

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Unified Code of Corrections is amended by  
5 changing Section 5-5-3 as follows:

6 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)  
7 Sec. 5-5-3. Disposition.

8 (a) Every person convicted of an offense shall be  
9 sentenced as provided in this Section.

10 (b) The following options shall be appropriate  
11 dispositions, alone or in combination, for all felonies and  
12 misdemeanors other than those identified in subsection (c) of  
13 this Section:

14 (1) A period of probation.

15 (2) A term of periodic imprisonment.

16 (3) A term of conditional discharge.

17 (4) A term of imprisonment.

18 (5) An order directing the offender to clean up and  
19 repair the damage, if the offender was convicted under  
20 paragraph (h) of Section 21-1 of the Criminal Code of  
21 1961.

22 (6) A fine.

23 (7) An order directing the offender to make  
24 restitution to the victim under Section 5-5-6 of this  
25 Code.

26 (8) A sentence of participation in a county impact  
27 incarceration program under Section 5-8-1.2 of this Code.

28 Whenever an individual is sentenced for an offense based  
29 upon an arrest for a violation of Section 11-501 of the  
30 Illinois Vehicle Code, or a similar provision of a local  
31 ordinance, and the professional evaluation recommends

1 remedial or rehabilitative treatment or education, neither  
2 the treatment nor the education shall be the sole disposition  
3 and either or both may be imposed only in conjunction with  
4 another disposition. The court shall monitor compliance with  
5 any remedial education or treatment recommendations contained  
6 in the professional evaluation. Programs conducting alcohol  
7 or other drug evaluation or remedial education must be  
8 licensed by the Department of Human Services. However, if  
9 the individual is not a resident of Illinois, the court may  
10 accept an alcohol or other drug evaluation or remedial  
11 education program in the state of such individual's  
12 residence. Programs providing treatment must be licensed  
13 under existing applicable alcoholism and drug treatment  
14 licensure standards.

15 In addition to any other fine or penalty required by law,  
16 any individual convicted of a violation of Section 11-501 of  
17 the Illinois Vehicle Code or a similar provision of local  
18 ordinance, whose operation of a motor vehicle while in  
19 violation of Section 11-501 or such ordinance proximately  
20 caused an incident resulting in an appropriate emergency  
21 response, shall be required to make restitution to a public  
22 agency for the costs of that emergency response. Such  
23 restitution shall not exceed \$500 per public agency for each  
24 such emergency response. For the purpose of this paragraph,  
25 emergency response shall mean any incident requiring a  
26 response by: a police officer as defined under Section 1-162  
27 of the Illinois Vehicle Code; a fireman carried on the rolls  
28 of a regularly constituted fire department; and an ambulance  
29 as defined under Section 4.05 of the Emergency Medical  
30 Services (EMS) Systems Act.

31 Neither a fine nor restitution shall be the sole  
32 disposition for a felony and either or both may be imposed  
33 only in conjunction with another disposition.

34 (c) (1) When a defendant is found guilty of first degree

1 murder the State may either seek a sentence of  
2 imprisonment under Section 5-8-1 of this Code, or where  
3 appropriate seek a sentence of death under Section 9-1 of  
4 the Criminal Code of 1961.

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

12 (A) First degree murder where the death  
13 penalty is not imposed.

14 (B) Attempted first degree murder.

15 (C) A Class X felony.

16 (D) A violation of Section 401.1 or 407 of the  
17 Illinois Controlled Substances Act, or a violation  
18 of subdivision (c)(1) or (c)(2) of Section 401 of  
19 that Act which relates to more than 5 grams of a  
20 substance containing heroin or cocaine or an analog  
21 thereof.

22 (E) A violation of Section 5.1 or 9 of the  
23 Cannabis Control Act.

24 (F) A Class 2 or greater felony if the  
25 offender had been convicted of a Class 2 or greater  
26 felony within 10 years of the date on which the  
27 offender committed the offense for which he or she  
28 is being sentenced, except as otherwise provided in  
29 Section 40-10 of the Alcoholism and Other Drug Abuse  
30 and Dependency Act.

31 (G) Residential burglary, except as otherwise  
32 provided in Section 40-10 of the Alcoholism and  
33 Other Drug Abuse and Dependency Act.

34 (H) Criminal sexual assault, except as

1 otherwise provided in subsection (e) of this  
2 Section.

3 (I) Aggravated battery of a senior citizen.

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

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

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

16 (K) Vehicular hijacking.

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

21 (M) A second or subsequent conviction for the  
22 offense of institutional vandalism if the damage to  
23 the property exceeds \$300.

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

27 (O) A violation of Section 12-6.1 of the  
28 Criminal Code of 1961.

29 (P) A violation of paragraph (1), (2), (3),  
30 (4), (5), or (7) of subsection (a) of Section  
31 11-20.1 of the Criminal Code of 1961.

32 (Q) A violation of Section 20-1.2 of the  
33 Criminal Code of 1961.

34 (R) A violation of Section 24-3A of the

1 Criminal Code of 1961.

2 (S) A violation of Section 11-501(c-1)(3) of  
3 the Illinois Vehicle Code.

4 (T) A violation of Section 401 or Section 402  
5 of the Illinois Controlled Substances Act if the  
6 violation involves the possession with intent to  
7 manufacture or the possession or transportation of  
8 any amount of an immediate precursor of  
9 methamphetamine.

10 (3) A minimum term of imprisonment of not less than  
11 5 days or 30 days of community service as may be  
12 determined by the court shall be imposed for a second  
13 violation committed within 5 years of a previous  
14 violation of Section 11-501 of the Illinois Vehicle Code  
15 or a similar provision of a local ordinance. In the case  
16 of a third or subsequent violation committed within 5  
17 years of a previous violation of Section 11-501 of the  
18 Illinois Vehicle Code or a similar provision of a local  
19 ordinance, a minimum term of either 10 days of  
20 imprisonment or 60 days of community service shall be  
21 imposed.

22 (4) A minimum term of imprisonment of not less than  
23 10 consecutive days or 30 days of community service shall  
24 be imposed for a violation of paragraph (c) of Section  
25 6-303 of the Illinois Vehicle Code.

26 (4.1) A minimum term of 30 consecutive days of  
27 imprisonment, 40 days of 24 hour periodic imprisonment or  
28 720 hours of community service, as may be determined by  
29 the court, shall be imposed for a violation of Section  
30 11-501 of the Illinois Vehicle Code during a period in  
31 which the defendant's driving privileges are revoked or  
32 suspended, where the revocation or suspension was for a  
33 violation of Section 11-501 or Section 11-501.1 of that  
34 Code.

1           (4.2) Except as provided in paragraph (4.3) of this  
2 subsection (c), a minimum of 100 hours of community  
3 service shall be imposed for a second violation of  
4 Section 6-303 of the Illinois Vehicle Code.

5           (4.3) A minimum term of imprisonment of 30 days or  
6 300 hours of community service, as determined by the  
7 court, shall be imposed for a second violation of  
8 subsection (c) of Section 6-303 of the Illinois Vehicle  
9 Code.

10          (4.4) Except as provided in paragraph (4.5) and  
11 paragraph (4.6) of this subsection (c), a minimum term of  
12 imprisonment of 30 days or 300 hours of community  
13 service, as determined by the court, shall be imposed for  
14 a third or subsequent violation of Section 6-303 of the  
15 Illinois Vehicle Code.

16          (4.5) A minimum term of imprisonment of 30 days  
17 shall be imposed for a third violation of subsection (c)  
18 of Section 6-303 of the Illinois Vehicle Code.

19          (4.6) A minimum term of imprisonment of 180 days  
20 shall be imposed for a fourth or subsequent violation of  
21 subsection (c) of Section 6-303 of the Illinois Vehicle  
22 Code.

23          (5) The court may sentence an offender convicted of  
24 a business offense or a petty offense or a corporation or  
25 unincorporated association convicted of any offense to:

- 26           (A) a period of conditional discharge;
- 27           (B) a fine;
- 28           (C) make restitution to the victim under  
29 Section 5-5-6 of this Code.

30          (5.1) In addition to any penalties imposed under  
31 paragraph (5) of this subsection (c), and except as  
32 provided in paragraph (5.2) or (5.3), a person convicted  
33 of violating subsection (c) of Section 11-907 of the  
34 Illinois Vehicle Code shall have his or her driver's

1 license, permit, or privileges suspended for at least 90  
2 days but not more than one year, if the violation  
3 resulted in damage to the property of another person.

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

12 (5.3) In addition to any penalties imposed under  
13 paragraph (5) of this subsection (c), a person convicted  
14 of violating subsection (c) of Section 11-907 of the  
15 Illinois Vehicle Code shall have his or her driver's  
16 license, permit, or privileges suspended for 2 years, if  
17 the violation resulted in the death of another person.

18 (6) In no case shall an offender be eligible for a  
19 disposition of probation or conditional discharge for a  
20 Class 1 felony committed while he was serving a term of  
21 probation or conditional discharge for a felony.

22 (7) When a defendant is adjudged a habitual  
23 criminal under Article 33B of the Criminal Code of 1961,  
24 the court shall sentence the defendant to a term of  
25 natural life imprisonment.

26 (8) When a defendant, over the age of 21 years, is  
27 convicted of a Class 1 or Class 2 felony, after having  
28 twice been convicted in any state or federal court of an  
29 offense that contains the same elements as an offense now  
30 classified in Illinois as a Class 2 or greater Class  
31 felony and such charges are separately brought and tried  
32 and arise out of different series of acts, such defendant  
33 shall be sentenced as a Class X offender. This paragraph  
34 shall not apply unless (1) the first felony was committed

1 after the effective date of this amendatory Act of 1977;  
2 and (2) the second felony was committed after conviction  
3 on the first; and (3) the third felony was committed  
4 after conviction on the second. A person sentenced as a  
5 Class X offender under this paragraph is not eligible to  
6 apply for treatment as a condition of probation as  
7 provided by Section 40-10 of the Alcoholism and Other  
8 Drug Abuse and Dependency Act.

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

12 (10) When a person is convicted of violating  
13 Section 11-501 of the Illinois Vehicle Code or a similar  
14 provision of a local ordinance, the following penalties  
15 apply when his or her blood, breath, or urine was .16 or  
16 more based on the definition of blood, breath, or urine  
17 units in Section 11-501.2 or that person is convicted of  
18 violating Section 11-501 of the Illinois Vehicle Code  
19 while transporting a child under the age of 16:

20 (A) For a first violation of subsection (a) of  
21 Section 11-501, in addition to any other penalty  
22 that may be imposed under subsection (c) of Section  
23 11-501: a mandatory minimum of 100 hours of  
24 community service and a minimum fine of \$500.

25 (B) For a second violation of subsection (a)  
26 of Section 11-501, in addition to any other penalty  
27 that may be imposed under subsection (c) of Section  
28 11-501 within 10 years: a mandatory minimum of 2  
29 days of imprisonment and a minimum fine of \$1,250.

30 (C) For a third violation of subsection (a) of  
31 Section 11-501, in addition to any other penalty  
32 that may be imposed under subsection (c) of Section  
33 11-501 within 20 years: a mandatory minimum of 90  
34 days of imprisonment and a minimum fine of \$2,500.



1           (D) For a fourth or subsequent violation of  
2           subsection (a) of Section 11-501: ineligibility for  
3           a sentence of probation or conditional discharge and  
4           a minimum fine of \$2,500.

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

24          (e) In cases where prosecution for criminal sexual  
25          assault or aggravated criminal sexual abuse under Section  
26          12-13 or 12-16 of the Criminal Code of 1961 results in  
27          conviction of a defendant who was a family member of the  
28          victim at the time of the commission of the offense, the  
29          court shall consider the safety and welfare of the victim and  
30          may impose a sentence of probation only where:

31                  (1) the court finds (A) or (B) or both are  
32                  appropriate:

33                          (A) the defendant is willing to undergo a  
34                          court approved counseling program for a minimum

1 duration of 2 years; or

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

5 (i) removal from the household;

6 (ii) restricted contact with the victim;

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

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

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

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

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

27 For the purposes of this Section, "family member" and  
28 "victim" shall have the meanings ascribed to them in Section  
29 12-12 of the Criminal Code of 1961.

30 (f) This Article shall not deprive a court in other  
31 proceedings to order a forfeiture of property, to suspend or  
32 cancel a license, to remove a person from office, or to  
33 impose any other civil penalty.

34 (g) Whenever a defendant is convicted of an offense

1 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,  
2 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,  
3 12-15 or 12-16 of the Criminal Code of 1961, the defendant  
4 shall undergo medical testing to determine whether the  
5 defendant has any sexually transmissible disease, including a  
6 test for infection with human immunodeficiency virus (HIV) or  
7 any other identified causative agent of acquired  
8 immunodeficiency syndrome (AIDS). Any such medical test  
9 shall be performed only by appropriately licensed medical  
10 practitioners and may include an analysis of any bodily  
11 fluids as well as an examination of the defendant's person.  
12 Except as otherwise provided by law, the results of such test  
13 shall be kept strictly confidential by all medical personnel  
14 involved in the testing and must be personally delivered in a  
15 sealed envelope to the judge of the court in which the  
16 conviction was entered for the judge's inspection in camera.  
17 Acting in accordance with the best interests of the victim  
18 and the public, the judge shall have the discretion to  
19 determine to whom, if anyone, the results of the testing may  
20 be revealed. The court shall notify the defendant of the test  
21 results. The court shall also notify the victim if requested  
22 by the victim, and if the victim is under the age of 15 and  
23 if requested by the victim's parents or legal guardian, the  
24 court shall notify the victim's parents or legal guardian of  
25 the test results. The court shall provide information on the  
26 availability of HIV testing and counseling at Department of  
27 Public Health facilities to all parties to whom the results  
28 of the testing are revealed and shall direct the State's  
29 Attorney to provide the information to the victim when  
30 possible. A State's Attorney may petition the court to obtain  
31 the results of any HIV test administered under this Section,  
32 and the court shall grant the disclosure if the State's  
33 Attorney shows it is relevant in order to prosecute a charge  
34 of criminal transmission of HIV under Section 12-16.2 of the

1 Criminal Code of 1961 against the defendant. The court shall  
2 order that the cost of any such test shall be paid by the  
3 county and may be taxed as costs against the convicted  
4 defendant.

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

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

1 are revealed and shall direct the State's Attorney to provide  
2 the information to the victim when possible. A State's  
3 Attorney may petition the court to obtain the results of any  
4 HIV test administered under this Section, and the court  
5 shall grant the disclosure if the State's Attorney shows it  
6 is relevant in order to prosecute a charge of criminal  
7 transmission of HIV under Section 12-16.2 of the Criminal  
8 Code of 1961 against the defendant. The court shall order  
9 that the cost of any such test shall be paid by the county  
10 and may be taxed as costs against the convicted defendant.

11 (i) All fines and penalties imposed under this Section  
12 for any violation of Chapters 3, 4, 6, and 11 of the Illinois  
13 Vehicle Code, or a similar provision of a local ordinance,  
14 and any violation of the Child Passenger Protection Act, or a  
15 similar provision of a local ordinance, shall be collected  
16 and disbursed by the circuit clerk as provided under Section  
17 27.5 of the Clerks of Courts Act.

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

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

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

1 3-3-9. This subsection (j-5) does not apply to a defendant  
2 who has a high school diploma or has successfully passed the  
3 GED test. This subsection (j-5) does not apply to a defendant  
4 who is determined by the court to be developmentally disabled  
5 or otherwise mentally incapable of completing the educational  
6 or vocational program.

7 (k) A court may not impose a sentence or disposition for  
8 a felony or misdemeanor that requires the defendant to be  
9 implanted or injected with or to use any form of birth  
10 control.

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

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

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

27 Otherwise, the defendant shall be sentenced as  
28 provided in this Chapter V.

29 (B) If the defendant has already been sentenced for  
30 a felony or misdemeanor offense, or has been placed on  
31 probation under Section 10 of the Cannabis Control Act or  
32 Section 410 of the Illinois Controlled Substances Act,  
33 the court may, upon motion of the State's Attorney to  
34 suspend the sentence imposed, commit the defendant to the

1 custody of the Attorney General of the United States or  
2 his or her designated agent when:

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

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

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

13 (D) Upon motion of the State's Attorney, if a  
14 defendant sentenced under this Section returns to the  
15 jurisdiction of the United States, the defendant shall be  
16 recommitted to the custody of the county from which he or  
17 she was sentenced. Thereafter, the defendant shall be  
18 brought before the sentencing court, which may impose any  
19 sentence that was available under Section 5-5-3 at the  
20 time of initial sentencing. In addition, the defendant  
21 shall not be eligible for additional good conduct credit  
22 for meritorious service as provided under Section 3-6-6.

23 (m) A person convicted of criminal defacement of  
24 property under Section 21-1.3 of the Criminal Code of 1961,  
25 in which the property damage exceeds \$300 and the property  
26 damaged is a school building, shall be ordered to perform  
27 community service that may include cleanup, removal, or  
28 painting over the defacement.

29 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;  
30 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.  
31 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,  
32 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;  
33 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff.  
34 7-19-02.)