



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4332

Introduced 1/16/2024, by Rep. John M. Cabello

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-1.1	from Ch. 38, par. 24-1.1
720 ILCS 5/24-3	from Ch. 38, par. 24-3
730 ILCS 5/5-4.5-95	
730 ILCS 5/5-5-3	

Amends the Criminal Code of 2012. Increases penalties for unlawful use or possession of weapons by felons or persons in the custody of the Department of Corrections facilities. Provides that a person commits unlawful sale or delivery of firearms when he or she knowingly: (1) sells or gives a firearm to a person who has been convicted of a felony or who is a streetgang member or (2) sells or gives a firearm that has been purchased or acquired out of state to a person who has been convicted of a felony or is a streetgang member. Provides that a violation is a Class 1 felony. Provides that a second or subsequent violation is non-probationable. Amends the Unified Code of Corrections. Deletes a provision that the first offense had to be committed when the person was 21 years of age or older to be adjudged a habitual criminal. Provides that a person who attained the age of 18 at the time of the third offense may be adjudged a habitual criminal. In the Class X sentencing provision for a defendant over 21 years of age who is convicted of a Class 1 or Class 2 felony after twice being convicted of a Class 1 or Class 2 felony, deletes a provision that the first offense had to be committed when the person was 21 years of age or older and deletes a provision that the offenses had to be forcible felonies. Exempts theft from this calculation.

LRB103 35080 RLC 65034 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 Criminal Code of 2012 is amended by
5 changing Sections 24-1.1 and 24-3 as follows:

6 (720 ILCS 5/24-1.1) (from Ch. 38, par. 24-1.1)

7 Sec. 24-1.1. Unlawful use or possession of weapons by
8 felons or persons in the custody of the Department of
9 Corrections facilities.

10 (a) It is unlawful for a person to knowingly possess on or
11 about his person or on his land or in his own abode or fixed
12 place of business any weapon prohibited under Section 24-1 of
13 this Act or any firearm or any firearm ammunition if the person
14 has been convicted of a felony under the laws of this State or
15 any other jurisdiction. This Section shall not apply if the
16 person has been granted relief by the Director of the Illinois
17 State Police under Section 10 of the Firearm Owners
18 Identification Card Act.

19 (b) It is unlawful for any person confined in a penal
20 institution, which is a facility of the Illinois Department of
21 Corrections, to possess any weapon prohibited under Section
22 24-1 of this Code or any firearm or firearm ammunition,
23 regardless of the intent with which he possesses it.

1 (c) It shall be an affirmative defense to a violation of
2 subsection (b), that such possession was specifically
3 authorized by rule, regulation, or directive of the Illinois
4 Department of Corrections or order issued pursuant thereto.

5 (d) The defense of necessity is not available to a person
6 who is charged with a violation of subsection (b) of this
7 Section.

8 (e) Sentence. Violation of this Section by a person not
9 confined in a penal institution shall be a Class 1 ~~3~~ felony for
10 which the person shall be sentenced to no less than 4 ~~2~~ years
11 and no more than 15 ~~10~~ years. A second or subsequent violation
12 of this Section shall be a Class X ~~2~~ felony for which the
13 person shall be sentenced to a term of imprisonment of not less
14 than 6 ~~3~~ years and not more than 30 ~~14~~ years, except as
15 provided for in Section 5-4.5-110 of the Unified Code of
16 Corrections. Violation of this Section by a person not
17 confined in a penal institution who has been convicted of a
18 forcible felony, a felony violation of Article 24 of this Code
19 or of the Firearm Owners Identification Card Act, stalking or
20 aggravated stalking, or a Class 2 or greater felony under the
21 Illinois Controlled Substances Act, the Cannabis Control Act,
22 or the Methamphetamine Control and Community Protection Act is
23 a Class X ~~2~~ felony for which the person shall be sentenced to
24 not less than 6 ~~3~~ years and not more than 30 ~~14~~ years, ~~except~~
25 ~~as provided for in Section 5-4.5-110 of the Unified Code of~~
26 ~~Corrections.~~ Violation of this Section by a person who is on

1 parole or mandatory supervised release is a Class X 2 felony
2 for which the person shall be sentenced to not less than 6 3
3 years and not more than 30 14 years, ~~except as provided for in~~
4 ~~Section 5-4.5-110 of the Unified Code of Corrections.~~

5 Violation of this Section by a person not confined in a penal
6 institution is a Class X felony when the firearm possessed is a
7 machine gun for which the person shall be sentenced to no less
8 than 10 years and no more than 60 years. Any person who
9 violates this Section while confined in a penal institution,
10 which is a facility of the Illinois Department of Corrections,
11 is guilty of a Class 1 felony, if he possesses any weapon
12 prohibited under Section 24-1 of this Code regardless of the
13 intent with which he possesses it, a Class X felony if he
14 possesses any firearm, firearm ammunition or explosive, and a
15 Class X felony for which the offender shall be sentenced to not
16 less than 12 years and not more than 50 years when the firearm
17 possessed is a machine gun. A violation of this Section while
18 wearing or in possession of body armor as defined in Section
19 33F-1 is a Class X felony punishable by a term of imprisonment
20 of not less than 10 years and not more than 60 40 years. The
21 possession of each firearm or firearm ammunition in violation
22 of this Section constitutes a single and separate violation.

23 (Source: P.A. 102-538, eff. 8-20-21.)

24 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

25 Sec. 24-3. Unlawful sale or delivery of firearms.

1 (A) A person commits the offense of unlawful sale or
2 delivery of firearms when he or she knowingly does any of the
3 following:

4 (a) Sells or gives any firearm of a size which may be
5 concealed upon the person to any person under 18 years of
6 age.

7 (b) Sells or gives any firearm to a person under 21
8 years of age who has been convicted of a misdemeanor other
9 than a traffic offense or adjudged delinquent.

10 (c) Sells or gives any firearm to any narcotic addict.

11 (d) Sells or gives any firearm to any person who has
12 been convicted of a felony under the laws of this or any
13 other jurisdiction.

14 (e) Sells or gives any firearm to any person who has
15 been a patient in a mental institution within the past 5
16 years. In this subsection (e):

17 "Mental institution" means any hospital,
18 institution, clinic, evaluation facility, mental
19 health center, or part thereof, which is used
20 primarily for the care or treatment of persons with
21 mental illness.

22 "Patient in a mental institution" means the person
23 was admitted, either voluntarily or involuntarily, to
24 a mental institution for mental health treatment,
25 unless the treatment was voluntary and solely for an
26 alcohol abuse disorder and no other secondary

1 substance abuse disorder or mental illness.

2 (f) Sells or gives any firearms to any person who is a
3 person with an intellectual disability.

4 (g) Delivers any firearm, incidental to a sale,
5 without withholding delivery of the firearm for at least
6 72 hours after application for its purchase has been made,
7 or delivers a stun gun or taser, incidental to a sale,
8 without withholding delivery of the stun gun or taser for
9 at least 24 hours after application for its purchase has
10 been made. However, this paragraph (g) does not apply to:

11 (1) the sale of a firearm to a law enforcement officer if
12 the seller of the firearm knows that the person to whom he
13 or she is selling the firearm is a law enforcement officer
14 or the sale of a firearm to a person who desires to
15 purchase a firearm for use in promoting the public
16 interest incident to his or her employment as a bank
17 guard, armed truck guard, or other similar employment; (2)
18 a mail order sale of a firearm from a federally licensed
19 firearms dealer to a nonresident of Illinois under which
20 the firearm is mailed to a federally licensed firearms
21 dealer outside the boundaries of Illinois; (3) (blank);
22 (4) the sale of a firearm to a dealer licensed as a federal
23 firearms dealer under Section 923 of the federal Gun
24 Control Act of 1968 (18 U.S.C. 923); or (5) the transfer or
25 sale of any rifle, shotgun, or other long gun to a resident
26 registered competitor or attendee or non-resident

1 registered competitor or attendee by any dealer licensed
2 as a federal firearms dealer under Section 923 of the
3 federal Gun Control Act of 1968 at competitive shooting
4 events held at the World Shooting Complex sanctioned by a
5 national governing body. For purposes of transfers or
6 sales under subparagraph (5) of this paragraph (g), the
7 Department of Natural Resources shall give notice to the
8 Illinois State Police at least 30 calendar days prior to
9 any competitive shooting events at the World Shooting
10 Complex sanctioned by a national governing body. The
11 notification shall be made on a form prescribed by the
12 Illinois State Police. The sanctioning body shall provide
13 a list of all registered competitors and attendees at
14 least 24 hours before the events to the Illinois State
15 Police. Any changes to the list of registered competitors
16 and attendees shall be forwarded to the Illinois State
17 Police as soon as practicable. The Illinois State Police
18 must destroy the list of registered competitors and
19 attendees no later than 30 days after the date of the
20 event. Nothing in this paragraph (g) relieves a federally
21 licensed firearm dealer from the requirements of
22 conducting a NICS background check through the Illinois
23 Point of Contact under 18 U.S.C. 922(t). For purposes of
24 this paragraph (g), "application" means when the buyer and
25 seller reach an agreement to purchase a firearm. For
26 purposes of this paragraph (g), "national governing body"

1 means a group of persons who adopt rules and formulate
2 policy on behalf of a national firearm sporting
3 organization.

4 (h) While holding any license as a dealer, importer,
5 manufacturer or pawnbroker under the federal Gun Control
6 Act of 1968, manufactures, sells or delivers to any
7 unlicensed person a handgun having a barrel, slide, frame
8 or receiver which is a die casting of zinc alloy or any
9 other nonhomogeneous metal which will melt or deform at a
10 temperature of less than 800 degrees Fahrenheit. For
11 purposes of this paragraph, (1) "firearm" is defined as in
12 the Firearm Owners Identification Card Act; and (2)
13 "handgun" is defined as a firearm designed to be held and
14 fired by the use of a single hand, and includes a
15 combination of parts from which such a firearm can be
16 assembled.

17 (i) Sells or gives a firearm of any size to any person
18 under 18 years of age who does not possess a valid Firearm
19 Owner's Identification Card.

20 (j) Sells or gives a firearm while engaged in the
21 business of selling firearms at wholesale or retail
22 without being licensed as a federal firearms dealer under
23 Section 923 of the federal Gun Control Act of 1968 (18
24 U.S.C. 923). In this paragraph (j):

25 A person "engaged in the business" means a person who
26 devotes time, attention, and labor to engaging in the

1 activity as a regular course of trade or business with the
2 principal objective of livelihood and profit, but does not
3 include a person who makes occasional repairs of firearms
4 or who occasionally fits special barrels, stocks, or
5 trigger mechanisms to firearms.

6 "With the principal objective of livelihood and
7 profit" means that the intent underlying the sale or
8 disposition of firearms is predominantly one of obtaining
9 livelihood and pecuniary gain, as opposed to other
10 intents, such as improving or liquidating a personal
11 firearms collection; however, proof of profit shall not be
12 required as to a person who engages in the regular and
13 repetitive purchase and disposition of firearms for
14 criminal purposes or terrorism.

15 (k) Sells or transfers ownership of a firearm to a
16 person who does not display to the seller or transferor of
17 the firearm either: (1) a currently valid Firearm Owner's
18 Identification Card that has previously been issued in the
19 transferee's name by the Illinois State Police under the
20 provisions of the Firearm Owners Identification Card Act;
21 or (2) a currently valid license to carry a concealed
22 firearm that has previously been issued in the
23 transferee's name by the Illinois State Police under the
24 Firearm Concealed Carry Act. This paragraph (k) does not
25 apply to the transfer of a firearm to a person who is
26 exempt from the requirement of possessing a Firearm

1 Owner's Identification Card under Section 2 of the Firearm
2 Owners Identification Card Act. For the purposes of this
3 Section, a currently valid Firearm Owner's Identification
4 Card or license to carry a concealed firearm means receipt
5 of an approval number issued in accordance with subsection
6 (a-10) of Section 3 or Section 3.1 of the Firearm Owners
7 Identification Card Act.

8 (1) In addition to the other requirements of this
9 paragraph (k), all persons who are not federally
10 licensed firearms dealers must also have complied with
11 subsection (a-10) of Section 3 of the Firearm Owners
12 Identification Card Act by determining the validity of
13 a purchaser's Firearm Owner's Identification Card.

14 (2) All sellers or transferors who have complied
15 with the requirements of subparagraph (1) of this
16 paragraph (k) shall not be liable for damages in any
17 civil action arising from the use or misuse by the
18 transferee of the firearm transferred, except for
19 willful or wanton misconduct on the part of the seller
20 or transferor.

21 (1) Not being entitled to the possession of a firearm,
22 delivers the firearm, knowing it to have been stolen or
23 converted. It may be inferred that a person who possesses
24 a firearm with knowledge that its serial number has been
25 removed or altered has knowledge that the firearm is
26 stolen or converted.

1 (m) Sells or gives a firearm to a person who has been
2 convicted of a felony or who is a streetgang member.

3 (n) Sells or gives a firearm that has been purchased
4 or acquired out of state to a person who has been convicted
5 of a felony or who is a streetgang member.

6 (B) Paragraph (h) of subsection (A) does not include
7 firearms sold within 6 months after enactment of Public Act
8 78-355 (approved August 21, 1973, effective October 1, 1973),
9 nor is any firearm legally owned or possessed by any citizen or
10 purchased by any citizen within 6 months after the enactment
11 of Public Act 78-355 subject to confiscation or seizure under
12 the provisions of that Public Act. Nothing in Public Act
13 78-355 shall be construed to prohibit the gift or trade of any
14 firearm if that firearm was legally held or acquired within 6
15 months after the enactment of that Public Act.

16 (C) Sentence.

17 (1) Any person convicted of unlawful sale or delivery
18 of firearms in violation of paragraph (c), (e), (f), (g),
19 or (h) of subsection (A) commits a Class 4 felony.

20 (2) Any person convicted of unlawful sale or delivery
21 of firearms in violation of paragraph (b) or (i) of
22 subsection (A) commits a Class 3 felony.

23 (3) Any person convicted of unlawful sale or delivery
24 of firearms in violation of paragraph (a) of subsection
25 (A) commits a Class 2 felony.

26 (4) Any person convicted of unlawful sale or delivery

1 of firearms in violation of paragraph (a), (b), or (i) of
2 subsection (A) in any school, on the real property
3 comprising a school, within 1,000 feet of the real
4 property comprising a school, at a school related
5 activity, or on or within 1,000 feet of any conveyance
6 owned, leased, or contracted by a school or school
7 district to transport students to or from school or a
8 school related activity, regardless of the time of day or
9 time of year at which the offense was committed, commits a
10 Class 1 felony. Any person convicted of a second or
11 subsequent violation of unlawful sale or delivery of
12 firearms in violation of paragraph (a), (b), or (i) of
13 subsection (A) in any school, on the real property
14 comprising a school, within 1,000 feet of the real
15 property comprising a school, at a school related
16 activity, or on or within 1,000 feet of any conveyance
17 owned, leased, or contracted by a school or school
18 district to transport students to or from school or a
19 school related activity, regardless of the time of day or
20 time of year at which the offense was committed, commits a
21 Class 1 felony for which the sentence shall be a term of
22 imprisonment of no less than 5 years and no more than 15
23 years.

24 (5) Any person convicted of unlawful sale or delivery
25 of firearms in violation of paragraph (a) or (i) of
26 subsection (A) in residential property owned, operated, or

1 managed by a public housing agency or leased by a public
2 housing agency as part of a scattered site or mixed-income
3 development, in a public park, in a courthouse, on
4 residential property owned, operated, or managed by a
5 public housing agency or leased by a public housing agency
6 as part of a scattered site or mixed-income development,
7 on the real property comprising any public park, on the
8 real property comprising any courthouse, or on any public
9 way within 1,000 feet of the real property comprising any
10 public park, courthouse, or residential property owned,
11 operated, or managed by a public housing agency or leased
12 by a public housing agency as part of a scattered site or
13 mixed-income development commits a Class 2 felony.

14 (6) Any person convicted of unlawful sale or delivery
15 of firearms in violation of paragraph (j) of subsection
16 (A) commits a Class A misdemeanor. A second or subsequent
17 violation is a Class 4 felony.

18 (7) Any person convicted of unlawful sale or delivery
19 of firearms in violation of paragraph (k) of subsection
20 (A) commits a Class 4 felony, except that a violation of
21 subparagraph (1) of paragraph (k) of subsection (A) shall
22 not be punishable as a crime or petty offense. A third or
23 subsequent conviction for a violation of paragraph (k) of
24 subsection (A) is a Class 1 felony.

25 (8) A person 18 years of age or older convicted of
26 unlawful sale or delivery of firearms in violation of

1 paragraph (a) or (i) of subsection (A), when the firearm
2 that was sold or given to another person under 18 years of
3 age was used in the commission of or attempt to commit a
4 forcible felony, shall be fined or imprisoned, or both,
5 not to exceed the maximum provided for the most serious
6 forcible felony so committed or attempted by the person
7 under 18 years of age who was sold or given the firearm.

8 (9) Any person convicted of unlawful sale or delivery
9 of firearms in violation of paragraph (d) of subsection
10 (A) commits a Class 3 felony.

11 (10) Any person convicted of unlawful sale or delivery
12 of firearms in violation of paragraph (l) of subsection
13 (A) commits a Class 2 felony if the delivery is of one
14 firearm. Any person convicted of unlawful sale or delivery
15 of firearms in violation of paragraph (l) of subsection
16 (A) commits a Class 1 felony if the delivery is of not less
17 than 2 and not more than 5 firearms at the same time or
18 within a one-year period. Any person convicted of unlawful
19 sale or delivery of firearms in violation of paragraph (l)
20 of subsection (A) commits a Class X felony for which he or
21 she shall be sentenced to a term of imprisonment of not
22 less than 6 years and not more than 30 years if the
23 delivery is of not less than 6 and not more than 10
24 firearms at the same time or within a 2-year period. Any
25 person convicted of unlawful sale or delivery of firearms
26 in violation of paragraph (l) of subsection (A) commits a

1 Class X felony for which he or she shall be sentenced to a
2 term of imprisonment of not less than 6 years and not more
3 than 40 years if the delivery is of not less than 11 and
4 not more than 20 firearms at the same time or within a
5 3-year period. Any person convicted of unlawful sale or
6 delivery of firearms in violation of paragraph (l) of
7 subsection (A) commits a Class X felony for which he or she
8 shall be sentenced to a term of imprisonment of not less
9 than 6 years and not more than 50 years if the delivery is
10 of not less than 21 and not more than 30 firearms at the
11 same time or within a 4-year period. Any person convicted
12 of unlawful sale or delivery of firearms in violation of
13 paragraph (l) of subsection (A) commits a Class X felony
14 for which he or she shall be sentenced to a term of
15 imprisonment of not less than 6 years and not more than 60
16 years if the delivery is of 31 or more firearms at the same
17 time or within a 5-year period.

18 (11) Any person convicted of unlawful sale or delivery
19 of firearms in violation of paragraph (m) or (n) of
20 subsection (A) commits a Class 1 felony.

21 (D) For purposes of this Section:

22 "School" means a public or private elementary or secondary
23 school, community college, college, or university.

24 "School related activity" means any sporting, social,
25 academic, or other activity for which students' attendance or
26 participation is sponsored, organized, or funded in whole or

1 in part by a school or school district.

2 (E) A prosecution for a violation of paragraph (k) of
3 subsection (A) of this Section may be commenced within 6 years
4 after the commission of the offense. A prosecution for a
5 violation of this Section other than paragraph (g) of
6 subsection (A) of this Section may be commenced within 5 years
7 after the commission of the offense defined in the particular
8 paragraph.

9 (Source: P.A. 102-237, eff. 1-1-22; 102-538, eff. 8-20-21;
10 102-813, eff. 5-13-22.)

11 Section 10. The Unified Code of Corrections is amended by
12 changing Sections 5-4.5-95 and 5-5-3 as follows:

13 (730 ILCS 5/5-4.5-95)

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

15 (a) HABITUAL CRIMINALS.

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

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

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

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

9 (A) The third offense was committed after July 3,
10 1980.

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

15 (C) The third offense was committed after
16 conviction on the second offense.

17 (D) The second offense was committed after
18 conviction on the first offense.

19 (E) (Blank). ~~The first offense was committed when~~
20 ~~the person was 21 years of age or older.~~

21 (5) Anyone who, having attained the age of 18 at the
22 time of the third offense, is adjudged an habitual
23 criminal shall be sentenced to a term of natural life
24 imprisonment.

25 (6) A prior conviction shall not be alleged in the
26 indictment, and no evidence or other disclosure of that

1 conviction shall be presented to the court or the jury
2 during the trial of an offense set forth in this Section
3 unless otherwise permitted by the issues properly raised
4 in that trial. After a plea or verdict or finding of guilty
5 and before sentence is imposed, the prosecutor may file
6 with the court a verified written statement signed by the
7 State's Attorney concerning any former conviction of an
8 offense set forth in this Section rendered against the
9 defendant. The court shall then cause the defendant to be
10 brought before it; shall inform the defendant of the
11 allegations of the statement so filed, and of his or her
12 right to a hearing before the court on the issue of that
13 former conviction and of his or her right to counsel at
14 that hearing; and unless the defendant admits such
15 conviction, shall hear and determine the issue, and shall
16 make a written finding thereon. If a sentence has
17 previously been imposed, the court may vacate that
18 sentence and impose a new sentence in accordance with this
19 Section.

20 (7) A duly authenticated copy of the record of any
21 alleged former conviction of an offense set forth in this
22 Section shall be prima facie evidence of that former
23 conviction; and a duly authenticated copy of the record of
24 the defendant's final release or discharge from probation
25 granted, or from sentence and parole supervision (if any)
26 imposed pursuant to that former conviction, shall be prima

1 facie evidence of that release or discharge.

2 (8) Any claim that a previous conviction offered by
3 the prosecution is not a former conviction of an offense
4 set forth in this Section because of the existence of any
5 exceptions described in this Section, is waived unless
6 duly raised at the hearing on that conviction, or unless
7 the prosecution's proof shows the existence of the
8 exceptions described in this Section.

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

15 (b) When a defendant, over the age of 21 years, is
16 convicted of a Class 1 or Class 2 ~~forcible~~ felony, except for
17 an offense listed in subsection (d) of this Section, after
18 having twice been convicted in any state or federal court of an
19 offense that contains the same elements as an offense now (the
20 date the Class 1 or Class 2 ~~forcible~~ felony was committed)
21 classified in Illinois as a Class 2 or greater Class ~~forcible~~
22 felony, except for an offense listed in subsection (d) of this
23 Section, and those charges are separately brought and tried
24 and arise out of different series of acts, that defendant
25 shall be sentenced as a Class X offender. This subsection does
26 not apply unless:

1 (1) the first ~~forcible~~ felony was committed after
2 February 1, 1978 (the effective date of Public Act
3 80-1099);

4 (2) the second ~~forcible~~ felony was committed after
5 conviction on the first;

6 (3) the third ~~forcible~~ felony was committed after
7 conviction on the second; and

8 (4) (blank). ~~the first offense was committed when the~~
9 ~~person was 21 years of age or older.~~

10 (c) (Blank).

11 (d) Subsection (b) of this Section does not apply to Class
12 1 or Class 2 felony convictions for a violation of Section 16-1
13 of the Criminal Code of 2012.

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

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

20 (730 ILCS 5/5-5-3)

21 (Text of Section before amendment by P.A. 103-51)

22 Sec. 5-5-3. Disposition.

23 (a) (Blank).

24 (b) (Blank).

25 (c) (1) (Blank).

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

8 (A) First degree murder where the death penalty is not
9 imposed.

10 (B) Attempted first degree murder.

11 (C) A Class X felony.

12 (D) A violation of Section 401.1 or 407 of the
13 Illinois Controlled Substances Act, or a violation of
14 subdivision (c)(1.5) of Section 401 of that Act which
15 relates to more than 5 grams of a substance containing
16 fentanyl or an analog thereof.

17 (D-5) A violation of subdivision (c)(1) of Section 401
18 of the Illinois Controlled Substances Act which relates to
19 3 or more grams of a substance containing heroin or an
20 analog thereof.

21 (E) (Blank).

22 (F) A Class 1 or greater felony if the offender had
23 been convicted of a Class 1 or greater felony, including
24 any state or federal conviction for an offense that
25 contained, at the time it was committed, the same elements
26 as an offense now (the date of the offense committed after

1 the prior Class 1 or greater felony) classified as a Class
2 1 or greater felony, within 10 years of the date on which
3 the offender committed the offense for which he or she is
4 being sentenced, except as otherwise provided in Section
5 40-10 of the Substance Use Disorder Act.

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

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

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

22 (H) Criminal sexual assault.

23 (I) Aggravated battery of a senior citizen as
24 described in Section 12-4.6 or subdivision (a)(4) of
25 Section 12-3.05 of the Criminal Code of 1961 or the
26 Criminal Code of 2012.

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

3 Before July 1, 1994, for the purposes of this
4 paragraph, "organized gang" means an association of 5 or
5 more persons, with an established hierarchy, that
6 encourages members of the association to perpetrate crimes
7 or provides support to the members of the association who
8 do commit crimes.

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

13 (K) Vehicular hijacking.

14 (L) A second or subsequent conviction for the offense
15 of hate crime when the underlying offense upon which the
16 hate crime is based is felony aggravated assault or felony
17 mob action.

18 (M) A second or subsequent conviction for the offense
19 of institutional vandalism if the damage to the property
20 exceeds \$300.

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

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

26 (P) A violation of paragraph (1), (2), (3), (4), (5),

1 or (7) of subsection (a) of Section 11-20.1 of the
2 Criminal Code of 1961 or the Criminal Code of 2012.

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

7 (Q) A violation of subsection (b) or (b-5) of Section
8 20-1, Section 20-1.2, or Section 20-1.3 of the Criminal
9 Code of 1961 or the Criminal Code of 2012.

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

12 (S) (Blank).

13 (T) (Blank).

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

21 (V) A violation of paragraph (4) of subsection (c) of
22 Section 11-20.1B or paragraph (4) of subsection (c) of
23 Section 11-20.3 of the Criminal Code of 1961, or paragraph
24 (6) of subsection (a) of Section 11-20.1 of the Criminal
25 Code of 2012 when the victim is under 13 years of age and
26 the defendant has previously been convicted under the laws

1 of this State or any other state of the offense of child
2 pornography, aggravated child pornography, aggravated
3 criminal sexual abuse, aggravated criminal sexual assault,
4 predatory criminal sexual assault of a child, or any of
5 the offenses formerly known as rape, deviate sexual
6 assault, indecent liberties with a child, or aggravated
7 indecent liberties with a child where the victim was under
8 the age of 18 years or an offense that is substantially
9 equivalent to those offenses.

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

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

14 (Y) A conviction for unlawful possession of a firearm
15 by a street gang member when the firearm was loaded or
16 contained firearm ammunition.

17 (Z) A Class 1 felony committed while he or she was
18 serving a term of probation or conditional discharge for a
19 felony.

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

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

24 (CC) Knowingly selling, offering for sale, holding for
25 sale, or using 2,000 or more counterfeit items or
26 counterfeit items having a retail value in the aggregate

1 of \$500,000 or more.

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

7 (EE) A conviction for a violation of paragraph (2) of
8 subsection (a) of Section 24-3B of the Criminal Code of
9 2012.

10 (3) (Blank).

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

15 (4.1) (Blank).

16 (4.2) Except as provided in paragraphs (4.3) and (4.8) of
17 this subsection (c), a minimum of 100 hours of community
18 service shall be imposed for a second violation of Section
19 6-303 of the Illinois Vehicle Code.

20 (4.3) A minimum term of imprisonment of 30 days or 300
21 hours of community service, as determined by the court, shall
22 be imposed for a second violation of subsection (c) of Section
23 6-303 of the Illinois Vehicle Code.

24 (4.4) Except as provided in paragraphs (4.5), (4.6), and
25 (4.9) of this subsection (c), a minimum term of imprisonment
26 of 30 days or 300 hours of community service, as determined by

1 the court, shall be imposed for a third or subsequent
2 violation of Section 6-303 of the Illinois Vehicle Code. The
3 court may give credit toward the fulfillment of community
4 service hours for participation in activities and treatment as
5 determined by court services.

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

9 (4.6) Except as provided in paragraph (4.10) of this
10 subsection (c), a minimum term of imprisonment of 180 days
11 shall be imposed for a fourth or subsequent violation of
12 subsection (c) of Section 6-303 of the Illinois Vehicle Code.

13 (4.7) A minimum term of imprisonment of not less than 30
14 consecutive days, or 300 hours of community service, shall be
15 imposed for a violation of subsection (a-5) of Section 6-303
16 of the Illinois Vehicle Code, as provided in subsection (b-5)
17 of that Section.

18 (4.8) A mandatory prison sentence shall be imposed for a
19 second violation of subsection (a-5) of Section 6-303 of the
20 Illinois Vehicle Code, as provided in subsection (c-5) of that
21 Section. The person's driving privileges shall be revoked for
22 a period of not less than 5 years from the date of his or her
23 release from prison.

24 (4.9) A mandatory prison sentence of not less than 4 and
25 not more than 15 years shall be imposed for a third violation
26 of subsection (a-5) of Section 6-303 of the Illinois Vehicle

1 Code, as provided in subsection (d-2.5) of that Section. The
2 person's driving privileges shall be revoked for the remainder
3 of his or her life.

4 (4.10) A mandatory prison sentence for a Class 1 felony
5 shall be imposed, and the person shall be eligible for an
6 extended term sentence, for a fourth or subsequent violation
7 of subsection (a-5) of Section 6-303 of the Illinois Vehicle
8 Code, as provided in subsection (d-3.5) of that Section. The
9 person's driving privileges shall be revoked for the remainder
10 of his or her life.

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

13 (A) a period of conditional discharge;

14 (B) a fine;

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

17 (5.1) In addition to any other penalties imposed, and
18 except as provided in paragraph (5.2) or (5.3), a person
19 convicted of violating subsection (c) of Section 11-907 of the
20 Illinois Vehicle Code shall have his or her driver's license,
21 permit, or privileges suspended for at least 90 days but not
22 more than one year, if the violation resulted in damage to the
23 property of another person.

24 (5.2) In addition to any other penalties imposed, and
25 except as provided in paragraph (5.3), a person convicted of
26 violating subsection (c) of Section 11-907 of the Illinois

1 Vehicle Code shall have his or her driver's license, permit,
2 or privileges suspended for at least 180 days but not more than
3 2 years, if the violation resulted in injury to another
4 person.

5 (5.3) In addition to any other penalties imposed, a person
6 convicted of violating subsection (c) of Section 11-907 of the
7 Illinois Vehicle Code shall have his or her driver's license,
8 permit, or privileges suspended for 2 years, if the violation
9 resulted in the death of another person.

10 (5.4) In addition to any other penalties imposed, a person
11 convicted of violating Section 3-707 of the Illinois Vehicle
12 Code shall have his or her driver's license, permit, or
13 privileges suspended for 3 months and until he or she has paid
14 a reinstatement fee of \$100.

15 (5.5) In addition to any other penalties imposed, a person
16 convicted of violating Section 3-707 of the Illinois Vehicle
17 Code during a period in which his or her driver's license,
18 permit, or privileges were suspended for a previous violation
19 of that Section shall have his or her driver's license,
20 permit, or privileges suspended for an additional 6 months
21 after the expiration of the original 3-month suspension and
22 until he or she has paid a reinstatement fee of \$100.

23 (6) (Blank).

24 (7) (Blank).

25 (8) (Blank).

26 (9) A defendant convicted of a second or subsequent

1 offense of ritualized abuse of a child may be sentenced to a
2 term of natural life imprisonment.

3 (10) (Blank).

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

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

25 (13) A person convicted of or placed on court supervision
26 for an assault or aggravated assault when the victim and the

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

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

26 (e) In cases where prosecution for aggravated criminal

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

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

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

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

15 (i) removal from the household;

16 (ii) restricted contact with the victim;

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

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

20 and

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

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

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

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

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

14 (f) (Blank).

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

1 licensed medical practitioners and may include an analysis of
2 any bodily fluids as well as an examination of the defendant's
3 person. Except as otherwise provided by law, the results of
4 such test shall be kept strictly confidential by all medical
5 personnel involved in the testing and must be personally
6 delivered in a sealed envelope to the judge of the court in
7 which the conviction was entered for the judge's inspection in
8 camera. Acting in accordance with the best interests of the
9 victim and the public, the judge shall have the discretion to
10 determine to whom, if anyone, the results of the testing may be
11 revealed. The court shall notify the defendant of the test
12 results. The court shall also notify the victim if requested
13 by the victim, and if the victim is under the age of 15 and if
14 requested by the victim's parents or legal guardian, the court
15 shall notify the victim's parents or legal guardian of the
16 test results. The court shall provide information on the
17 availability of HIV testing and counseling at Department of
18 Public Health facilities to all parties to whom the results of
19 the testing are revealed and shall direct the State's Attorney
20 to provide the information to the victim when possible. The
21 court shall order that the cost of any such test shall be paid
22 by the county and may be taxed as costs against the convicted
23 defendant.

24 (g-5) When an inmate is tested for an airborne
25 communicable disease, as determined by the Illinois Department
26 of Public Health, including, but not limited to, tuberculosis,

1 the results of the test shall be personally delivered by the
2 warden or his or her designee in a sealed envelope to the judge
3 of the court in which the inmate must appear for the judge's
4 inspection in camera if requested by the judge. Acting in
5 accordance with the best interests of those in the courtroom,
6 the judge shall have the discretion to determine what if any
7 precautions need to be taken to prevent transmission of the
8 disease in the courtroom.

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

1 whom the results of the testing are revealed and shall direct
2 the State's Attorney to provide the information to the victim
3 when possible. The court shall order that the cost of any such
4 test shall be paid by the county and may be taxed as costs
5 against the convicted defendant.

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

13 (j) In cases when prosecution for any violation of Section
14 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,
15 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,
16 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
17 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,
18 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal
19 Code of 2012, any violation of the Illinois Controlled
20 Substances Act, any violation of the Cannabis Control Act, or
21 any violation of the Methamphetamine Control and Community
22 Protection Act results in conviction, a disposition of court
23 supervision, or an order of probation granted under Section 10
24 of the Cannabis Control Act, Section 410 of the Illinois
25 Controlled Substances Act, or Section 70 of the
26 Methamphetamine Control and Community Protection Act of a

1 defendant, the court shall determine whether the defendant is
2 employed by a facility or center as defined under the Child
3 Care Act of 1969, a public or private elementary or secondary
4 school, or otherwise works with children under 18 years of age
5 on a daily basis. When a defendant is so employed, the court
6 shall order the Clerk of the Court to send a copy of the
7 judgment of conviction or order of supervision or probation to
8 the defendant's employer by certified mail. If the employer of
9 the defendant is a school, the Clerk of the Court shall direct
10 the mailing of a copy of the judgment of conviction or order of
11 supervision or probation to the appropriate regional
12 superintendent of schools. The regional superintendent of
13 schools shall notify the State Board of Education of any
14 notification under this subsection.

15 (j-5) A defendant at least 17 years of age who is convicted
16 of a felony and who has not been previously convicted of a
17 misdemeanor or felony and who is sentenced to a term of
18 imprisonment in the Illinois Department of Corrections shall
19 as a condition of his or her sentence be required by the court
20 to attend educational courses designed to prepare the
21 defendant for a high school diploma and to work toward a high
22 school diploma or to work toward passing high school
23 equivalency testing or to work toward completing a vocational
24 training program offered by the Department of Corrections. If
25 a defendant fails to complete the educational training
26 required by his or her sentence during the term of

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

22 (k) (Blank).

23 (l) (A) Except as provided in paragraph (C) of subsection
24 (l), whenever a defendant, who is not a citizen or national of
25 the United States, is convicted of any felony or misdemeanor
26 offense, the court after sentencing the defendant may, upon

1 motion of the State's Attorney, hold sentence in abeyance and
2 remand the defendant to the custody of the Attorney General of
3 the United States or his or her designated agent to be deported
4 when:

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

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

11 Otherwise, the defendant shall be sentenced as provided in
12 this Chapter V.

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

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

25 (2) the deportation of the defendant would not
26 deprecate the seriousness of the defendant's conduct and

1 would not be inconsistent with the ends of justice.

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

5 (D) Upon motion of the State's Attorney, if a defendant
6 sentenced under this Section returns to the jurisdiction of
7 the United States, the defendant shall be recommitted to the
8 custody of the county from which he or she was sentenced.
9 Thereafter, the defendant shall be brought before the
10 sentencing court, which may impose any sentence that was
11 available under Section 5-5-3 at the time of initial
12 sentencing. In addition, the defendant shall not be eligible
13 for additional earned sentence credit as provided under
14 Section 3-6-3.

15 (m) A person convicted of criminal defacement of property
16 under Section 21-1.3 of the Criminal Code of 1961 or the
17 Criminal Code of 2012, in which the property damage exceeds
18 \$300 and the property damaged is a school building, shall be
19 ordered to perform community service that may include cleanup,
20 removal, or painting over the defacement.

21 (n) The court may sentence a person convicted of a
22 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or
23 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
24 of 1961 or the Criminal Code of 2012 (i) to an impact
25 incarceration program if the person is otherwise eligible for
26 that program under Section 5-8-1.1, (ii) to community service,

1 or (iii) if the person has a substance use disorder, as defined
2 in the Substance Use Disorder Act, to a treatment program
3 licensed under that Act.

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

9 (Source: P.A. 101-81, eff. 7-12-19; 102-168, eff. 7-27-21;
10 102-531, eff. 1-1-22; 102-813, eff. 5-13-22; 102-1030, eff.
11 5-27-22.)

12 (Text of Section after amendment by P.A. 103-51)

13 Sec. 5-5-3. Disposition.

14 (a) (Blank).

15 (b) (Blank).

16 (c) (1) (Blank).

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

24 (A) First degree murder.

25 (B) Attempted first degree murder.

1 (C) A Class X felony.

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

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

11 (E) (Blank).

12 (F) A Class 1 or greater felony if the offender had
13 been convicted of a Class 1 or greater felony, including
14 any state or federal conviction for an offense that
15 contained, at the time it was committed, the same elements
16 as an offense now (the date of the offense committed after
17 the prior Class 1 or greater felony) classified as a Class
18 1 or greater felony, within 10 years of the date on which
19 the offender committed the offense for which he or she is
20 being sentenced, except as otherwise provided in Section
21 40-10 of the Substance Use Disorder Act.

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

1 (the date of the offense committed after the prior Class 2
2 or greater felony) classified as a Class 2 or greater
3 felony, within 10 years of the date on which the offender
4 committed the offense for which he or she is being
5 sentenced, except as otherwise provided in Section 40-10
6 of the Substance Use Disorder Act.

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

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

12 (H) Criminal sexual assault.

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

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

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

25 Beginning July 1, 1994, for the purposes of this
26 paragraph, "organized gang" has the meaning ascribed to it

1 in Section 10 of the Illinois Streetgang Terrorism Omnibus
2 Prevention Act.

3 (K) Vehicular hijacking.

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

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

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

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

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

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

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

26 (R) A violation of Section 24-3A of the Criminal Code

1 of 1961 or the Criminal Code of 2012.

2 (S) (Blank).

3 (T) (Blank).

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

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

26 (W) A violation of Section 24-3.5 of the Criminal Code

1 of 1961 or the Criminal Code of 2012.

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

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

7 (Z) A Class 1 felony committed while he or she was
8 serving a term of probation or conditional discharge for a
9 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 (FF) A second or subsequent conviction for a violation

1 of paragraph (m) or (n) of subsection (A) of Section 24-3
2 of the Criminal Code of 2012.

3 (3) (Blank).

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

8 (4.1) (Blank).

9 (4.2) Except as provided in paragraphs (4.3) and (4.8) of
10 this subsection (c), a minimum of 100 hours of community
11 service shall be imposed for a second violation of Section
12 6-303 of the Illinois Vehicle Code.

13 (4.3) A minimum term of imprisonment of 30 days or 300
14 hours of community service, as determined by the court, shall
15 be imposed for a second violation of subsection (c) of Section
16 6-303 of the Illinois Vehicle Code.

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

25 (4.5) A minimum term of imprisonment of 30 days shall be
26 imposed for a third violation of subsection (c) of Section

1 6-303 of the Illinois Vehicle Code.

2 (4.6) Except as provided in paragraph (4.10) of this
3 subsection (c), a minimum term of imprisonment of 180 days
4 shall be imposed for a fourth or subsequent violation of
5 subsection (c) of Section 6-303 of the Illinois Vehicle Code.

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

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

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

23 (4.10) A mandatory prison sentence for a Class 1 felony
24 shall be imposed, and the person shall be eligible for an
25 extended term sentence, for a fourth or subsequent violation
26 of subsection (a-5) of Section 6-303 of the Illinois Vehicle

1 Code, as provided in subsection (d-3.5) of that Section. The
2 person's driving privileges shall be revoked for the remainder
3 of his or her life.

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

6 (A) a period of conditional discharge;

7 (B) a fine;

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

10 (5.1) In addition to any other penalties imposed, and
11 except as provided in paragraph (5.2) or (5.3), a person
12 convicted of violating subsection (c) of Section 11-907 of the
13 Illinois Vehicle Code shall have his or her driver's license,
14 permit, or privileges suspended for at least 90 days but not
15 more than one year, if the violation resulted in damage to the
16 property of another person.

17 (5.2) In addition to any other penalties imposed, and
18 except as provided in paragraph (5.3), a person convicted of
19 violating subsection (c) of Section 11-907 of the Illinois
20 Vehicle Code shall have his or her driver's license, permit,
21 or privileges suspended for at least 180 days but not more than
22 2 years, if the violation resulted in injury to another
23 person.

24 (5.3) In addition to any other penalties imposed, a person
25 convicted of violating subsection (c) of Section 11-907 of the
26 Illinois Vehicle Code shall have his or her driver's license,

1 permit, or privileges suspended for 2 years, if the violation
2 resulted in the death of another person.

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

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

16 (6) (Blank).

17 (7) (Blank).

18 (8) (Blank).

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

22 (10) (Blank).

23 (11) The court shall impose a minimum fine of \$1,000 for a
24 first offense and \$2,000 for a second or subsequent offense
25 upon a person convicted of or placed on supervision for
26 battery when the individual harmed was a sports official or

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

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

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

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

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

26 (1) the court finds (A) or (B) or both are

1 appropriate:

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

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

8 (i) removal from the household;

9 (ii) restricted contact with the victim;

10 (iii) continued financial support of the
11 family;

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

13 and

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

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

23 Probation may be revoked or modified pursuant to Section
24 5-6-4; except where the court determines at the hearing that
25 the defendant violated a condition of his or her probation
26 restricting contact with the victim or other family members or

1 commits another offense with the victim or other family
2 members, the court shall revoke the defendant's probation and
3 impose a term of imprisonment.

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

7 (f) (Blank).

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

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

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

1 disease in the courtroom.

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

25 (i) All fines and penalties imposed under this Section for
26 any violation of Chapters 3, 4, 6, and 11 of the Illinois

1 Vehicle Code, or a similar provision of a local ordinance, and
2 any violation of the Child Passenger Protection Act, or a
3 similar provision of a local ordinance, shall be collected and
4 disbursed by the circuit clerk as provided under the Criminal
5 and Traffic Assessment Act.

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

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

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

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

15 (k) (Blank).

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

24 (1) a final order of deportation has been issued
25 against the defendant pursuant to proceedings under the
26 Immigration and Nationality Act, and

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

4 Otherwise, the defendant shall be sentenced as provided in
5 this Chapter V.

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

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

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

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

24 (D) Upon motion of the State's Attorney, if a defendant
25 sentenced under this Section returns to the jurisdiction of
26 the United States, the defendant shall be recommitted to the

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

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

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

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

1 of license renewal established by the Secretary of State.

2 (Source: P.A. 102-168, eff. 7-27-21; 102-531, eff. 1-1-22;
3 102-813, eff. 5-13-22; 102-1030, eff. 5-27-22; 103-51, eff.
4 1-1-24.)

5 Section 95. No acceleration or delay. Where this Act makes
6 changes in a statute that is represented in this Act by text
7 that is not yet or no longer in effect (for example, a Section
8 represented by multiple versions), the use of that text does
9 not accelerate or delay the taking effect of (i) the changes
10 made by this Act or (ii) provisions derived from any other
11 Public Act.