



Rep. Sonya M. Harper

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LRB100 11029 RLC 24822 a

1 AMENDMENT TO HOUSE BILL 3882

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3882, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Unified Code of Corrections is amended by  
6 changing Section 5-4-1 as follows:

7 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

8 (Text of Section before amendment by P.A. 99-938)

9 Sec. 5-4-1. Sentencing hearing.

10 (a) Except when the death penalty is sought under hearing  
11 procedures otherwise specified, after a determination of  
12 guilt, a hearing shall be held to impose the sentence. However,  
13 prior to the imposition of sentence on an individual being  
14 sentenced for an offense based upon a charge for a violation of  
15 Section 11-501 of the Illinois Vehicle Code or a similar  
16 provision of a local ordinance, the individual must undergo a

1 professional evaluation to determine if an alcohol or other  
2 drug abuse problem exists and the extent of such a problem.  
3 Programs conducting these evaluations shall be licensed by the  
4 Department of Human Services. However, if the individual is not  
5 a resident of Illinois, the court may, in its discretion,  
6 accept an evaluation from a program in the state of such  
7 individual's residence. The court may in its sentencing order  
8 approve an eligible defendant for placement in a Department of  
9 Corrections impact incarceration program as provided in  
10 Section 5-8-1.1 or 5-8-1.3. The court may in its sentencing  
11 order recommend a defendant for placement in a Department of  
12 Corrections substance abuse treatment program as provided in  
13 paragraph (a) of subsection (1) of Section 3-2-2 conditioned  
14 upon the defendant being accepted in a program by the  
15 Department of Corrections. At the hearing the court shall:

16 (1) consider the evidence, if any, received upon the  
17 trial;

18 (2) consider any presentence reports;

19 (3) consider the financial impact of incarceration  
20 based on the financial impact statement filed with the  
21 clerk of the court by the Department of Corrections;

22 (4) consider evidence and information offered by the  
23 parties in aggravation and mitigation;

24 (4.5) consider substance abuse treatment, eligibility  
25 screening, and an assessment, if any, of the defendant by  
26 an agent designated by the State of Illinois to provide

1 assessment services for the Illinois courts;

2 (5) hear arguments as to sentencing alternatives;

3 (6) afford the defendant the opportunity to make a  
4 statement in his own behalf;

5 (7) afford the victim of a violent crime or a violation  
6 of Section 11-501 of the Illinois Vehicle Code, or a  
7 similar provision of a local ordinance, or a qualified  
8 individual affected by: (i) a violation of Section 405,  
9 405.1, 405.2, or 407 of the Illinois Controlled Substances  
10 Act or a violation of Section 55 or Section 65 of the  
11 Methamphetamine Control and Community Protection Act, or  
12 (ii) a Class 4 felony violation of Section 11-14, 11-14.3  
13 except as described in subdivisions (a)(2)(A) and  
14 (a)(2)(B), 11-15, 11-17, 11-18, 11-18.1, or 11-19 of the  
15 Criminal Code of 1961 or the Criminal Code of 2012,  
16 committed by the defendant the opportunity to make a  
17 statement concerning the impact on the victim and to offer  
18 evidence in aggravation or mitigation; provided that the  
19 statement and evidence offered in aggravation or  
20 mitigation must first be prepared in writing in conjunction  
21 with the State's Attorney before it may be presented orally  
22 at the hearing. Any sworn testimony offered by the victim  
23 is subject to the defendant's right to cross-examine. All  
24 statements and evidence offered under this paragraph (7)  
25 shall become part of the record of the court. For the  
26 purpose of this paragraph (7), "qualified individual"

1 means any person who (i) lived or worked within the  
2 territorial jurisdiction where the offense took place when  
3 the offense took place; and (ii) is familiar with various  
4 public places within the territorial jurisdiction where  
5 the offense took place when the offense took place. For the  
6 purposes of this paragraph (7), "qualified individual"  
7 includes any peace officer, or any member of any duly  
8 organized State, county, or municipal peace unit assigned  
9 to the territorial jurisdiction where the offense took  
10 place when the offense took place;

11 (8) in cases of reckless homicide afford the victim's  
12 spouse, guardians, parents or other immediate family  
13 members an opportunity to make oral statements;

14 (9) in cases involving a felony sex offense as defined  
15 under the Sex Offender Management Board Act, consider the  
16 results of the sex offender evaluation conducted pursuant  
17 to Section 5-3-2 of this Act; and

18 (10) make a finding of whether a motor vehicle was used  
19 in the commission of the offense for which the defendant is  
20 being sentenced.

21 (b) All sentences shall be imposed by the judge based upon  
22 his independent assessment of the elements specified above and  
23 any agreement as to sentence reached by the parties. The judge  
24 who presided at the trial or the judge who accepted the plea of  
25 guilty shall impose the sentence unless he is no longer sitting  
26 as a judge in that court. Where the judge does not impose

1 sentence at the same time on all defendants who are convicted  
2 as a result of being involved in the same offense, the  
3 defendant or the State's Attorney may advise the sentencing  
4 court of the disposition of any other defendants who have been  
5 sentenced.

6 (b-1) In imposing a sentence of imprisonment or periodic  
7 imprisonment for a Class 3 or Class 4 felony for which a  
8 sentence of probation or conditional discharge is an available  
9 sentence, if the defendant has no prior sentence of probation  
10 or conditional discharge and no prior conviction for a violent  
11 crime, the defendant shall not be sentenced to imprisonment  
12 before review and consideration of a presentence report and  
13 determination and explanation of why the particular evidence,  
14 information, factor in aggravation, factual finding, or other  
15 reasons support a sentencing determination that one or more of  
16 the factors under subsection (a) of Section 5-6-1 of this Code  
17 apply and that probation or conditional discharge is not an  
18 appropriate sentence.

19 (c) In imposing a sentence for a violent crime or for an  
20 offense of operating or being in physical control of a vehicle  
21 while under the influence of alcohol, any other drug or any  
22 combination thereof, or a similar provision of a local  
23 ordinance, when such offense resulted in the personal injury to  
24 someone other than the defendant, the trial judge shall specify  
25 on the record the particular evidence, information, factors in  
26 mitigation and aggravation or other reasons that led to his

1 sentencing determination. The full verbatim record of the  
2 sentencing hearing shall be filed with the clerk of the court  
3 and shall be a public record.

4 (c-1) In imposing a sentence for the offense of aggravated  
5 kidnapping for ransom, home invasion, armed robbery,  
6 aggravated vehicular hijacking, aggravated discharge of a  
7 firearm, or armed violence with a category I weapon or category  
8 II weapon, the trial judge shall make a finding as to whether  
9 the conduct leading to conviction for the offense resulted in  
10 great bodily harm to a victim, and shall enter that finding and  
11 the basis for that finding in the record.

12 (c-2) If the defendant is sentenced to prison, other than  
13 when a sentence of natural life imprisonment or a sentence of  
14 death is imposed, at the time the sentence is imposed the judge  
15 shall state on the record in open court the approximate period  
16 of time the defendant will serve in custody according to the  
17 then current statutory rules and regulations for sentence  
18 credit found in Section 3-6-3 and other related provisions of  
19 this Code. This statement is intended solely to inform the  
20 public, has no legal effect on the defendant's actual release,  
21 and may not be relied on by the defendant on appeal.

22 The judge's statement, to be given after pronouncing the  
23 sentence, other than when the sentence is imposed for one of  
24 the offenses enumerated in paragraph (a)(3) of Section 3-6-3,  
25 shall include the following:

26 "The purpose of this statement is to inform the public of

1 the actual period of time this defendant is likely to spend in  
2 prison as a result of this sentence. The actual period of  
3 prison time served is determined by the statutes of Illinois as  
4 applied to this sentence by the Illinois Department of  
5 Corrections and the Illinois Prisoner Review Board. In this  
6 case, assuming the defendant receives all of his or her  
7 sentence credit, the period of estimated actual custody is ...  
8 years and ... months, less up to 180 days additional sentence  
9 credit for good conduct. If the defendant, because of his or  
10 her own misconduct or failure to comply with the institutional  
11 regulations, does not receive those credits, the actual time  
12 served in prison will be longer. The defendant may also receive  
13 an additional one-half day sentence credit for each day of  
14 participation in vocational, industry, substance abuse, and  
15 educational programs as provided for by Illinois statute."

16 When the sentence is imposed for one of the offenses  
17 enumerated in paragraph (a)(3) of Section 3-6-3, other than  
18 when the sentence is imposed for one of the offenses enumerated  
19 in paragraph (a)(2) of Section 3-6-3 committed on or after June  
20 19, 1998, and other than when the sentence is imposed for  
21 reckless homicide as defined in subsection (e) of Section 9-3  
22 of the Criminal Code of 1961 or the Criminal Code of 2012 if  
23 the offense was committed on or after January 1, 1999, and  
24 other than when the sentence is imposed for aggravated arson if  
25 the offense was committed on or after July 27, 2001 (the  
26 effective date of Public Act 92-176), and other than when the

1 sentence is imposed for aggravated driving under the influence  
2 of alcohol, other drug or drugs, or intoxicating compound or  
3 compounds, or any combination thereof as defined in  
4 subparagraph (C) of paragraph (1) of subsection (d) of Section  
5 11-501 of the Illinois Vehicle Code committed on or after  
6 January 1, 2011 (the effective date of Public Act 96-1230), the  
7 judge's statement, to be given after pronouncing the sentence,  
8 shall include the following:

9 "The purpose of this statement is to inform the public of  
10 the actual period of time this defendant is likely to spend in  
11 prison as a result of this sentence. The actual period of  
12 prison time served is determined by the statutes of Illinois as  
13 applied to this sentence by the Illinois Department of  
14 Corrections and the Illinois Prisoner Review Board. In this  
15 case, assuming the defendant receives all of his or her  
16 sentence credit, the period of estimated actual custody is ...  
17 years and ... months, less up to 90 days additional sentence  
18 credit for good conduct. If the defendant, because of his or  
19 her own misconduct or failure to comply with the institutional  
20 regulations, does not receive those credits, the actual time  
21 served in prison will be longer. The defendant may also receive  
22 an additional one-half day sentence credit for each day of  
23 participation in vocational, industry, substance abuse, and  
24 educational programs as provided for by Illinois statute."

25 When the sentence is imposed for one of the offenses  
26 enumerated in paragraph (a)(2) of Section 3-6-3, other than



1 first degree murder, and the offense was committed on or after  
2 June 19, 1998, and when the sentence is imposed for reckless  
3 homicide as defined in subsection (e) of Section 9-3 of the  
4 Criminal Code of 1961 or the Criminal Code of 2012 if the  
5 offense was committed on or after January 1, 1999, and when the  
6 sentence is imposed for aggravated driving under the influence  
7 of alcohol, other drug or drugs, or intoxicating compound or  
8 compounds, or any combination thereof as defined in  
9 subparagraph (F) of paragraph (1) of subsection (d) of Section  
10 11-501 of the Illinois Vehicle Code, and when the sentence is  
11 imposed for aggravated arson if the offense was committed on or  
12 after July 27, 2001 (the effective date of Public Act 92-176),  
13 and when the sentence is imposed for aggravated driving under  
14 the influence of alcohol, other drug or drugs, or intoxicating  
15 compound or compounds, or any combination thereof as defined in  
16 subparagraph (C) of paragraph (1) of subsection (d) of Section  
17 11-501 of the Illinois Vehicle Code committed on or after  
18 January 1, 2011 (the effective date of Public Act 96-1230), the  
19 judge's statement, to be given after pronouncing the sentence,  
20 shall include the following:

21 "The purpose of this statement is to inform the public of  
22 the actual period of time this defendant is likely to spend in  
23 prison as a result of this sentence. The actual period of  
24 prison time served is determined by the statutes of Illinois as  
25 applied to this sentence by the Illinois Department of  
26 Corrections and the Illinois Prisoner Review Board. In this

1 case, the defendant is entitled to no more than 4 1/2 days of  
2 sentence credit for each month of his or her sentence of  
3 imprisonment. Therefore, this defendant will serve at least 85%  
4 of his or her sentence. Assuming the defendant receives 4 1/2  
5 days credit for each month of his or her sentence, the period  
6 of estimated actual custody is ... years and ... months. If the  
7 defendant, because of his or her own misconduct or failure to  
8 comply with the institutional regulations receives lesser  
9 credit, the actual time served in prison will be longer."

10 When a sentence of imprisonment is imposed for first degree  
11 murder and the offense was committed on or after June 19, 1998,  
12 the judge's statement, to be given after pronouncing the  
13 sentence, shall include the following:

14 "The purpose of this statement is to inform the public of  
15 the actual period of time this defendant is likely to spend in  
16 prison as a result of this sentence. The actual period of  
17 prison time served is determined by the statutes of Illinois as  
18 applied to this sentence by the Illinois Department of  
19 Corrections and the Illinois Prisoner Review Board. In this  
20 case, the defendant is not entitled to sentence credit.  
21 Therefore, this defendant will serve 100% of his or her  
22 sentence."

23 When the sentencing order recommends placement in a  
24 substance abuse program for any offense that results in  
25 incarceration in a Department of Corrections facility and the  
26 crime was committed on or after September 1, 2003 (the

1 effective date of Public Act 93-354), the judge's statement, in  
2 addition to any other judge's statement required under this  
3 Section, to be given after pronouncing the sentence, shall  
4 include the following:

5 "The purpose of this statement is to inform the public of  
6 the actual period of time this defendant is likely to spend in  
7 prison as a result of this sentence. The actual period of  
8 prison time served is determined by the statutes of Illinois as  
9 applied to this sentence by the Illinois Department of  
10 Corrections and the Illinois Prisoner Review Board. In this  
11 case, the defendant shall receive no sentence credit for good  
12 conduct under clause (3) of subsection (a) of Section 3-6-3  
13 until he or she participates in and completes a substance abuse  
14 treatment program or receives a waiver from the Director of  
15 Corrections pursuant to clause (4.5) of subsection (a) of  
16 Section 3-6-3."

17 (c-4) Before the sentencing hearing and as part of the  
18 presentence investigation under Section 5-3-1, the court shall  
19 inquire of the defendant whether the defendant is currently  
20 serving in or is a veteran of the Armed Forces of the United  
21 States. If the defendant is currently serving in the Armed  
22 Forces of the United States or is a veteran of the Armed Forces  
23 of the United States and has been diagnosed as having a mental  
24 illness by a qualified psychiatrist or clinical psychologist or  
25 physician, the court may:

26 (1) order that the officer preparing the presentence

1 report consult with the United States Department of  
2 Veterans Affairs, Illinois Department of Veterans'  
3 Affairs, or another agency or person with suitable  
4 knowledge or experience for the purpose of providing the  
5 court with information regarding treatment options  
6 available to the defendant, including federal, State, and  
7 local programming; and

8 (2) consider the treatment recommendations of any  
9 diagnosing or treating mental health professionals  
10 together with the treatment options available to the  
11 defendant in imposing sentence.

12 For the purposes of this subsection (c-4), "qualified  
13 psychiatrist" means a reputable physician licensed in Illinois  
14 to practice medicine in all its branches, who has specialized  
15 in the diagnosis and treatment of mental and nervous disorders  
16 for a period of not less than 5 years.

17 (c-6) In imposing a sentence, the trial judge shall  
18 specify, on the record, the particular evidence and other  
19 reasons which led to his or her determination that a motor  
20 vehicle was used in the commission of the offense.

21 (d) When the defendant is committed to the Department of  
22 Corrections, the State's Attorney shall and counsel for the  
23 defendant may file a statement with the clerk of the court to  
24 be transmitted to the department, agency or institution to  
25 which the defendant is committed to furnish such department,  
26 agency or institution with the facts and circumstances of the

1 offense for which the person was committed together with all  
2 other factual information accessible to them in regard to the  
3 person prior to his commitment relative to his habits,  
4 associates, disposition and reputation and any other facts and  
5 circumstances which may aid such department, agency or  
6 institution during its custody of such person. The clerk shall  
7 within 10 days after receiving any such statements transmit a  
8 copy to such department, agency or institution and a copy to  
9 the other party, provided, however, that this shall not be  
10 cause for delay in conveying the person to the department,  
11 agency or institution to which he has been committed.

12 (e) The clerk of the court shall transmit to the  
13 department, agency or institution, if any, to which the  
14 defendant is committed, the following:

15 (1) the sentence imposed;

16 (2) any statement by the court of the basis for  
17 imposing the sentence;

18 (3) any presentence reports;

19 (3.5) any sex offender evaluations;

20 (3.6) any substance abuse treatment eligibility  
21 screening and assessment of the defendant by an agent  
22 designated by the State of Illinois to provide assessment  
23 services for the Illinois courts;

24 (4) the number of days, if any, which the defendant has  
25 been in custody and for which he is entitled to credit  
26 against the sentence, which information shall be provided

1 to the clerk by the sheriff;

2 (4.1) any finding of great bodily harm made by the  
3 court with respect to an offense enumerated in subsection  
4 (c-1);

5 (5) all statements filed under subsection (d) of this  
6 Section;

7 (6) any medical or mental health records or summaries  
8 of the defendant;

9 (7) the municipality where the arrest of the offender  
10 or the commission of the offense has occurred, where such  
11 municipality has a population of more than 25,000 persons;

12 (8) all statements made and evidence offered under  
13 paragraph (7) of subsection (a) of this Section; and

14 (9) all additional matters which the court directs the  
15 clerk to transmit.

16 (f) In cases in which the court finds that a motor vehicle  
17 was used in the commission of the offense for which the  
18 defendant is being sentenced, the clerk of the court shall,  
19 within 5 days thereafter, forward a report of such conviction  
20 to the Secretary of State.

21 (Source: P.A. 99-861, eff. 1-1-17.)

22 (Text of Section after amendment by P.A. 99-938)

23 Sec. 5-4-1. Sentencing hearing.

24 (a) Except when the death penalty is sought under hearing  
25 procedures otherwise specified, after a determination of

1     guilt, a hearing shall be held to impose the sentence. However,  
2     prior to the imposition of sentence on an individual being  
3     sentenced for an offense based upon a charge for a violation of  
4     Section 11-501 of the Illinois Vehicle Code or a similar  
5     provision of a local ordinance, the individual must undergo a  
6     professional evaluation to determine if an alcohol or other  
7     drug abuse problem exists and the extent of such a problem.  
8     Programs conducting these evaluations shall be licensed by the  
9     Department of Human Services. However, if the individual is not  
10    a resident of Illinois, the court may, in its discretion,  
11    accept an evaluation from a program in the state of such  
12    individual's residence. The court may in its sentencing order  
13    approve an eligible defendant for placement in a Department of  
14    Corrections impact incarceration program as provided in  
15    Section 5-8-1.1 or 5-8-1.3. The court may in its sentencing  
16    order recommend a defendant for placement in a Department of  
17    Corrections substance abuse treatment program as provided in  
18    paragraph (a) of subsection (1) of Section 3-2-2 conditioned  
19    upon the defendant being accepted in a program by the  
20    Department of Corrections. At the hearing the court shall:

21           (1) consider the evidence, if any, received upon the  
22     trial;

23           (2) consider any presentence reports;

24           (3) consider the financial impact of incarceration  
25     based on the financial impact statement filed with the  
26     clerk of the court by the Department of Corrections;

1           (4) consider evidence and information offered by the  
2 parties in aggravation and mitigation;

3           (4.5) consider substance abuse treatment, eligibility  
4 screening, and an assessment, if any, of the defendant by  
5 an agent designated by the State of Illinois to provide  
6 assessment services for the Illinois courts;

7           (5) hear arguments as to sentencing alternatives;

8           (6) afford the defendant the opportunity to make a  
9 statement in his own behalf;

10           (7) afford the victim of a violent crime or a violation  
11 of Section 11-501 of the Illinois Vehicle Code, or a  
12 similar provision of a local ordinance, or a qualified  
13 individual affected by: (i) a violation of Section 405,  
14 405.1, 405.2, or 407 of the Illinois Controlled Substances  
15 Act or a violation of Section 55 or Section 65 of the  
16 Methamphetamine Control and Community Protection Act, or  
17 (ii) a Class 4 felony violation of Section 11-14, 11-14.3  
18 except as described in subdivisions (a)(2)(A) and  
19 (a)(2)(B), 11-15, 11-17, 11-18, 11-18.1, or 11-19 of the  
20 Criminal Code of 1961 or the Criminal Code of 2012,  
21 committed by the defendant the opportunity to make a  
22 statement concerning the impact on the victim and to offer  
23 evidence in aggravation or mitigation; provided that the  
24 statement and evidence offered in aggravation or  
25 mitigation must first be prepared in writing in conjunction  
26 with the State's Attorney before it may be presented orally



1 at the hearing. Any sworn testimony offered by the victim  
2 is subject to the defendant's right to cross-examine. All  
3 statements and evidence offered under this paragraph (7)  
4 shall become part of the record of the court. For the  
5 purpose of this paragraph (7), "qualified individual"  
6 means any person who (i) lived or worked within the  
7 territorial jurisdiction where the offense took place when  
8 the offense took place; and (ii) is familiar with various  
9 public places within the territorial jurisdiction where  
10 the offense took place when the offense took place. For the  
11 purposes of this paragraph (7), "qualified individual"  
12 includes any peace officer, or any member of any duly  
13 organized State, county, or municipal peace unit assigned  
14 to the territorial jurisdiction where the offense took  
15 place when the offense took place;

16 (8) in cases of reckless homicide afford the victim's  
17 spouse, guardians, parents or other immediate family  
18 members an opportunity to make oral statements;

19 (9) in cases involving a felony sex offense as defined  
20 under the Sex Offender Management Board Act, consider the  
21 results of the sex offender evaluation conducted pursuant  
22 to Section 5-3-2 of this Act; and

23 (10) make a finding of whether a motor vehicle was used  
24 in the commission of the offense for which the defendant is  
25 being sentenced.

26 (b) All sentences shall be imposed by the judge based upon

1 his independent assessment of the elements specified above and  
2 any agreement as to sentence reached by the parties. The judge  
3 who presided at the trial or the judge who accepted the plea of  
4 guilty shall impose the sentence unless he is no longer sitting  
5 as a judge in that court. Where the judge does not impose  
6 sentence at the same time on all defendants who are convicted  
7 as a result of being involved in the same offense, the  
8 defendant or the State's Attorney may advise the sentencing  
9 court of the disposition of any other defendants who have been  
10 sentenced.

11 (b-1) In imposing a sentence of imprisonment or periodic  
12 imprisonment for a Class 3 or Class 4 felony for which a  
13 sentence of probation or conditional discharge is an available  
14 sentence, if the defendant has no prior sentence of probation  
15 or conditional discharge and no prior conviction for a violent  
16 crime, the defendant shall not be sentenced to imprisonment  
17 before review and consideration of a presentence report and  
18 determination and explanation of why the particular evidence,  
19 information, factor in aggravation, factual finding, or other  
20 reasons support a sentencing determination that one or more of  
21 the factors under subsection (a) of Section 5-6-1 of this Code  
22 apply and that probation or conditional discharge is not an  
23 appropriate sentence.

24 (c) In imposing a sentence for a violent crime or for an  
25 offense of operating or being in physical control of a vehicle  
26 while under the influence of alcohol, any other drug or any

1 combination thereof, or a similar provision of a local  
2 ordinance, when such offense resulted in the personal injury to  
3 someone other than the defendant, the trial judge shall specify  
4 on the record the particular evidence, information, factors in  
5 mitigation and aggravation or other reasons that led to his  
6 sentencing determination. The full verbatim record of the  
7 sentencing hearing shall be filed with the clerk of the court  
8 and shall be a public record.

9 (c-1) In imposing a sentence for the offense of aggravated  
10 kidnapping for ransom, home invasion, armed robbery,  
11 aggravated vehicular hijacking, aggravated discharge of a  
12 firearm, or armed violence with a category I weapon or category  
13 II weapon, the trial judge shall make a finding as to whether  
14 the conduct leading to conviction for the offense resulted in  
15 great bodily harm to a victim, and shall enter that finding and  
16 the basis for that finding in the record.

17 (c-1.5) Notwithstanding any other provision of law to the  
18 contrary, in imposing a sentence for an offense that requires a  
19 mandatory minimum sentence of imprisonment or probation or  
20 conditional discharge of 2 years or more, the court may  
21 sentence the offender to probation or conditional discharge or  
22 other non-imprisonment sentence it deems appropriate instead  
23 of to a sentence of imprisonment or to a lesser sentence of  
24 imprisonment, probation, or conditional discharge than the  
25 minimum sentence of imprisonment, probation, or conditional  
26 discharge provided for the offense if the court finds that the

1 defendant does not pose a risk to public safety and the  
2 interest of justice requires the non-imposition of the  
3 mandatory sentence of imprisonment or a lesser sentence of  
4 imprisonment, probation, or conditional discharge. The court  
5 must state on the record its reasons for not imposing the  
6 minimum sentence of imprisonment or a lesser sentence of  
7 imprisonment, probation, or conditional discharge. If the  
8 defendant has been charged with an offense involving the use,  
9 possession, or discharge of a firearm, the court may not  
10 deviate from a mandatory minimum sentence or probation or  
11 conditional discharge requirement, unless it is the  
12 recommendation of a presentence investigation and there is  
13 clear articulable evidence that the defendant is not a threat  
14 to the public safety. This must be fully stated by the court  
15 into the record at the time of sentencing. An offender  
16 convicted of a sex offense under Article 11 of the Criminal  
17 Code of 2012 or an offense involving the infliction of great  
18 bodily harm may not be sentenced to a lesser term of  
19 imprisonment, probation, or conditional discharge under this  
20 subsection (c-1.5).

21 (c-2) If the defendant is sentenced to prison, other than  
22 when a sentence of natural life imprisonment or a sentence of  
23 death is imposed, at the time the sentence is imposed the judge  
24 shall state on the record in open court the approximate period  
25 of time the defendant will serve in custody according to the  
26 then current statutory rules and regulations for sentence

1 credit found in Section 3-6-3 and other related provisions of  
2 this Code. This statement is intended solely to inform the  
3 public, has no legal effect on the defendant's actual release,  
4 and may not be relied on by the defendant on appeal.

5 The judge's statement, to be given after pronouncing the  
6 sentence, other than when the sentence is imposed for one of  
7 the offenses enumerated in paragraph (a)(4) of Section 3-6-3,  
8 shall include the following:

9 "The purpose of this statement is to inform the public of  
10 the actual period of time this defendant is likely to spend in  
11 prison as a result of this sentence. The actual period of  
12 prison time served is determined by the statutes of Illinois as  
13 applied to this sentence by the Illinois Department of  
14 Corrections and the Illinois Prisoner Review Board. In this  
15 case, assuming the defendant receives all of his or her  
16 sentence credit, the period of estimated actual custody is ...  
17 years and ... months, less up to 180 days additional earned  
18 sentence credit. If the defendant, because of his or her own  
19 misconduct or failure to comply with the institutional  
20 regulations, does not receive those credits, the actual time  
21 served in prison will be longer. The defendant may also receive  
22 an additional one-half day sentence credit for each day of  
23 participation in vocational, industry, substance abuse, and  
24 educational programs as provided for by Illinois statute."

25 When the sentence is imposed for one of the offenses  
26 enumerated in paragraph (a)(2) of Section 3-6-3, other than

1 first degree murder, and the offense was committed on or after  
2 June 19, 1998, and when the sentence is imposed for reckless  
3 homicide as defined in subsection (e) of Section 9-3 of the  
4 Criminal Code of 1961 or the Criminal Code of 2012 if the  
5 offense was committed on or after January 1, 1999, and when the  
6 sentence is imposed for aggravated driving under the influence  
7 of alcohol, other drug or drugs, or intoxicating compound or  
8 compounds, or any combination thereof as defined in  
9 subparagraph (F) of paragraph (1) of subsection (d) of Section  
10 11-501 of the Illinois Vehicle Code, and when the sentence is  
11 imposed for aggravated arson if the offense was committed on or  
12 after July 27, 2001 (the effective date of Public Act 92-176),  
13 and when the sentence is imposed for aggravated driving under  
14 the influence of alcohol, other drug or drugs, or intoxicating  
15 compound or compounds, or any combination thereof as defined in  
16 subparagraph (C) of paragraph (1) of subsection (d) of Section  
17 11-501 of the Illinois Vehicle Code committed on or after  
18 January 1, 2011 (the effective date of Public Act 96-1230), the  
19 judge's statement, to be given after pronouncing the sentence,  
20 shall include the following:

21 "The purpose of this statement is to inform the public of  
22 the actual period of time this defendant is likely to spend in  
23 prison as a result of this sentence. The actual period of  
24 prison time served is determined by the statutes of Illinois as  
25 applied to this sentence by the Illinois Department of  
26 Corrections and the Illinois Prisoner Review Board. In this

1 case, the defendant is entitled to no more than 4 1/2 days of  
2 sentence credit for each month of his or her sentence of  
3 imprisonment. Therefore, this defendant will serve at least 85%  
4 of his or her sentence. Assuming the defendant receives 4 1/2  
5 days credit for each month of his or her sentence, the period  
6 of estimated actual custody is ... years and ... months. If the  
7 defendant, because of his or her own misconduct or failure to  
8 comply with the institutional regulations receives lesser  
9 credit, the actual time served in prison will be longer."

10 When a sentence of imprisonment is imposed for first degree  
11 murder and the offense was committed on or after June 19, 1998,  
12 the judge's statement, to be given after pronouncing the  
13 sentence, shall include the following:

14 "The purpose of this statement is to inform the public of  
15 the actual period of time this defendant is likely to spend in  
16 prison as a result of this sentence. The actual period of  
17 prison time served is determined by the statutes of Illinois as  
18 applied to this sentence by the Illinois Department of  
19 Corrections and the Illinois Prisoner Review Board. In this  
20 case, the defendant is not entitled to sentence credit.  
21 Therefore, this defendant will serve 100% of his or her  
22 sentence."

23 When the sentencing order recommends placement in a  
24 substance abuse program for any offense that results in  
25 incarceration in a Department of Corrections facility and the  
26 crime was committed on or after September 1, 2003 (the

1 effective date of Public Act 93-354), the judge's statement, in  
2 addition to any other judge's statement required under this  
3 Section, to be given after pronouncing the sentence, shall  
4 include the following:

5 "The purpose of this statement is to inform the public of  
6 the actual period of time this defendant is likely to spend in  
7 prison as a result of this sentence. The actual period of  
8 prison time served is determined by the statutes of Illinois as  
9 applied to this sentence by the Illinois Department of  
10 Corrections and the Illinois Prisoner Review Board. In this  
11 case, the defendant shall receive no earned sentence credit  
12 under clause (3) of subsection (a) of Section 3-6-3 until he or  
13 she participates in and completes a substance abuse treatment  
14 program or receives a waiver from the Director of Corrections  
15 pursuant to clause (4.5) of subsection (a) of Section 3-6-3."

16 (c-4) Before the sentencing hearing and as part of the  
17 presentence investigation under Section 5-3-1, the court shall  
18 inquire of the defendant whether the defendant is currently  
19 serving in or is a veteran of the Armed Forces of the United  
20 States. If the defendant is currently serving in the Armed  
21 Forces of the United States or is a veteran of the Armed Forces  
22 of the United States and has been diagnosed as having a mental  
23 illness by a qualified psychiatrist or clinical psychologist or  
24 physician, the court may:

25 (1) order that the officer preparing the presentence  
26 report consult with the United States Department of



1 Veterans Affairs, Illinois Department of Veterans'  
2 Affairs, or another agency or person with suitable  
3 knowledge or experience for the purpose of providing the  
4 court with information regarding treatment options  
5 available to the defendant, including federal, State, and  
6 local programming; and

7 (2) consider the treatment recommendations of any  
8 diagnosing or treating mental health professionals  
9 together with the treatment options available to the  
10 defendant in imposing sentence.

11 For the purposes of this subsection (c-4), "qualified  
12 psychiatrist" means a reputable physician licensed in Illinois  
13 to practice medicine in all its branches, who has specialized  
14 in the diagnosis and treatment of mental and nervous disorders  
15 for a period of not less than 5 years.

16 (c-6) In imposing a sentence, the trial judge shall  
17 specify, on the record, the particular evidence and other  
18 reasons which led to his or her determination that a motor  
19 vehicle was used in the commission of the offense.

20 (d) When the defendant is committed to the Department of  
21 Corrections, the State's Attorney shall and counsel for the  
22 defendant may file a statement with the clerk of the court to  
23 be transmitted to the department, agency or institution to  
24 which the defendant is committed to furnish such department,  
25 agency or institution with the facts and circumstances of the  
26 offense for which the person was committed together with all

1 other factual information accessible to them in regard to the  
2 person prior to his commitment relative to his habits,  
3 associates, disposition and reputation and any other facts and  
4 circumstances which may aid such department, agency or  
5 institution during its custody of such person. The clerk shall  
6 within 10 days after receiving any such statements transmit a  
7 copy to such department, agency or institution and a copy to  
8 the other party, provided, however, that this shall not be  
9 cause for delay in conveying the person to the department,  
10 agency or institution to which he has been committed.

11 (e) The clerk of the court shall transmit to the  
12 department, agency or institution, if any, to which the  
13 defendant is committed, the following:

14 (1) the sentence imposed;

15 (2) any statement by the court of the basis for  
16 imposing the sentence;

17 (3) any presentence reports;

18 (3.5) any sex offender evaluations;

19 (3.6) any substance abuse treatment eligibility  
20 screening and assessment of the defendant by an agent  
21 designated by the State of Illinois to provide assessment  
22 services for the Illinois courts;

23 (4) the number of days, if any, which the defendant has  
24 been in custody and for which he is entitled to credit  
25 against the sentence, which information shall be provided  
26 to the clerk by the sheriff;

1           (4.1) any finding of great bodily harm made by the  
2       court with respect to an offense enumerated in subsection  
3       (c-1);

4           (5) all statements filed under subsection (d) of this  
5       Section;

6           (6) any medical or mental health records or summaries  
7       of the defendant;

8           (7) the municipality where the arrest of the offender  
9       or the commission of the offense has occurred, where such  
10      municipality has a population of more than 25,000 persons;

11          (8) all statements made and evidence offered under  
12      paragraph (7) of subsection (a) of this Section; and

13          (9) all additional matters which the court directs the  
14      clerk to transmit.

15          (f) In cases in which the court finds that a motor vehicle  
16      was used in the commission of the offense for which the  
17      defendant is being sentenced, the clerk of the court shall,  
18      within 5 days thereafter, forward a report of such conviction  
19      to the Secretary of State.

20      (Source: P.A. 99-861, eff. 1-1-17; 99-938, eff. 1-1-18.)

21          Section 95. No acceleration or delay. Where this Act makes  
22      changes in a statute that is represented in this Act by text  
23      that is not yet or no longer in effect (for example, a Section  
24      represented by multiple versions), the use of that text does  
25      not accelerate or delay the taking effect of (i) the changes

1 made by this Act or (ii) provisions derived from any other  
2 Public Act.".