

FIRST OFFENDER PROBATION POSSESSION CONTROLLED SUBSTANCE

720 Ill. Comp. Stat. Ann. 570/410 (Effective: January 1, 2025)

§ 410. (a) Whenever any person who has not previously been convicted of any felony offense under this Act or any law of the United States or of any State relating to cannabis or controlled substances, pleads guilty to or is found guilty of possession of a controlled or counterfeit substance under subsection (c) of Section 402 or of unauthorized possession of prescription form under Section 406.2, the court, without entering a judgment and with the consent of such person, may sentence him or her to probation. A sentence under this Section shall not be considered a conviction under Illinois law unless and until judgment is entered under subsection (e) of this Section.

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

(c) The conditions of probation shall be that the person: (1) not violate any criminal statute of any jurisdiction; (2) refrain from possessing a firearm or other dangerous weapon; (3) submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than 3 times during the period of the probation, with the cost of the testing to be paid by the probationer; and (4) perform no less than 30 hours of community service, provided community service is available in the jurisdiction and is funded and approved by the county board. The court may give credit toward the fulfillment of community service hours for participation in activities and treatment as determined by court services.

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

- (1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation;
- (2) pay a fine and costs;
- (3) work or pursue a course of study or vocational training;
- (4) undergo medical or psychiatric treatment; or treatment or rehabilitation approved by the Illinois Department of Human Services;
- (5) attend or reside in a facility established for the instruction or residence of defendants on probation;
- (6) support his or her dependents;
- (6-5) refrain from having in his or her body the presence of any illicit drug prohibited by

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

(7) and in addition, if a minor:

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

(ii) attend school;

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

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

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

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

(g) A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal, however, a sentence under this Section is not a conviction for purposes of this Act or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime unless and until judgment is entered.

(h) A person may not have more than one discharge and dismissal under this Section within a 4-year period.

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

(j) Notwithstanding subsection (a), before a person is sentenced to probation under this Section, the court may refer the person to the drug court established in that judicial circuit pursuant to Section 15 of the Drug Court Treatment Act. The drug court team shall evaluate the person's likelihood of successfully completing a sentence of probation under this Section and shall report the results of its evaluation to the court. If the drug court team finds that the person suffers from a substance use disorder that makes him or her substantially unlikely to successfully complete a sentence of probation under this Section, then the drug court shall set forth its findings in the form of a written order, and the person shall not be sentenced to probation under this Section, but shall be considered for the drug court program.