



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1944

Introduced 2/10/2017, by Sen. Chris Nybo

SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.458	
720 ILCS 600/3.5	
720 ILCS 600/4	from Ch. 56 1/2, par. 2104
720 ILCS 635/Act rep.	
730 ILCS 5/5-5-3	from Ch. 38, par. 1005-5-3

Repeals the Hypodermic Syringes and Needles Act. Amends the Environmental Protection Act, the Drug Paraphernalia Control Act, and the Unified Code of Corrections to make conforming changes. Effective January 1, 2018.

LRB100 09873 RLC 20043 b

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 Environmental Protection Act is amended by
5 changing Section 3.458 as follows:

6 (415 ILCS 5/3.458)

7 Sec. 3.458. Sharps collection station.

8 (a) "Sharps collection station" means a designated area at
9 an applicable facility where (i) hypodermic, intravenous, or
10 other medical needles or syringes or other sharps, or (ii)
11 medical household waste containing medical sharps, including,
12 but not limited to, hypodermic, intravenous, or other medical
13 needles or syringes or other sharps, are collected for
14 transport, storage, treatment, transfer, or disposal.

15 (b) For purposes of this Section, "applicable facility"
16 means any of the following:

17 (1) A hospital.

18 (2) An ambulatory surgical treatment center,
19 physician's office, clinic, or other setting where a
20 physician provides care.

21 (3) A pharmacy employing a registered pharmacist.

22 (4) (Blank). ~~The principal place of business of any~~
23 ~~government official who is authorized under Section 1 of~~

1 ~~the Hypodermic Syringes and Needles Act (720 ILCS 635/) to~~
2 ~~possess hypodermic, intravenous, or other medical needles,~~
3 ~~or hypodermic or intravenous syringes, by reason of his or~~
4 ~~her official duties.~~

5 (Source: P.A. 94-641, eff. 8-22-05.)

6 Section 10. The Drug Paraphernalia Control Act is amended
7 by changing Sections 3.5 and 4 as follows:

8 (720 ILCS 600/3.5)

9 Sec. 3.5. Possession of drug paraphernalia.

10 (a) A person who knowingly possesses an item of drug
11 paraphernalia with the intent to use it in ingesting, inhaling,
12 or otherwise introducing cannabis or a controlled substance
13 into the human body, or in preparing cannabis or a controlled
14 substance for that use, is guilty of a Class A misdemeanor for
15 which the court shall impose a minimum fine of \$750 in addition
16 to any other penalty prescribed for a Class A misdemeanor. ~~This~~
17 ~~subsection (a) does not apply to a person who is legally~~
18 ~~authorized to possess hypodermic syringes or needles under the~~
19 ~~Hypodermic Syringes and Needles Act.~~

20 (b) In determining intent under subsection (a), the trier
21 of fact may take into consideration the proximity of the
22 cannabis or controlled substances to drug paraphernalia or the
23 presence of cannabis or a controlled substance on the drug
24 paraphernalia.

1 (c) If a person violates subsection (a) of Section 4 of the
2 Cannabis Control Act, the penalty for possession of any drug
3 paraphernalia seized during the violation for that offense
4 shall be a civil law violation punishable by a minimum fine of
5 \$100 and a maximum fine of \$200. The proceeds of the fine shall
6 be payable to the clerk of the circuit court. Within 30 days
7 after the deposit of the fine, the clerk shall distribute the
8 proceeds of the fine as follows:

9 (1) \$10 of the fine to the circuit clerk and \$10 of the
10 fine to the law enforcement agency that issued the
11 citation; the proceeds of each \$10 fine distributed to the
12 circuit clerk and each \$10 fine distributed to the law
13 enforcement agency that issued the citation for the
14 violation shall be used to defer the cost of automatic
15 expungements under paragraph (2.5) of subsection (a) of
16 Section 5.2 of the Criminal Identification Act;

17 (2) \$15 to the county to fund drug addiction services;

18 (3) \$10 to the Office of the State's Attorneys
19 Appellate Prosecutor for use in training programs;

20 (4) \$10 to the State's Attorney; and

21 (5) any remainder of the fine to the law enforcement
22 agency that issued the citation for the violation.

23 With respect to funds designated for the Department of
24 State Police, the moneys shall be remitted by the circuit court
25 clerk to the Department of State Police within one month after
26 receipt for deposit into the State Police Operations Assistance

1 Fund. With respect to funds designated for the Department of
2 Natural Resources, the Department of Natural Resources shall
3 deposit the moneys into the Conservation Police Operations
4 Assistance Fund.

5 (Source: P.A. 99-697, eff. 7-29-16.)

6 (720 ILCS 600/4) (from Ch. 56 1/2, par. 2104)

7 Sec. 4. Exemptions. This Act does not apply to:

8 (a) Items used in the preparation, compounding,
9 packaging, labeling, or other use of cannabis or a
10 controlled substance as an incident to lawful research,
11 teaching, or chemical analysis and not for sale.

12 (b) Items historically and customarily used in
13 connection with the planting, propagating, cultivating,
14 growing, harvesting, manufacturing, compounding,
15 converting, producing, processing, preparing, testing,
16 analyzing, packaging, repackaging, storing, containing,
17 concealing, injecting, ingesting, or inhaling of tobacco
18 or any other lawful substance.

19 Items exempt under this subsection include, but are not
20 limited to, garden hoes, rakes, sickles, baggies, tobacco
21 pipes, and cigarette-rolling papers.

22 (c) Items listed in Section 2 of this Act which are
23 used for decorative purposes, when such items have been
24 rendered completely inoperable or incapable of being used
25 for any illicit purpose prohibited by this Act.

1 (d) (Blank). ~~A person who is legally authorized to~~
2 ~~possess hypodermic syringes or needles under the~~
3 ~~Hypodermic Syringes and Needles Act.~~

4 In determining whether or not a particular item is exempt under
5 this Section, the trier of fact should consider, in addition to
6 all other logically relevant factors, the following:

7 (1) the general, usual, customary, and historical use
8 to which the item involved has been put;

9 (2) expert evidence concerning the ordinary or
10 customary use of the item and the effect of any peculiarity
11 in the design or engineering of the device upon its
12 functioning;

13 (3) any written instructions accompanying the delivery
14 of the item concerning the purposes or uses to which the
15 item can or may be put;

16 (4) any oral instructions provided by the seller of the
17 item at the time and place of sale or commercial delivery;

18 (5) any national or local advertising concerning the
19 design, purpose or use of the item involved, and the entire
20 context in which such advertising occurs;

21 (6) the manner, place and circumstances in which the
22 item was displayed for sale, as well as any item or items
23 displayed for sale or otherwise exhibited upon the premises
24 where the sale was made;

25 (7) whether the owner or anyone in control of the
26 object is a legitimate supplier of like or related items to

1 the community, such as a licensed distributor or dealer of
2 tobacco products;

3 (8) the existence and scope of legitimate uses for the
4 object in the community.

5 (Source: P.A. 95-331, eff. 8-21-07.)

6 (720 ILCS 635/Act rep.)

7 Section 15. The Hypodermic Syringes and Needles Act is
8 repealed.

9 Section 20. The Unified Code of Corrections is amended by
10 changing Section 5-5-3 as follows:

11 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

12 Sec. 5-5-3. Disposition.

13 (a) (Blank).

14 (b) (Blank).

15 (c) (1) (Blank).

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

22 (A) First degree murder where the death penalty is not
23 imposed.

1 (B) Attempted first degree murder.

2 (C) A Class X felony.

3 (D) A violation of Section 401.1 or 407 of the Illinois
4 Controlled Substances Act, or a violation of subdivision
5 (c) (1.5) or (c) (2) of Section 401 of that Act which relates
6 to more than 5 grams of a substance containing cocaine,
7 fentanyl, or an analog thereof.

8 (D-5) A violation of subdivision (c) (1) of Section 401
9 of the Illinois Controlled Substances Act which relates to
10 3 or more grams of a substance containing heroin or an
11 analog thereof.

12 (E) A violation of Section 5.1 or 9 of the Cannabis
13 Control Act.

14 (F) A Class 2 or greater felony if the offender had
15 been convicted of a Class 2 or greater felony, including
16 any state or federal conviction for an offense that
17 contained, at the time it was committed, the same elements
18 as an offense now (the date of the offense committed after
19 the prior Class 2 or greater felony) classified as a Class
20 2 or greater felony, within 10 years of the date on which
21 the offender committed the offense for which he or she is
22 being sentenced, except as otherwise provided in Section
23 40-10 of the Alcoholism and Other Drug Abuse and Dependency
24 Act.

25 (F-5) A violation of Section 24-1, 24-1.1, or 24-1.6 of
26 the Criminal Code of 1961 or the Criminal Code of 2012 for

1 which imprisonment is prescribed in those Sections.

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

5 (H) Criminal sexual assault.

6 (I) Aggravated battery of a senior citizen as described
7 in Section 12-4.6 or subdivision (a) (4) of Section 12-3.05
8 of the Criminal Code of 1961 or the Criminal Code of 2012.

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

11 Before July 1, 1994, for the purposes of this
12 paragraph, "organized gang" means an association of 5 or
13 more persons, with an established hierarchy, that
14 encourages members of the association to perpetrate crimes
15 or provides support to the members of the association who
16 do commit crimes.

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

21 (K) Vehicular hijacking.

22 (L) A second or subsequent conviction for the offense
23 of hate crime when the underlying offense upon which the
24 hate crime is based is felony aggravated assault or felony
25 mob action.

26 (M) A second or subsequent conviction for the offense

1 of institutional vandalism if the damage to the property
2 exceeds \$300.

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

6 (O) A violation of Section 12-6.1 or 12-6.5 of the
7 Criminal Code of 1961 or the Criminal Code of 2012.

8 (P) A violation of paragraph (1), (2), (3), (4), (5),
9 or (7) of subsection (a) of Section 11-20.1 of the Criminal
10 Code of 1961 or the Criminal Code of 2012.

11 (Q) A violation of subsection (b) or (b-5) of Section
12 20-1, Section 20-1.2, or Section 20-1.3 of the Criminal
13 Code of 1961 or the Criminal Code of 2012.

14 (R) A violation of Section 24-3A of the Criminal Code
15 of 1961 or the Criminal Code of 2012.

16 (S) (Blank).

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

19 (U) A second or subsequent violation of Section 6-303
20 of the Illinois Vehicle Code committed while his or her
21 driver's license, permit, or privilege was revoked because
22 of a violation of Section 9-3 of the Criminal Code of 1961
23 or the Criminal Code of 2012, relating to the offense of
24 reckless homicide, or a similar provision of a law of
25 another state.

26 (V) A violation of paragraph (4) of subsection (c) of

1 Section 11-20.1B or paragraph (4) of subsection (c) of
2 Section 11-20.3 of the Criminal Code of 1961, or paragraph
3 (6) of subsection (a) of Section 11-20.1 of the Criminal
4 Code of 2012 when the victim is under 13 years of age and
5 the defendant has previously been convicted under the laws
6 of this State or any other state of the offense of child
7 pornography, aggravated child pornography, aggravated
8 criminal sexual abuse, aggravated criminal sexual assault,
9 predatory criminal sexual assault of a child, or any of the
10 offenses formerly known as rape, deviate sexual assault,
11 indecent liberties with a child, or aggravated indecent
12 liberties with a child where the victim was under the age
13 of 18 years or an offense that is substantially equivalent
14 to those offenses.

15 (W) A violation of Section 24-3.5 of the Criminal Code
16 of 1961 or the Criminal Code of 2012.

17 (X) A violation of subsection (a) of Section 31-1a of
18 the Criminal Code of 1961 or the Criminal Code of 2012.

19 (Y) A conviction for unlawful possession of a firearm
20 by a street gang member when the firearm was loaded or
21 contained firearm ammunition.

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

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

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

3 (CC) Knowingly selling, offering for sale, holding for
4 sale, or using 2,000 or more counterfeit items or
5 counterfeit items having a retail value in the aggregate of
6 \$500,000 or more.

7 (DD) A conviction for aggravated assault under
8 paragraph (6) of subsection (c) of Section 12-2 of the
9 Criminal Code of 1961 or the Criminal Code of 2012 if the
10 firearm is aimed toward the person against whom the firearm
11 is being used.

12 (EE) A conviction for a violation of paragraph (2) of
13 subsection (a) of Section 24-3B of the Criminal Code of
14 2012.

15 (3) (Blank).

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

20 (4.1) (Blank).

21 (4.2) Except as provided in paragraphs (4.3) and (4.8) of
22 this subsection (c), a minimum of 100 hours of community
23 service shall be imposed for a second violation of Section
24 6-303 of the Illinois Vehicle Code.

25 (4.3) A minimum term of imprisonment of 30 days or 300
26 hours of community service, as determined by the court, shall

1 be imposed for a second violation of subsection (c) of Section
2 6-303 of the Illinois Vehicle Code.

3 (4.4) Except as provided in paragraphs (4.5), (4.6), and
4 (4.9) of this subsection (c), a minimum term of imprisonment of
5 30 days or 300 hours of community service, as determined by the
6 court, shall be imposed for a third or subsequent violation of
7 Section 6-303 of the Illinois Vehicle Code.

8 (4.5) A minimum term of imprisonment of 30 days shall be
9 imposed for a third violation of subsection (c) of Section
10 6-303 of the Illinois Vehicle Code.

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

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

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

26 (4.9) A mandatory prison sentence of not less than 4 and

1 not more than 15 years shall be imposed for a third violation
2 of subsection (a-5) of Section 6-303 of the Illinois Vehicle
3 Code, as provided in subsection (d-2.5) of that Section. The
4 person's driving privileges shall be revoked for the remainder
5 of his or her life.

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

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

15 (A) a period of conditional discharge;

16 (B) a fine;

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

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

26 (5.2) In addition to any other penalties imposed, and

1 except as provided in paragraph (5.3), a person convicted of
2 violating subsection (c) of Section 11-907 of the Illinois
3 Vehicle Code shall have his or her driver's license, permit, or
4 privileges suspended for at least 180 days but not more than 2
5 years, if the violation resulted in injury to another person.

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

11 (5.4) In addition to any other penalties imposed, a person
12 convicted of violating Section 3-707 of the Illinois Vehicle
13 Code shall have his or her driver's license, permit, or
14 privileges suspended for 3 months and until he or she has paid
15 a reinstatement fee of \$100.

16 (5.5) In addition to any other penalties imposed, a person
17 convicted of violating Section 3-707 of the Illinois Vehicle
18 Code during a period in which his or her driver's license,
19 permit, or privileges were suspended for a previous violation
20 of that Section shall have his or her driver's license, permit,
21 or privileges suspended for an additional 6 months after the
22 expiration of the original 3-month suspension and until he or
23 she has paid a reinstatement fee of \$100.

24 (6) (Blank).

25 (7) (Blank).

26 (8) (Blank).

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

4 (10) (Blank).

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

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

26 (13) A person convicted of or placed on court supervision

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

9 (d) In any case in which a sentence originally imposed is
10 vacated, the case shall be remanded to the trial court. The
11 trial court shall hold a hearing under Section 5-4-1 of the
12 Unified Code of Corrections which may include evidence of the
13 defendant's life, moral character and occupation during the
14 time since the original sentence was passed. The trial court
15 shall then impose sentence upon the defendant. The trial court
16 may impose any sentence which could have been imposed at the
17 original trial subject to Section 5-5-4 of the Unified Code of
18 Corrections. If a sentence is vacated on appeal or on
19 collateral attack due to the failure of the trier of fact at
20 trial to determine beyond a reasonable doubt the existence of a
21 fact (other than a prior conviction) necessary to increase the
22 punishment for the offense beyond the statutory maximum
23 otherwise applicable, either the defendant may be re-sentenced
24 to a term within the range otherwise provided or, if the State
25 files notice of its intention to again seek the extended
26 sentence, the defendant shall be afforded a new trial.

1 (e) In cases where prosecution for aggravated criminal
2 sexual abuse under Section 11-1.60 or 12-16 of the Criminal
3 Code of 1961 or the Criminal Code of 2012 results in conviction
4 of a defendant who was a family member of the victim at the
5 time of the commission of the offense, the court shall consider
6 the safety and welfare of the victim and may impose a sentence
7 of probation only where:

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

9 (A) the defendant is willing to undergo a court
10 approved counseling program for a minimum duration of 2
11 years; or

12 (B) the defendant is willing to participate in a
13 court approved plan including but not limited to the
14 defendant's:

15 (i) removal from the household;

16 (ii) restricted contact with the victim;

17 (iii) continued financial support of the
18 family;

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

20 and

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

23 (2) the court orders the defendant to pay for the
24 victim's counseling services, to the extent that the court
25 finds, after considering the defendant's income and
26 assets, that the defendant is financially capable of paying

1 for such services, if the victim was under 18 years of age
2 at the time the offense was committed and requires
3 counseling as a result of the offense.

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

11 For the purposes of this Section, "family member" and
12 "victim" shall have the meanings ascribed to them in Section
13 11-0.1 of the Criminal Code of 2012.

14 (f) (Blank).

15 (g) Whenever a defendant is convicted of an offense under
16 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,
17 11-14.3, 11-14.4 except for an offense that involves keeping a
18 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,
19 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,
20 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the
21 Criminal Code of 2012, the defendant shall undergo medical
22 testing to determine whether the defendant has any sexually
23 transmissible disease, including a test for infection with
24 human immunodeficiency virus (HIV) or any other identified
25 causative agent of acquired immunodeficiency syndrome (AIDS).
26 Any such medical test shall be performed only by appropriately

1 licensed medical practitioners and may include an analysis of
2 any bodily fluids as well as an examination of the defendant's
3 person. Except as otherwise provided by law, the results of
4 such test shall be kept strictly confidential by all medical
5 personnel involved in the testing and must be personally
6 delivered in a sealed envelope to the judge of the court in
7 which the conviction was entered for the judge's inspection in
8 camera. Acting in accordance with the best interests of the
9 victim and the public, the judge shall have the discretion to
10 determine to whom, if anyone, the results of the testing may be
11 revealed. The court shall notify the defendant of the test
12 results. The court shall also notify the victim if requested by
13 the victim, and if the victim is under the age of 15 and if
14 requested by the victim's parents or legal guardian, the court
15 shall notify the victim's parents or legal guardian of the test
16 results. The court shall provide information on the
17 availability of HIV testing and counseling at Department of
18 Public Health facilities to all parties to whom the results of
19 the testing are revealed and shall direct the State's Attorney
20 to provide the information to the victim when possible. A
21 State's Attorney may petition the court to obtain the results
22 of any HIV test administered under this Section, and the court
23 shall grant the disclosure if the State's Attorney shows it is
24 relevant in order to prosecute a charge of criminal
25 transmission of HIV under Section 12-5.01 or 12-16.2 of the
26 Criminal Code of 1961 or the Criminal Code of 2012 against the

1 defendant. The court shall order that the cost of any such test
2 shall be paid by the county and may be taxed as costs against
3 the convicted defendant.

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

14 (h) (Blank). ~~Whenever a defendant is convicted of an~~
15 ~~offense under Section 1 or 2 of the Hypodermic Syringes and~~
16 ~~Needles Act, the defendant shall undergo medical testing to~~
17 ~~determine whether the defendant has been exposed to human~~
18 ~~immunodeficiency virus (HIV) or any other identified causative~~
19 ~~agent of acquired immunodeficiency syndrome (AIDS). Except as~~
20 ~~otherwise provided by law, the results of such 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 conviction was~~
24 ~~entered for the judge's inspection in camera. Acting in~~
25 ~~accordance with the best interests of the public, the judge~~
26 ~~shall have the discretion to determine to whom, if anyone, the~~

1 ~~results of the testing may be revealed. The court shall notify~~
2 ~~the defendant of a positive test showing an infection with the~~
3 ~~human immunodeficiency virus (HIV). The court shall provide~~
4 ~~information on the availability of HIV testing and counseling~~
5 ~~at Department of Public Health facilities to all parties to~~
6 ~~whom the results of the testing are revealed and shall direct~~
7 ~~the State's Attorney to provide the information to the victim~~
8 ~~when possible. A State's Attorney may petition the court to~~
9 ~~obtain the results of any HIV test administered under this~~
10 ~~Section, and the court shall grant the disclosure if the~~
11 ~~State's Attorney shows it is relevant in order to prosecute a~~
12 ~~charge of criminal transmission of HIV under Section 12-5.01 or~~
13 ~~12-16.2 of the Criminal Code of 1961 or the Criminal Code of~~
14 ~~2012 against the defendant. The court shall order that the cost~~
15 ~~of any such test shall be paid by the county and may be taxed as~~
16 ~~costs against the convicted defendant.~~

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

24 (j) In cases when prosecution for any violation of Section
25 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,
26 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,

1 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
2 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,
3 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal
4 Code of 2012, any violation of the Illinois Controlled
5 Substances Act, any violation of the Cannabis Control Act, or
6 any violation of the Methamphetamine Control and Community
7 Protection Act results in conviction, a disposition of court
8 supervision, or an order of probation granted under Section 10
9 of the Cannabis Control Act, Section 410 of the Illinois
10 Controlled Substances Act, or Section 70 of the Methamphetamine
11 Control and Community Protection Act of a defendant, the court
12 shall determine whether the defendant is employed by a facility
13 or center as defined under the Child Care Act of 1969, a public
14 or private elementary or secondary school, or otherwise works
15 with children under 18 years of age on a daily basis. When a
16 defendant is so employed, the court shall order the Clerk of
17 the Court to send a copy of the judgment of conviction or order
18 of supervision or probation to the defendant's employer by
19 certified mail. If the employer of the defendant is a school,
20 the Clerk of the Court shall direct the mailing of a copy of
21 the judgment of conviction or order of supervision or probation
22 to the appropriate regional superintendent of schools. The
23 regional superintendent of schools shall notify the State Board
24 of Education of any notification under this subsection.

25 (j-5) A defendant at least 17 years of age who is convicted
26 of a felony and who has not been previously convicted of a

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

1 equivalency testing. This subsection (j-5) does not apply to a
2 defendant who is determined by the court to be a person with a
3 developmental disability or otherwise mentally incapable of
4 completing the educational or vocational program.

5 (k) (Blank).

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

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

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

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

22 (B) If the defendant has already been sentenced for a
23 felony or misdemeanor offense, or has been placed on probation
24 under Section 10 of the Cannabis Control Act, Section 410 of
25 the Illinois Controlled Substances Act, or Section 70 of the
26 Methamphetamine Control and Community Protection Act, the

1 court may, upon motion of the State's Attorney to suspend the
2 sentence imposed, commit the defendant to the custody of the
3 Attorney General of the United States or his or her designated
4 agent when:

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

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

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

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

24 (m) A person convicted of criminal defacement of property
25 under Section 21-1.3 of the Criminal Code of 1961 or the
26 Criminal Code of 2012, in which the property damage exceeds

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

4 (n) The court may sentence a person convicted of a
5 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or
6 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
7 of 1961 or the Criminal Code of 2012 (i) to an impact
8 incarceration program if the person is otherwise eligible for
9 that program under Section 5-8-1.1, (ii) to community service,
10 or (iii) if the person is an addict or alcoholic, as defined in
11 the Alcoholism and Other Drug Abuse and Dependency Act, to a
12 substance or alcohol abuse 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. 98-718, eff. 1-1-15; 98-756, eff. 7-16-14;
19 99-143, eff. 7-27-15; 99-885, eff. 8-23-16.)

20 Section 99. Effective date. This Act takes effect January
21 1, 2018.