

1 AMENDMENT TO HOUSE BILL 562

2 AMENDMENT NO. _____. Amend House Bill 562 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by
5 changing Sections 12-12, 12-13, and 12-16 as follows:

6 (720 ILCS 5/12-12) (from Ch. 38, par. 12-12)

7 Sec. 12-12. Definitions. For the purposes of Sections
8 12-13 through 12-18 of this Code, the terms used in these
9 Sections shall have the following meanings ascribed to them:

10 (a) "Accused" means a person accused of an offense
11 prohibited by Sections 12-13, 12-14, 12-15 or 12-16 of this
12 Code or a person for whose conduct the accused is legally
13 responsible under Article 5 of this Code.

14 (b) "Bodily harm" means physical harm, and includes, but
15 is not limited to, sexually transmitted disease, pregnancy
16 and impotence.

17 (c) (Blank) "Family-member"-means-a-parent,-grandparent,
18 or-child,-whether-by-whole-blood,-half-blood-or-adoption--and
19 includes---a--step-grandparent,-step-parent--or--step-child.
20 "Family-member"-also-means,-where-the-victim-is-a-child-under
21 18-years-of-age,-an-accused-who-has-resided-in-the--household
22 with-such-child-continuously-for-at-least-one-year.

1 (d) "Force or threat of force" means the use of force or
2 violence, or the threat of force or violence, including but
3 not limited to the following situations:

4 (1) when the accused threatens to use force or
5 violence on the victim or on any other person, and the
6 victim under the circumstances reasonably believed that
7 the accused had the ability to execute that threat; or

8 (2) when the accused has overcome the victim by use
9 of superior strength or size, physical restraint or
10 physical confinement.

11 (e) "Sexual conduct" means any intentional or knowing
12 touching or fondling by the victim or the accused, either
13 directly or through clothing, of the sex organs, anus or
14 breast of the victim or the accused, or any part of the body
15 of a child under 13 years of age, or any transfer or
16 transmission of semen by the accused upon any part of the
17 clothed or unclothed body of the victim, for the purpose of
18 sexual gratification or arousal of the victim or the accused.

19 (f) "Sexual penetration" means any contact, however
20 slight, between the sex organ or anus of one person by an
21 object, the sex organ, mouth or anus of another person, or
22 any intrusion, however slight, of any part of the body of one
23 person or of any animal or object into the sex organ or anus
24 of another person, including but not limited to cunnilingus,
25 fellatio or anal penetration. Evidence of emission of semen
26 is not required to prove sexual penetration.

27 (g) "Victim" means a person alleging to have been
28 subjected to an offense prohibited by Sections 12-13, 12-14,
29 12-15 or 12-16 of this Code.

30 (Source: P.A. 91-116, eff. 1-1-00.)

31 (720 ILCS 5/12-13) (from Ch. 38, par. 12-13)
32 Sec. 12-13. Criminal Sexual Assault.

33 (a) The accused commits criminal sexual assault if he or

1 she:

2 (1) commits an act of sexual penetration by the use
3 of force or threat of force; or

4 (2) commits an act of sexual penetration and the
5 accused knew that the victim was unable to understand the
6 nature of the act or was unable to give knowing consent;
7 or

8 (3) (blank) ~~commits--an--act--of--sexual--penetration~~
9 ~~with--a--victim--who--was--under--18--years--of--age--when--the--act~~
10 ~~was--committed--and--the--accused--was--a--family--member;~~ or

11 (4) commits an act of sexual penetration with a
12 victim who was at least 13 years of age but under 18
13 years of age when the act was committed and the accused
14 was 17 years of age or over and held a position of trust,
15 authority or supervision in relation to the victim.

16 (b) Sentence.

17 (1) Criminal sexual assault is a Class 1 felony.

18 (2) A person who is convicted of the offense of
19 criminal sexual assault as defined in paragraph (a)(1) or
20 (a)(2) after having previously been convicted of the
21 offense of criminal sexual assault, or who is convicted
22 of the offense of criminal sexual assault as defined in
23 paragraph (a)(1) or (a)(2) after having previously been
24 convicted under the laws of this State or any other state
25 of an offense that is substantially equivalent to the
26 offense of criminal sexual assault, commits a Class X
27 felony for which the person shall be sentenced to a term
28 of imprisonment of not less than 30 years and not more
29 than 60 years. The commission of the second or
30 subsequent offense is required to have been after the
31 initial conviction for this paragraph (2) to apply.

32 (3) A person who is convicted of the offense of
33 criminal sexual assault as defined in paragraph (a)(1) or
34 (a)(2) after having previously been convicted of the

1 offense of aggravated criminal sexual assault or the
 2 offense of predatory criminal sexual assault of a child,
 3 or who is convicted of the offense of criminal sexual
 4 assault as defined in paragraph (a)(1) or (a)(2) after
 5 having previously been convicted under the laws of this
 6 State or any other state of an offense that is
 7 substantially equivalent to the offense of aggravated
 8 criminal sexual assault or the offense of criminal
 9 predatory sexual assault shall be sentenced to a term of
 10 natural life imprisonment. The commission of the second
 11 or subsequent offense is required to have been after the
 12 initial conviction for this paragraph (3) to apply.

13 (4) A second or subsequent conviction for a
 14 violation of paragraph ~~(a)(3)~~ or under any
 15 similar statute of this State or any other state for any
 16 offense involving criminal sexual assault that is
 17 substantially equivalent to or more serious than the
 18 sexual assault prohibited under paragraph ~~(a)(3)~~
 19 (a)(4) is a Class X felony.

20 (5) When a person has any such prior conviction,
 21 the information or indictment charging that person shall
 22 state such prior conviction so as to give notice of the
 23 State's intention to treat the charge as a Class X
 24 felony. The fact of such prior conviction is not an
 25 element of the offense and may not be disclosed to the
 26 jury during trial unless otherwise permitted by issues
 27 properly raised during such trial.

28 (Source: P.A. 90-396, eff. 1-1-98.)

29 (720 ILCS 5/12-16) (from Ch. 38, par. 12-16)

30 Sec. 12-16. Aggravated Criminal Sexual Abuse.

31 (a) The accused commits aggravated criminal sexual abuse
 32 if he or she commits criminal sexual abuse as defined in
 33 subsection (a) of Section 12-15 of this Code and any of the

1 following aggravating circumstances existed during, or for
2 the purposes of paragraph (7) of this subsection (a) as part
3 of the same course of conduct as, the commission of the
4 offense:

5 (1) the accused displayed, threatened to use or
6 used a dangerous weapon or any object fashioned or
7 utilized in such a manner as to lead the victim under the
8 circumstances reasonably to believe it to be a dangerous
9 weapon; or

10 (2) the accused caused bodily harm to the victim;
11 or

12 (3) the victim was 60 years of age or over when the
13 offense was committed; or

14 (4) the victim was a physically handicapped person;
15 or

16 (5) the accused acted in such a manner as to
17 threaten or endanger the life of the victim or any other
18 person; or

19 (6) the criminal sexual abuse was perpetrated
20 during the course of the commission or attempted
21 commission of any other felony by the accused; or

22 (7) the accused delivered (by injection,
23 inhalation, ingestion, transfer of possession, or any
24 other means) to the victim without his or her consent, or
25 by threat or deception, and for other than medical
26 purposes, any controlled substance.

27 (b) (Blank) ~~The--accused--commits--aggravated--criminal~~
28 ~~sexual---abuse--if--he--or--she--commits--an--act--of--sexual~~
29 ~~conduct--with-a-victim-who-was-under-18-years-of-age-when-the~~
30 ~~act-was-committed-and-the-accused-was-a-family-member.~~

31 (c) The accused commits aggravated criminal sexual abuse
32 if:

33 (1) the accused was 17 years of age or over and (i)
34 commits an act of sexual conduct with a victim who was

1 under 13 years of age when the act was committed; or (ii)
2 commits an act of sexual conduct with a victim who was at
3 least 13 years of age but under 17 years of age when the
4 act was committed and the accused used force or threat of
5 force to commit the act; or

6 (2) the accused was under 17 years of age and (i)
7 commits an act of sexual conduct with a victim who was
8 under 9 years of age when the act was committed; or (ii)
9 commits an act of sexual conduct with a victim who was at
10 least 9 years of age but under 17 years of age when the
11 act was committed and the accused used force or threat of
12 force to commit the act.

13 (d) The accused commits aggravated criminal sexual abuse
14 if he or she commits an act of sexual penetration or sexual
15 conduct with a victim who was at least 13 years of age but
16 under 17 years of age and the accused was at least 5 years
17 older than the victim.

18 (e) The accused commits aggravated criminal sexual abuse
19 if he or she commits an act of sexual conduct with a victim
20 who was a severely or profoundly mentally retarded person at
21 the time the act was committed.

22 (f) The accused commits aggravated criminal sexual abuse
23 if he or she commits an act of sexual conduct with a victim
24 who was at least 13 years of age but under 18 years of age
25 when the act was committed and the accused was 17 years of
26 age or over and held a position of trust, authority or
27 supervision in relation to the victim.

28 (g) Sentence. Aggravated criminal sexual abuse is a
29 Class 2 felony.

30 (Source: P.A. 92-434, eff. 1-1-02.)

31 Section 10. The Unified Code of Corrections is amended
32 by changing Sections 5-5-3 and 5-9-1.7 as follows:

1 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)
2 Sec. 5-5-3. Disposition.

3 (a) Every person convicted of an offense shall be
4 sentenced as provided in this Section.

5 (b) The following options shall be appropriate
6 dispositions, alone or in combination, for all felonies and
7 misdemeanors other than those identified in subsection (c) of
8 this Section:

9 (1) A period of probation.

10 (2) A term of periodic imprisonment.

11 (3) A term of conditional discharge.

12 (4) A term of imprisonment.

13 (5) An order directing the offender to clean up and
14 repair the damage, if the offender was convicted under
15 paragraph (h) of Section 21-1 of the Criminal Code of
16 1961.

17 (6) A fine.

18 (7) An order directing the offender to make
19 restitution to the victim under Section 5-5-6 of this
20 Code.

21 (8) A sentence of participation in a county impact
22 incarceration program under Section 5-8-1.2 of this Code.

23 Whenever an individual is sentenced for an offense based
24 upon an arrest for a violation of Section 11-501 of the
25 Illinois Vehicle Code, or a similar provision of a local
26 ordinance, and the professional evaluation recommends
27 remedial or rehabilitative treatment or education, neither
28 the treatment nor the education shall be the sole disposition
29 and either or both may be imposed only in conjunction with
30 another disposition. The court shall monitor compliance with
31 any remedial education or treatment recommendations contained
32 in the professional evaluation. Programs conducting alcohol
33 or other drug evaluation or remedial education must be
34 licensed by the Department of Human Services. However, if

1 the individual is not a resident of Illinois, the court may
2 accept an alcohol or other drug evaluation or remedial
3 education program in the state of such individual's
4 residence. Programs providing treatment must be licensed
5 under existing applicable alcoholism and drug treatment
6 licensure standards.

7 In addition to any other fine or penalty required by law,
8 any individual convicted of a violation of Section 11-501 of
9 the Illinois Vehicle Code or a similar provision of local
10 ordinance, whose operation of a motor vehicle while in
11 violation of Section 11-501 or such ordinance proximately
12 caused an incident resulting in an appropriate emergency
13 response, shall be required to make restitution to a public
14 agency for the costs of that emergency response. Such
15 restitution shall not exceed \$500 per public agency for each
16 such emergency response. For the purpose of this paragraph,
17 emergency response shall mean any incident requiring a
18 response by: a police officer as defined under Section 1-162
19 of the Illinois Vehicle Code; a fireman carried on the rolls
20 of a regularly constituted fire department; and an ambulance
21 as defined under Section 3.85 4-05 of the Emergency Medical
22 Services (EMS) Systems Act.

23 Neither a fine nor restitution shall be the sole
24 disposition for a felony and either or both may be imposed
25 only in conjunction with another disposition.

26 (c) (1) When a defendant is found guilty of first degree
27 murder the State may either seek a sentence of
28 imprisonment under Section 5-8-1 of this Code, or where
29 appropriate seek a sentence of death under Section 9-1 of
30 the Criminal Code of 1961.

31 (2) A period of probation, a term of periodic
32 imprisonment or conditional discharge shall not be
33 imposed for the following offenses. The court shall
34 sentence the offender to not less than the minimum term

1 of imprisonment set forth in this Code for the following
2 offenses, and may order a fine or restitution or both in
3 conjunction with such term of imprisonment:

4 (A) First degree murder where the death
5 penalty is not imposed.

6 (B) Attempted first degree murder.

7 (C) A Class X felony.

8 (D) A violation of Section 401.1 or 407 of the
9 Illinois Controlled Substances Act, or a violation
10 of subdivision (c)(1) or (c)(2) of Section 401 of
11 that Act which relates to more than 5 grams of a
12 substance containing heroin or cocaine or an analog
13 thereof.

14 (E) A violation of Section 5.1 or 9 of the
15 Cannabis Control Act.

16 (F) A Class 2 or greater felony if the
17 offender had been convicted of a Class 2 or greater
18 felony within 10 years of the date on which the
19 offender committed the offense for which he or she
20 is being sentenced, except as otherwise provided in
21 Section 40-10 of the Alcoholism and Other Drug Abuse
22 and Dependency Act.

23 (G) Residential burglary, except as otherwise
24 provided in Section 40-10 of the Alcoholism and
25 Other Drug Abuse and Dependency Act.

26 (H) Criminal sexual assault or aggravated
27 criminal sexual abuse~~7-except-as-otherwise--provided~~
28 ~~in-subsection-(e)-of-this-Section.~~

29 (I) Aggravated battery of a senior citizen.

30 (J) A forcible felony if the offense was
31 related to the activities of an organized gang.

32 Before July 1, 1994, for the purposes of this
33 paragraph, "organized gang" means an association of
34 5 or more persons, with an established hierarchy,

1 that encourages members of the association to
2 perpetrate crimes or provides support to the members
3 of the association who do commit crimes.

4 Beginning July 1, 1994, for the purposes of
5 this paragraph, "organized gang" has the meaning
6 ascribed to it in Section 10 of the Illinois
7 Streetgang Terrorism Omnibus Prevention Act.

8 (K) Vehicular hijacking.

9 (L) A second or subsequent conviction for the
10 offense of hate crime when the underlying offense
11 upon which the hate crime is based is felony
12 aggravated assault or felony mob action.

13 (M) A second or subsequent conviction for the
14 offense of institutional vandalism if the damage to
15 the property exceeds \$300.

16 (N) A Class 3 felony violation of paragraph
17 (1) of subsection (a) of Section 2 of the Firearm
18 Owners Identification Card Act.

19 (O) A violation of Section 12-6.1 of the
20 Criminal Code of 1961.

21 (P) A violation of paragraph (1), (2), (3),
22 (4), (5), or (7) of subsection (a) of Section
23 11-20.1 of the Criminal Code of 1961.

24 (Q) A violation of Section 20-1.2 of the
25 Criminal Code of 1961.

26 (R) A violation of Section 24-3A of the
27 Criminal Code of 1961.

28 (S) A violation of Section 11-501(c-1)(3) of
29 the Illinois Vehicle Code.

30 (3) A minimum term of imprisonment of not less than
31 5 days or 30 days of community service as may be
32 determined by the court shall be imposed for a second
33 violation committed within 5 years of a previous
34 violation of Section 11-501 of the Illinois Vehicle Code

1 or a similar provision of a local ordinance. In the case
2 of a third or subsequent violation committed within 5
3 years of a previous violation of Section 11-501 of the
4 Illinois Vehicle Code or a similar provision of a local
5 ordinance, a minimum term of either 10 days of
6 imprisonment or 60 days of community service shall be
7 imposed.

8 (4) A minimum term of imprisonment of not less than
9 10 consecutive days or 30 days of community service shall
10 be imposed for a violation of paragraph (c) of Section
11 6-303 of the Illinois Vehicle Code.

12 (4.1) A minimum term of 30 consecutive days of
13 imprisonment, 40 days of 24 hour periodic imprisonment or
14 720 hours of community service, as may be determined by
15 the court, shall be imposed for a violation of Section
16 11-501 of the Illinois Vehicle Code during a period in
17 which the defendant's driving privileges are revoked or
18 suspended, where the revocation or suspension was for a
19 violation of Section 11-501 or Section 11-501.1 of that
20 Code.

21 (4.2) Except as provided in paragraph (4.3) of this
22 subsection (c), a minimum of 100 hours of community
23 service shall be imposed for a second violation of
24 Section 6-303 of the Illinois Vehicle Code.

25 (4.3) A minimum term of imprisonment of 30 days or
26 300 hours of community service, as determined by the
27 court, shall be imposed for a second violation of
28 subsection (c) of Section 6-303 of the Illinois Vehicle
29 Code.

30 (4.4) Except as provided in paragraph (4.5) and
31 paragraph (4.6) of this subsection (c), a minimum term of
32 imprisonment of 30 days or 300 hours of community
33 service, as determined by the court, shall be imposed for
34 a third or subsequent violation of Section 6-303 of the

1 Illinois Vehicle Code.

2 (4.5) A minimum term of imprisonment of 30 days
3 shall be imposed for a third violation of subsection (c)
4 of Section 6-303 of the Illinois Vehicle Code.

5 (4.6) A minimum term of imprisonment of 180 days
6 shall be imposed for a fourth or subsequent violation of
7 subsection (c) of Section 6-303 of the Illinois Vehicle
8 Code.

9 (5) The court may sentence an offender convicted of
10 a business offense or a petty offense or a corporation or
11 unincorporated association convicted of any offense to:

- 12 (A) a period of conditional discharge;
- 13 (B) a fine;
- 14 (C) make restitution to the victim under
15 Section 5-5-6 of this Code.

16 (5.1) In addition to any penalties imposed under
17 paragraph (5) of this subsection (c), and except as
18 provided in paragraph (5.2) or (5.3), a person convicted
19 of violating subsection (c) of Section 11-907 of the
20 Illinois Vehicle Code shall have his or her driver's
21 license, permit, or privileges suspended for at least 90
22 days but not more than one year, if the violation
23 resulted in damage to the property of another person.

24 (5.2) In addition to any penalties imposed under
25 paragraph (5) of this subsection (c), and except as
26 provided in paragraph (5.3), a person convicted of
27 violating subsection (c) of Section 11-907 of the
28 Illinois Vehicle Code shall have his or her driver's
29 license, permit, or privileges suspended for at least 180
30 days but not more than 2 years, if the violation resulted
31 in injury to another person.

32 (5.3) In addition to any penalties imposed under
33 paragraph (5) of this subsection (c), a person convicted
34 of violating subsection (c) of Section 11-907 of the

1 Illinois Vehicle Code shall have his or her driver's
2 license, permit, or privileges suspended for 2 years, if
3 the violation resulted in the death of another person.

4 (6) In no case shall an offender be eligible for a
5 disposition of probation or conditional discharge for a
6 Class 1 felony committed while he was serving a term of
7 probation or conditional discharge for a felony.

8 (7) When a defendant is adjudged a habitual
9 criminal under Article 33B of the Criminal Code of 1961,
10 the court shall sentence the defendant to a term of
11 natural life imprisonment.

12 (8) When a defendant, over the age of 21 years, is
13 convicted of a Class 1 or Class 2 felony, after having
14 twice been convicted in any state or federal court of an
15 offense that contains the same elements as an offense now
16 classified in Illinois as a Class 2 or greater Class
17 felony and such charges are separately brought and tried
18 and arise out of different series of acts, such defendant
19 shall be sentenced as a Class X offender. This paragraph
20 shall not apply unless (1) the first felony was committed
21 after the effective date of this amendatory Act of 1977;
22 and (2) the second felony was committed after conviction
23 on the first; and (3) the third felony was committed
24 after conviction on the second. A person sentenced as a
25 Class X offender under this paragraph is not eligible to
26 apply for treatment as a condition of probation as
27 provided by Section 40-10 of the Alcoholism and Other
28 Drug Abuse and Dependency Act.

29 (9) A defendant convicted of a second or subsequent
30 offense of ritualized abuse of a child may be sentenced
31 to a term of natural life imprisonment.

32 (10) When a person is convicted of violating
33 Section 11-501 of the Illinois Vehicle Code or a similar
34 provision of a local ordinance, the following penalties

1 apply when his or her blood, breath, or urine was .16 or
2 more based on the definition of blood, breath, or urine
3 units in Section 11-501.2 or that person is convicted of
4 violating Section 11-501 of the Illinois Vehicle Code
5 while transporting a child under the age of 16:

6 (A) For a first violation of subsection (a) of
7 Section 11-501, in addition to any other penalty
8 that may be imposed under subsection (c) of Section
9 11-501: a mandatory minimum of 100 hours of
10 community service and a minimum fine of \$500.

11 (B) For a second violation of subsection (a)
12 of Section 11-501, in addition to any other penalty
13 that may be imposed under subsection (c) of Section
14 11-501 within 10 years: a mandatory minimum of 2
15 days of imprisonment and a minimum fine of \$1,250.

16 (C) For a third violation of subsection (a) of
17 Section 11-501, in addition to any other penalty
18 that may be imposed under subsection (c) of Section
19 11-501 within 20 years: a mandatory minimum of 90
20 days of imprisonment and a minimum fine of \$2,500.

21 (D) For a fourth or subsequent violation of
22 subsection (a) of Section 11-501: ineligibility for
23 a sentence of probation or conditional discharge and
24 a minimum fine of \$2,500.

25 (d) In any case in which a sentence originally imposed
26 is vacated, the case shall be remanded to the trial court.
27 The trial court shall hold a hearing under Section 5-4-1 of
28 the Unified Code of Corrections which may include evidence of
29 the defendant's life, moral character and occupation during
30 the time since the original sentence was passed. The trial
31 court shall then impose sentence upon the defendant. The
32 trial court may impose any sentence which could have been
33 imposed at the original trial subject to Section 5-5-4 of the
34 Unified Code of Corrections. If a sentence is vacated on

1 appeal or on collateral attack due to the failure of the
 2 trier of fact at trial to determine beyond a reasonable doubt
 3 the existence of a fact (other than a prior conviction)
 4 necessary to increase the punishment for the offense beyond
 5 the statutory maximum otherwise applicable, either the
 6 defendant may be re-sentenced to a term within the range
 7 otherwise provided or, if the State files notice of its
 8 intention to again seek the extended sentence, the defendant
 9 shall be afforded a new trial.

10 (e) (Blank). In cases where prosecution for criminal
 11 sexual assault or aggravated criminal sexual abuse under
 12 Section 12-13 or 12-16 of the Criminal Code of 1961 results
 13 in conviction of a defendant who was a family member of the
 14 victim at the time of the commission of the offense, the
 15 court shall consider the safety and welfare of the victim and
 16 may impose a sentence of probation only where:

17 (1) the court finds (A) or (B) or both are
 18 appropriate:

19 (A) the defendant is willing to undergo a
 20 court approved counseling program for a minimum
 21 duration of 2 years; or

22 (B) the defendant is willing to participate in
 23 a court approved plan including but not limited to
 24 the defendant's:

25 (i) removal from the household;

26 (ii) restricted contact with the victim;

27 (iii) continued financial support of the
 28 family;

29 (iv) restitution for harm done to the
 30 victim; and

31 (v) compliance with any other measures
 32 that the court may deem appropriate; and

33 (2) the court orders the defendant to pay for the
 34 victim's counseling services, to the extent that the

1 court finds, after considering the defendant's income and
2 assets, that the defendant is financially capable of
3 paying for such services, if the victim was under 18
4 years of age at the time the offense was committed and
5 requires counseling as a result of the offense.

6 Probation may be revoked or modified pursuant to Section
7 5-6-4; except where the court determines at the hearing that
8 the defendant violated a condition of his or her probation
9 restricting contact with the victim or other family members
10 or commits another offense with the victim or other family
11 members, the court shall revoke the defendant's probation and
12 impose a term of imprisonment.

13 For the purposes of this Section, "family member" and
14 "victim" shall have the meanings ascribed to them in Section
15 12-12 of the Criminal Code of 1961.

16 (f) This Article shall not deprive a court in other
17 proceedings to order a forfeiture of property, to suspend or
18 cancel a license, to remove a person from office, or to
19 impose any other civil penalty.

20 (g) Whenever a defendant is convicted of an offense
21 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,
22 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,
23 12-15 or 12-16 of the Criminal Code of 1961, the defendant
24 shall undergo medical testing to determine whether the
25 defendant has any sexually transmissible disease, including a
26 test for infection with human immunodeficiency virus (HIV) or
27 any other identified causative agent of acquired
28 immunodeficiency syndrome (AIDS). Any such medical test
29 shall be performed only by appropriately licensed medical
30 practitioners and may include an analysis of any bodily
31 fluids as well as an examination of the defendant's person.
32 Except as otherwise provided by law, the results of such test
33 shall be kept strictly confidential by all medical personnel
34 involved in the testing and must be personally delivered in a

1 sealed envelope to the judge of the court in which the
2 conviction was entered for the judge's inspection in camera.
3 Acting in accordance with the best interests of the victim
4 and the public, the judge shall have the discretion to
5 determine to whom, if anyone, the results of the testing may
6 be revealed. The court shall notify the defendant of the test
7 results. The court shall also notify the victim if requested
8 by the victim, and if the victim is under the age of 15 and
9 if requested by the victim's parents or legal guardian, the
10 court shall notify the victim's parents or legal guardian of
11 the test results. The court shall provide information on the
12 availability of HIV testing and counseling at Department of
13 Public Health facilities to all parties to whom the results
14 of the testing are revealed and shall direct the State's
15 Attorney to provide the information to the victim when
16 possible. A State's Attorney may petition the court to obtain
17 the results of any HIV test administered under this Section,
18 and the court shall grant the disclosure if the State's
19 Attorney shows it is relevant in order to prosecute a charge
20 of criminal transmission of HIV under Section 12-16.2 of the
21 Criminal Code of 1961 against the defendant. The court shall
22 order that the cost of any such test shall be paid by the
23 county and may be taxed as costs against the convicted
24 defendant.

25 (g-5) When an inmate is tested for an airborne
26 communicable disease, as determined by the Illinois
27 Department of Public Health including but not limited to
28 tuberculosis, the results of the test shall be personally
29 delivered by the warden or his or her designee in a sealed
30 envelope to the judge of the court in which the inmate must
31 appear for the judge's inspection in camera if requested by
32 the judge. Acting in accordance with the best interests of
33 those in the courtroom, the judge shall have the discretion
34 to determine what if any precautions need to be taken to

1 prevent transmission of the disease in the courtroom.

2 (h) Whenever a defendant is convicted of an offense
3 under Section 1 or 2 of the Hypodermic Syringes and Needles
4 Act, the defendant shall undergo medical testing to determine
5 whether the defendant has been exposed to human
6 immunodeficiency virus (HIV) or any other identified
7 causative agent of acquired immunodeficiency syndrome (AIDS).
8 Except as otherwise provided by law, the results of such test
9 shall be kept strictly confidential by all medical personnel
10 involved in the testing and must be personally delivered in a
11 sealed envelope to the judge of the court in which the
12 conviction was entered for the judge's inspection in camera.
13 Acting in accordance with the best interests of the public,
14 the judge shall have the discretion to determine to whom, if
15 anyone, the results of the testing may be revealed. The court
16 shall notify the defendant of a positive test showing an
17 infection with the human immunodeficiency virus (HIV). The
18 court shall provide information on the availability of HIV
19 testing and counseling at Department of Public Health
20 facilities to all parties to whom the results of the testing
21 are revealed and shall direct the State's Attorney to provide
22 the information to the victim when possible. A State's
23 Attorney may petition the court to obtain the results of any
24 HIV test administered under this Section, and the court
25 shall grant the disclosure if the State's Attorney shows it
26 is relevant in order to prosecute a charge of criminal
27 transmission of HIV under Section 12-16.2 of the Criminal
28 Code of 1961 against the defendant. The court shall order
29 that the cost of any such test shall be paid by the county
30 and may be taxed as costs against the convicted defendant.

31 (i) All fines and penalties imposed under this Section
32 for any violation of Chapters 3, 4, 6, and 11 of the Illinois
33 Vehicle Code, or a similar provision of a local ordinance,
34 and any violation of the Child Passenger Protection Act, or a

1 similar provision of a local ordinance, shall be collected
2 and disbursed by the circuit clerk as provided under Section
3 27.5 of the Clerks of Courts Act.

4 (j) In cases when prosecution for any violation of
5 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,
6 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,
7 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or
8 12-16 of the Criminal Code of 1961, any violation of the
9 Illinois Controlled Substances Act, or any violation of the
10 Cannabis Control Act results in conviction, a disposition of
11 court supervision, or an order of probation granted under
12 Section 10 of the Cannabis Control Act or Section 410 of the
13 Illinois Controlled Substance Act of a defendant, the court
14 shall determine whether the defendant is employed by a
15 facility or center as defined under the Child Care Act of
16 1969, a public or private elementary or secondary school, or
17 otherwise works with children under 18 years of age on a
18 daily basis. When a defendant is so employed, the court
19 shall order the Clerk of the Court to send a copy of the
20 judgment of conviction or order of supervision or probation
21 to the defendant's employer by certified mail. If the
22 employer of the defendant is a school, the Clerk of the Court
23 shall direct the mailing of a copy of the judgment of
24 conviction or order of supervision or probation to the
25 appropriate regional superintendent of schools. The regional
26 superintendent of schools shall notify the State Board of
27 Education of any notification under this subsection.

28 (j-5) A defendant at least 17 years of age who is
29 convicted of a felony and who has not been previously
30 convicted of a misdemeanor or felony and who is sentenced to
31 a term of imprisonment in the Illinois Department of
32 Corrections shall as a condition of his or her sentence be
33 required by the court to attend educational courses designed
34 to prepare the defendant for a high school diploma and to

1 work toward a high school diploma or to work toward passing
2 the high school level Test of General Educational Development
3 (GED) or to work toward completing a vocational training
4 program offered by the Department of Corrections. If a
5 defendant fails to complete the educational training required
6 by his or her sentence during the term of incarceration, the
7 Prisoner Review Board shall, as a condition of mandatory
8 supervised release, require the defendant, at his or her own
9 expense, to pursue a course of study toward a high school
10 diploma or passage of the GED test. The Prisoner Review
11 Board shall revoke the mandatory supervised release of a
12 defendant who wilfully fails to comply with this subsection
13 (j-5) upon his or her release from confinement in a penal
14 institution while serving a mandatory supervised release
15 term; however, the inability of the defendant after making a
16 good faith effort to obtain financial aid or pay for the
17 educational training shall not be deemed a wilful failure to
18 comply. The Prisoner Review Board shall recommit the
19 defendant whose mandatory supervised release term has been
20 revoked under this subsection (j-5) as provided in Section
21 3-3-9. This subsection (j-5) does not apply to a defendant
22 who has a high school diploma or has successfully passed the
23 GED test. This subsection (j-5) does not apply to a defendant
24 who is determined by the court to be developmentally disabled
25 or otherwise mentally incapable of completing the educational
26 or vocational program.

27 (k) A court may not impose a sentence or disposition for
28 a felony or misdemeanor that requires the defendant to be
29 implanted or injected with or to use any form of birth
30 control.

31 (l) (A) Except as provided in paragraph (C) of
32 subsection (l), whenever a defendant, who is an alien as
33 defined by the Immigration and Nationality Act, is
34 convicted of any felony or misdemeanor offense, the court

1 after sentencing the defendant may, upon motion of the
2 State's Attorney, hold sentence in abeyance and remand
3 the defendant to the custody of the Attorney General of
4 the United States or his or her designated agent to be
5 deported when:

6 (1) a final order of deportation has been
7 issued against the defendant pursuant to proceedings
8 under the Immigration and Nationality Act, and

9 (2) the deportation of the defendant would not
10 deprecate the seriousness of the defendant's conduct
11 and would not be inconsistent with the ends of
12 justice.

13 Otherwise, the defendant shall be sentenced as
14 provided in this Chapter V.

15 (B) If the defendant has already been sentenced for
16 a felony or misdemeanor offense, or has been placed on
17 probation under Section 10 of the Cannabis Control Act or
18 Section 410 of the Illinois Controlled Substances Act,
19 the court may, upon motion of the State's Attorney to
20 suspend the sentence imposed, commit the defendant to the
21 custody of the Attorney General of the United States or
22 his or her designated agent when:

23 (1) a final order of deportation has been
24 issued against the defendant pursuant to proceedings
25 under the Immigration and Nationality Act, and

26 (2) the deportation of the defendant would not
27 deprecate the seriousness of the defendant's conduct
28 and would not be inconsistent with the ends of
29 justice.

30 (C) This subsection (1) does not apply to offenders
31 who are subject to the provisions of paragraph (2) of
32 subsection (a) of Section 3-6-3.

33 (D) Upon motion of the State's Attorney, if a
34 defendant sentenced under this Section returns to the

1 jurisdiction of the United States, the defendant shall be
2 recommitted to the custody of the county from which he or
3 she was sentenced. Thereafter, the defendant shall be
4 brought before the sentencing court, which may impose any
5 sentence that was available under Section 5-5-3 at the
6 time of initial sentencing. In addition, the defendant
7 shall not be eligible for additional good conduct credit
8 for meritorious service as provided under Section 3-6-6.

9 (m) A person convicted of criminal defacement of
10 property under Section 21-1.3 of the Criminal Code of 1961,
11 in which the property damage exceeds \$300 and the property
12 damaged is a school building, shall be ordered to perform
13 community service that may include cleanup, removal, or
14 painting over the defacement.

15 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;
16 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.
17 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,
18 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;
19 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff.
20 7-19-02; revised 2-17-03.)

21 (730 ILCS 5/5-9-1.7) (from Ch. 38, par. 1005-9-1.7)

22 Sec. 5-9-1.7. Sexual assault fines.

23 (a) Definitions. The terms used in this Section shall
24 have the following meanings ascribed to them:

25 (1) "Sexual assault" means the commission or
26 attempted commission of the following: criminal sexual
27 assault, predatory criminal sexual assault of a child,
28 aggravated criminal sexual assault, criminal sexual
29 abuse, aggravated criminal sexual abuse, indecent
30 solicitation of a child, public indecency, sexual
31 relations within families, soliciting for a juvenile
32 prostitute, keeping a place of juvenile prostitution,
33 patronizing a juvenile prostitute, juvenile pimping,

1 exploitation of a child, obscenity, child pornography, or
2 harmful material, as those offenses are defined in the
3 Criminal Code of 1961.

4 (2) "Family member" shall have the meaning ascribed
5 to it in Section 12-12 of the Criminal Code of 1961.

6 (3) "Sexual assault organization" means any
7 not-for-profit organization providing comprehensive,
8 community-based services to victims of sexual assault.
9 "Community-based services" include, but are not limited
10 to, direct crisis intervention through a 24-hour
11 response, medical and legal advocacy, counseling,
12 information and referral services, training, and
13 community education.

14 (b) Sexual assault fine; collection by clerk.

15 (1) In addition to any other penalty imposed, a
16 fine of \$100 shall be imposed upon any person who pleads
17 guilty or who is convicted of, or who receives a
18 disposition of court supervision for, a sexual assault or
19 attempt of a sexual assault. Upon request of the victim
20 or the victim's representative, the court shall determine
21 whether the fine will impose an undue burden on the
22 victim of the offense. For purposes of this paragraph,
23 the defendant may not be considered the victim's
24 representative. If the court finds that the fine would
25 impose an undue burden on the victim, the court may
26 reduce or waive the fine. The court shall order that the
27 defendant may not use funds belonging solely to the
28 victim of the offense for payment of the fine.

29 (2) Sexual assault fines shall be assessed by the
30 court imposing the sentence and shall be collected by the
31 circuit clerk. The circuit clerk shall retain 10% of the
32 penalty to cover the costs involved in administering and
33 enforcing this Section. The circuit clerk shall remit
34 the remainder of each fine within one month of its

1 receipt to the State Treasurer for deposit as follows:

2 (i) for offenders who held a position of
3 trust, authority, or supervision in relation to the
4 victim family--member--offenders, one-half to the
5 Sexual Assault Services Fund, and one-half to the
6 Domestic Violence Shelter and Service Fund; and

7 (ii) for other than offenders who held a
8 position of trust, authority, or supervision in
9 relation to the victim family-member-offenders, the
10 full amount to the Sexual Assault Services Fund.

11 (c) Sexual Assault Services Fund; administration. There
12 is created a Sexual Assault Services Fund. Moneys deposited
13 into the Fund under this Section shall be appropriated to the
14 Department of Public Health. Upon appropriation of moneys
15 from the Sexual Assault Services Fund, the Department of
16 Public Health shall make grants of these moneys from the Fund
17 to sexual assault organizations with whom the Department has
18 contracts for the purpose of providing community-based
19 services to victims of sexual assault. Grants made under this
20 Section are in addition to, and are not substitutes for,
21 other grants authorized and made by the Department.

22 (Source: P.A. 88-45; 89-428, eff. 12-13-95; 89-462, eff.
23 5-29-96.)".