



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4453

Introduced 1/16/2024, by Rep. Anthony DeLuca

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-715
705 ILCS 405/5-750
720 ILCS 5/24-1.1 from Ch. 38, par. 24-1.1
720 ILCS 5/24-1.6
730 ILCS 5/5-4.5-110.1 new
730 ILCS 5/5-8-8

Amends the Juvenile Court Act of 1987. Provides that if the minor (1) has previously been placed on probation for an offense that involves the possession or discharge of a firearm not causing any injury; and (2) is convicted of a subsequent offense involving the possession or discharge of a firearm not causing any injury, then the court shall require the minor to participate in social service programs offered through juvenile probation and comply with referral recommendations for no less than 3 months. Provides that if the minor does not complete the referral recommendations, the court shall commit the minor to the Department of Juvenile Justice to complete the recommended services. Provides that a minor convicted of a subsequent offense involving the use of a firearm causing serious injury, great bodily harm, or death shall be committed to the Department of Juvenile Justice with the Department providing services, including, but not limited to, education, mental health services, drug treatment, and mentoring. Amends the Unified Code of Corrections. Reenacts the provisions of the Code that were repealed on January 1, 2024 concerning sentencing guidelines for individuals with prior felony firearm-related or other specified convictions. Deletes the repeal of those provisions. Amends the Criminal Code of 2012 to make conforming changes. Effective immediately.

LRB103 35384 RLC 65449 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 Juvenile Court Act of 1987 is amended by
5 changing Sections 5-715 and 5-750 as follows:

6 (705 ILCS 405/5-715)

7 Sec. 5-715. Probation.

8 (1) The period of probation or conditional discharge shall
9 not exceed 5 years or until the minor has attained the age of
10 21 years, whichever is less, except as provided in this
11 Section for a minor who is found to be guilty for an offense
12 which is first degree murder. The juvenile court may terminate
13 probation or conditional discharge and discharge the minor at
14 any time if warranted by the conduct of the minor and the ends
15 of justice; provided, however, that the period of probation
16 for a minor who is found to be guilty for an offense which is
17 first degree murder shall be at least 5 years.

18 (1.5) The period of probation for a minor who is found
19 guilty of aggravated criminal sexual assault, criminal sexual
20 assault, or aggravated battery with a firearm shall be at
21 least 36 months. The period of probation for a minor who is
22 found to be guilty of any other Class X felony shall be at
23 least 24 months. The period of probation for a Class 1 or Class

1 2 forcible felony shall be at least 18 months. Regardless of
2 the length of probation ordered by the court, for all offenses
3 under this subsection ~~paragraph~~ (1.5), the court shall
4 schedule hearings to determine whether it is in the best
5 interest of the minor and public safety to terminate probation
6 after the minimum period of probation has been served. In such
7 a hearing, there shall be a rebuttable presumption that it is
8 in the best interest of the minor and public safety to
9 terminate probation.

10 (2) The court may as a condition of probation or of
11 conditional discharge require that the minor:

12 (a) not violate any criminal statute of any
13 jurisdiction;

14 (b) make a report to and appear in person before any
15 person or agency as directed by the court;

16 (c) work or pursue a course of study or vocational
17 training;

18 (d) undergo medical or psychiatric treatment, rendered
19 by a psychiatrist or psychological treatment rendered by a
20 clinical psychologist or social work services rendered by
21 a clinical social worker, or treatment for drug addiction
22 or alcoholism;

23 (e) attend or reside in a facility established for the
24 instruction or residence of persons on probation;

25 (f) support the minor's dependents, if any;

26 (g) refrain from possessing a firearm or other

1 dangerous weapon, or an automobile;

2 (h) permit the probation officer to visit the minor at
3 the minor's home or elsewhere;

4 (i) reside with the minor's parents or in a foster
5 home;

6 (j) attend school;

7 (j-5) with the consent of the superintendent of the
8 facility, attend an educational program at a facility
9 other than the school in which the offense was committed
10 if the minor committed a crime of violence as defined in
11 Section 2 of the Crime Victims Compensation Act in a
12 school, on the real property comprising a school, or
13 within 1,000 feet of the real property comprising a
14 school;

15 (k) attend a non-residential program for youth;

16 (l) make restitution under the terms of subsection (4)
17 of Section 5-710;

18 (m) provide nonfinancial contributions to the minor's
19 own support at home or in a foster home;

20 (n) perform some reasonable public or community
21 service that does not interfere with school hours,
22 school-related activities, or work commitments of the
23 minor or the minor's parent, guardian, or legal custodian;

24 (o) participate with community corrections programs
25 including unified delinquency intervention services
26 administered by the Department of Human Services subject

1 to Section 5 of the Children and Family Services Act;

2 (p) (blank);

3 (q) serve a term of home confinement. In addition to
4 any other applicable condition of probation or conditional
5 discharge, the conditions of home confinement shall be
6 that the minor:

7 (i) remain within the interior premises of the
8 place designated for the minor's confinement during
9 the hours designated by the court;

10 (ii) admit any person or agent designated by the
11 court into the minor's place of confinement at any
12 time for purposes of verifying the minor's compliance
13 with the conditions of the minor's confinement; and

14 (iii) use an approved electronic monitoring device
15 if ordered by the court subject to Article 8A of
16 Chapter V of the Unified Code of Corrections;

17 (r) refrain from entering into a designated geographic
18 area except upon terms as the court finds appropriate. The
19 terms may include consideration of the purpose of the
20 entry, the time of day, other persons accompanying the
21 minor, and advance approval by a probation officer, if the
22 minor has been placed on probation, or advance approval by
23 the court, if the minor has been placed on conditional
24 discharge;

25 (s) refrain from having any contact, directly or
26 indirectly, with certain specified persons or particular

1 types of persons, including, but not limited to, members
2 of street gangs and drug users or dealers;

3 (s-5) undergo a medical or other procedure to have a
4 tattoo symbolizing allegiance to a street gang removed
5 from the minor's body;

6 (t) refrain from having in the minor's body the
7 presence of any illicit drug prohibited by the Cannabis
8 Control Act, the Illinois Controlled Substances Act, or
9 the Methamphetamine Control and Community Protection Act,
10 unless prescribed by a physician, and shall submit samples
11 of the minor's blood or urine or both for tests to
12 determine the presence of any illicit drug; or

13 (u) comply with other conditions as may be ordered by
14 the court.

15 (3) The court may as a condition of probation or of
16 conditional discharge require that a minor found guilty on any
17 alcohol, cannabis, methamphetamine, or controlled substance
18 violation, refrain from acquiring a driver's license during
19 the period of probation or conditional discharge. If the minor
20 is in possession of a permit or license, the court may require
21 that the minor refrain from driving or operating any motor
22 vehicle during the period of probation or conditional
23 discharge, except as may be necessary in the course of the
24 minor's lawful employment.

25 (3.5) The court shall, as a condition of probation or of
26 conditional discharge, require that a minor found to be guilty

1 and placed on probation for reasons that include a violation
2 of Section 3.02 or Section 3.03 of the Humane Care for Animals
3 Act or paragraph (4) of subsection (a) of Section 21-1 of the
4 Criminal Code of 2012 undergo medical or psychiatric treatment
5 rendered by a psychiatrist or psychological treatment rendered
6 by a clinical psychologist. The condition may be in addition
7 to any other condition.

8 (3.10) The court shall order that a minor placed on
9 probation or conditional discharge for a sex offense as
10 defined in the Sex Offender Management Board Act undergo and
11 successfully complete sex offender treatment. The treatment
12 shall be in conformance with the standards developed under the
13 Sex Offender Management Board Act and conducted by a treatment
14 provider approved by the Board.

15 (4) A minor on probation or conditional discharge shall be
16 given a certificate setting forth the conditions upon which
17 the minor is being released.

18 (5) (Blank).

19 (5.5) Jurisdiction over an offender may be transferred
20 from the sentencing court to the court of another circuit with
21 the concurrence of both courts. Further transfers or
22 retransfers of jurisdiction are also authorized in the same
23 manner. The court to which jurisdiction has been transferred
24 shall have the same powers as the sentencing court.

25 If the transfer case originated in another state and has
26 been transferred under the Interstate Compact for Juveniles to

1 the jurisdiction of an Illinois circuit court for supervision
2 by an Illinois probation department, probation fees may be
3 imposed only if permitted by the Interstate Commission for
4 Juveniles.

5 (6) The General Assembly finds that in order to protect
6 the public, the juvenile justice system must compel compliance
7 with the conditions of probation by responding to violations
8 with swift, certain, and fair punishments and intermediate
9 sanctions. The Chief Judge of each circuit shall adopt a
10 system of structured, intermediate sanctions for violations of
11 the terms and conditions of a sentence of supervision,
12 probation, or conditional discharge, under this Act.

13 The court shall provide as a condition of a disposition of
14 probation, conditional discharge, or supervision, that the
15 probation agency may invoke any sanction from the list of
16 intermediate sanctions adopted by the chief judge of the
17 circuit court for violations of the terms and conditions of
18 the sentence of probation, conditional discharge, or
19 supervision, subject to the provisions of Section 5-720 of
20 this Act.

21 (6.5) The court shall require a minor to participate in
22 social service programs offered through juvenile probation and
23 comply with referral recommendations for no less than 3 months
24 if the minor:

25 (i) has previously been placed on probation for an
26 offense that involves the possession or discharge of a

1 firearm not causing any injury; and

2 (ii) is convicted of a subsequent offense involving
3 the possession or discharge of a firearm not causing any
4 injury.

5 If the minor does not complete the referral
6 recommendations, the court shall commit the minor to the
7 Department of Juvenile Justice to complete the recommended
8 services.

9 (7) Fines and assessments, including any fee or
10 administrative cost authorized under Section 5-4.5-105,
11 5-5-10, 5-6-3, 5-6-3.1, 5-7-6, 5-9-1.4, or 5-9-1.9 of the
12 Unified Code of Corrections, shall not be ordered or imposed
13 on a minor or the minor's parent, guardian, or legal custodian
14 as a condition of probation, conditional discharge, or
15 supervision. If the minor or the minor's parent, guardian, or
16 legal custodian is unable to cover the cost of a condition
17 under this subsection, the court shall not preclude the minor
18 from receiving probation, conditional discharge, or
19 supervision based on the inability to pay. Inability to pay
20 shall not be grounds to object to the minor's placement on
21 probation, conditional discharge, or supervision.

22 (Source: P.A. 103-22, eff. 8-8-23; 103-379, eff. 7-28-23;
23 revised 9-25-23.)

24 (705 ILCS 405/5-750)

25 Sec. 5-750. Commitment to the Department of Juvenile

1 Justice.

2 (1) Except as provided in subsection (2) of this Section,
3 when any delinquent has been adjudged a ward of the court under
4 this Act, the court may commit the minor to the Department of
5 Juvenile Justice, if it finds that (a) the minor's parents,
6 guardian or legal custodian are unfit or are unable, for some
7 reason other than financial circumstances alone, to care for,
8 protect, train or discipline the minor, or are unwilling to do
9 so, and the best interests of the minor and the public will not
10 be served by placement under Section 5-740, or it is necessary
11 to ensure the protection of the public from the consequences
12 of criminal activity of the delinquent; and (b) commitment to
13 the Department of Juvenile Justice is the least restrictive
14 alternative based on evidence that efforts were made to locate
15 less restrictive alternatives to secure confinement and the
16 reasons why efforts were unsuccessful in locating a less
17 restrictive alternative to secure confinement. Before the
18 court commits a minor to the Department of Juvenile Justice,
19 it shall make a finding that secure confinement is necessary,
20 following a review of the following individualized factors:

21 (A) Age of the minor.

22 (B) Criminal background of the minor.

23 (C) Review of results of any assessments of the minor,
24 including child centered assessments such as the CANS.

25 (D) Educational background of the minor, indicating
26 whether the minor has ever been assessed for a learning

1 disability, and if so what services were provided as well
2 as any disciplinary incidents at school.

3 (E) Physical, mental and emotional health of the
4 minor, indicating whether the minor has ever been
5 diagnosed with a health issue and if so what services were
6 provided and whether the minor was compliant with
7 services.

8 (F) Community based services that have been provided
9 to the minor, and whether the minor was compliant with the
10 services, and the reason the services were unsuccessful.

11 (G) Services within the Department of Juvenile Justice
12 that will meet the individualized needs of the minor.

13 (1.5) Before the court commits a minor to the Department
14 of Juvenile Justice, the court must find reasonable efforts
15 have been made to prevent or eliminate the need for the minor
16 to be removed from the home, or reasonable efforts cannot, at
17 this time, for good cause, prevent or eliminate the need for
18 removal, and removal from home is in the best interests of the
19 minor, the minor's family, and the public.

20 (2) When a minor of the age of at least 13 years is
21 adjudged delinquent for the offense of first degree murder,
22 the court shall declare the minor a ward of the court and order
23 the minor committed to the Department of Juvenile Justice
24 until the minor's 21st birthday, without the possibility of
25 aftercare release, furlough, or non-emergency authorized
26 absence for a period of 5 years from the date the minor was

1 committed to the Department of Juvenile Justice, except that
2 the time that a minor spent in custody for the instant offense
3 before being committed to the Department of Juvenile Justice
4 shall be considered as time credited towards that 5 year
5 period. Upon release from a Department facility, a minor
6 adjudged delinquent for first degree murder shall be placed on
7 aftercare release until the age of 21, unless sooner
8 discharged from aftercare release or custodianship is
9 otherwise terminated in accordance with this Act or as
10 otherwise provided for by law. Nothing in this subsection (2)
11 shall preclude the State's Attorney from seeking to prosecute
12 a minor as an adult as an alternative to proceeding under this
13 Act.

14 (2.5) A minor convicted of a subsequent offense involving
15 the use or possession of a firearm causing serious injury,
16 great bodily harm, or death shall be confined to the
17 Department of Juvenile Justice with the Department providing
18 services, including, but not limited to, education, mental
19 health services, drug treatment, and mentoring.

20 (3) Except as provided in subsections ~~subsection~~ (2) and
21 (2.5), the commitment of a delinquent to the Department of
22 Juvenile Justice shall be for an indeterminate term which
23 shall automatically terminate upon the delinquent attaining
24 the age of 21 years or upon completion of that period for which
25 an adult could be committed for the same act, whichever occurs
26 sooner, unless the delinquent is sooner discharged from

1 aftercare release or custodianship is otherwise terminated in
2 accordance with this Act or as otherwise provided for by law.

3 (3.5) Every delinquent minor committed to the Department
4 of Juvenile Justice under this Act shall be eligible for
5 aftercare release without regard to the length of time the
6 minor has been confined or whether the minor has served any
7 minimum term imposed. Aftercare release shall be administered
8 by the Department of Juvenile Justice, under the direction of
9 the Director. Unless sooner discharged, the Department of
10 Juvenile Justice shall discharge a minor from aftercare
11 release upon completion of the following aftercare release
12 terms:

13 (a) One and a half years from the date a minor is
14 released from a Department facility, if the minor was
15 committed for a Class X felony;

16 (b) One year from the date a minor is released from a
17 Department facility, if the minor was committed for a
18 Class 1 or 2 felony; and

19 (c) Six months from the date a minor is released from a
20 Department facility, if the minor was committed for a
21 Class 3 felony or lesser offense.

22 (4) When the court commits a minor to the Department of
23 Juvenile Justice, it shall order the minor conveyed forthwith
24 to the appropriate reception station or other place designated
25 by the Department of Juvenile Justice, and shall appoint the
26 Director of Juvenile Justice legal custodian of the minor. The

1 clerk of the court shall issue to the Director of Juvenile
2 Justice a certified copy of the order, which constitutes proof
3 of the Director's authority. No other process need issue to
4 warrant the keeping of the minor.

5 (5) If a minor is committed to the Department of Juvenile
6 Justice, the clerk of the court shall forward to the
7 Department:

8 (a) the sentencing order and copies of committing
9 petition;

10 (b) all reports;

11 (c) the court's statement of the basis for ordering
12 the disposition;

13 (d) any sex offender evaluations;

14 (e) any risk assessment or substance abuse treatment
15 eligibility screening and assessment of the minor by an
16 agent designated by the State to provide assessment
17 services for the courts;

18 (f) the number of days, if any, which the minor has
19 been in custody and for which the minor is entitled to
20 credit against the sentence, which information shall be
21 provided to the clerk by the sheriff;

22 (g) any medical or mental health records or summaries
23 of the minor;

24 (h) the municipality where the arrest of the minor
25 occurred, the commission of the offense occurred, and the
26 minor resided at the time of commission;

1 (h-5) a report detailing the minor's criminal history
2 in a manner and form prescribed by the Department of
3 Juvenile Justice;

4 (i) all additional matters which the court directs the
5 clerk to transmit; and

6 (j) all police reports for sex offenses as defined by
7 the Sex Offender Management Board Act.

8 (6) Whenever the Department of Juvenile Justice lawfully
9 discharges from its custody and control a minor committed to
10 it, the Director of Juvenile Justice shall petition the court
11 for an order terminating the minor's custodianship. The
12 custodianship shall terminate automatically 30 days after
13 receipt of the petition unless the court orders otherwise.

14 (7) If, while on aftercare release, a minor committed to
15 the Department of Juvenile Justice who resides in this State
16 is charged under the criminal laws of this State, the criminal
17 laws of any other state, or federal law with an offense that
18 could result in a sentence of imprisonment within the
19 Department of Corrections, the penal system of any state, or
20 the federal Bureau of Prisons, the commitment to the
21 Department of Juvenile Justice and all rights and duties
22 created by that commitment are automatically suspended pending
23 final disposition of the criminal charge. If the minor is
24 found guilty of the criminal charge and sentenced to a term of
25 imprisonment in the penitentiary system of the Department of
26 Corrections, the penal system of any state, or the federal

1 Bureau of Prisons, the commitment to the Department of
2 Juvenile Justice shall be automatically terminated. If the
3 criminal charge is dismissed, the minor is found not guilty,
4 or the minor completes a criminal sentence other than
5 imprisonment within the Department of Corrections, the penal
6 system of any state, or the federal Bureau of Prisons, the
7 previously imposed commitment to the Department of Juvenile
8 Justice and the full aftercare release term shall be
9 automatically reinstated unless custodianship is sooner
10 terminated. Nothing in this subsection (7) shall preclude the
11 court from ordering another sentence under Section 5-710 of
12 this Act or from terminating the Department's custodianship
13 while the commitment to the Department is suspended.

14 (Source: P.A. 102-350, eff. 8-13-21; 103-22, eff. 8-8-23.)

15 Section 10. The Criminal Code of 2012 is amended by
16 changing Sections 24-1.1 and 24-1.6 as follows:

17 (720 ILCS 5/24-1.1) (from Ch. 38, par. 24-1.1)

18 Sec. 24-1.1. Unlawful use or possession of weapons by
19 felons or persons in the custody of the Department of
20 Corrections facilities.

21 (a) It is unlawful for a person to knowingly possess on or
22 about his person or on his land or in his own abode or fixed
23 place of business any weapon prohibited under Section 24-1 of
24 this Act or any firearm or any firearm ammunition if the person

1 has been convicted of a felony under the laws of this State or
2 any other jurisdiction. This Section shall not apply if the
3 person has been granted relief by the Director of the Illinois
4 State Police under Section 10 of the Firearm Owners
5 Identification Card Act.

6 (b) It is unlawful for any person confined in a penal
7 institution, which is a facility of the Illinois Department of
8 Corrections, to possess any weapon prohibited under Section
9 24-1 of this Code or any firearm or firearm ammunition,
10 regardless of the intent with which he possesses it.

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

15 (d) The defense of necessity is not available to a person
16 who is charged with a violation of subsection (b) of this
17 Section.

18 (e) Sentence. Violation of this Section by a person not
19 confined in a penal institution shall be a Class 3 felony for
20 which the person shall be sentenced to no less than 2 years and
21 no more than 10 years. A second or subsequent violation of this
22 Section shall be a Class 2 felony for which the person shall be
23 sentenced to a term of imprisonment of not less than 3 years
24 and not more than 14 years, except as provided for in Section
25 5-4.5-110.1 ~~5-4.5-110~~ of the Unified Code of Corrections.
26 Violation of this Section by a person not confined in a penal

1 institution who has been convicted of a forcible felony, a
2 felony violation of Article 24 of this Code or of the Firearm
3 Owners Identification Card Act, stalking or aggravated
4 stalking, or a Class 2 or greater felony under the Illinois
5 Controlled Substances Act, the Cannabis Control Act, or the
6 Methamphetamine Control and Community Protection Act is a
7 Class 2 felony for which the person shall be sentenced to not
8 less than 3 years and not more than 14 years, except as
9 provided for in Section 5-4.5-110.1 ~~5-4.5-110~~ of the Unified
10 Code of Corrections. Violation of this Section by a person who
11 is on parole or mandatory supervised release is a Class 2
12 felony for which the person shall be sentenced to not less than
13 3 years and not more than 14 years, except as provided for in
14 Section 5-4.5-110.1 ~~5-4.5-110~~ of the Unified Code of
15 Corrections. Violation of this Section by a person not
16 confined in a penal institution is a Class X felony when the
17 firearm possessed is a machine gun. Any person who violates
18 this Section while confined in a penal institution, which is a
19 facility of the Illinois Department of Corrections, is guilty
20 of a Class 1 felony, if he possesses any weapon prohibited
21 under Section 24-1 of this Code regardless of the intent with
22 which he possesses it, a Class X felony if he possesses any
23 firearm, firearm ammunition or explosive, and a Class X felony
24 for which the offender shall be sentenced to not less than 12
25 years and not more than 50 years when the firearm possessed is
26 a machine gun. A violation of this Section while wearing or in

1 possession of body armor as defined in Section 33F-1 is a Class
2 X felony punishable by a term of imprisonment of not less than
3 10 years and not more than 40 years. The possession of each
4 firearm or firearm ammunition in violation of this Section
5 constitutes a single and separate violation.

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

7 (720 ILCS 5/24-1.6)

8 Sec. 24-1.6. Aggravated unlawful use of a weapon.

9 (a) A person commits the offense of aggravated unlawful
10 use of a weapon when he or she knowingly:

11 (1) Carries on or about his or her person or in any
12 vehicle or concealed on or about his or her person except
13 when on his or her land or in his or her abode, legal
14 dwelling, or fixed place of business, or on the land or in
15 the legal dwelling of another person as an invitee with
16 that person's permission, any pistol, revolver, stun gun
17 or taser or other firearm; or

18 (2) Carries or possesses on or about his or her
19 person, upon any public street, alley, or other public
20 lands within the corporate limits of a city, village or
21 incorporated town, except when an invitee thereon or
22 therein, for the purpose of the display of such weapon or
23 the lawful commerce in weapons, or except when on his or
24 her own land or in his or her own abode, legal dwelling, or
25 fixed place of business, or on the land or in the legal

1 dwelling of another person as an invitee with that
2 person's permission, any pistol, revolver, stun gun or
3 taser or other firearm; and

4 (3) One of the following factors is present:

5 (A) the firearm, other than a pistol, revolver, or
6 handgun, possessed was uncased, loaded, and
7 immediately accessible at the time of the offense; or

8 (A-5) the pistol, revolver, or handgun possessed
9 was uncased, loaded, and immediately accessible at the
10 time of the offense and the person possessing the
11 pistol, revolver, or handgun has not been issued a
12 currently valid license under the Firearm Concealed
13 Carry Act; or

14 (B) the firearm, other than a pistol, revolver, or
15 handgun, possessed was uncased, unloaded, and the
16 ammunition for the weapon was immediately accessible
17 at the time of the offense; or

18 (B-5) the pistol, revolver, or handgun possessed
19 was uncased, unloaded, and the ammunition for the
20 weapon was immediately accessible at the time of the
21 offense and the person possessing the pistol,
22 revolver, or handgun has not been issued a currently
23 valid license under the Firearm Concealed Carry Act;
24 or

25 (C) the person possessing the firearm has not been
26 issued a currently valid Firearm Owner's

1 Identification Card; or

2 (D) the person possessing the weapon was
3 previously adjudicated a delinquent minor under the
4 Juvenile Court Act of 1987 for an act that if committed
5 by an adult would be a felony; or

6 (E) the person possessing the weapon was engaged
7 in a misdemeanor violation of the Cannabis Control
8 Act, in a misdemeanor violation of the Illinois
9 Controlled Substances Act, or in a misdemeanor
10 violation of the Methamphetamine Control and Community
11 Protection Act; or

12 (F) (blank); or

13 (G) the person possessing the weapon had an order
14 of protection issued against him or her within the
15 previous 2 years; or

16 (H) the person possessing the weapon was engaged
17 in the commission or attempted commission of a
18 misdemeanor involving the use or threat of violence
19 against the person or property of another; or

20 (I) the person possessing the weapon was under 21
21 years of age and in possession of a handgun, unless the
22 person under 21 is engaged in lawful activities under
23 the Wildlife Code or described in subsection
24 24-2(b)(1), (b)(3), or 24-2(f).

25 (a-5) "Handgun" as used in this Section has the meaning
26 given to it in Section 5 of the Firearm Concealed Carry Act.

1 (b) "Stun gun or taser" as used in this Section has the
2 same definition given to it in Section 24-1 of this Code.

3 (c) This Section does not apply to or affect the
4 transportation or possession of weapons that:

5 (i) are broken down in a non-functioning state; or

6 (ii) are not immediately accessible; or

7 (iii) are unloaded and enclosed in a case, firearm
8 carrying box, shipping box, or other container by a person
9 who has been issued a currently valid Firearm Owner's
10 Identification Card.

11 (d) Sentence.

12 (1) Aggravated unlawful use of a weapon is a Class 4
13 felony; a second or subsequent offense is a Class 2 felony
14 for which the person shall be sentenced to a term of
15 imprisonment of not less than 3 years and not more than 7
16 years, except as provided for in Section 5-4.5-110.1
17 ~~5-4.5-110~~ of the Unified Code of Corrections.

18 (2) Except as otherwise provided in paragraphs (3) and
19 (4) of this subsection (d), a first offense of aggravated
20 unlawful use of a weapon committed with a firearm by a
21 person 18 years of age or older where the factors listed in
22 both items (A) and (C) or both items (A-5) and (C) of
23 paragraph (3) of subsection (a) are present is a Class 4
24 felony, for which the person shall be sentenced to a term
25 of imprisonment of not less than one year and not more than
26 3 years.

1 (3) Aggravated unlawful use of a weapon by a person
2 who has been previously convicted of a felony in this
3 State or another jurisdiction is a Class 2 felony for
4 which the person shall be sentenced to a term of
5 imprisonment of not less than 3 years and not more than 7
6 years, except as provided for in Section 5-4.5-110.1
7 ~~5-4.5-110~~ of the Unified Code of Corrections.

8 (4) Aggravated unlawful use of a weapon while wearing
9 or in possession of body armor as defined in Section 33F-1
10 by a person who has not been issued a valid Firearms
11 Owner's Identification Card in accordance with Section 5
12 of the Firearm Owners Identification Card Act is a Class X
13 felony.

14 (e) The possession of each firearm in violation of this
15 Section constitutes a single and separate violation.

16 (Source: P.A. 100-3, eff. 1-1-18; 100-201, eff. 8-18-17.)

17 Section 15. The Unified Code of Corrections is amended by
18 changing Section 5-8-8 and by adding Section 5-4.5-110.1 as
19 follows:

20 (730 ILCS 5/5-4.5-110.1 new)

21 Sec. 5-4.5-110.1. SENTENCING GUIDELINES FOR INDIVIDUALS
22 WITH PRIOR FELONY FIREARM-RELATED OR OTHER SPECIFIED
23 CONVICTIONS.

24 (a) DEFINITIONS. For the purposes of this Section:

1 "Firearm" has the meaning ascribed to it in Section
2 1.1 of the Firearm Owners Identification Card Act.

3 "Qualifying predicate offense" means the following
4 offenses under the Criminal Code of 2012:

5 (A) aggravated unlawful use of a weapon under
6 Section 24-1.6 or similar offense under the Criminal
7 Code of 1961, when the weapon is a firearm;

8 (B) unlawful use or possession of a weapon by a
9 felon under Section 24-1.1 or similar offense under
10 the Criminal Code of 1961, when the weapon is a
11 firearm;

12 (C) first degree murder under Section 9-1 or
13 similar offense under the Criminal Code of 1961;

14 (D) attempted first degree murder with a firearm
15 or similar offense under the Criminal Code of 1961;

16 (E) aggravated kidnapping with a firearm under
17 paragraph (6) or (7) of subsection (a) of Section 10-2
18 or similar offense under the Criminal Code of 1961;

19 (F) aggravated battery with a firearm under
20 subsection (e) of Section 12-3.05 or similar offense
21 under the Criminal Code of 1961;

22 (G) aggravated criminal sexual assault under
23 Section 11-1.30 or similar offense under the Criminal
24 Code of 1961;

25 (H) predatory criminal sexual assault of a child
26 under Section 11-1.40 or similar offense under the

1 Criminal Code of 1961;

2 (I) armed robbery under Section 18-2 or similar
3 offense under the Criminal Code of 1961;

4 (J) vehicular hijacking under Section 18-3 or
5 similar offense under the Criminal Code of 1961;

6 (K) aggravated vehicular hijacking under Section
7 18-4 or similar offense under the Criminal Code of
8 1961;

9 (L) home invasion with a firearm under paragraph
10 (3), (4), or (5) of subsection (a) of Section 19-6 or
11 similar offense under the Criminal Code of 1961;

12 (M) aggravated discharge of a firearm under
13 Section 24-1.2 or similar offense under the Criminal
14 Code of 1961;

15 (N) aggravated discharge of a machine gun or a
16 firearm equipped with a device designed or used for
17 silencing the report of a firearm under Section
18 24-1.2-5 or similar offense under the Criminal Code of
19 1961;

20 (O) unlawful use of firearm projectiles under
21 Section 24-2.1 or similar offense under the Criminal
22 Code of 1961;

23 (P) manufacture, sale, or transfer of bullets or
24 shells represented to be armor piercing bullets,
25 dragon's breath shotgun shells, bolo shells, or
26 flechette shells under Section 24-2.2 or similar

1 offense under the Criminal Code of 1961;

2 (Q) unlawful sale or delivery of firearms under
3 Section 24-3 or similar offense under the Criminal
4 Code of 1961;

5 (R) unlawful discharge of firearm projectiles
6 under Section 24-3.2 or similar offense under the
7 Criminal Code of 1961;

8 (S) unlawful sale or delivery of firearms on
9 school premises of any school under Section 24-3.3 or
10 similar offense under the Criminal Code of 1961;

11 (T) unlawful purchase of a firearm under Section
12 24-3.5 or similar offense under the Criminal Code of
13 1961;

14 (U) use of a stolen firearm in the commission of an
15 offense under Section 24-3.7 or similar offense under
16 the Criminal Code of 1961;

17 (V) possession of a stolen firearm under Section
18 24-3.8 or similar offense under the Criminal Code of
19 1961;

20 (W) aggravated possession of a stolen firearm
21 under Section 24-3.9 or similar offense under the
22 Criminal Code of 1961;

23 (X) gunrunning under Section 24-3A or similar
24 offense under the Criminal Code of 1961;

25 (Y) defacing identification marks of firearms
26 under Section 24-5 or similar offense under the

1 Criminal Code of 1961; and

2 (Z) armed violence under Section 33A-2 or similar
3 offense under the Criminal Code of 1961.

4 (b) APPLICABILITY. For an offense committed on or after
5 the effective date of this amendatory Act of the 103rd General
6 Assembly, when a person is convicted of unlawful use or
7 possession of a weapon by a felon, when the weapon is a
8 firearm, or aggravated unlawful use of a weapon, when the
9 weapon is a firearm, after being previously convicted of a
10 qualifying predicate offense the person shall be subject to
11 the sentencing guidelines under this Section.

12 (c) SENTENCING GUIDELINES.

13 (1) When a person is convicted of unlawful use or
14 possession of a weapon by a felon, when the weapon is a
15 firearm, and that person has been previously convicted of
16 a qualifying predicate offense, the person shall be
17 sentenced to a term of imprisonment within the sentencing
18 range of not less than 7 years and not more than 14 years,
19 unless the court finds that a departure from the
20 sentencing guidelines under this paragraph is warranted
21 under subsection (d) of this Section.

22 (2) When a person is convicted of aggravated unlawful
23 use of a weapon, when the weapon is a firearm, and that
24 person has been previously convicted of a qualifying
25 predicate offense, the person shall be sentenced to a term
26 of imprisonment within the sentencing range of not less

1 than 6 years and not more than 7 years, unless the court
2 finds that a departure from the sentencing guidelines
3 under this paragraph is warranted under subsection (d) of
4 this Section.

5 (3) The sentencing guidelines in paragraphs (1) and
6 (2) of this subsection (c) apply only to offenses
7 committed on and after the effective date of this
8 amendatory Act of the 103rd General Assembly.

9 (d) DEPARTURE FROM SENTENCING GUIDELINES.

10 (1) At the sentencing hearing conducted under Section
11 5-4-1 of this Code, the court may depart from the
12 sentencing guidelines provided in subsection (c) of this
13 Section and impose a sentence otherwise authorized by law
14 for the offense if the court, after considering any factor
15 under paragraph (2) of this subsection (d) relevant to the
16 nature and circumstances of the crime and to the history
17 and character of the defendant, finds on the record
18 substantial and compelling justification that the sentence
19 within the sentencing guidelines would be unduly harsh and
20 that a sentence otherwise authorized by law would be
21 consistent with public safety and does not deprecate the
22 seriousness of the offense.

23 (2) In deciding whether to depart from the sentencing
24 guidelines under this paragraph, the court shall consider:

25 (A) the age, immaturity, or limited mental
26 capacity of the defendant at the time of commission of

1 the qualifying predicate or current offense, including
2 whether the defendant was suffering from a mental or
3 physical condition insufficient to constitute a
4 defense but significantly reduced the defendant's
5 culpability;

6 (B) the nature and circumstances of the qualifying
7 predicate offense;

8 (C) the time elapsed since the qualifying
9 predicate offense;

10 (D) the nature and circumstances of the current
11 offense;

12 (E) the defendant's prior criminal history;

13 (F) whether the defendant committed the qualifying
14 predicate or current offense under specific and
15 credible duress, coercion, threat, or compulsion;

16 (G) whether the defendant aided in the
17 apprehension of another felon or testified truthfully
18 on behalf of another prosecution of a felony; and

19 (H) whether departure is in the interest of the
20 person's rehabilitation, including employment or
21 educational or vocational training, after taking into
22 account any past rehabilitation efforts or
23 dispositions of probation or supervision, and the
24 defendant's cooperation or response to rehabilitation.

25 (3) When departing from the sentencing guidelines
26 under this Section, the court shall specify on the record,

1 the particular evidence, information, factor or factors,
2 or other reasons which led to the departure from the
3 sentencing guidelines. When departing from the sentencing
4 range in accordance with this subsection (d), the court
5 shall indicate on the sentencing order which departure
6 factor or factors outlined in paragraph (2) of this
7 subsection (d) led to the sentence imposed. The sentencing
8 order shall be filed with the clerk of the court and shall
9 be a public record.

10 (730 ILCS 5/5-8-8)

11 Sec. 5-8-8. Illinois Sentencing Policy Advisory Council.

12 (a) Creation. There is created under the jurisdiction of
13 the Governor the Illinois Sentencing Policy Advisory Council,
14 hereinafter referred to as the Council.

15 (b) Purposes and goals. The purpose of the Council is to
16 review sentencing policies and practices and examine how these
17 policies and practices impact the criminal justice system as a
18 whole in the State of Illinois. In carrying out its duties, the
19 Council shall be mindful of and aim to achieve the purposes of
20 sentencing in Illinois, which are set out in Section 1-1-2 of
21 this Code:

22 (1) prescribe sanctions proportionate to the
23 seriousness of the offenses and permit the recognition of
24 differences in rehabilitation possibilities among
25 individual offenders;

- 1 (2) forbid and prevent the commission of offenses;
- 2 (3) prevent arbitrary or oppressive treatment of
- 3 persons adjudicated offenders or delinquents; and
- 4 (4) restore offenders to useful citizenship.

5 (c) Council composition.

6 (1) The Council shall consist of the following

7 members:

8 (A) the President of the Senate, or his or her

9 designee;

10 (B) the Minority Leader of the Senate, or his or

11 her designee;

12 (C) the Speaker of the House, or his or her

13 designee;

14 (D) the Minority Leader of the House, or his or her

15 designee;

16 (E) the Governor, or his or her designee;

17 (F) the Attorney General, or his or her designee;

18 (G) two retired judges, who may have been circuit,

19 appellate, or supreme court judges; retired judges

20 shall be selected by the members of the Council

21 designated in clauses (c) (1) (A) through (L);

22 (G-5) (blank);

23 (H) the Cook County State's Attorney, or his or

24 her designee;

25 (I) the Cook County Public Defender, or his or her

26 designee;

1 (J) a State's Attorney not from Cook County,
2 appointed by the State's Attorney's Appellate
3 Prosecutor;

4 (K) the State Appellate Defender, or his or her
5 designee;

6 (L) the Director of the Administrative Office of
7 the Illinois Courts, or his or her designee;

8 (M) a victim of a violent felony or a
9 representative of a crime victims' organization,
10 selected by the members of the Council designated in
11 clauses (c) (1) (A) through (L);

12 (N) a representative of a community-based
13 organization, selected by the members of the Council
14 designated in clauses (c) (1) (A) through (L);

15 (O) a criminal justice academic researcher, to be
16 selected by the members of the Council designated in
17 clauses (c) (1) (A) through (L);

18 (P) a representative of law enforcement from a
19 unit of local government to be selected by the members
20 of the Council designated in clauses (c) (1) (A) through
21 (L);

22 (Q) a sheriff outside of Cook County selected by
23 the members of the Council designated in clauses
24 (c) (1) (A) through (L); and

25 (R) ex-officio members shall include:

26 (i) the Director of Corrections, or his or her

1 designee;

2 (ii) the Chair of the Prisoner Review Board,
3 or his or her designee;

4 (iii) the Director of the Illinois State
5 Police, or his or her designee;

6 (iv) the Director of the Illinois Criminal
7 Justice Information Authority, or his or her
8 designee; and

9 (v) the Cook County Sheriff, or his or her
10 designee.

11 (1.5) The Chair and Vice Chair shall be elected from
12 among its members by a majority of the members of the
13 Council.

14 (2) Members of the Council who serve because of their
15 public office or position, or those who are designated as
16 members by such officials, shall serve only as long as
17 they hold such office or position.

18 (3) Council members shall serve without compensation
19 but shall be reimbursed for travel and per diem expenses
20 incurred in their work for the Council.

21 (4) The Council may exercise any power, perform any
22 function, take any action, or do anything in furtherance
23 of its purposes and goals upon the appointment of a quorum
24 of its members. The term of office of each member of the
25 Council ends on the date of repeal of this amendatory Act
26 of the 96th General Assembly.

1 (5) The Council shall determine the qualifications for
2 and hire the Executive Director.

3 (d) Duties. The Council shall perform, as resources
4 permit, duties including:

5 (1) Collect and analyze information including
6 sentencing data, crime trends, and existing correctional
7 resources to support legislative and executive action
8 affecting the use of correctional resources on the State
9 and local levels.

10 (2) Prepare criminal justice population projections
11 annually, including correctional and community-based
12 supervision populations.

13 (3) Analyze data relevant to proposed sentencing
14 legislation and its effect on current policies or
15 practices, and provide information to support
16 evidence-based sentencing.

17 (4) Ensure that adequate resources and facilities are
18 available for carrying out sentences imposed on offenders
19 and that rational priorities are established for the use
20 of those resources. To do so, the Council shall prepare
21 criminal justice resource statements, identifying the
22 fiscal and practical effects of proposed criminal
23 sentencing legislation, including, but not limited to, the
24 correctional population, court processes, and county or
25 local government resources.

26 (4.5) Study and conduct a thorough analysis of

1 sentencing under Section 5-4.5-110.1 ~~5-4.5-110~~ of this
2 Code. The Sentencing Policy Advisory Council shall provide
3 annual reports to the Governor and General Assembly,
4 including the total number of persons sentenced under
5 Section 5-4.5-110.1 ~~5-4.5-110~~ of this Code, the total
6 number of departures from sentences under Section
7 5-4.5-110.1 ~~5-4.5-110~~ of this Code, and an analysis of
8 trends in sentencing and departures. ~~On or before December~~
9 ~~31, 2022, the Sentencing Policy Advisory Council shall~~
10 ~~provide a report to the Governor and General Assembly on~~
11 ~~the effectiveness of sentencing under Section 5-4.5-110 of~~
12 ~~this Code, including recommendations on whether sentencing~~
13 ~~under Section 5-4.5-110 of this Code should be adjusted or~~
14 ~~continued.~~

15 (5) Perform such other studies or tasks pertaining to
16 sentencing policies as may be requested by the Governor or
17 the Illinois General Assembly.

18 (6) Perform such other functions as may be required by
19 law or as are necessary to carry out the purposes and goals
20 of the Council prescribed in subsection (b).

21 (7) Publish a report on the trends in sentencing for
22 offenders described in subsection (b-1) of Section 5-4-1
23 of this Code, the impact of the trends on the prison and
24 probation populations, and any changes in the racial
25 composition of the prison and probation populations that
26 can be attributed to the changes made by adding subsection

1 (b-1) of Section 5-4-1 to this Code by Public Act 99-861.

2 (e) Authority.

3 (1) The Council shall have the power to perform the
4 functions necessary to carry out its duties, purposes and
5 goals under this Act. In so doing, the Council shall
6 utilize information and analysis developed by the Illinois
7 Criminal Justice Information Authority, the Administrative
8 Office of the Illinois Courts, and the Illinois Department
9 of Corrections.

10 (2) Upon request from the Council, each executive
11 agency and department of State and local government shall
12 provide information and records to the Council in the
13 execution of its duties.

14 (f) Report. The Council shall report in writing annually
15 to the General Assembly, the Illinois Supreme Court, and the
16 Governor.

17 (g) (Blank).

18 (Source: P.A. 100-3, eff. 1-1-18; 100-201, eff. 8-18-17;
19 101-279, eff. 8-9-19.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.