



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB2357

Introduced 2/14/2023, by Rep. Paul Jacobs

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-4.5-95

730 ILCS 5/5-5-3

Amends the Unified Code of Corrections. Provides that if a person commits a misdemeanor while armed with a firearm, the person shall be sentenced for a Class 4 felony. Provides that a period of probation, a term of periodic imprisonment, or conditional discharge shall not be imposed for a conviction for a felony committed while armed with a firearm. Provides that if a person is convicted of an offense while armed with a firearm and causes death or great bodily harm to another person with the firearm, the court shall impose an additional 15-year sentence upon the person, in addition to the sentence imposed for the offense.

LRB103 27484 RLC 53856 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 5-4.5-95 and 5-5-3 as follows:

6 (730 ILCS 5/5-4.5-95)

7 Sec. 5-4.5-95. GENERAL RECIDIVISM PROVISIONS.

8 (a) HABITUAL CRIMINALS.

9 (1) Every person who has been twice convicted in any  
10 state or federal court of an offense that contains the  
11 same elements as an offense now (the date of the offense  
12 committed after the 2 prior convictions) classified in  
13 Illinois as a Class X felony, criminal sexual assault,  
14 aggravated kidnapping, or first degree murder, and who is  
15 thereafter convicted of a Class X felony, criminal sexual  
16 assault, or first degree murder, committed after the 2  
17 prior convictions, shall be adjudged an habitual criminal.

18 (2) The 2 prior convictions need not have been for the  
19 same offense.

20 (3) Any convictions that result from or are connected  
21 with the same transaction, or result from offenses  
22 committed at the same time, shall be counted for the  
23 purposes of this Section as one conviction.

1           (4) This Section does not apply unless each of the  
2 following requirements are satisfied:

3           (A) The third offense was committed after July 3,  
4 1980.

5           (B) The third offense was committed within 20  
6 years of the date that judgment was entered on the  
7 first conviction; provided, however, that time spent  
8 in custody shall not be counted.

9           (C) The third offense was committed after  
10 conviction on the second offense.

11           (D) The second offense was committed after  
12 conviction on the first offense.

13           (E) The first offense was committed when the  
14 person was 21 years of age or older.

15           (5) Anyone who is adjudged an habitual criminal shall  
16 be sentenced to a term of natural life imprisonment.

17           (6) A prior conviction shall not be alleged in the  
18 indictment, and no evidence or other disclosure of that  
19 conviction shall be presented to the court or the jury  
20 during the trial of an offense set forth in this Section  
21 unless otherwise permitted by the issues properly raised  
22 in that trial. After a plea or verdict or finding of guilty  
23 and before sentence is imposed, the prosecutor may file  
24 with the court a verified written statement signed by the  
25 State's Attorney concerning any former conviction of an  
26 offense set forth in this Section rendered against the

1 defendant. The court shall then cause the defendant to be  
2 brought before it; shall inform the defendant of the  
3 allegations of the statement so filed, and of his or her  
4 right to a hearing before the court on the issue of that  
5 former conviction and of his or her right to counsel at  
6 that hearing; and unless the defendant admits such  
7 conviction, shall hear and determine the issue, and shall  
8 make a written finding thereon. If a sentence has  
9 previously been imposed, the court may vacate that  
10 sentence and impose a new sentence in accordance with this  
11 Section.

12 (7) A duly authenticated copy of the record of any  
13 alleged former conviction of an offense set forth in this  
14 Section shall be prima facie evidence of that former  
15 conviction; and a duly authenticated copy of the record of  
16 the defendant's final release or discharge from probation  
17 granted, or from sentence and parole supervision (if any)  
18 imposed pursuant to that former conviction, shall be prima  
19 facie evidence of that release or discharge.

20 (8) Any claim that a previous conviction offered by  
21 the prosecution is not a former conviction of an offense  
22 set forth in this Section because of the existence of any  
23 exceptions described in this Section, is waived unless  
24 duly raised at the hearing on that conviction, or unless  
25 the prosecution's proof shows the existence of the  
26 exceptions described in this Section.

1           (9) If the person so convicted shows to the  
2           satisfaction of the court before whom that conviction was  
3           had that he or she was released from imprisonment, upon  
4           either of the sentences upon a pardon granted for the  
5           reason that he or she was innocent, that conviction and  
6           sentence shall not be considered under this Section.

7           (b) When a defendant, over the age of 21 years, is  
8           convicted of a Class 1 or Class 2 forcible felony after having  
9           twice been convicted in any state or federal court of an  
10          offense that contains the same elements as an offense now (the  
11          date the Class 1 or Class 2 forcible felony was committed)  
12          classified in Illinois as a Class 2 or greater Class forcible  
13          felony and those charges are separately brought and tried and  
14          arise out of different series of acts, that defendant shall be  
15          sentenced as a Class X offender. This subsection does not  
16          apply unless:

17               (1) the first forcible felony was committed after  
18               February 1, 1978 (the effective date of Public Act  
19               80-1099);

20               (2) the second forcible felony was committed after  
21               conviction on the first;

22               (3) the third forcible felony was committed after  
23               conviction on the second; and

24               (4) the first offense was committed when the person  
25               was 21 years of age or older.

26           (c) (Blank).

1           A person sentenced as a Class X offender under this  
2 subsection (b) is not eligible to apply for treatment as a  
3 condition of probation as provided by Section 40-10 of the  
4 Substance Use Disorder Act ~~(20 ILCS 301/40-10)~~.

5           (d) If a person commits a misdemeanor while armed with a  
6 firearm, the person shall be sentenced for a Class 4 felony.

7           (Source: P.A. 100-3, eff. 1-1-18; 100-759, eff. 1-1-19;  
8 101-652, eff. 7-1-21.)

9           (730 ILCS 5/5-5-3)

10          Sec. 5-5-3. Disposition.

11          (a) (Blank).

12          (b) (Blank).

13          (c) (1) (Blank).

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

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

23                 (B) Attempted first degree murder.

24                 (C) A Class X felony.

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

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

5 (D-5) A violation of subdivision (c)(1) of Section 401  
6 of the Illinois Controlled Substances Act which relates to  
7 3 or more grams of a substance containing heroin or an  
8 analog thereof.

9 (E) (Blank).

10 (F) A Class 1 or greater felony if the offender had  
11 been convicted of a Class 1 or greater felony, including  
12 any state or federal conviction for an offense that  
13 contained, at the time it was committed, the same elements  
14 as an offense now (the date of the offense committed after  
15 the prior Class 1 or greater felony) classified as a Class  
16 1 or greater felony, within 10 years of the date on which  
17 the offender committed the offense for which he or she is  
18 being sentenced, except as otherwise provided in Section  
19 40-10 of the Substance Use Disorder Act.

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

1 felony, within 10 years of the date on which the offender  
2 committed the offense for which he or she is being  
3 sentenced, except as otherwise provided in Section 40-10  
4 of the Substance Use Disorder Act.

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

8 (G) Residential burglary, except as otherwise provided  
9 in 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) A Class 3 felony violation of paragraph (1) of  
10 subsection (a) of Section 2 of the Firearm Owners  
11 Identification Card Act.

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

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

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

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

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

26 (S) (Blank).

1 (T) (Blank).

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

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

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

26 (X) A violation of subsection (a) of Section 31-1a of

1 the Criminal Code of 1961 or the Criminal Code of 2012.

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

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

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

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

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

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

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

24 (FF) A conviction for a felony committed while armed  
25 with a firearm.

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 (14) If a person is convicted of an offense while armed  
25 with a firearm and causes death or great bodily harm to another  
26 person with the firearm, the court shall impose an additional



1 15-year sentence upon the person, in addition to the sentence  
2 imposed for the offense.

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

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

1 sentence of probation only where:

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

4 (A) the defendant is willing to undergo a court  
5 approved counseling program for a minimum duration of  
6 2 years; or

7 (B) the defendant is willing to participate in a  
8 court approved plan, including, but not limited to,  
9 the defendant's:

10 (i) removal from the household;

11 (ii) restricted contact with the victim;

12 (iii) continued financial support of the  
13 family;

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

15 and

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

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

25 Probation may be revoked or modified pursuant to Section  
26 5-6-4; except where the court determines at the hearing that

1 the defendant violated a condition of his or her probation  
2 restricting contact with the victim or other family members or  
3 commits another offense with the victim or other family  
4 members, the court shall revoke the defendant's probation and  
5 impose a term of imprisonment.

6 For the purposes of this Section, "family member" and  
7 "victim" shall have the meanings ascribed to them in Section  
8 11-0.1 of the Criminal Code of 2012.

9 (f) (Blank).

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

1 delivered in a sealed envelope to the judge of the court in  
2 which the conviction was entered for the judge's inspection in  
3 camera. Acting in accordance with the best interests of the  
4 victim and the public, the judge shall have the discretion to  
5 determine to whom, if anyone, the results of the testing may be  
6 revealed. The court shall notify the defendant of the test  
7 results. The court shall also notify the victim if requested  
8 by the victim, and if the victim is under the age of 15 and if  
9 requested by the victim's parents or legal guardian, the court  
10 shall notify the victim's parents or legal guardian of the  
11 test results. The court shall provide information on the  
12 availability of HIV testing and counseling at Department of  
13 Public Health facilities to all parties to whom the results of  
14 the testing are revealed and shall direct the State's Attorney  
15 to provide the information to the victim when possible. The  
16 court shall order that the cost of any such test shall be paid  
17 by the county and may be taxed as costs against the convicted  
18 defendant.

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

1 the judge shall have the discretion to determine what if any  
2 precautions need to be taken to prevent transmission of the  
3 disease in the courtroom.

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

1 (i) All fines and penalties imposed under this Section for  
2 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
3 Vehicle Code, or a similar provision of a local ordinance, and  
4 any violation of the Child Passenger Protection Act, or a  
5 similar provision of a local ordinance, shall be collected and  
6 disbursed by the circuit clerk as provided under the Criminal  
7 and Traffic Assessment Act.

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

1 shall order the Clerk of the Court to send a copy of the  
2 judgment of conviction or order of supervision or probation to  
3 the defendant's employer by certified mail. If the employer of  
4 the defendant is a school, the Clerk of the Court shall direct  
5 the mailing of a copy of the judgment of conviction or order of  
6 supervision or probation to the appropriate regional  
7 superintendent of schools. The regional superintendent of  
8 schools shall notify the State Board of Education of any  
9 notification under this subsection.

10 (j-5) A defendant at least 17 years of age who is convicted  
11 of a felony and who has not been previously convicted of a  
12 misdemeanor or felony and who is sentenced to a term of  
13 imprisonment in the Illinois Department of Corrections shall  
14 as a condition of his or her sentence be required by the court  
15 to attend educational courses designed to prepare the  
16 defendant for a high school diploma and to work toward a high  
17 school diploma or to work toward passing high school  
18 equivalency testing or to work toward completing a vocational  
19 training program offered by the Department of Corrections. If  
20 a defendant fails to complete the educational training  
21 required by his or her sentence during the term of  
22 incarceration, the Prisoner Review Board shall, as a condition  
23 of mandatory supervised release, require the defendant, at his  
24 or her own expense, to pursue a course of study toward a high  
25 school diploma or passage of high school equivalency testing.  
26 The Prisoner Review Board shall revoke the mandatory

1 supervised release of a defendant who wilfully fails to comply  
2 with this subsection (j-5) upon his or her release from  
3 confinement in a penal institution while serving a mandatory  
4 supervised release term; however, the inability of the  
5 defendant after making a good faith effort to obtain financial  
6 aid or pay for the educational training shall not be deemed a  
7 wilful failure to comply. The Prisoner Review Board shall  
8 recommit the defendant whose mandatory supervised release term  
9 has been revoked under this subsection (j-5) as provided in  
10 Section 3-3-9. This subsection (j-5) does not apply to a  
11 defendant who has a high school diploma or has successfully  
12 passed high school equivalency testing. This subsection (j-5)  
13 does not apply to a defendant who is determined by the court to  
14 be a person with a developmental disability or otherwise  
15 mentally incapable of completing the educational or vocational  
16 program.

17 (k) (Blank).

18 (l) (A) Except as provided in paragraph (C) of subsection  
19 (l), whenever a defendant, who is not a citizen or national of  
20 the United States, is convicted of any felony or misdemeanor  
21 offense, the court after sentencing the defendant may, upon  
22 motion of the State's Attorney, hold sentence in abeyance and  
23 remand the defendant to the custody of the Attorney General of  
24 the United States or his or her designated agent to be deported  
25 when:

26 (1) a final order of deportation has been issued



1 against the defendant pursuant to proceedings under the  
2 Immigration and Nationality Act, and

3 (2) the deportation of the defendant would not  
4 deprecate the seriousness of the defendant's conduct and  
5 would not be inconsistent with the ends of justice.

6 Otherwise, the defendant shall be sentenced as provided in  
7 this Chapter V.

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

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

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

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

26 (D) Upon motion of the State's Attorney, if a defendant

1 sentenced under this Section returns to the jurisdiction of  
2 the United States, the defendant shall be recommitted to the  
3 custody of the county from which he or she was sentenced.  
4 Thereafter, the defendant shall be brought before the  
5 sentencing court, which may impose any sentence that was  
6 available under Section 5-5-3 at the time of initial  
7 sentencing. In addition, the defendant shall not be eligible  
8 for additional earned sentence credit as provided under  
9 Section 3-6-3.

10 (m) A person convicted of criminal defacement of property  
11 under Section 21-1.3 of the Criminal Code of 1961 or the  
12 Criminal Code of 2012, in which the property damage exceeds  
13 \$300 and the property damaged is a school building, shall be  
14 ordered to perform community service that may include cleanup,  
15 removal, or painting over the defacement.

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

25 (o) Whenever a person is convicted of a sex offense as  
26 defined in Section 2 of the Sex Offender Registration Act, the

1 defendant's driver's license or permit shall be subject to  
2 renewal on an annual basis in accordance with the provisions  
3 of license renewal established by the Secretary of State.

4 (Source: P.A. 101-81, eff. 7-12-19; 102-168, eff. 7-27-21;  
5 102-531, eff. 1-1-22; 102-813, eff. 5-13-22; 102-1030, eff.  
6 5-27-22.)