



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5530

Introduced 1/31/2022, by Rep. Justin Slaughter

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-4-1
730 ILCS 5/5-5-3

from Ch. 38, par. 1005-4-1

Amends the Unified Code of Corrections. In provisions that specify offenses for which a period of probation, a term of periodic imprisonment, or conditional discharge shall not be imposed, provides exceptions for certain offenses in cases in which the offender is under 26 years of age at the time of the offense. Provides that, at a sentencing hearing, the court shall consider the developmental appropriateness of the sentence and apply greater weight to factors of youthfulness such as the diminished culpability of youth and young adults as compared to adults and capacity for growth and maturity.

LRB102 24533 RLC 33767 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 Unified Code of Corrections is amended by
5 changing Sections 5-4-1 and 5-5-3 as follows:

6 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

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

8 (a) Except when the death penalty is sought under hearing
9 procedures otherwise specified, after a determination of
10 guilt, a hearing shall be held to impose the sentence.
11 However, prior to the imposition of sentence on an individual
12 being sentenced for an offense based upon a charge for a
13 violation of Section 11-501 of the Illinois Vehicle Code or a
14 similar provision of a local ordinance, the individual must
15 undergo a professional evaluation to determine if an alcohol
16 or other drug abuse problem exists and the extent of such a
17 problem. Programs conducting these evaluations shall be
18 licensed by the Department of Human Services. However, if the
19 individual is not a resident of Illinois, the court may, in its
20 discretion, accept an evaluation from a program in the state
21 of such individual's residence. The court shall make a
22 specific finding about whether the defendant is eligible for
23 participation in a Department impact incarceration program as

1 provided in Section 5-8-1.1 or 5-8-1.3, and if not, provide an
2 explanation as to why a sentence to impact incarceration is
3 not an appropriate sentence. The court may in its sentencing
4 order recommend a defendant for placement in a Department of
5 Corrections substance abuse treatment program as provided in
6 paragraph (a) of subsection (1) of Section 3-2-2 conditioned
7 upon the defendant being accepted in a program by the
8 Department of Corrections. At the hearing the court shall:

9 (1) consider the evidence, if any, received upon the
10 trial;

11 (2) consider any presentence reports;

12 (3) consider the financial impact of incarceration
13 based on the financial impact statement filed with the
14 clerk of the court by the Department of Corrections;

15 (4) consider evidence and information offered by the
16 parties in aggravation and mitigation;

17 (4.5) consider substance abuse treatment, eligibility
18 screening, and an assessment, if any, of the defendant by
19 an agent designated by the State of Illinois to provide
20 assessment services for the Illinois courts;

21 (5) hear arguments as to sentencing alternatives;

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

24 (7) afford the victim of a violent crime or a
25 violation of Section 11-501 of the Illinois Vehicle Code,
26 or a similar provision of a local ordinance, the

1 opportunity to present an oral or written statement, as
2 guaranteed by Article I, Section 8.1 of the Illinois
3 Constitution and provided in Section 6 of the Rights of
4 Crime Victims and Witnesses Act. The court shall allow a
5 victim to make an oral statement if the victim is present
6 in the courtroom and requests to make an oral or written
7 statement. An oral or written statement includes the
8 victim or a representative of the victim reading the
9 written statement. The court may allow persons impacted by
10 the crime who are not victims under subsection (a) of
11 Section 3 of the Rights of Crime Victims and Witnesses Act
12 to present an oral or written statement. A victim and any
13 person making an oral statement shall not be put under
14 oath or subject to cross-examination. All statements
15 offered under this paragraph (7) shall become part of the
16 record of the court. In this paragraph (7), "victim of a
17 violent crime" means a person who is a victim of a violent
18 crime for which the defendant has been convicted after a
19 bench or jury trial or a person who is the victim of a
20 violent crime with which the defendant was charged and the
21 defendant has been convicted under a plea agreement of a
22 crime that is not a violent crime as defined in subsection
23 (c) of 3 of the Rights of Crime Victims and Witnesses Act;

24 (7.5) afford a qualified person affected by: (i) a
25 violation of Section 405, 405.1, 405.2, or 407 of the
26 Illinois Controlled Substances Act or a violation of

1 Section 55 or Section 65 of the Methamphetamine Control
2 and Community Protection Act; or (ii) a Class 4 felony
3 violation of Section 11-14, 11-14.3 except as described in
4 subdivisions (a) (2) (A) and (a) (2) (B), 11-15, 11-17, 11-18,
5 11-18.1, or 11-19 of the Criminal Code of 1961 or the
6 Criminal Code of 2012, committed by the defendant the
7 opportunity to make a statement concerning the impact on
8 the qualified person and to offer evidence in aggravation
9 or mitigation; provided that the statement and evidence
10 offered in aggravation or mitigation shall first be
11 prepared in writing in conjunction with the State's
12 Attorney before it may be presented orally at the hearing.
13 Sworn testimony offered by the qualified person is subject
14 to the defendant's right to cross-examine. All statements
15 and evidence offered under this paragraph (7.5) shall
16 become part of the record of the court. In this paragraph
17 (7.5), "qualified person" means any person who: (i) lived
18 or worked within the territorial jurisdiction where the
19 offense took place when the offense took place; or (ii) is
20 familiar with various public places within the territorial
21 jurisdiction where the offense took place when the offense
22 took place. "Qualified person" includes any peace officer
23 or any member of any duly organized State, county, or
24 municipal peace officer unit assigned to the territorial
25 jurisdiction where the offense took place when the offense
26 took place;

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

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

8 (10) make a finding of whether a motor vehicle was
9 used in the commission of the offense for which the
10 defendant is being sentenced; ~~and~~.

11 (11) consider the developmental appropriateness of the
12 sentence and apply greater weight to factors of
13 youthfulness such as the diminished culpability of youth
14 and young adults as compared to adults and capacity for
15 growth and maturity.

16 (b) All sentences shall be imposed by the judge based upon
17 his independent assessment of the elements specified above and
18 any agreement as to sentence reached by the parties. The judge
19 who presided at the trial or the judge who accepted the plea of
20 guilty shall impose the sentence unless he is no longer
21 sitting as a judge in that court. Where the judge does not
22 impose sentence at the same time on all defendants who are
23 convicted as a result of being involved in the same offense,
24 the defendant or the State's Attorney may advise the
25 sentencing court of the disposition of any other defendants
26 who have been sentenced.

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

14 (c) In imposing a sentence for a violent crime or for an
15 offense of operating or being in physical control of a vehicle
16 while under the influence of alcohol, any other drug or any
17 combination thereof, or a similar provision of a local
18 ordinance, when such offense resulted in the personal injury
19 to someone other than the defendant, the trial judge shall
20 specify on the record the particular evidence, information,
21 factors in mitigation and aggravation or other reasons that
22 led to his sentencing determination. The full verbatim record
23 of the sentencing hearing shall be filed with the clerk of the
24 court and shall be a public record.

25 (c-1) In imposing a sentence for the offense of aggravated
26 kidnapping for ransom, home invasion, armed robbery,

1 aggravated vehicular hijacking, aggravated discharge of a
2 firearm, or armed violence with a category I weapon or
3 category II weapon, the trial judge shall make a finding as to
4 whether the conduct leading to conviction for the offense
5 resulted in great bodily harm to a victim, and shall enter that
6 finding and the basis for that finding in the record.

7 (c-1.5) Notwithstanding any other provision of law to the
8 contrary, in imposing a sentence for an offense that requires
9 a mandatory minimum sentence of imprisonment, the court may
10 instead sentence the offender to probation, conditional
11 discharge, or a lesser term of imprisonment it deems
12 appropriate if: (1) the offense involves the use or possession
13 of drugs, retail theft, or driving on a revoked license due to
14 unpaid financial obligations; (2) the court finds that the
15 defendant does not pose a risk to public safety; and (3) the
16 interest of justice requires imposing a term of probation,
17 conditional discharge, or a lesser term of imprisonment. The
18 court must state on the record its reasons for imposing
19 probation, conditional discharge, or a lesser term of
20 imprisonment.

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

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

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

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

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

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

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

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

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

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

24 When the sentencing order recommends placement in a
25 substance abuse program for any offense that results in
26 incarceration in a Department of Corrections facility and the

1 crime was committed on or after September 1, 2003 (the
2 effective date of Public Act 93-354), the judge's statement,
3 in addition to any other judge's statement required under this
4 Section, to be given after pronouncing the sentence, shall
5 include the following:

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

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

26 (1) order that the officer preparing the presentence

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

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

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

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

21 (c-7) In imposing a sentence for a Class 3 or 4 felony,
22 other than a violent crime as defined in Section 3 of the
23 Rights of Crime Victims and Witnesses Act, the court shall
24 determine and indicate in the sentencing order whether the
25 defendant has 4 or more or fewer than 4 months remaining on his
26 or her sentence accounting for time served.

1 (d) When the defendant is committed to the Department of
2 Corrections, the State's Attorney shall and counsel for the
3 defendant may file a statement with the clerk of the court to
4 be transmitted to the department, agency or institution to
5 which the defendant is committed to furnish such department,
6 agency or institution with the facts and circumstances of the
7 offense for which the person was committed together with all
8 other factual information accessible to them in regard to the
9 person prior to his commitment relative to his habits,
10 associates, disposition and reputation and any other facts and
11 circumstances which may aid such department, agency or
12 institution during its custody of such person. The clerk shall
13 within 10 days after receiving any such statements transmit a
14 copy to such department, agency or institution and a copy to
15 the other party, provided, however, that this shall not be
16 cause for delay in conveying the person to the department,
17 agency or institution to which he has been committed.

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

21 (1) the sentence imposed;

22 (2) any statement by the court of the basis for
23 imposing the sentence;

24 (3) any presentence reports;

25 (3.5) any sex offender evaluations;

26 (3.6) any substance abuse treatment eligibility

1 screening and assessment of the defendant by an agent
2 designated by the State of Illinois to provide assessment
3 services for the Illinois courts;

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

8 (4.1) any finding of great bodily harm made by the
9 court with respect to an offense enumerated in subsection
10 (c-1);

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

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

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

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

20 (9) all additional matters which the court directs the
21 clerk to transmit.

22 (f) In cases in which the court finds that a motor vehicle
23 was used in the commission of the offense for which the
24 defendant is being sentenced, the clerk of the court shall,
25 within 5 days thereafter, forward a report of such conviction
26 to the Secretary of State.

1 (Source: P.A. 100-961, eff. 1-1-19; 101-81, eff. 7-12-19;
2 101-105, eff. 1-1-20; 101-652, Article 10, Section 10-281,
3 eff. 7-1-21; 101-652, Article 20, Section 20-5, eff. 7-1-21;
4 revised 11-22-21.)

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

6 Sec. 5-5-3. Disposition.

7 (a) (Blank).

8 (b) (Blank).

9 (c) (1) (Blank).

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

17 (A) First degree murder where the death penalty is not
18 imposed.

19 (B) Attempted first degree murder.

20 (C) A Class X felony.

21 (D) Except in cases in which the offender is under 26
22 years of age at the time of the offense, a violation of
23 Section 401.1 or 407 of the Illinois Controlled Substances
24 Act, or a violation of subdivision (c)(1.5) of Section 401
25 of that Act which relates to more than 5 grams of a

1 substance containing fentanyl or an analog thereof.

2 (D-5) Except in cases in which the offender is under
3 26 years of age at the time of the offense, a A violation
4 of subdivision (c)(1) of Section 401 of the Illinois
5 Controlled Substances Act which relates to 3 or more grams
6 of a substance containing heroin or an analog thereof.

7 (E) (Blank).

8 (F) A Class 1 or greater felony if the offender had
9 been convicted of a Class 1 or greater felony, including
10 any state or federal conviction for an offense that
11 contained, at the time it was committed, the same elements
12 as an offense now (the date of the offense committed after
13 the prior Class 1 or greater felony) classified as a Class
14 1 or greater felony, within 10 years of the date on which
15 the offender committed the offense for which he or she is
16 being sentenced, except as otherwise provided in Section
17 40-10 of the Substance Use Disorder Act.

18 (F-3) A Class 2 or greater felony sex offense or
19 felony firearm offense if the offender had been convicted
20 of a Class 2 or greater felony, including any state or
21 federal conviction for an offense that contained, at the
22 time it was committed, the same elements as an offense now
23 (the date of the offense committed after the prior Class 2
24 or greater felony) classified as a Class 2 or greater
25 felony, within 10 years of the date on which the offender
26 committed the offense for which he or she is being

1 sentenced, except as otherwise provided in Section 40-10
2 of the Substance Use Disorder Act.

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

6 (G) Except in cases in which the offender is under 26
7 years of age at the time of the offense, residential
8 ~~Residential~~ burglary, except as otherwise provided in
9 Section 40-10 of the Substance Use Disorder Act.

10 (H) Criminal sexual assault.

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

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

17 Before July 1, 1994, for the purposes of this
18 paragraph, "organized gang" means an association of 5 or
19 more persons, with an established hierarchy, that
20 encourages members of the association to perpetrate crimes
21 or provides support to the members of the association who
22 do commit crimes.

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

1 (K) Vehicular hijacking.

2 (L) A second or subsequent conviction for the offense
3 of hate crime when the underlying offense upon which the
4 hate crime is based is felony aggravated assault or felony
5 mob action.

6 (M) A second or subsequent conviction for the offense
7 of institutional vandalism if the damage to the property
8 exceeds \$300.

9 (N) Except in cases in which the offender is under 26
10 years of age at the time of the offense, a ~~A~~ Class 3 felony
11 violation of paragraph (1) of subsection (a) of Section 2
12 of the Firearm Owners Identification Card Act.

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

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

18 (P-5) A violation of paragraph (6) of subsection (a)
19 of Section 11-20.1 of the Criminal Code of 1961 or the
20 Criminal Code of 2012 if the victim is a household or
21 family member of the defendant.

22 (Q) A violation of subsection (b) or (b-5) of Section
23 20-1, Section 20-1.2, or Section 20-1.3 of the Criminal
24 Code of 1961 or the Criminal Code of 2012.

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

1 (S) (Blank).

2 (T) (Blank).

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

10 (V) A violation of paragraph (4) of subsection (c) of
11 Section 11-20.1B or paragraph (4) of subsection (c) of
12 Section 11-20.3 of the Criminal Code of 1961, or paragraph
13 (6) of subsection (a) of Section 11-20.1 of the Criminal
14 Code of 2012 when the victim is under 13 years of age and
15 the defendant has previously been convicted under the laws
16 of this State or any other state of the offense of child
17 pornography, aggravated child pornography, aggravated
18 criminal sexual abuse, aggravated criminal sexual assault,
19 predatory criminal sexual assault of a child, or any of
20 the offenses formerly known as rape, deviate sexual
21 assault, indecent liberties with a child, or aggravated
22 indecent liberties with a child where the victim was under
23 the age of 18 years or an offense that is substantially
24 equivalent to those offenses.

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

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

3 (Y) A conviction for unlawful possession of a firearm
4 by a street gang member when the firearm was loaded or
5 contained firearm ammunition.

6 (Z) Except in cases in which the offender is under 26
7 years of age at the time of the offense, a ~~A~~ Class 1 felony
8 committed while he or she was serving a term of probation
9 or conditional discharge for a felony.

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

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

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

18 (DD) A conviction for aggravated assault under
19 paragraph (6) of subsection (c) of Section 12-2 of the
20 Criminal Code of 1961 or the Criminal Code of 2012 if the
21 firearm is aimed toward the person against whom the
22 firearm is being used.

23 (EE) A conviction for a violation of paragraph (2) of
24 subsection (a) of Section 24-3B of the Criminal Code of
25 2012.

26 (3) (Blank).

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

5 (4.1) (Blank).

6 (4.2) Except as provided in paragraphs (4.3) and (4.8) of
7 this subsection (c), a minimum of 100 hours of community
8 service shall be imposed for a second violation of Section
9 6-303 of the Illinois Vehicle Code.

10 (4.3) A minimum term of imprisonment of 30 days or 300
11 hours of community service, as determined by the court, shall
12 be imposed for a second violation of subsection (c) of Section
13 6-303 of the Illinois Vehicle Code.

14 (4.4) Except as provided in paragraphs (4.5), (4.6), and
15 (4.9) of this subsection (c), a minimum term of imprisonment
16 of 30 days or 300 hours of community service, as determined by
17 the court, shall be imposed for a third or subsequent
18 violation of Section 6-303 of the Illinois Vehicle Code. The
19 court may give credit toward the fulfillment of community
20 service hours for participation in activities and treatment as
21 determined by court services.

22 (4.5) A minimum term of imprisonment of 30 days shall be
23 imposed for a third violation of subsection (c) of Section
24 6-303 of the Illinois Vehicle Code.

25 (4.6) Except as provided in paragraph (4.10) of this
26 subsection (c), a minimum term of imprisonment of 180 days

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

3 (4.7) A minimum term of imprisonment of not less than 30
4 consecutive days, or 300 hours of community service, shall be
5 imposed for a violation of subsection (a-5) of Section 6-303
6 of the Illinois Vehicle Code, as provided in subsection (b-5)
7 of that Section.

8 (4.8) A mandatory prison sentence shall be imposed for a
9 second violation of subsection (a-5) of Section 6-303 of the
10 Illinois Vehicle Code, as provided in subsection (c-5) of that
11 Section. The person's driving privileges shall be revoked for
12 a period of not less than 5 years from the date of his or her
13 release from prison.

14 (4.9) A mandatory prison sentence of not less than 4 and
15 not more than 15 years shall be imposed for a third violation
16 of subsection (a-5) of Section 6-303 of the Illinois Vehicle
17 Code, as provided in subsection (d-2.5) of that Section. The
18 person's driving privileges shall be revoked for the remainder
19 of his or her life.

20 (4.10) A mandatory prison sentence for a Class 1 felony
21 shall be imposed, and the person shall be eligible for an
22 extended term sentence, for a fourth or subsequent violation
23 of subsection (a-5) of Section 6-303 of the Illinois Vehicle
24 Code, as provided in subsection (d-3.5) of that Section. The
25 person's driving privileges shall be revoked for the remainder
26 of his or her life.

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

3 (A) a period of conditional discharge;

4 (B) a fine;

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

7 (5.1) In addition to any other penalties imposed, and
8 except as provided in paragraph (5.2) or (5.3), 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 at least 90 days but not
12 more than one year, if the violation resulted in damage to the
13 property of another person.

14 (5.2) In addition to any other penalties imposed, and
15 except as provided in paragraph (5.3), a person convicted of
16 violating subsection (c) of Section 11-907 of the Illinois
17 Vehicle Code shall have his or her driver's license, permit,
18 or privileges suspended for at least 180 days but not more than
19 2 years, if the violation resulted in injury to another
20 person.

21 (5.3) In addition to any other penalties imposed, 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 2 years, if the violation
25 resulted in the death of another person.

26 (5.4) In addition to any other penalties imposed, a person

1 convicted of violating Section 3-707 of the Illinois Vehicle
2 Code shall have his or her driver's license, permit, or
3 privileges suspended for 3 months and until he or she has paid
4 a reinstatement fee of \$100.

5 (5.5) In addition to any other penalties imposed, a person
6 convicted of violating Section 3-707 of the Illinois Vehicle
7 Code during a period in which his or her driver's license,
8 permit, or privileges were suspended for a previous violation
9 of that Section shall have his or her driver's license,
10 permit, or privileges suspended for an additional 6 months
11 after the expiration of the original 3-month suspension and
12 until he or she has paid a reinstatement fee of \$100.

13 (6) (Blank).

14 (7) (Blank).

15 (8) (Blank).

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

19 (10) (Blank).

20 (11) The court shall impose a minimum fine of \$1,000 for a
21 first offense and \$2,000 for a second or subsequent offense
22 upon a person convicted of or placed on supervision for
23 battery when the individual harmed was a sports official or
24 coach at any level of competition and the act causing harm to
25 the sports official or coach occurred within an athletic
26 facility or within the immediate vicinity of the athletic

1 facility at which the sports official or coach was an active
2 participant of the athletic contest held at the athletic
3 facility. For the purposes of this paragraph (11), "sports
4 official" means a person at an athletic contest who enforces
5 the rules of the contest, such as an umpire or referee;
6 "athletic facility" means an indoor or outdoor playing field
7 or recreational area where sports activities are conducted;
8 and "coach" means a person recognized as a coach by the
9 sanctioning authority that conducted the sporting event.

10 (12) A person may not receive a disposition of court
11 supervision for a violation of Section 5-16 of the Boat
12 Registration and Safety Act if that person has previously
13 received a disposition of court supervision for a violation of
14 that Section.

15 (13) A person convicted of or placed on court supervision
16 for an assault or aggravated assault when the victim and the
17 offender are family or household members as defined in Section
18 103 of the Illinois Domestic Violence Act of 1986 or convicted
19 of domestic battery or aggravated domestic battery may be
20 required to attend a Partner Abuse Intervention Program under
21 protocols set forth by the Illinois Department of Human
22 Services under such terms and conditions imposed by the court.
23 The costs of such classes shall be paid by the offender.

24 (d) In any case in which a sentence originally imposed is
25 vacated, the case shall be remanded to the trial court. The
26 trial court shall hold a hearing under Section 5-4-1 of this

1 Code which may include evidence of the defendant's life, moral
2 character and occupation during the time since the original
3 sentence was passed. The trial court shall then impose
4 sentence upon the defendant. The trial court may impose any
5 sentence which could have been imposed at the original trial
6 subject to Section 5-5-4 of this Code. If a sentence is vacated
7 on appeal or on collateral attack due to the failure of the
8 trier of fact at trial to determine beyond a reasonable doubt
9 the existence of a fact (other than a prior conviction)
10 necessary to increase the punishment for the offense beyond
11 the statutory maximum otherwise applicable, either the
12 defendant may be re-sentenced to a term within the range
13 otherwise provided or, if the State files notice of its
14 intention to again seek the extended sentence, the defendant
15 shall be afforded a new trial.

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

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

25 (A) the defendant is willing to undergo a court
26 approved counseling program for a minimum duration of

1 2 years; or

2 (B) the defendant is willing to participate in a
3 court approved plan, including, but not limited to,
4 the defendant's:

5 (i) removal from the household;

6 (ii) restricted contact with the victim;

7 (iii) continued financial support of the
8 family;

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

10 and

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

13 (2) the court orders the defendant to pay for the
14 victim's counseling services, to the extent that the court
15 finds, after considering the defendant's income and
16 assets, that the defendant is financially capable of
17 paying for such services, if the victim was under 18 years
18 of age at the time the offense was committed and requires
19 counseling as a result of the offense.

20 Probation may be revoked or modified pursuant to Section
21 5-6-4; except where the court determines at the hearing that
22 the defendant violated a condition of his or her probation
23 restricting contact with the victim or other family members or
24 commits another offense with the victim or other family
25 members, the court shall revoke the defendant's probation and
26 impose a term of imprisonment.

1 For the purposes of this Section, "family member" and
2 "victim" shall have the meanings ascribed to them in Section
3 11-0.1 of the Criminal Code of 2012.

4 (f) (Blank).

5 (g) Whenever a defendant is convicted of an offense under
6 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,
7 11-14.3, 11-14.4 except for an offense that involves keeping a
8 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,
9 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,
10 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the
11 Criminal Code of 2012, the defendant shall undergo medical
12 testing to determine whether the defendant has any sexually
13 transmissible disease, including a test for infection with
14 human immunodeficiency virus (HIV) or any other identified
15 causative agent of acquired immunodeficiency syndrome (AIDS).
16 Any such medical test shall be performed only by appropriately
17 licensed medical practitioners and may include an analysis of
18 any bodily fluids as well as an examination of the defendant's
19 person. Except as otherwise provided by law, the results of
20 such test shall be kept strictly confidential by all medical
21 personnel involved in the testing and must be personally
22 delivered in a sealed envelope to the judge of the court in
23 which the conviction was entered for the judge's inspection in
24 camera. Acting in accordance with the best interests of the
25 victim and the public, the judge shall have the discretion to
26 determine to whom, if anyone, the results of the testing may be

1 revealed. The court shall notify the defendant of the test
2 results. The court shall also notify the victim if requested
3 by the victim, and if the victim is under the age of 15 and if
4 requested by the victim's parents or legal guardian, the court
5 shall notify the victim's parents or legal guardian of the
6 test results. The court shall provide information on the
7 availability of HIV testing and counseling at Department of
8 Public Health facilities to all parties to whom the results of
9 the testing are revealed and shall direct the State's Attorney
10 to provide the information to the victim when possible. The
11 court shall order that the cost of any such test shall be paid
12 by the county and may be taxed as costs against the convicted
13 defendant.

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

25 (h) Whenever a defendant is convicted of an offense under
26 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the

1 defendant shall undergo medical testing to determine whether
2 the defendant has been exposed to human immunodeficiency virus
3 (HIV) or any other identified causative agent of acquired
4 immunodeficiency syndrome (AIDS). Except as otherwise provided
5 by law, the results of such test shall be kept strictly
6 confidential by all medical personnel involved in the testing
7 and must be personally delivered in a sealed envelope to the
8 judge of the court in which the conviction was entered for the
9 judge's inspection in camera. Acting in accordance with the
10 best interests of the public, the judge shall have the
11 discretion to determine to whom, if anyone, the results of the
12 testing may be revealed. The court shall notify the defendant
13 of a positive test showing an infection with the human
14 immunodeficiency virus (HIV). The court shall provide
15 information on the availability of HIV testing and counseling
16 at Department of Public Health facilities to all parties to
17 whom the results of the testing are revealed and shall direct
18 the State's Attorney to provide the information to the victim
19 when possible. The court shall order that the cost of any such
20 test shall be paid by the county and may be taxed as costs
21 against the convicted defendant.

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

1 disbursed by the circuit clerk as provided under the Criminal
2 and Traffic Assessment Act.

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

1 supervision or probation to the appropriate regional
2 superintendent of schools. The regional superintendent of
3 schools shall notify the State Board of Education of any
4 notification under this subsection.

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

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

12 (k) (Blank).

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

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

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

1 Otherwise, the defendant shall be sentenced as provided in
2 this Chapter V.

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

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

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

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

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

1 available under Section 5-5-3 at the time of initial
2 sentencing. In addition, the defendant shall not be eligible
3 for additional earned sentence credit as provided under
4 Section 3-6-3.

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

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

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

25 (Source: P.A. 101-81, eff. 7-12-19; 102-168, eff. 7-27-21;
26 102-531, eff. 1-1-22; revised 10-12-21.)