

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 AIDS Confidentiality Act is amended by
5 changing Section 9 as follows:

6 (410 ILCS 305/9) (from Ch. 111 1/2, par. 7309)

7 Sec. 9. (1) No person may disclose or be compelled to
8 disclose HIV-related information, except to the following
9 persons:

10 (a) The subject of an HIV test or the subject's
11 legally authorized representative. A physician may notify
12 the spouse or civil union partner of the test subject, if
13 the test result is positive and has been confirmed
14 pursuant to rules adopted by the Department, provided that
15 the physician has first sought unsuccessfully to persuade
16 the patient to notify the spouse or civil union partner or
17 that, a reasonable time after the patient has agreed to
18 make the notification, the physician has reason to believe
19 that the patient has not provided the notification. This
20 paragraph shall not create a duty or obligation under
21 which a physician must notify the spouse or civil union
22 partner of the test results, nor shall such duty or
23 obligation be implied. No civil liability or criminal

1 sanction under this Act shall be imposed for any
2 disclosure or non-disclosure of a test result to a spouse
3 or civil union partner by a physician acting in good faith
4 under this paragraph. For the purpose of any proceedings,
5 civil or criminal, the good faith of any physician acting
6 under this paragraph shall be presumed.

7 (b) Any person designated in a legally effective
8 authorization for release of the HIV-related information
9 executed by the subject of the HIV-related information or
10 the subject's legally authorized representative.

11 (c) An authorized agent or employee of a health
12 facility or health care provider if the health facility or
13 health care provider itself is authorized to obtain the
14 test results, the agent or employee provides patient care
15 or handles or processes specimens of body fluids or
16 tissues, and the agent or employee has a need to know such
17 information.

18 (d) The Department and local health authorities
19 serving a population of over 1,000,000 residents or other
20 local health authorities as designated by the Department,
21 in accordance with rules for reporting, preventing, and
22 controlling the spread of disease and the conduct of
23 public health surveillance, public health investigations,
24 and public health interventions, as otherwise provided by
25 State law. The Department, local health authorities, and
26 authorized representatives shall not disclose HIV test

1 results and HIV-related information, publicly or in any
2 action of any kind in any court or before any tribunal,
3 board, or agency. HIV test results and HIV-related
4 information shall be protected from disclosure in
5 accordance with the provisions of Sections 8-2101 through
6 8-2105 of the Code of Civil Procedure.

7 (e) A health facility, health care provider, or health
8 care professional which procures, processes, distributes
9 or uses: (i) a human body part from a deceased person with
10 respect to medical information regarding that person; or
11 (ii) semen provided prior to the effective date of this
12 Act for the purpose of artificial insemination.

13 (f) Health facility staff committees for the purposes
14 of conducting program monitoring, program evaluation or
15 service reviews.

16 (f-5) (Blank). ~~A court in accordance with the~~
17 ~~provisions of Section 12-5.01 of the Criminal Code of~~
18 ~~2012.~~

19 (g) (Blank).

20 (h) Any health care provider, health care
21 professional, or employee of a health facility, and any
22 firefighter or EMR, EMT, A-EMT, paramedic, PHRN, or EMT-I,
23 involved in an accidental direct skin or mucous membrane
24 contact with the blood or bodily fluids of an individual
25 which is of a nature that may transmit HIV, as determined
26 by a physician in his medical judgment.

1 (i) Any law enforcement officer, as defined in
2 subsection (c) of Section 7, involved in the line of duty
3 in a direct skin or mucous membrane contact with the blood
4 or bodily fluids of an individual which is of a nature that
5 may transmit HIV, as determined by a physician in his
6 medical judgment.

7 (j) A temporary caretaker of a child taken into
8 temporary protective custody by the Department of Children
9 and Family Services pursuant to Section 5 of the Abused
10 and Neglected Child Reporting Act, as now or hereafter
11 amended.

12 (k) In the case of a minor under 18 years of age whose
13 test result is positive and has been confirmed pursuant to
14 rules adopted by the Department, the health care
15 professional who ordered the test shall make a reasonable
16 effort to notify the minor's parent or legal guardian if,
17 in the professional judgment of the health care
18 professional, notification would be in the best interest
19 of the child and the health care professional has first
20 sought unsuccessfully to persuade the minor to notify the
21 parent or legal guardian or a reasonable time after the
22 minor has agreed to notify the parent or legal guardian,
23 the health care professional has reason to believe that
24 the minor has not made the notification. This subsection
25 shall not create a duty or obligation under which a health
26 care professional must notify the minor's parent or legal

1 guardian of the test results, nor shall a duty or
2 obligation be implied. No civil liability or criminal
3 sanction under this Act shall be imposed for any
4 notification or non-notification of a minor's test result
5 by a health care professional acting in good faith under
6 this subsection. For the purpose of any proceeding, civil
7 or criminal, the good faith of any health care
8 professional acting under this subsection shall be
9 presumed.

10 (2) All information and records held by a State agency,
11 local health authority, or health oversight agency pertaining
12 to HIV-related information shall be strictly confidential and
13 exempt from copying and inspection under the Freedom of
14 Information Act. The information and records shall not be
15 released or made public by the State agency, local health
16 authority, or health oversight agency, shall not be admissible
17 as evidence nor discoverable in any action of any kind in any
18 court or before any tribunal, board, agency, or person, and
19 shall be treated in the same manner as the information and
20 those records subject to the provisions of Part 21 of Article
21 VIII of the Code of Civil Procedure, except under the
22 following circumstances:

23 (A) when made with the written consent of all persons
24 to whom the information pertains; or

25 (B) when authorized by Section 5-4-3 of the Unified
26 Code of Corrections.

1 Disclosure shall be limited to those who have a need to
2 know the information, and no additional disclosures may be
3 made.

4 (Source: P.A. 98-973, eff. 8-15-14; 98-1046, eff. 1-1-15;
5 99-54, eff. 1-1-16; 99-78, eff. 7-20-15.)

6 Section 10. The Illinois Sexually Transmissible Disease
7 Control Act is amended by changing Section 5.5 as follows:

8 (410 ILCS 325/5.5) (from Ch. 111 1/2, par. 7405.5)

9 Sec. 5.5. Risk assessment.

10 (a) Whenever the Department receives a report of HIV
11 infection or AIDS pursuant to this Act and the Department
12 determines that the subject of the report may present or may
13 have presented a possible risk of HIV transmission, the
14 Department shall, when medically appropriate, investigate the
15 subject of the report and that person's contacts as defined in
16 subsection (c), to assess the potential risks of transmission.
17 Any investigation and action shall be conducted in a timely
18 fashion. All contacts other than those defined in subsection
19 (c) shall be investigated in accordance with Section 5 of this
20 Act.

21 (b) If the Department determines that there is or may have
22 been potential risks of HIV transmission from the subject of
23 the report to other persons, the Department shall afford the
24 subject the opportunity to submit any information and comment

1 on proposed actions the Department intends to take with
2 respect to the subject's contacts who are at potential risk of
3 transmission of HIV prior to notification of the subject's
4 contacts. The Department shall also afford the subject of the
5 report the opportunity to notify the subject's contacts in a
6 timely fashion who are at potential risk of transmission of
7 HIV prior to the Department taking any steps to notify such
8 contacts. If the subject declines to notify such contacts or
9 if the Department determines the notices to be inadequate or
10 incomplete, the Department shall endeavor to notify such other
11 persons of the potential risk, and offer testing and
12 counseling services to these individuals. When the contacts
13 are notified, they shall be informed of the disclosure
14 provisions of the AIDS Confidentiality Act and the penalties
15 therein and this Section.

16 (c) Contacts investigated under this Section shall in the
17 case of HIV infection include (i) individuals who have
18 undergone invasive procedures performed by an HIV infected
19 health care provider and (ii) health care providers who have
20 performed invasive procedures for persons infected with HIV,
21 provided the Department has determined that there is or may
22 have been potential risk of HIV transmission from the health
23 care provider to those individuals or from infected persons to
24 health care providers. The Department shall have access to the
25 subject's records to review for the identity of contacts. The
26 subject's records shall not be copied or seized by the

1 Department.

2 For purposes of this subsection, the term "invasive
3 procedures" means those procedures termed invasive by the
4 Centers for Disease Control in current guidelines or
5 recommendations for the prevention of HIV transmission in
6 health care settings, and the term "health care provider"
7 means any physician, dentist, podiatric physician, advanced
8 practice registered nurse, physician assistant, nurse, or
9 other person providing health care services of any kind.

10 (d) All information and records held by the Department and
11 local health authorities pertaining to activities conducted
12 pursuant to this Section shall be strictly confidential and
13 exempt from copying and inspection under the Freedom of
14 Information Act. Such information and records shall not be
15 released or made public by the Department or local health
16 authorities, and shall not be admissible as evidence, nor
17 discoverable in any action of any kind in any court or before
18 any tribunal, board, agency or person and shall be treated in
19 the same manner as the information and those records subject
20 to the provisions of Part 21 of Article VIII of the Code of
21 Civil Procedure except under the following circumstances:

22 (1) When made with the written consent of all persons
23 to whom this information pertains;

24 (2) (Blank) ~~When authorized under Section 8 to be~~
25 ~~released under court order or subpoena pursuant to Section~~
26 ~~12 5.01 or 12 16.2 of the Criminal Code of 1961 or the~~

1 ~~Criminal Code of 2012~~; or

2 (3) When made by the Department for the purpose of
3 seeking a warrant authorized by Sections 6 and 7 of this
4 Act. Such disclosure shall conform to the requirements of
5 subsection (a) of Section 8 of this Act.

6 (e) Any person who knowingly or maliciously disseminates
7 any information or report concerning the existence of any
8 disease under this Section is guilty of a Class A misdemeanor.
9 (Source: P.A. 99-642, eff. 7-28-16; 100-513, eff. 1-1-18.)

10 Section 15. The Illinois Vehicle Code is amended by
11 changing Sections 6-106.1 and 6-508 as follows:

12 (625 ILCS 5/6-106.1) (from Ch. 95 1/2, par. 6-106.1)
13 Sec. 6-106.1. School bus driver permit.

14 (a) The Secretary of State shall issue a school bus driver
15 permit to those applicants who have met all the requirements
16 of the application and screening process under this Section to
17 insure the welfare and safety of children who are transported
18 on school buses throughout the State of Illinois. Applicants
19 shall obtain the proper application required by the Secretary
20 of State from their prospective or current employer and submit
21 the completed application to the prospective or current
22 employer along with the necessary fingerprint submission as
23 required by the Department of State Police to conduct
24 fingerprint based criminal background checks on current and

1 future information available in the state system and current
2 information available through the Federal Bureau of
3 Investigation's system. Applicants who have completed the
4 fingerprinting requirements shall not be subjected to the
5 fingerprinting process when applying for subsequent permits or
6 submitting proof of successful completion of the annual
7 refresher course. Individuals who on July 1, 1995 (the
8 effective date of Public Act 88-612) possess a valid school
9 bus driver permit that has been previously issued by the
10 appropriate Regional School Superintendent are not subject to
11 the fingerprinting provisions of this Section as long as the
12 permit remains valid and does not lapse. The applicant shall
13 be required to pay all related application and fingerprinting
14 fees as established by rule including, but not limited to, the
15 amounts established by the Department of State Police and the
16 Federal Bureau of Investigation to process fingerprint based
17 criminal background investigations. All fees paid for
18 fingerprint processing services under this Section shall be
19 deposited into the State Police Services Fund for the cost
20 incurred in processing the fingerprint based criminal
21 background investigations. All other fees paid under this
22 Section shall be deposited into the Road Fund for the purpose
23 of defraying the costs of the Secretary of State in
24 administering this Section. All applicants must:

- 25 1. be 21 years of age or older;
- 26 2. possess a valid and properly classified driver's

1 license issued by the Secretary of State;

2 3. possess a valid driver's license, which has not
3 been revoked, suspended, or canceled for 3 years
4 immediately prior to the date of application, or have not
5 had his or her commercial motor vehicle driving privileges
6 disqualified within the 3 years immediately prior to the
7 date of application;

8 4. successfully pass a written test, administered by
9 the Secretary of State, on school bus operation, school
10 bus safety, and special traffic laws relating to school
11 buses and submit to a review of the applicant's driving
12 habits by the Secretary of State at the time the written
13 test is given;

14 5. demonstrate ability to exercise reasonable care in
15 the operation of school buses in accordance with rules
16 promulgated by the Secretary of State;

17 6. demonstrate physical fitness to operate school
18 buses by submitting the results of a medical examination,
19 including tests for drug use for each applicant not
20 subject to such testing pursuant to federal law, conducted
21 by a licensed physician, a licensed advanced practice
22 registered nurse, or a licensed physician assistant within
23 90 days of the date of application according to standards
24 promulgated by the Secretary of State;

25 7. affirm under penalties of perjury that he or she
26 has not made a false statement or knowingly concealed a

1 material fact in any application for permit;

2 8. have completed an initial classroom course,
3 including first aid procedures, in school bus driver
4 safety as promulgated by the Secretary of State; and after
5 satisfactory completion of said initial course an annual
6 refresher course; such courses and the agency or
7 organization conducting such courses shall be approved by
8 the Secretary of State; failure to complete the annual
9 refresher course, shall result in cancellation of the
10 permit until such course is completed;

11 9. not have been under an order of court supervision
12 for or convicted of 2 or more serious traffic offenses, as
13 defined by rule, within one year prior to the date of
14 application that may endanger the life or safety of any of
15 the driver's passengers within the duration of the permit
16 period;

17 10. not have been under an order of court supervision
18 for or convicted of reckless driving, aggravated reckless
19 driving, driving while under the influence of alcohol,
20 other drug or drugs, intoxicating compound or compounds or
21 any combination thereof, or reckless homicide resulting
22 from the operation of a motor vehicle within 3 years of the
23 date of application;

24 11. not have been convicted of committing or
25 attempting to commit any one or more of the following
26 offenses: (i) those offenses defined in Sections 8-1,

1 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1,
2 10-2, 10-3.1, 10-4, 10-5, 10-5.1, 10-6, 10-7, 10-9,
3 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-6.5,
4 11-6.6, 11-9, 11-9.1, 11-9.1A, 11-9.3, 11-9.4, 11-9.4-1,
5 11-14, 11-14.1, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16,
6 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2,
7 11-20, 11-20.1, 11-20.1B, 11-20.3, 11-21, 11-22, 11-23,
8 11-24, 11-25, 11-26, 11-30, 12-2.6, 12-3.05, 12-3.1, 12-4,
9 12-4.1, 12-4.2, 12-4.2-5, 12-4.3, 12-4.4, 12-4.5, 12-4.6,
10 12-4.7, 12-4.9, ~~12-5.01~~, 12-5.3, 12-6, 12-6.2, 12-7.1,
11 12-7.3, 12-7.4, 12-7.5, 12-11, 12-13, 12-14, 12-14.1,
12 12-15, 12-16, ~~12-16.2~~, 12-21.5, 12-21.6, 12-33, 12C-5,
13 12C-10, 12C-20, 12C-30, 12C-45, 16-16, 16-16.1, 18-1,
14 18-2, 18-3, 18-4, 18-5, 19-6, 20-1, 20-1.1, 20-1.2,
15 20-1.3, 20-2, 24-1, 24-1.1, 24-1.2, 24-1.2-5, 24-1.6,
16 24-1.7, 24-2.1, 24-3.3, 24-3.5, 24-3.8, 24-3.9, 31A-1.1,
17 33A-2, and 33D-1, in subsection (A), clauses (a) and (b),
18 of Section 24-3, and those offenses contained in Article
19 29D of the Criminal Code of 1961 or the Criminal Code of
20 2012; (ii) those offenses defined in the Cannabis Control
21 Act except those offenses defined in subsections (a) and
22 (b) of Section 4, and subsection (a) of Section 5 of the
23 Cannabis Control Act; (iii) those offenses defined in the
24 Illinois Controlled Substances Act; (iv) those offenses
25 defined in the Methamphetamine Control and Community
26 Protection Act; and (v) any offense committed or attempted

1 in any other state or against the laws of the United
2 States, which if committed or attempted in this State
3 would be punishable as one or more of the foregoing
4 offenses; (vi) the offenses defined in Section 4.1 and 5.1
5 of the Wrongs to Children Act or Section 11-9.1A of the
6 Criminal Code of 1961 or the Criminal Code of 2012; (vii)
7 those offenses defined in Section 6-16 of the Liquor
8 Control Act of 1934; and (viii) those offenses defined in
9 the Methamphetamine Precursor Control Act;

10 12. not have been repeatedly involved as a driver in
11 motor vehicle collisions or been repeatedly convicted of
12 offenses against laws and ordinances regulating the
13 movement of traffic, to a degree which indicates lack of
14 ability to exercise ordinary and reasonable care in the
15 safe operation of a motor vehicle or disrespect for the
16 traffic laws and the safety of other persons upon the
17 highway;

18 13. not have, through the unlawful operation of a
19 motor vehicle, caused an accident resulting in the death
20 of any person;

21 14. not have, within the last 5 years, been adjudged
22 to be afflicted with or suffering from any mental
23 disability or disease;

24 15. consent, in writing, to the release of results of
25 reasonable suspicion drug and alcohol testing under
26 Section 6-106.1c of this Code by the employer of the

1 applicant to the Secretary of State; and

2 16. not have been convicted of committing or
3 attempting to commit within the last 20 years: (i) an
4 offense defined in subsection (c) of Section 4, subsection
5 (b) of Section 5, and subsection (a) of Section 8 of the
6 Cannabis Control Act; or (ii) any offenses in any other
7 state or against the laws of the United States that, if
8 committed or attempted in this State, would be punishable
9 as one or more of the foregoing offenses.

10 (b) A school bus driver permit shall be valid for a period
11 specified by the Secretary of State as set forth by rule. It
12 shall be renewable upon compliance with subsection (a) of this
13 Section.

14 (c) A school bus driver permit shall contain the holder's
15 driver's license number, legal name, residence address, zip
16 code, and date of birth, a brief description of the holder and
17 a space for signature. The Secretary of State may require a
18 suitable photograph of the holder.

19 (d) The employer shall be responsible for conducting a
20 pre-employment interview with prospective school bus driver
21 candidates, distributing school bus driver applications and
22 medical forms to be completed by the applicant, and submitting
23 the applicant's fingerprint cards to the Department of State
24 Police that are required for the criminal background
25 investigations. The employer shall certify in writing to the
26 Secretary of State that all pre-employment conditions have

1 been successfully completed including the successful
2 completion of an Illinois specific criminal background
3 investigation through the Department of State Police and the
4 submission of necessary fingerprints to the Federal Bureau of
5 Investigation for criminal history information available
6 through the Federal Bureau of Investigation system. The
7 applicant shall present the certification to the Secretary of
8 State at the time of submitting the school bus driver permit
9 application.

10 (e) Permits shall initially be provisional upon receiving
11 certification from the employer that all pre-employment
12 conditions have been successfully completed, and upon
13 successful completion of all training and examination
14 requirements for the classification of the vehicle to be
15 operated, the Secretary of State shall provisionally issue a
16 School Bus Driver Permit. The permit shall remain in a
17 provisional status pending the completion of the Federal
18 Bureau of Investigation's criminal background investigation
19 based upon fingerprinting specimens submitted to the Federal
20 Bureau of Investigation by the Department of State Police. The
21 Federal Bureau of Investigation shall report the findings
22 directly to the Secretary of State. The Secretary of State
23 shall remove the bus driver permit from provisional status
24 upon the applicant's successful completion of the Federal
25 Bureau of Investigation's criminal background investigation.

26 (f) A school bus driver permit holder shall notify the

1 employer and the Secretary of State if he or she is issued an
2 order of court supervision for or convicted in another state
3 of an offense that would make him or her ineligible for a
4 permit under subsection (a) of this Section. The written
5 notification shall be made within 5 days of the entry of the
6 order of court supervision or conviction. Failure of the
7 permit holder to provide the notification is punishable as a
8 petty offense for a first violation and a Class B misdemeanor
9 for a second or subsequent violation.

10 (g) Cancellation; suspension; notice and procedure.

11 (1) The Secretary of State shall cancel a school bus
12 driver permit of an applicant whose criminal background
13 investigation discloses that he or she is not in
14 compliance with the provisions of subsection (a) of this
15 Section.

16 (2) The Secretary of State shall cancel a school bus
17 driver permit when he or she receives notice that the
18 permit holder fails to comply with any provision of this
19 Section or any rule promulgated for the administration of
20 this Section.

21 (3) The Secretary of State shall cancel a school bus
22 driver permit if the permit holder's restricted commercial
23 or commercial driving privileges are withdrawn or
24 otherwise invalidated.

25 (4) The Secretary of State may not issue a school bus
26 driver permit for a period of 3 years to an applicant who

1 fails to obtain a negative result on a drug test as
2 required in item 6 of subsection (a) of this Section or
3 under federal law.

4 (5) The Secretary of State shall forthwith suspend a
5 school bus driver permit for a period of 3 years upon
6 receiving notice that the holder has failed to obtain a
7 negative result on a drug test as required in item 6 of
8 subsection (a) of this Section or under federal law.

9 (6) The Secretary of State shall suspend a school bus
10 driver permit for a period of 3 years upon receiving
11 notice from the employer that the holder failed to perform
12 the inspection procedure set forth in subsection (a) or
13 (b) of Section 12-816 of this Code.

14 (7) The Secretary of State shall suspend a school bus
15 driver permit for a period of 3 years upon receiving
16 notice from the employer that the holder refused to submit
17 to an alcohol or drug test as required by Section 6-106.1c
18 or has submitted to a test required by that Section which
19 disclosed an alcohol concentration of more than 0.00 or
20 disclosed a positive result on a National Institute on
21 Drug Abuse five-drug panel, utilizing federal standards
22 set forth in 49 CFR 40.87.

23 The Secretary of State shall notify the State
24 Superintendent of Education and the permit holder's
25 prospective or current employer that the applicant has (1) has
26 failed a criminal background investigation or (2) is no longer

1 eligible for a school bus driver permit; and of the related
2 cancellation of the applicant's provisional school bus driver
3 permit. The cancellation shall remain in effect pending the
4 outcome of a hearing pursuant to Section 2-118 of this Code.
5 The scope of the hearing shall be limited to the issuance
6 criteria contained in subsection (a) of this Section. A
7 petition requesting a hearing shall be submitted to the
8 Secretary of State and shall contain the reason the individual
9 feels he or she is entitled to a school bus driver permit. The
10 permit holder's employer shall notify in writing to the
11 Secretary of State that the employer has certified the removal
12 of the offending school bus driver from service prior to the
13 start of that school bus driver's next workshift. An employing
14 school board that fails to remove the offending school bus
15 driver from service is subject to the penalties defined in
16 Section 3-14.23 of the School Code. A school bus contractor
17 who violates a provision of this Section is subject to the
18 penalties defined in Section 6-106.11.

19 All valid school bus driver permits issued under this
20 Section prior to January 1, 1995, shall remain effective until
21 their expiration date unless otherwise invalidated.

22 (h) When a school bus driver permit holder who is a service
23 member is called to active duty, the employer of the permit
24 holder shall notify the Secretary of State, within 30 days of
25 notification from the permit holder, that the permit holder
26 has been called to active duty. Upon notification pursuant to

1 this subsection, (i) the Secretary of State shall characterize
2 the permit as inactive until a permit holder renews the permit
3 as provided in subsection (i) of this Section, and (ii) if a
4 permit holder fails to comply with the requirements of this
5 Section while called to active duty, the Secretary of State
6 shall not characterize the permit as invalid.

7 (i) A school bus driver permit holder who is a service
8 member returning from active duty must, within 90 days, renew
9 a permit characterized as inactive pursuant to subsection (h)
10 of this Section by complying with the renewal requirements of
11 subsection (b) of this Section.

12 (j) For purposes of subsections (h) and (i) of this
13 Section:

14 "Active duty" means active duty pursuant to an executive
15 order of the President of the United States, an act of the
16 Congress of the United States, or an order of the Governor.

17 "Service member" means a member of the Armed Services or
18 reserve forces of the United States or a member of the Illinois
19 National Guard.

20 (k) A private carrier employer of a school bus driver
21 permit holder, having satisfied the employer requirements of
22 this Section, shall be held to a standard of ordinary care for
23 intentional acts committed in the course of employment by the
24 bus driver permit holder. This subsection (k) shall in no way
25 limit the liability of the private carrier employer for
26 violation of any provision of this Section or for the

1 negligent hiring or retention of a school bus driver permit
2 holder.

3 (Source: P.A. 100-513, eff. 1-1-18; 101-458, eff. 1-1-20.)

4 (625 ILCS 5/6-508) (from Ch. 95 1/2, par. 6-508)

5 Sec. 6-508. Commercial Driver's License (CDL) -
6 qualification standards.

7 (a) Testing.

8 (1) General. No person shall be issued an original or
9 renewal CDL unless that person is domiciled in this State
10 or is applying for a non-domiciled CDL under Sections
11 6-509 and 6-510 of this Code. The Secretary shall cause to
12 be administered such tests as the Secretary deems
13 necessary to meet the requirements of 49 C.F.R. Part 383,
14 subparts F, G, H, and J.

15 (1.5) Effective July 1, 2014, no person shall be
16 issued an original CDL or an upgraded CDL that requires a
17 skills test unless that person has held a CLP, for a
18 minimum of 14 calendar days, for the classification of
19 vehicle and endorsement, if any, for which the person is
20 seeking a CDL.

21 (2) Third party testing. The Secretary of State may
22 authorize a "third party tester", pursuant to 49 C.F.R.
23 383.75 and 49 C.F.R. 384.228 and 384.229, to administer
24 the skills test or tests specified by the Federal Motor
25 Carrier Safety Administration pursuant to the Commercial

1 Motor Vehicle Safety Act of 1986 and any appropriate
2 federal rule.

3 (3) (i) Effective February 7, 2020, unless the person
4 is exempted by 49 CFR 380.603, no person shall be issued an
5 original (first time issuance) CDL, an upgraded CDL or a
6 school bus (S), passenger (P), or hazardous Materials (H)
7 endorsement unless the person has successfully completed
8 entry-level driver training (ELDT) taught by a training
9 provider listed on the federal Training Provider Registry.

10 (ii) Persons who obtain a CLP before February 7, 2020
11 are not required to complete ELDT if the person obtains a
12 CDL before the CLP or renewed CLP expires.

13 (iii) Except for persons seeking the H endorsement,
14 persons must complete the theory and behind-the-wheel
15 (range and public road) portions of ELDT within one year
16 of completing the first portion.

17 (iv) The Secretary shall adopt rules to implement this
18 subsection.

19 (b) Waiver of Skills Test. The Secretary of State may
20 waive the skills test specified in this Section for a driver
21 applicant for a commercial driver license who meets the
22 requirements of 49 C.F.R. 383.77. The Secretary of State shall
23 waive the skills tests specified in this Section for a driver
24 applicant who has military commercial motor vehicle
25 experience, subject to the requirements of 49 C.F.R. 383.77.

26 (b-1) No person shall be issued a CDL unless the person

1 certifies to the Secretary one of the following types of
2 driving operations in which he or she will be engaged:

- 3 (1) non-excepted interstate;
4 (2) non-excepted intrastate;
5 (3) excepted interstate; or
6 (4) excepted intrastate.

7 (b-2) (Blank).

8 (c) Limitations on issuance of a CDL. A CDL shall not be
9 issued to a person while the person is subject to a
10 disqualification from driving a commercial motor vehicle, or
11 unless otherwise permitted by this Code, while the person's
12 driver's license is suspended, revoked or cancelled in any
13 state, or any territory or province of Canada; nor may a CLP or
14 CDL be issued to a person who has a CLP or CDL issued by any
15 other state, or foreign jurisdiction, nor may a CDL be issued
16 to a person who has an Illinois CLP unless the person first
17 surrenders all of these licenses or permits. However, a person
18 may hold an Illinois CLP and an Illinois CDL providing the CLP
19 is necessary to train or practice for an endorsement or
20 vehicle classification not present on the current CDL. No CDL
21 shall be issued to or renewed for a person who does not meet
22 the requirement of 49 CFR 391.41(b)(11). The requirement may
23 be met with the aid of a hearing aid.

24 (c-1) The Secretary may issue a CDL with a school bus
25 driver endorsement to allow a person to drive the type of bus
26 described in subsection (d-5) of Section 6-104 of this Code.

1 The CDL with a school bus driver endorsement may be issued only
2 to a person meeting the following requirements:

3 (1) the person has submitted his or her fingerprints
4 to the Department of State Police in the form and manner
5 prescribed by the Department of State Police. These
6 fingerprints shall be checked against the fingerprint
7 records now and hereafter filed in the Department of State
8 Police and Federal Bureau of Investigation criminal
9 history records databases;

10 (2) the person has passed a written test, administered
11 by the Secretary of State, on charter bus operation,
12 charter bus safety, and certain special traffic laws
13 relating to school buses determined by the Secretary of
14 State to be relevant to charter buses, and submitted to a
15 review of the driver applicant's driving habits by the
16 Secretary of State at the time the written test is given;

17 (3) the person has demonstrated physical fitness to
18 operate school buses by submitting the results of a
19 medical examination, including tests for drug use; and

20 (4) the person has not been convicted of committing or
21 attempting to commit any one or more of the following
22 offenses: (i) those offenses defined in Sections 8-1.2,
23 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2,
24 10-3.1, 10-4, 10-5, 10-5.1, 10-6, 10-7, 10-9, 11-1.20,
25 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-6.5, 11-6.6,
26 11-9, 11-9.1, 11-9.3, 11-9.4, 11-14, 11-14.1, 11-14.3,

1 11-14.4, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18,
2 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1,
3 11-20.1B, 11-20.3, 11-21, 11-22, 11-23, 11-24, 11-25,
4 11-26, 11-30, 12-2.6, 12-3.1, 12-4, 12-4.1, 12-4.2,
5 12-4.2-5, 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-4.9,
6 ~~12-5.01~~, 12-6, 12-6.2, 12-7.1, 12-7.3, 12-7.4, 12-7.5,
7 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, ~~12-16.2~~,
8 12-21.5, 12-21.6, 12-33, 12C-5, 12C-10, 12C-20, 12C-30,
9 12C-45, 16-16, 16-16.1, 18-1, 18-2, 18-3, 18-4, 18-5,
10 19-6, 20-1, 20-1.1, 20-1.2, 20-1.3, 20-2, 24-1, 24-1.1,
11 24-1.2, 24-1.2-5, 24-1.6, 24-1.7, 24-2.1, 24-3.3, 24-3.5,
12 24-3.8, 24-3.9, 31A-1, 31A-1.1, 33A-2, and 33D-1, and in
13 subsection (b) of Section 8-1, and in subdivisions (a) (1),
14 (a) (2), (b) (1), (e) (1), (e) (2), (e) (3), (e) (4), and (f) (1)
15 of Section 12-3.05, and in subsection (a) and subsection
16 (b), clause (1), of Section 12-4, and in subsection (A),
17 clauses (a) and (b), of Section 24-3, and those offenses
18 contained in Article 29D of the Criminal Code of 1961 or
19 the Criminal Code of 2012; (ii) those offenses defined in
20 the Cannabis Control Act except those offenses defined in
21 subsections (a) and (b) of Section 4, and subsection (a)
22 of Section 5 of the Cannabis Control Act; (iii) those
23 offenses defined in the Illinois Controlled Substances
24 Act; (iv) those offenses defined in the Methamphetamine
25 Control and Community Protection Act; (v) any offense
26 committed or attempted in any other state or against the

1 laws of the United States, which if committed or attempted
2 in this State would be punishable as one or more of the
3 foregoing offenses; (vi) the offenses defined in Sections
4 4.1 and 5.1 of the Wrongs to Children Act or Section
5 11-9.1A of the Criminal Code of 1961 or the Criminal Code
6 of 2012; (vii) those offenses defined in Section 6-16 of
7 the Liquor Control Act of 1934; and (viii) those offenses
8 defined in the Methamphetamine Precursor Control Act.

9 The Department of State Police shall charge a fee for
10 conducting the criminal history records check, which shall be
11 deposited into the State Police Services Fund and may not
12 exceed the actual cost of the records check.

13 (c-2) The Secretary shall issue a CDL with a school bus
14 endorsement to allow a person to drive a school bus as defined
15 in this Section. The CDL shall be issued according to the
16 requirements outlined in 49 C.F.R. 383. A person may not
17 operate a school bus as defined in this Section without a
18 school bus endorsement. The Secretary of State may adopt rules
19 consistent with Federal guidelines to implement this
20 subsection (c-2).

21 (d) (Blank).

22 (Source: P.A. 101-185, eff. 1-1-20.)

23 Section 20. The Criminal Code of 2012 is amended by
24 changing Section 11-9.1 as follows:

1 (720 ILCS 5/11-9.1) (from Ch. 38, par. 11-9.1)

2 Sec. 11-9.1. Sexual exploitation of a child.

3 (a) A person commits sexual exploitation of a child if in
4 the presence or virtual presence, or both, of a child and with
5 knowledge that a child or one whom he or she believes to be a
6 child would view his or her acts, that person:

7 (1) engages in a sexual act; or

8 (2) exposes his or her sex organs, anus or breast for
9 the purpose of sexual arousal or gratification of such
10 person or the child or one whom he or she believes to be a
11 child.

12 (a-5) A person commits sexual exploitation of a child who
13 knowingly entices, coerces, or persuades a child to remove the
14 child's clothing for the purpose of sexual arousal or
15 gratification of the person or the child, or both.

16 (b) Definitions. As used in this Section:

17 "Sexual act" means masturbation, sexual conduct or sexual
18 penetration as defined in Section 11-0.1 of this Code.

19 "Sex offense" means any violation of Article 11 of this
20 Code ~~or Section 12-5.01 of this Code.~~

21 "Child" means a person under 17 years of age.

22 "Virtual presence" means an environment that is created
23 with software and presented to the user and or receiver via the
24 Internet, in such a way that the user appears in front of the
25 receiver on the computer monitor or screen or hand-held
26 portable electronic device, usually through a web camming

1 program. "Virtual presence" includes primarily experiencing
2 through sight or sound, or both, a video image that can be
3 explored interactively at a personal computer or hand-held
4 communication device, or both.

5 "Webcam" means a video capturing device connected to a
6 computer or computer network that is designed to take digital
7 photographs or live or recorded video which allows for the
8 live transmission to an end user over the Internet.

9 (c) Sentence.

10 (1) Sexual exploitation of a child is a Class A
11 misdemeanor. A second or subsequent violation of this
12 Section or a substantially similar law of another state is
13 a Class 4 felony.

14 (2) Sexual exploitation of a child is a Class 4 felony
15 if the person has been previously convicted of a sex
16 offense.

17 (3) Sexual exploitation of a child is a Class 4 felony
18 if the victim was under 13 years of age at the time of the
19 commission of the offense.

20 (4) Sexual exploitation of a child is a Class 4 felony
21 if committed by a person 18 years of age or older who is on
22 or within 500 feet of elementary or secondary school
23 grounds when children are present on the grounds.

24 (Source: P.A. 100-863, eff. 8-14-18.)

25 Section 25. The Unified Code of Corrections is amended by

1 changing Section 5-5-3 as follows:

2 (730 ILCS 5/5-5-3)

3 Sec. 5-5-3. Disposition.

4 (a) (Blank).

5 (b) (Blank).

6 (c) (1) (Blank).

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

14 (A) First degree murder where the death penalty is not
15 imposed.

16 (B) Attempted first degree murder.

17 (C) A Class X felony.

18 (D) A violation of Section 401.1 or 407 of the
19 Illinois Controlled Substances Act, or a violation of
20 subdivision (c)(1.5) of Section 401 of that Act which
21 relates to more than 5 grams of a substance containing
22 fentanyl or an analog thereof.

23 (D-5) A violation of subdivision (c)(1) of Section 401
24 of the Illinois Controlled Substances Act which relates to
25 3 or more grams of a substance containing heroin or an

1 analog thereof.

2 (E) (Blank).

3 (F) A Class 1 or greater felony if the offender had
4 been convicted of a Class 1 or greater felony, including
5 any state or federal conviction for an offense that
6 contained, at the time it was committed, the same elements
7 as an offense now (the date of the offense committed after
8 the prior Class 1 or greater felony) classified as a Class
9 1 or greater felony, within 10 years of the date on which
10 the offender committed the offense for which he or she is
11 being sentenced, except as otherwise provided in Section
12 40-10 of the Substance Use Disorder Act.

13 (F-3) A Class 2 or greater felony sex offense or
14 felony firearm offense if the offender had been convicted
15 of a Class 2 or greater felony, including any state or
16 federal conviction for an offense that contained, at the
17 time it was committed, the same elements as an offense now
18 (the date of the offense committed after the prior Class 2
19 or greater felony) classified as a Class 2 or greater
20 felony, within 10 years of the date on which the offender
21 committed the offense for which he or she is being
22 sentenced, except as otherwise provided in Section 40-10
23 of the Substance Use Disorder Act.

24 (F-5) A violation of Section 24-1, 24-1.1, or 24-1.6
25 of the Criminal Code of 1961 or the Criminal Code of 2012
26 for which imprisonment is prescribed in those Sections.

1 (G) Residential burglary, except as otherwise provided
2 in Section 40-10 of the Substance Use Disorder Act.

3 (H) Criminal sexual assault.

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

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

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

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

20 (K) Vehicular hijacking.

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

25 (M) A second or subsequent conviction for the offense
26 of institutional vandalism if the damage to the property

1 exceeds \$300.

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

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

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

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

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

15 (S) (Blank).

16 (T) (Blank).

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

24 (V) A violation of paragraph (4) of subsection (c) of
25 Section 11-20.1B or paragraph (4) of subsection (c) of
26 Section 11-20.3 of the Criminal Code of 1961, or paragraph

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

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

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

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

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

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

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

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

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

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

13 (3) (Blank).

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

18 (4.1) (Blank).

19 (4.2) Except as provided in paragraphs (4.3) and (4.8) of
20 this subsection (c), a minimum of 100 hours of community
21 service shall be imposed for a second violation of Section
22 6-303 of the Illinois Vehicle Code.

23 (4.3) A minimum term of imprisonment of 30 days or 300
24 hours of community service, as determined by the court, shall
25 be imposed for a second violation of subsection (c) of Section
26 6-303 of the Illinois Vehicle Code.

1 (4.4) Except as provided in paragraphs (4.5), (4.6), and
2 (4.9) of this subsection (c), a minimum term of imprisonment
3 of 30 days or 300 hours of community service, as determined by
4 the court, shall be imposed for a third or subsequent
5 violation of Section 6-303 of the Illinois Vehicle Code. The
6 court may give credit toward the fulfillment of community
7 service hours for participation in activities and treatment as
8 determined by court services.

9 (4.5) A minimum term of imprisonment of 30 days shall be
10 imposed for a third violation of subsection (c) of Section
11 6-303 of the Illinois Vehicle Code.

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

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

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

1 (4.9) A mandatory prison sentence of not less than 4 and
2 not more than 15 years shall be imposed for a third violation
3 of subsection (a-5) of Section 6-303 of the Illinois Vehicle
4 Code, as provided in subsection (d-2.5) of that Section. The
5 person's driving privileges shall be revoked for the remainder
6 of his or her life.

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

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

16 (A) a period of conditional discharge;

17 (B) a fine;

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

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

1 (5.2) In addition to any other penalties imposed, and
2 except as provided in paragraph (5.3), a person convicted of
3 violating subsection (c) of Section 11-907 of the Illinois
4 Vehicle Code shall have his or her driver's license, permit,
5 or privileges suspended for at least 180 days but not more than
6 2 years, if the violation resulted in injury to another
7 person.

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

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

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

6 (10) (Blank).

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

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

1 that Section.

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

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

1 intention to again seek the extended sentence, the defendant
2 shall be afforded a new trial.

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

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

12 (A) the defendant is willing to undergo a court
13 approved counseling program for a minimum duration of
14 2 years; or

15 (B) the defendant is willing to participate in a
16 court approved plan including but not limited to the
17 defendant's:

18 (i) removal from the household;

19 (ii) restricted contact with the victim;

20 (iii) continued financial support of the
21 family;

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

23 and

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

26 (2) the court orders the defendant to pay for the

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

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

14 For the purposes of this Section, "family member" and
15 "victim" shall have the meanings ascribed to them in Section
16 11-0.1 of the Criminal Code of 2012.

17 (f) (Blank).

18 (g) Whenever a defendant is convicted of an offense under
19 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,
20 11-14.3, 11-14.4 except for an offense that involves keeping a
21 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,
22 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,
23 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the
24 Criminal Code of 2012, the defendant shall undergo medical
25 testing to determine whether the defendant has any sexually
26 transmissible disease, including a test for infection with

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

1 ~~relevant in order to prosecute a charge of criminal~~
2 ~~transmission of HIV under Section 12-5.01 or 12-16.2 of the~~
3 ~~Criminal Code of 1961 or the Criminal Code of 2012 against the~~
4 ~~defendant.~~ The court shall order that the cost of any such test
5 shall be paid by the county and may be taxed as costs against
6 the convicted defendant.

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

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

1 judge of the court in which the conviction was entered for the
2 judge's inspection in camera. Acting in accordance with the
3 best interests of the public, the judge shall have the
4 discretion to determine to whom, if anyone, the results of the
5 testing may be revealed. The court shall notify the defendant
6 of a positive test showing an infection with the human
7 immunodeficiency virus (HIV). The court shall provide
8 information on the availability of HIV testing and counseling
9 at Department of Public Health facilities to all parties to
10 whom the results of the testing are revealed and shall direct
11 the State's Attorney to provide the information to the victim
12 when possible. ~~A State's Attorney may petition the court to
13 obtain the results of any HIV test administered under this
14 Section, and the court shall grant the disclosure if the
15 State's Attorney shows it is relevant in order to prosecute a
16 charge of criminal transmission of HIV under Section 12-5.01
17 or 12-16.2 of the Criminal Code of 1961 or the Criminal Code of
18 2012 against the defendant.~~ The court shall order that the
19 cost of any such test shall be paid by the county and may be
20 taxed as costs against the convicted defendant.

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

1 and Traffic Assessment Act.

2 (j) In cases when prosecution for any violation of Section
3 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,
4 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,
5 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
6 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,
7 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal
8 Code of 2012, any violation of the Illinois Controlled
9 Substances Act, any violation of the Cannabis Control Act, or
10 any violation of the Methamphetamine Control and Community
11 Protection Act results in conviction, a disposition of court
12 supervision, or an order of probation granted under Section 10
13 of the Cannabis Control Act, Section 410 of the Illinois
14 Controlled Substances Act, or Section 70 of the
15 Methamphetamine Control and Community Protection Act of a
16 defendant, the court shall determine whether the defendant is
17 employed by a facility or center as defined under the Child
18 Care Act of 1969, a public or private elementary or secondary
19 school, or otherwise works with children under 18 years of age
20 on a daily basis. When a defendant is so employed, the court
21 shall order the Clerk of the Court to send a copy of the
22 judgment of conviction or order of supervision or probation to
23 the defendant's employer by certified mail. If the employer of
24 the defendant is a school, the Clerk of the Court shall direct
25 the mailing of a copy of the judgment of conviction or order of
26 supervision or probation to the appropriate regional

1 superintendent of schools. The regional superintendent of
2 schools shall notify the State Board of Education of any
3 notification under this subsection.

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

1 wilful failure to comply. The Prisoner Review Board shall
2 recommit the defendant whose mandatory supervised release term
3 has been revoked under this subsection (j-5) as provided in
4 Section 3-3-9. This subsection (j-5) does not apply to a
5 defendant who has a high school diploma or has successfully
6 passed high school equivalency testing. This subsection (j-5)
7 does not apply to a defendant who is determined by the court to
8 be a person with a developmental disability or otherwise
9 mentally incapable of completing the educational or vocational
10 program.

11 (k) (Blank).

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

20 (1) a final order of deportation has been issued
21 against the defendant pursuant to proceedings under the
22 Immigration and Nationality Act, and

23 (2) the deportation of the defendant would not
24 deprecate the seriousness of the defendant's conduct and
25 would not be inconsistent with the ends of justice.

26 Otherwise, the defendant shall be sentenced as provided in

1 this Chapter V.

2 (B) If the defendant has already been sentenced for a
3 felony or misdemeanor offense, or has been placed on probation
4 under Section 10 of the Cannabis Control Act, Section 410 of
5 the Illinois Controlled Substances Act, or Section 70 of the
6 Methamphetamine Control and Community Protection Act, the
7 court may, upon motion of the State's Attorney to suspend the
8 sentence imposed, commit the defendant to the custody of the
9 Attorney General of the United States or his or her designated
10 agent when:

11 (1) a final order of deportation has been issued
12 against the defendant pursuant to proceedings under the
13 Immigration and Nationality Act, and

14 (2) the deportation of the defendant would not
15 deprecate the seriousness of the defendant's conduct and
16 would not be inconsistent with the ends of justice.

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

20 (D) Upon motion of the State's Attorney, if a defendant
21 sentenced under this Section returns to the jurisdiction of
22 the United States, the defendant shall be recommitted to the
23 custody of the county from which he or she was sentenced.
24 Thereafter, the defendant shall be brought before the
25 sentencing court, which may impose any sentence that was
26 available under Section 5-5-3 at the time of initial

1 sentencing. In addition, the defendant shall not be eligible
2 for additional earned sentence credit as provided under
3 Section 3-6-3.

4 (m) A person convicted of criminal defacement of property
5 under Section 21-1.3 of the Criminal Code of 1961 or the
6 Criminal Code of 2012, in which the property damage exceeds
7 \$300 and the property damaged is a school building, shall be
8 ordered to perform community service that may include cleanup,
9 removal, or painting over the defacement.

10 (n) The court may sentence a person convicted of a
11 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or
12 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
13 of 1961 or the Criminal Code of 2012 (i) to an impact
14 incarceration program if the person is otherwise eligible for
15 that program under Section 5-8-1.1, (ii) to community service,
16 or (iii) if the person has a substance use disorder, as defined
17 in the Substance Use Disorder Act, to a treatment program
18 licensed under that Act.

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

24 (Source: P.A. 100-575, eff. 1-8-18; 100-759, eff. 1-1-19;
25 100-987, eff. 7-1-19; 101-81, eff. 7-12-19.)

1 (720 ILCS 5/12-5.01 rep.)

2 Section 30. The Criminal Code of 2012 is amended by
3 repealing Section 12-5.01.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.