

SUPPORT



HB4422 & SB3563

Ensure Fair Access to Diversion Programs

Rep. Kevin Olickal & Senator Adriane Johnson

In many nonviolent Class 4 gun possession cases, Illinois law requires a prison sentence even if it is someone's first offense. In 2017, concluding that public safety is not always best served by mandatory minimum prison sentences, legislators created a crucial safety valve: the First Time Weapons Offense Program (FTWOP).

The legislature has recognized the public safety benefits of allowing someone with no allegations of violence to complete programming and avoid a felony conviction that would limit their opportunities for years to come. But in most counties, the First Time Weapon Offense Program doesn't exist, and that prison sentence is still mandatory. In counties where FTWOP does exist, even people who meet the stringent statutory criteria are excluded from participation if the prosecutor doesn't approve their diversion.

Second Chance Probation, created in 2013, is also currently subject to prosecutor approval. **Every other specialty probation program allows judges to decide when statutorily created diversion opportunities are appropriate or when a prison sentence is required.**

This bill gives judges discretion to sentence people to the First Time Weapons Offense and Second Chance Probation programs and allows for more individualized sentencing.

This bill:

- Standardizes access to specialty probation programs by giving judges discretion to sentence people to the First Time Weapons Offense and Second Chance Probation programs if they deem it appropriate.
- Allows more individualized sentencing for Second Chance Probation:
 - Changes some mandatory conditions of Second Chance Probation to discretionary conditions, facilitating individualized sentencing based on each individual's case.
 - Provides for flexible sentence lengths rather than mandating that everyone serve two years on probation.
- Still lets the prosecutor and defense attorneys make arguments to the judge. Prosecutors who support diversion can continue to advocate for these sentences before the court or agree to plea deals for all specialty probation programs.
- Does not affect prosecutorial discretion to create deferred prosecution programs, offer plea agreements, or seek all available penalties.

Ensuring access to diversion is good public safety policy.

SEE REVERSE FOR FULL LIST OF SUPPORTING ORGANIZATIONS.

Supporting Organizations

Cabrini Green Legal Aid

Chicago Appleseed Center for Fair Courts

DuPage County Public Defender's Office

Illinois Prison Project

Law Office of the Cook County Public Defender

Lawndale Christian Legal Center

The James B. Moran Center for Youth Advocacy

The People's Lobby

Restore Justice

Treatment Alternatives for Stronger Communities (TASC)

Unitarian Universalist Prison Ministry of Illinois