upon conviction of a crime.

3 (h) There may be only one discharge and dismissal under  
4 this Section, Section 10 of the Cannabis Control Act, or  
5 Section 70 of the Methamphetamine Control and Community  
6 Protection Act with respect to any person.

7 (i) If a person is convicted of an offense under this Act,  
8 the Cannabis Control Act, or the Methamphetamine Control and  
9 Community Protection Act within 5 years subsequent to a  
10 discharge and dismissal under this Section, the discharge and  
11 dismissal under this Section shall be admissible in the  
12 sentencing proceeding for that conviction as evidence in  
13 aggravation.

14 (Source: P.A. 94-556, eff. 9-11-05; 95-487, eff. 1-1-08.)

15 Section 15. The Methamphetamine Control and Community  
16 Protection Act is amended by changing Section 70 as follows:

17 (720 ILCS 646/70)

18 Sec. 70. Probation.

19 (a) Whenever any person who has not previously been  
20 convicted of, or placed on probation or court supervision for  
21 any offense under this Act, the Illinois Controlled Substances  
22 Act, a felony violation of the Cannabis Control Act, or any law  
23 of the United States or of any state relating to ~~cannabis or~~  
24 controlled substances or a felony cannabis violation, pleads



1 guilty to or is found guilty of possession of less than 15  
2 grams of methamphetamine under paragraph (1) or (2) of  
3 subsection (b) of Section 60 of this Act, the court, without  
4 entering a judgment and with the consent of the person, may  
5 sentence him or her to probation.

6 (b) When a person is placed on probation, the court shall  
7 enter an order specifying a period of probation of 24 months  
8 and shall defer further proceedings in the case until the  
9 conclusion of the period or until the filing of a petition  
10 alleging violation of a term or condition of probation.

11 (c) The conditions of probation shall be that the person:

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

14 (2) refrain from possessing a firearm or other  
15 dangerous weapon;

16 (3) submit to periodic drug testing at a time and in a  
17 manner as ordered by the court, but no less than 3 times  
18 during the period of the probation, with the cost of the  
19 testing to be paid by the probationer; and

20 (4) perform no less than 30 hours of community service,  
21 if community service is available in the jurisdiction and  
22 is funded and approved by the county board.

23 (d) The court may, in addition to other conditions, require  
24 that the person take one or more of the following actions:

25 (1) make a report to and appear in person before or  
26 participate with the court or such courts, person, or

1 social service agency as directed by the court in the order  
2 of probation;

3 (2) pay a fine and costs;

4 (3) work or pursue a course of study or vocational  
5 training;

6 (4) undergo medical or psychiatric treatment; or  
7 treatment or rehabilitation approved by the Illinois  
8 Department of Human Services;

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

11 (6) support his or her dependents;

12 (7) refrain from having in his or her body the presence  
13 of any illicit drug prohibited by this Act, the Cannabis  
14 Control Act, or the Illinois Controlled Substances 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; or

18 (8) if a minor:

19 (i) reside with his or her parents or in a foster  
20 home;

21 (ii) attend school;

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

23 or

24 (iv) contribute to his or her own support at home  
25 or in a foster home.

26 (e) Upon violation of a term or condition of probation, the

1 court may enter a judgment on its original finding of guilt and  
2 proceed as otherwise provided.

3 (f) Upon fulfillment of the terms and conditions of  
4 probation, the court shall discharge the person and dismiss the  
5 proceedings against the person.

6 (g) A disposition of probation is considered to be a  
7 conviction for the purposes of imposing the conditions of  
8 probation and for appeal, however, discharge and dismissal  
9 under this Section is not a conviction for purposes of this Act  
10 or for purposes of disqualifications or disabilities imposed by  
11 law upon conviction of a crime.

12 (h) There may be only one discharge and dismissal under  
13 this Section, Section 410 of the Illinois Controlled Substances  
14 Act, or Section 10 of the Cannabis Control Act with respect to  
15 any person.

16 (i) If a person is convicted of an offense under this Act,  
17 the Cannabis Control Act, or the Illinois Controlled Substances  
18 Act within 5 years subsequent to a discharge and dismissal  
19 under this Section, the discharge and dismissal under this  
20 Section are admissible in the sentencing proceeding for that  
21 conviction as evidence in aggravation.

22 (Source: P.A. 94-556, eff. 9-11-05.)