



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1245

Introduced 02/08/11, by Rep. Elizabeth Hernandez

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-710

730 ILCS 5/5-5-3

from Ch. 38, par. 1005-5-3

Amends the Juvenile Court Act of 1987 and the Unified Code of Corrections. Provides that in addition to any term of incarceration that may be imposed by the court and unless the court determines that it has good cause not to impose these requirements, a gang member who is under 21 years of age and who has been found guilty of or continued under supervision for a gang-related offense and who has not previously been found guilty of or continued under supervision for a gang-related offense shall, upon completion of any term of incarceration, be required: (i) to perform community service, the type and number of hours of community service to be determined by the court; (ii) if the gang member does not have a high school diploma or a GED certificate, to attend and complete educational courses designed to prepare the gang member to pass the high school level Test of General Educational Development (GED); (iii) to comply with a curfew (A) between 11:00 p.m. on Friday and 6:00 a.m. on Saturday; (B) between 11:00 p.m. on Saturday and 6:00 a.m. on Sunday; and (C) between 10:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day; and (iv) to attend Life Skills classes conducted by a community college or by a non-profit offender re-entry program.

LRB097 06597 RLC 46682 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 Juvenile Court Act of 1987 is amended by
5 changing Section 5-710 as follows:

6 (705 ILCS 405/5-710)

7 Sec. 5-710. Kinds of sentencing orders.

8 (1) The following kinds of sentencing orders may be made in
9 respect of wards of the court:

10 (a) Except as provided in Sections 5-805, 5-810, 5-815,
11 a minor who is found guilty under Section 5-620 may be:

12 (i) put on probation or conditional discharge and
13 released to his or her parents, guardian or legal
14 custodian, provided, however, that any such minor who
15 is not committed to the Department of Juvenile Justice
16 under this subsection and who is found to be a
17 delinquent for an offense which is first degree murder,
18 a Class X felony, or a forcible felony shall be placed
19 on probation;

20 (ii) placed in accordance with Section 5-740, with
21 or without also being put on probation or conditional
22 discharge;

23 (iii) required to undergo a substance abuse

1 assessment conducted by a licensed provider and
2 participate in the indicated clinical level of care;

3 (iv) placed in the guardianship of the Department
4 of Children and Family Services, but only if the
5 delinquent minor is under 15 years of age or, pursuant
6 to Article II of this Act, a minor for whom an
7 independent basis of abuse, neglect, or dependency
8 exists. An independent basis exists when the
9 allegations or adjudication of abuse, neglect, or
10 dependency do not arise from the same facts, incident,
11 or circumstances which give rise to a charge or
12 adjudication of delinquency;

13 (v) placed in detention for a period not to exceed
14 30 days, either as the exclusive order of disposition
15 or, where appropriate, in conjunction with any other
16 order of disposition issued under this paragraph,
17 provided that any such detention shall be in a juvenile
18 detention home and the minor so detained shall be 10
19 years of age or older. However, the 30-day limitation
20 may be extended by further order of the court for a
21 minor under age 15 committed to the Department of
22 Children and Family Services if the court finds that
23 the minor is a danger to himself or others. The minor
24 shall be given credit on the sentencing order of
25 detention for time spent in detention under Sections
26 5-501, 5-601, 5-710, or 5-720 of this Article as a

1 result of the offense for which the sentencing order
2 was imposed. The court may grant credit on a sentencing
3 order of detention entered under a violation of
4 probation or violation of conditional discharge under
5 Section 5-720 of this Article for time spent in
6 detention before the filing of the petition alleging
7 the violation. A minor shall not be deprived of credit
8 for time spent in detention before the filing of a
9 violation of probation or conditional discharge
10 alleging the same or related act or acts;

11 (vi) ordered partially or completely emancipated
12 in accordance with the provisions of the Emancipation
13 of Minors Act;

14 (vii) subject to having his or her driver's license
15 or driving privileges suspended for such time as
16 determined by the court but only until he or she
17 attains 18 years of age;

18 (viii) put on probation or conditional discharge
19 and placed in detention under Section 3-6039 of the
20 Counties Code for a period not to exceed the period of
21 incarceration permitted by law for adults found guilty
22 of the same offense or offenses for which the minor was
23 adjudicated delinquent, and in any event no longer than
24 upon attainment of age 21; this subdivision (viii)
25 notwithstanding any contrary provision of the law;

26 (ix) ordered to undergo a medical or other

1 procedure to have a tattoo symbolizing allegiance to a
2 street gang removed from his or her body; or

3 (x) placed in electronic home detention under Part
4 7A of this Article.

5 (b) A minor found to be guilty may be committed to the
6 Department of Juvenile Justice under Section 5-750 if the
7 minor is 13 years of age or older, provided that the
8 commitment to the Department of Juvenile Justice shall be
9 made only if a term of incarceration is permitted by law
10 for adults found guilty of the offense for which the minor
11 was adjudicated delinquent. The time during which a minor
12 is in custody before being released upon the request of a
13 parent, guardian or legal custodian shall be considered as
14 time spent in detention.

15 (c) When a minor is found to be guilty for an offense
16 which is a violation of the Illinois Controlled Substances
17 Act, the Cannabis Control Act, or the Methamphetamine
18 Control and Community Protection Act and made a ward of the
19 court, the court may enter a disposition order requiring
20 the minor to undergo assessment, counseling or treatment in
21 a substance abuse program approved by the Department of
22 Human Services.

23 (2) Any sentencing order other than commitment to the
24 Department of Juvenile Justice may provide for protective
25 supervision under Section 5-725 and may include an order of
26 protection under Section 5-730.

1 (3) Unless the sentencing order expressly so provides, it
2 does not operate to close proceedings on the pending petition,
3 but is subject to modification until final closing and
4 discharge of the proceedings under Section 5-750.

5 (4) In addition to any other sentence, the court may order
6 any minor found to be delinquent to make restitution, in
7 monetary or non-monetary form, under the terms and conditions
8 of Section 5-5-6 of the Unified Code of Corrections, except
9 that the "presentencing hearing" referred to in that Section
10 shall be the sentencing hearing for purposes of this Section.
11 The parent, guardian or legal custodian of the minor may be
12 ordered by the court to pay some or all of the restitution on
13 the minor's behalf, pursuant to the Parental Responsibility
14 Law. The State's Attorney is authorized to act on behalf of any
15 victim in seeking restitution in proceedings under this
16 Section, up to the maximum amount allowed in Section 5 of the
17 Parental Responsibility Law.

18 (5) Any sentencing order where the minor is committed or
19 placed in accordance with Section 5-740 shall provide for the
20 parents or guardian of the estate of the minor to pay to the
21 legal custodian or guardian of the person of the minor such
22 sums as are determined by the custodian or guardian of the
23 person of the minor as necessary for the minor's needs. The
24 payments may not exceed the maximum amounts provided for by
25 Section 9.1 of the Children and Family Services Act.

26 (6) Whenever the sentencing order requires the minor to

1 attend school or participate in a program of training, the
2 truant officer or designated school official shall regularly
3 report to the court if the minor is a chronic or habitual
4 truant under Section 26-2a of the School Code. Notwithstanding
5 any other provision of this Act, in instances in which
6 educational services are to be provided to a minor in a
7 residential facility where the minor has been placed by the
8 court, costs incurred in the provision of those educational
9 services must be allocated based on the requirements of the
10 School Code.

11 (7) In no event shall a guilty minor be committed to the
12 Department of Juvenile Justice for a period of time in excess
13 of that period for which an adult could be committed for the
14 same act.

15 (8) A minor found to be guilty for reasons that include a
16 violation of Section 21-1.3 of the Criminal Code of 1961 shall
17 be ordered to perform community service for not less than 30
18 and not more than 120 hours, if community service is available
19 in the jurisdiction. The community service shall include, but
20 need not be limited to, the cleanup and repair of the damage
21 that was caused by the violation or similar damage to property
22 located in the municipality or county in which the violation
23 occurred. The order may be in addition to any other order
24 authorized by this Section.

25 (8.5) A minor found to be guilty for reasons that include a
26 violation of Section 3.02 or Section 3.03 of the Humane Care

1 for Animals Act or paragraph (d) of subsection (1) of Section
2 21-1 of the Criminal Code of 1961 shall be ordered to undergo
3 medical or psychiatric treatment rendered by a psychiatrist or
4 psychological treatment rendered by a clinical psychologist.
5 The order may be in addition to any other order authorized by
6 this Section.

7 (9) In addition to any other sentencing order, the court
8 shall order any minor found to be guilty for an act which would
9 constitute, predatory criminal sexual assault of a child,
10 aggravated criminal sexual assault, criminal sexual assault,
11 aggravated criminal sexual abuse, or criminal sexual abuse if
12 committed by an adult to undergo medical testing to determine
13 whether the defendant has any sexually transmissible disease
14 including a test for infection with human immunodeficiency
15 virus (HIV) or any other identified causative agency of
16 acquired immunodeficiency syndrome (AIDS). Any medical test
17 shall be performed only by appropriately licensed medical
18 practitioners and may include an analysis of any bodily fluids
19 as well as an examination of the minor's person. Except as
20 otherwise provided by law, the results of the test shall be
21 kept strictly confidential by all medical personnel involved in
22 the testing and must be personally delivered in a sealed
23 envelope to the judge of the court in which the sentencing
24 order was entered for the judge's inspection in camera. Acting
25 in accordance with the best interests of the victim and the
26 public, the judge shall have the discretion to determine to

1 whom the results of the testing may be revealed. The court
2 shall notify the minor of the results of the test for infection
3 with the human immunodeficiency virus (HIV). The court shall
4 also notify the victim if requested by the victim, and if the
5 victim is under the age of 15 and if requested by the victim's
6 parents or legal guardian, the court shall notify the victim's
7 parents or the legal guardian, of the results of the test for
8 infection with the human immunodeficiency virus (HIV). The
9 court shall provide information on the availability of HIV
10 testing and counseling at the Department of Public Health
11 facilities to all parties to whom the results of the testing
12 are revealed. The court shall order that the cost of any test
13 shall be paid by the county and may be taxed as costs against
14 the minor.

15 (10) When a court finds a minor to be guilty the court
16 shall, before entering a sentencing order under this Section,
17 make a finding whether the offense committed either: (a) was
18 related to or in furtherance of the criminal activities of an
19 organized gang or was motivated by the minor's membership in or
20 allegiance to an organized gang, or (b) involved a violation of
21 subsection (a) of Section 12-7.1 of the Criminal Code of 1961,
22 a violation of any Section of Article 24 of the Criminal Code
23 of 1961, or a violation of any statute that involved the
24 wrongful use of a firearm. If the court determines the question
25 in the affirmative, and the court does not commit the minor to
26 the Department of Juvenile Justice, the court shall order the

1 minor to perform community service for not less than 30 hours
2 nor more than 120 hours, provided that community service is
3 available in the jurisdiction and is funded and approved by the
4 county board of the county where the offense was committed. The
5 community service shall include, but need not be limited to,
6 the cleanup and repair of any damage caused by a violation of
7 Section 21-1.3 of the Criminal Code of 1961 and similar damage
8 to property located in the municipality or county in which the
9 violation occurred. When possible and reasonable, the
10 community service shall be performed in the minor's
11 neighborhood. This order shall be in addition to any other
12 order authorized by this Section except for an order to place
13 the minor in the custody of the Department of Juvenile Justice.
14 For the purposes of this Section, "organized gang" has the
15 meaning ascribed to it in Section 10 of the Illinois Streetgang
16 Terrorism Omnibus Prevention Act.

17 (11) If the court determines that the offense was committed
18 in furtherance of the criminal activities of an organized gang,
19 as provided in subsection (10), and that the offense involved
20 the operation or use of a motor vehicle or the use of a
21 driver's license or permit, the court shall notify the
22 Secretary of State of that determination and of the period for
23 which the minor shall be denied driving privileges. If, at the
24 time of the determination, the minor does not hold a driver's
25 license or permit, the court shall provide that the minor shall
26 not be issued a driver's license or permit until his or her

1 18th birthday. If the minor holds a driver's license or permit
2 at the time of the determination, the court shall provide that
3 the minor's driver's license or permit shall be revoked until
4 his or her 21st birthday, or until a later date or occurrence
5 determined by the court. If the minor holds a driver's license
6 at the time of the determination, the court may direct the
7 Secretary of State to issue the minor a judicial driving
8 permit, also known as a JDP. The JDP shall be subject to the
9 same terms as a JDP issued under Section 6-206.1 of the
10 Illinois Vehicle Code, except that the court may direct that
11 the JDP be effective immediately.

12 (12) If a minor is found to be guilty of a violation of
13 subsection (a-7) of Section 1 of the Prevention of Tobacco Use
14 by Minors Act, the court may, in its discretion, and upon
15 recommendation by the State's Attorney, order that minor and
16 his or her parents or legal guardian to attend a smoker's
17 education or youth diversion program as defined in that Act if
18 that program is available in the jurisdiction where the
19 offender resides. Attendance at a smoker's education or youth
20 diversion program shall be time-credited against any community
21 service time imposed for any first violation of subsection
22 (a-7) of Section 1 of that Act. In addition to any other
23 penalty that the court may impose for a violation of subsection
24 (a-7) of Section 1 of that Act, the court, upon request by the
25 State's Attorney, may in its discretion require the offender to
26 remit a fee for his or her attendance at a smoker's education

1 or youth diversion program.

2 For purposes of this Section, "smoker's education program"
3 or "youth diversion program" includes, but is not limited to, a
4 seminar designed to educate a person on the physical and
5 psychological effects of smoking tobacco products and the
6 health consequences of smoking tobacco products that can be
7 conducted with a locality's youth diversion program.

8 In addition to any other penalty that the court may impose
9 under this subsection (12):

10 (a) If a minor violates subsection (a-7) of Section 1
11 of the Prevention of Tobacco Use by Minors Act, the court
12 may impose a sentence of 15 hours of community service or a
13 fine of \$25 for a first violation.

14 (b) A second violation by a minor of subsection (a-7)
15 of Section 1 of that Act that occurs within 12 months after
16 the first violation is punishable by a fine of \$50 and 25
17 hours of community service.

18 (c) A third or subsequent violation by a minor of
19 subsection (a-7) of Section 1 of that Act that occurs
20 within 12 months after the first violation is punishable by
21 a \$100 fine and 30 hours of community service.

22 (d) Any second or subsequent violation not within the
23 12-month time period after the first violation is
24 punishable as provided for a first violation.

25 (13) In addition to any term of incarceration that may be
26 imposed by the court and unless the court determines that it

1 has good cause not to impose these requirements, a gang member
2 who is a minor under 21 years of age and subject to the
3 jurisdiction of the juvenile court and who has been found
4 guilty of or continued under supervision for a gang-related
5 offense and who has not previously been found guilty of or
6 continued under supervision for a gang-related offense shall,
7 upon completion of any term of incarceration, be required: (i)
8 to perform community service, the type and number of hours of
9 community service to be determined by the court; (ii) if the
10 gang member does not have a high school diploma or a GED
11 certificate, to attend and complete educational courses
12 designed to prepare the gang member to pass the high school
13 level Test of General Educational Development (GED); (iii) to
14 comply with a curfew (A) between 11:00 p.m. on Friday and 6:00
15 a.m. on Saturday; (B) between 11:00 p.m. on Saturday and 6:00
16 a.m. on Sunday; and (C) between 10:00 p.m. on Sunday to
17 Thursday, inclusive, and 6:00 a.m. on the following day; and
18 (iv) to attend Life Skills classes conducted by a community
19 college or by a non-profit offender re-entry program. The court
20 shall inform the local law enforcement agency of the
21 jurisdiction where the gang member resides after completion of
22 any term of imprisonment of the curfew imposed on the gang
23 member and shall order that the law enforcement agency conduct
24 random monitoring of the gang member to ensure compliance with
25 the curfew requirements. For the purposes of this paragraph
26 (13), "gang member" and "gang-related" have the meanings

1 ascribed to them in Section 10 of the Illinois Streetgang
2 Terrorism Omnibus Prevention Act.

3 (Source: P.A. 95-337, eff. 6-1-08; 95-642, eff. 6-1-08; 95-844,
4 eff. 8-15-08; 95-876, eff. 8-21-08; 96-179, eff. 8-10-09;
5 96-293, eff. 1-1-10; 96-1000, eff. 7-2-10.)

6 Section 10. The Unified Code of Corrections is amended by
7 changing Section 5-5-3 as follows:

8 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

9 Sec. 5-5-3. Disposition.

10 (a) (Blank).

11 (b) (Blank).

12 (c) (1) (Blank).

13 (2) A period of probation, a term of periodic
14 imprisonment or conditional discharge shall not be imposed
15 for the following offenses. The court shall sentence the
16 offender to not less than the minimum term of imprisonment
17 set forth in this Code for the following offenses, and may
18 order a fine or restitution or both in conjunction with
19 such term of imprisonment:

20 (A) First degree murder where the death penalty is
21 not imposed.

22 (B) Attempted first degree murder.

23 (C) A Class X felony.

24 (D) A violation of Section 401.1 or 407 of the

1 Illinois Controlled Substances Act, or a violation of
2 subdivision (c) (1), (c) (1.5), or (c) (2) of Section 401
3 of that Act which relates to more than 5 grams of a
4 substance containing heroin, cocaine, fentanyl, or an
5 analog thereof.

6 (E) A violation of Section 5.1 or 9 of the Cannabis
7 Control Act.

8 (F) A Class 2 or greater felony if the offender had
9 been convicted of a Class 2 or greater felony,
10 including any state or federal conviction for an
11 offense that contained, at the time it was committed,
12 the same elements as an offense now (the date of the
13 offense committed after the prior Class 2 or greater
14 felony) classified as a Class 2 or greater felony,
15 within 10 years of the date on which the offender
16 committed the offense for which he or she is being
17 sentenced, except as otherwise provided in Section
18 40-10 of the Alcoholism and Other Drug Abuse and
19 Dependency Act.

20 (F-5) A violation of Section 24-1, 24-1.1, or
21 24-1.6 of the Criminal Code of 1961 for which
22 imprisonment is prescribed in those Sections.

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

26 (H) Criminal sexual assault.

1 (I) Aggravated battery of a senior citizen.

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

4 Before July 1, 1994, for the purposes of this
5 paragraph, "organized gang" means an association of 5
6 or more persons, with an established hierarchy, that
7 encourages members of the association to perpetrate
8 crimes or provides support to the members of the
9 association who do commit crimes.

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

14 (K) Vehicular hijacking.

15 (L) A second or subsequent conviction for the
16 offense of hate crime when the underlying offense upon
17 which the hate crime is based is felony aggravated
18 assault or felony mob action.

19 (M) A second or subsequent conviction for the
20 offense of institutional vandalism if the damage to the
21 property exceeds \$300.

22 (N) A Class 3 felony violation of paragraph (1) of
23 subsection (a) of Section 2 of the Firearm Owners
24 Identification Card Act.

25 (O) A violation of Section 12-6.1 of the Criminal
26 Code of 1961.

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

4 (Q) A violation of Section 20-1.2 or 20-1.3 of the
5 Criminal Code of 1961.

6 (R) A violation of Section 24-3A of the Criminal
7 Code of 1961.

8 (S) (Blank).

9 (T) A second or subsequent violation of the
10 Methamphetamine Control and Community Protection Act.

11 (U) A second or subsequent violation of Section
12 6-303 of the Illinois Vehicle Code committed while his
13 or her driver's license, permit, or privilege was
14 revoked because of a violation of Section 9-3 of the
15 Criminal Code of 1961, relating to the offense of
16 reckless homicide, or a similar provision of a law of
17 another state.

18 (V) A violation of paragraph (4) of subsection (c)
19 of Section 11-20.3 of the Criminal Code of 1961.

20 (W) A violation of Section 24-3.5 of the Criminal
21 Code of 1961.

22 (X) A violation of subsection (a) of Section 31-1a
23 of the Criminal Code of 1961.

24 (Y) A conviction for unlawful possession of a
25 firearm by a street gang member when the firearm was
26 loaded or contained firearm ammunition.

1 (Z) A Class 1 felony committed while he or she was
2 serving a term of probation or conditional discharge
3 for a felony.

4 (AA) Theft of property exceeding \$500,000 and not
5 exceeding \$1,000,000 in value.

6 (BB) Laundering of criminally derived property of
7 a value exceeding \$500,000.

8 (CC) Knowingly selling, offering for sale, holding
9 for sale, or using 2,000 or more counterfeit items or
10 counterfeit items having a retail value in the
11 aggregate of \$500,000 or more.

12 (3) (Blank).

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

17 (4.1) (Blank).

18 (4.2) Except as provided in paragraphs (4.3) and (4.8)
19 of this subsection (c), a minimum of 100 hours of community
20 service shall be imposed for a second violation of Section
21 6-303 of the Illinois Vehicle Code.

22 (4.3) A minimum term of imprisonment of 30 days or 300
23 hours of community service, as determined by the court,
24 shall be imposed for a second violation of subsection (c)
25 of Section 6-303 of the Illinois Vehicle Code.

26 (4.4) Except as provided in paragraphs (4.5), (4.6),

1 and (4.9) of this subsection (c), a minimum term of
2 imprisonment of 30 days or 300 hours of community service,
3 as determined by the court, shall be imposed for a third or
4 subsequent violation of Section 6-303 of the Illinois
5 Vehicle Code.

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

9 (4.6) Except as provided in paragraph (4.10) of this
10 subsection (c), a minimum term of imprisonment of 180 days
11 shall be imposed for a fourth or subsequent violation of
12 subsection (c) of Section 6-303 of the Illinois Vehicle
13 Code.

14 (4.7) A minimum term of imprisonment of not less than
15 30 consecutive days, or 300 hours of community service,
16 shall be imposed for a violation of subsection (a-5) of
17 Section 6-303 of the Illinois Vehicle Code, as provided in
18 subsection (b-5) of that Section.

19 (4.8) A mandatory prison sentence shall be imposed for
20 a second violation of subsection (a-5) of Section 6-303 of
21 the Illinois Vehicle Code, as provided in subsection (c-5)
22 of that Section. The person's driving privileges shall be
23 revoked for a period of not less than 5 years from the date
24 of his or her release from prison.

25 (4.9) A mandatory prison sentence of not less than 4
26 and not more than 15 years shall be imposed for a third

1 violation of subsection (a-5) of Section 6-303 of the
2 Illinois Vehicle Code, as provided in subsection (d-2.5) of
3 that Section. The person's driving privileges shall be
4 revoked for the remainder of his or her life.

5 (4.10) A mandatory prison sentence for a Class 1 felony
6 shall be imposed, and the person shall be eligible for an
7 extended term sentence, for a fourth or subsequent
8 violation of subsection (a-5) of Section 6-303 of the
9 Illinois Vehicle Code, as provided in subsection (d-3.5) of
10 that Section. The person's driving privileges shall be
11 revoked for the remainder of his or her life.

12 (5) The court may sentence a corporation or
13 unincorporated association convicted of any offense to:

14 (A) a period of conditional discharge;

15 (B) a fine;

16 (C) make restitution to the victim under Section
17 5-5-6 of this Code.

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

25 (5.2) In addition to any other penalties imposed, and
26 except as provided in paragraph (5.3), a person convicted

1 of violating subsection (c) of Section 11-907 of the
2 Illinois Vehicle Code shall have his or her driver's
3 license, permit, or privileges suspended for at least 180
4 days but not more than 2 years, if the violation resulted
5 in injury to another person.

6 (5.3) In addition to any other penalties imposed, a
7 person convicted of violating subsection (c) of Section
8 11-907 of the Illinois Vehicle Code shall have his or her
9 driver's license, permit, or privileges suspended for 2
10 years, if the violation resulted in the death of another
11 person.

12 (5.4) In addition to any other penalties imposed, a
13 person convicted of violating Section 3-707 of the Illinois
14 Vehicle Code shall have his or her driver's license,
15 permit, or privileges suspended for 3 months and until he
16 or she has paid a reinstatement fee of \$100.

17 (5.5) In addition to any other penalties imposed, a
18 person convicted of violating Section 3-707 of the Illinois
19 Vehicle Code during a period in which his or her driver's
20 license, permit, or privileges were suspended for a
21 previous violation of that Section shall have his or her
22 driver's license, permit, or privileges suspended for an
23 additional 6 months after the expiration of the original
24 3-month suspension and until he or she has paid a
25 reinstatement fee of \$100.

26 (6) (Blank).

1 (7) (Blank).

2 (8) (Blank).

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

6 (10) (Blank).

7 (11) The court shall impose a minimum fine of \$1,000
8 for a first offense and \$2,000 for a second or subsequent
9 offense upon a person convicted of or placed on supervision
10 for battery when the individual harmed was a sports
11 official or coach at any level of competition and the act
12 causing harm to the sports official or coach occurred
13 within an athletic facility or within the immediate
14 vicinity of the athletic facility at which the sports
15 official or coach was an active participant of the athletic
16 contest held at the athletic facility. For the purposes of
17 this paragraph (11), "sports official" means a person at an
18 athletic contest who enforces the rules of the contest,
19 such as an umpire or referee; "athletic facility" means an
20 indoor or outdoor playing field or recreational area where
21 sports activities are conducted; and "coach" means a person
22 recognized as a coach by the sanctioning authority that
23 conducted the sporting event.

24 (12) A person may not receive a disposition of court
25 supervision for a violation of Section 5-16 of the Boat
26 Registration and Safety Act if that person has previously

1 received a disposition of court supervision for a violation
2 of that Section.

3 (13) A person convicted of or placed on court
4 supervision for an assault or aggravated assault when the
5 victim and the offender are family or household members as
6 defined in Section 103 of the Illinois Domestic Violence
7 Act of 1986 or convicted of domestic battery or aggravated
8 domestic battery may be required to attend a Partner Abuse
9 Intervention Program under protocols set forth by the
10 Illinois Department of Human Services under such terms and
11 conditions imposed by the court. The costs of such classes
12 shall be paid by the offender.

13 (14) In addition to any term of imprisonment that may
14 be imposed by the court and unless the court determines
15 that it has good cause not to impose these requirements, a
16 gang member under 21 years of age who has been convicted of
17 or placed on supervision for a gang-related offense and who
18 has not previously been convicted of or placed on
19 supervision for a gang-related offense shall, upon
20 completion of any term of imprisonment, be required: (i) to
21 perform community service, the type and number of hours of
22 community service to be determined by the court; (ii) if
23 the gang member does not have a high school diploma or a
24 GED certificate, to attend and complete educational
25 courses designed to prepare the gang member to pass the
26 high school level Test of General Educational Development

1 (GED); (iii) to comply with a curfew (A) between 11:00 p.m.
2 on Friday and 6:00 a.m. on Saturday; (B) between 11:00 p.m.
3 on Saturday and 6:00 a.m. on Sunday; and (C) between 10:00
4 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the
5 following day; and (iv) to attend Life Skills classes
6 conducted by a community college or by a non-profit
7 offender re-entry program. The court shall inform the local
8 law enforcement agency of the jurisdiction where the gang
9 member resides after completion of any term of imprisonment
10 of the curfew imposed on the gang member and shall order
11 that the law enforcement agency conduct random monitoring
12 of the gang member to ensure compliance with the curfew
13 requirements. For the purposes of this paragraph (14),
14 "gang member" and "gang-related" have the meanings
15 ascribed to them in Section 10 of the Illinois Streetgang
16 Terrorism Omnibus Prevention Act.

17 (d) In any case in which a sentence originally imposed is
18 vacated, the case shall be remanded to the trial court. The
19 trial court shall hold a hearing under Section 5-4-1 of the
20 Unified Code of Corrections which may include evidence of the
21 defendant's life, moral character and occupation during the
22 time since the original sentence was passed. The trial court
23 shall then impose sentence upon the defendant. The trial court
24 may impose any sentence which could have been imposed at the
25 original trial subject to Section 5-5-4 of the Unified Code of
26 Corrections. If a sentence is vacated on appeal or on

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

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

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

16 (A) the defendant is willing to undergo a court
17 approved counseling program for a minimum duration of 2
18 years; or

19 (B) the defendant is willing to participate in a
20 court approved plan including but not limited to the
21 defendant's:

22 (i) removal from the household;

23 (ii) restricted contact with the victim;

24 (iii) continued financial support of the
25 family;

26 (iv) restitution for harm done to the victim;

1 and

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

4 (2) the court orders the defendant to pay for the
5 victim's counseling services, to the extent that the court
6 finds, after considering the defendant's income and
7 assets, that the defendant is financially capable of paying
8 for such services, if the victim was under 18 years of age
9 at the time the offense was committed and requires
10 counseling as a result of the offense.

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

18 For the purposes of this Section, "family member" and
19 "victim" shall have the meanings ascribed to them in Section
20 12-12 of the Criminal Code of 1961.

21 (f) (Blank).

22 (g) Whenever a defendant is convicted of an offense under
23 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
24 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
25 of the Criminal Code of 1961, the defendant shall undergo
26 medical testing to determine whether the defendant has any

1 sexually transmissible disease, including a test for infection
2 with human immunodeficiency virus (HIV) or any other identified
3 causative agent of acquired immunodeficiency syndrome (AIDS).
4 Any such medical test shall be performed only by appropriately
5 licensed medical practitioners and may include an analysis of
6 any bodily fluids as well as an examination of the defendant's
7 person. Except as otherwise provided by law, the results of
8 such test shall be kept strictly confidential by all medical
9 personnel involved in the testing and must be personally
10 delivered in a sealed envelope to the judge of the court in
11 which the conviction was entered for the judge's inspection in
12 camera. Acting in accordance with the best interests of the
13 victim and the public, the judge shall have the discretion to
14 determine to whom, if anyone, the results of the testing may be
15 revealed. The court shall notify the defendant of the test
16 results. The court shall also notify the victim if requested by
17 the victim, and if the victim is under the age of 15 and if
18 requested by the victim's parents or legal guardian, the court
19 shall notify the victim's parents or legal guardian of the test
20 results. The court shall provide information on the
21 availability of HIV testing and counseling at Department of
22 Public Health facilities to all parties to whom the results of
23 the testing are revealed and shall direct the State's Attorney
24 to provide the information to the victim when possible. A
25 State's Attorney may petition the court to obtain the results
26 of any HIV test administered under this Section, and the court

1 shall grant the disclosure if the State's Attorney shows it is
2 relevant in order to prosecute a charge of criminal
3 transmission of HIV under Section 12-16.2 of the Criminal Code
4 of 1961 against the defendant. The court shall order that the
5 cost of any such test shall be paid by the county and may be
6 taxed as costs against the convicted defendant.

7 (g-5) When an inmate is tested for an airborne communicable
8 disease, as determined by the Illinois Department of Public
9 Health including but not limited to tuberculosis, the results
10 of the test shall be personally delivered by the warden or his
11 or her designee in a sealed envelope to the judge of the court
12 in which the inmate must appear for the judge's inspection in
13 camera if requested by the judge. Acting in accordance with the
14 best interests of those in the courtroom, the judge shall have
15 the discretion to determine what if any precautions need to be
16 taken to prevent transmission of the disease in the courtroom.

17 (h) Whenever a defendant is convicted of an offense under
18 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
19 defendant shall undergo medical testing to determine whether
20 the defendant has been exposed to human immunodeficiency virus
21 (HIV) or any other identified causative agent of acquired
22 immunodeficiency syndrome (AIDS). Except as otherwise provided
23 by law, the results of such test shall be kept strictly
24 confidential by all medical personnel involved in the testing
25 and must be personally delivered in a sealed envelope to the
26 judge of the court in which the conviction was entered for the

1 judge's inspection in camera. Acting in accordance with the
2 best interests of the public, the judge shall have the
3 discretion to determine to whom, if anyone, the results of the
4 testing may be revealed. The court shall notify the defendant
5 of a positive test showing an infection with the human
6 immunodeficiency virus (HIV). The court shall provide
7 information on the availability of HIV testing and counseling
8 at Department of Public Health facilities to all parties to
9 whom the results of the testing are revealed and shall direct
10 the State's Attorney to provide the information to the victim
11 when possible. A State's Attorney may petition the court to
12 obtain the results of any HIV test administered under this
13 Section, and the court shall grant the disclosure if the
14 State's Attorney shows it is relevant in order to prosecute a
15 charge of criminal transmission of HIV under Section 12-16.2 of
16 the Criminal Code of 1961 against the defendant. The court
17 shall order that the cost of any such test shall be paid by the
18 county and may be taxed as costs against the convicted
19 defendant.

20 (i) All fines and penalties imposed under this Section for
21 any violation of Chapters 3, 4, 6, and 11 of the Illinois
22 Vehicle Code, or a similar provision of a local ordinance, and
23 any violation of the Child Passenger Protection Act, or a
24 similar provision of a local ordinance, shall be collected and
25 disbursed by the circuit clerk as provided under Section 27.5
26 of the Clerks of Courts Act.

1 (j) In cases when prosecution for any violation of Section
2 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
3 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
4 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
5 Code of 1961, any violation of the Illinois Controlled
6 Substances Act, any violation of the Cannabis Control Act, or
7 any violation of the Methamphetamine Control and Community
8 Protection Act results in conviction, a disposition of court
9 supervision, or an order of probation granted under Section 10
10 of the Cannabis Control Act, Section 410 of the Illinois
11 Controlled Substance Act, or Section 70 of the Methamphetamine
12 Control and Community Protection Act of a defendant, the court
13 shall determine whether the defendant is employed by a facility
14 or center as defined under the Child Care Act of 1969, a public
15 or private elementary or secondary school, or otherwise works
16 with children under 18 years of age on a daily basis. When a
17 defendant is so employed, the court shall order the Clerk of
18 the Court to send a copy of the judgment of conviction or order
19 of supervision or probation to the defendant's employer by
20 certified mail. If the employer of the defendant is a school,
21 the Clerk of the Court shall direct the mailing of a copy of
22 the judgment of conviction or order of supervision or probation
23 to the appropriate regional superintendent of schools. The
24 regional superintendent of schools shall notify the State Board
25 of Education of any notification under this subsection.

26 (j-5) A defendant at least 17 years of age who is convicted

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

1 school diploma or has successfully passed the GED test. This
2 subsection (j-5) does not apply to a defendant who is
3 determined by the court to be developmentally disabled or
4 otherwise mentally incapable of completing the educational or
5 vocational program.

6 (k) (Blank).

7 (l) (A) Except as provided in paragraph (C) of subsection
8 (l), whenever a defendant, who is an alien as defined by
9 the Immigration and Nationality Act, is convicted of any
10 felony or misdemeanor offense, the court after sentencing
11 the defendant may, upon motion of the State's Attorney,
12 hold sentence in abeyance and remand the defendant to the
13 custody of the Attorney General of the United States or his
14 or her designated agent to be deported when:

15 (1) a final order of deportation has been issued
16 against the defendant pursuant to proceedings under
17 the Immigration and Nationality Act, and

18 (2) the deportation of the defendant would not
19 deprecate the seriousness of the defendant's conduct
20 and would not be inconsistent with the ends of justice.

21 Otherwise, the defendant shall be sentenced as
22 provided in this Chapter V.

23 (B) If the defendant has already been sentenced for a
24 felony or misdemeanor offense, or has been placed on
25 probation under Section 10 of the Cannabis Control Act,
26 Section 410 of the Illinois Controlled Substances Act, or

1 Section 70 of the Methamphetamine Control and Community
2 Protection Act, the court may, upon motion of the State's
3 Attorney to suspend the sentence imposed, commit the
4 defendant to the custody of the Attorney General of the
5 United States or his or her designated agent when:

6 (1) a final order of deportation has been issued
7 against the defendant pursuant to proceedings under
8 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 justice.

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

15 (D) Upon motion of the State's Attorney, if a defendant
16 sentenced under this Section returns to the jurisdiction of
17 the United States, the defendant shall be recommitted to
18 the custody of the county from which he or she was
19 sentenced. Thereafter, the defendant shall be brought
20 before the sentencing court, which may impose any sentence
21 that was available under Section 5-5-3 at the time of
22 initial sentencing. In addition, the defendant shall not be
23 eligible for additional good conduct credit for
24 meritorious service as provided under Section 3-6-6.

25 (m) A person convicted of criminal defacement of property
26 under Section 21-1.3 of the Criminal Code of 1961, in which the

1 property damage exceeds \$300 and the property damaged is a
2 school building, shall be ordered to perform community service
3 that may include cleanup, removal, or painting over the
4 defacement.

5 (n) The court may sentence a person convicted of a
6 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
7 Code of 1961 (i) to an impact incarceration program if the
8 person is otherwise eligible for that program under Section
9 5-8-1.1, (ii) to community service, or (iii) if the person is
10 an addict or alcoholic, as defined in the Alcoholism and Other
11 Drug Abuse and Dependency Act, to a substance or alcohol abuse
12 program licensed under that Act.

13 (o) Whenever a person is convicted of a sex offense as
14 defined in Section 2 of the Sex Offender Registration Act, the
15 defendant's driver's license or permit shall be subject to
16 renewal on an annual basis in accordance with the provisions of
17 license renewal established by the Secretary of State.

18 (Source: P.A. 95-188, eff. 8-16-07; 95-259, eff. 8-17-07;
19 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08;
20 95-876, eff. 8-21-08; 95-882, eff. 1-1-09; 95-1052, eff.
21 7-1-09; 96-348, eff. 8-12-09; 96-400, eff. 8-13-09; 96-829,
22 eff. 12-3-09; 96-1200, eff. 7-22-10.)