



Sen. John J. Cullerton

Filed: 3/23/2010

09600SB3796sam002

LRB096 20636 AJT 39574 a

1 AMENDMENT TO SENATE BILL 3796

2 AMENDMENT NO. _____. Amend Senate Bill 3796, on page 1, by
3 inserting below line 19 the following:

4 "Section 10. 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.

1 (a) Except where specifically prohibited by other
2 provisions of this Code, the court shall impose a sentence of
3 probation or conditional discharge upon an offender unless,
4 having regard to the nature and circumstance of the offense,
5 and to the history, character and condition of the offender,
6 the court is of the opinion that:

7 (1) his imprisonment or periodic imprisonment is
8 necessary for the protection of the public; or

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

12 (3) a combination of imprisonment with concurrent or
13 consecutive probation when an offender has been admitted
14 into a drug court program under Section 20 of the Drug
15 Court Treatment Act is necessary for the protection of the
16 public and for the rehabilitation of the offender.

17 The court shall impose as a condition of a sentence of
18 probation, conditional discharge, or supervision, that the
19 probation agency may invoke any sanction from the list of
20 intermediate sanctions adopted by the chief judge of the
21 circuit court for violations of the terms and conditions of the
22 sentence of probation, conditional discharge, or supervision,
23 subject to the provisions of Section 5-6-4 of this Act.

24 (b) The court may impose a sentence of conditional
25 discharge for an offense if the court is of the opinion that
26 neither a sentence of imprisonment nor of periodic imprisonment

1 nor of probation supervision is appropriate.

2 (b-1) Subsections (a) and (b) of this Section do not apply
3 to a defendant charged with a misdemeanor or felony under the
4 Illinois Vehicle Code or reckless homicide under Section 9-3 of
5 the Criminal Code of 1961 if the defendant within the past 12
6 months has been convicted of or pleaded guilty to a misdemeanor
7 or felony under the Illinois Vehicle Code or reckless homicide
8 under Section 9-3 of the Criminal Code of 1961.

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

26 (1) the offender is not likely to commit further

1 crimes;

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

4 (3) in the best interests of justice an order of
5 supervision is more appropriate than a sentence otherwise
6 permitted under this Code.

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

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

19 (1) convicted for a violation of Section 11-501 of the
20 Illinois Vehicle Code or a similar provision of a local
21 ordinance or any similar law or ordinance of another state;
22 or

23 (2) assigned supervision for a violation of Section
24 11-501 of the Illinois Vehicle Code or a similar provision
25 of a local ordinance or any similar law or ordinance of
26 another state; or

1 (3) pleaded guilty to or stipulated to the facts
2 supporting a charge or a finding of guilty to a violation
3 of Section 11-503 of the Illinois Vehicle Code or a similar
4 provision of a local ordinance or any similar law or
5 ordinance of another state, and the plea or stipulation was
6 the result of a plea agreement.

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

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

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

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

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

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

26 (g) Except as otherwise provided in paragraph (i) of this

1 Section, the provisions of paragraph (c) shall not apply to a
2 defendant charged with violating Section 3-707, 3-708, 3-710,
3 or 5-401.3 of the Illinois Vehicle Code or a similar provision
4 of a local ordinance if the defendant has within the last 5
5 years been:

6 (1) convicted for a violation of Section 3-707, 3-708,
7 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar
8 provision of a local ordinance; or

9 (2) assigned supervision for a violation of Section
10 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle
11 Code or a similar provision of a local ordinance.

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

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

19 (1) unless the defendant, upon payment of the fines,
20 penalties, and costs provided by law, agrees to attend and
21 successfully complete a traffic safety program approved by
22 the court under standards set by the Conference of Chief
23 Circuit Judges. The accused shall be responsible for
24 payment of any traffic safety program fees. If the accused
25 fails to file a certificate of successful completion on or
26 before the termination date of the supervision order, the

1 supervision shall be summarily revoked and conviction
2 entered. The provisions of Supreme Court Rule 402 relating
3 to pleas of guilty do not apply in cases when a defendant
4 enters a guilty plea under this provision; or

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

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

25 (i) The provisions of paragraph (c) shall not apply to a
26 defendant charged with violating Section 3-707 of the Illinois

1 Vehicle Code or a similar provision of a local ordinance if the
2 defendant has been assigned supervision for a violation of
3 Section 3-707 of the Illinois Vehicle Code or a similar
4 provision of a local ordinance.

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

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

16 (2) assigned supervision for a violation of Section
17 6-303 of the Illinois Vehicle Code or a similar provision
18 of a local ordinance.

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

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

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

19 (m) Any person convicted of, pleading guilty to, or placed
20 on supervision for a serious traffic violation, as defined in
21 Section 1-187.001 of the Illinois Vehicle Code, a violation of
22 Section 11-501 of the Illinois Vehicle Code, or a violation of
23 a similar provision of a local ordinance shall pay an
24 additional fee of \$20, to be disbursed as provided in Section
25 16-104d of that Code.

26 This subsection (m) becomes inoperative 7 years after

1 October 13, 2007 (the effective date of Public Act 95-154).

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

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

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

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

1 Section 1-129.1 of the Illinois Vehicle Code.

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

6 (Source: P.A. 95-154, eff. 10-13-07; 95-302, eff. 1-1-08;
7 95-310, eff. 1-1-08; 95-377, eff. 1-1-08; 95-400, eff. 1-1-09;
8 95-428, 8-24-07; 95-876, eff. 8-21-08; 96-253, eff. 8-11-09;
9 96-286, eff. 8-11-09; 96-328, eff. 8-11-09; 96-625, eff.
10 1-1-10; revised 10-1-09.)".