

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 Criminal Code of 1961 is amended by
5 changing Sections 12-12, 12-13, and 12-16 as follows:

6 (720 ILCS 5/12-12) (from Ch. 38, par. 12-12)

7 Sec. 12-12. Definitions. For the purposes of Sections
8 12-13 through 12-18 of this Code, the terms used in these
9 Sections shall have the following meanings ascribed to them:

10 (a) "Accused" means a person accused of an offense
11 prohibited by Sections 12-13, 12-14, 12-15 or 12-16 of this
12 Code or a person for whose conduct the accused is legally
13 responsible under Article 5 of this Code.

14 (b) "Bodily harm" means physical harm, and includes, but
15 is not limited to, sexually transmitted disease, pregnancy
16 and impotence.

17 (c) ~~(Blank) "Family-member"-means-a-parent,-grandparent,-~~
18 ~~or--child,-whether-by-whole-blood,-half-blood-or-adoption-and~~
19 ~~includes--a--step-grandparent,-step-parent--or---step-child.~~
20 ~~"Family-member"-also-means,-where-the-victim-is-a-child-under~~
21 ~~18--years-of-age,-an-accused-who-has-resided-in-the-household~~
22 ~~with-such-child-continuously-for-at-least-one-year.~~

23 (d) "Force or threat of force" means the use of force or
24 violence, or the threat of force or violence, including but
25 not limited to the following situations:

26 (1) when the accused threatens to use force or
27 violence on the victim or on any other person, and the
28 victim under the circumstances reasonably believed that
29 the accused had the ability to execute that threat; or

30 (2) when the accused has overcome the victim by use
31 of superior strength or size, physical restraint or

1 physical confinement.

2 (e) "Sexual conduct" means any intentional or knowing
3 touching or fondling by the victim or the accused, either
4 directly or through clothing, of the sex organs, anus or
5 breast of the victim or the accused, or any part of the body
6 of a child under 13 years of age, or any transfer or
7 transmission of semen by the accused upon any part of the
8 clothed or unclothed body of the victim, for the purpose of
9 sexual gratification or arousal of the victim or the accused.

10 (f) "Sexual penetration" means any contact, however
11 slight, between the sex organ or anus of one person by an
12 object, the sex organ, mouth or anus of another person, or
13 any intrusion, however slight, of any part of the body of one
14 person or of any animal or object into the sex organ or anus
15 of another person, including but not limited to cunnilingus,
16 fellatio or anal penetration. Evidence of emission of semen
17 is not required to prove sexual penetration.

18 (g) "Victim" means a person alleging to have been
19 subjected to an offense prohibited by Sections 12-13, 12-14,
20 12-15 or 12-16 of this Code.

21 (Source: P.A. 91-116, eff. 1-1-00.)

22 (720 ILCS 5/12-13) (from Ch. 38, par. 12-13)
23 Sec. 12-13. Criminal Sexual Assault.

24 (a) The accused commits criminal sexual assault if he or
25 she:

26 (1) commits an act of sexual penetration by the use
27 of force or threat of force; or

28 (2) commits an act of sexual penetration and the
29 accused knew that the victim was unable to understand the
30 nature of the act or was unable to give knowing consent;
31 or

32 (3) (blank) commits-an-act--of--sexual--penetration
33 with--a-victim-who-was-under-18-years-of-age-when-the-act

1 ~~was committed and the accused was a family member;~~ or

2 (4) commits an act of sexual penetration with a
3 victim who was ~~at least 13 years of age but~~ under 18
4 years of age when the act was committed and the accused
5 was 17 years of age or over and held a position of trust,
6 authority or supervision in relation to the victim.

7 (b) Sentence.

8 (1) Criminal sexual assault is a Class 1 felony.

9 (2) A person who is convicted of the offense of
10 criminal sexual assault as defined in paragraph (a)(1) or
11 (a)(2) after having previously been convicted of the
12 offense of criminal sexual assault, or who is convicted
13 of the offense of criminal sexual assault as defined in
14 paragraph (a)(1) or (a)(2) after having previously been
15 convicted under the laws of this State or any other state
16 of an offense that is substantially equivalent to the
17 offense of criminal sexual assault, commits a Class X
18 felony for which the person shall be sentenced to a term
19 of imprisonment of not less than 30 years and not more
20 than 60 years. The commission of the second or
21 subsequent offense is required to have been after the
22 initial conviction for this paragraph (2) to apply.

23 (3) A person who is convicted of the offense of
24 criminal sexual assault as defined in paragraph (a)(1) or
25 (a)(2) after having previously been convicted of the
26 offense of aggravated criminal sexual assault or the
27 offense of predatory criminal sexual assault of a child,
28 or who is convicted of the offense of criminal sexual
29 assault as defined in paragraph (a)(1) or (a)(2) after
30 having previously been convicted under the laws of this
31 State or any other state of an offense that is
32 substantially equivalent to the offense of aggravated
33 criminal sexual assault or the offense of criminal
34 predatory sexual assault shall be sentenced to a term of

1 natural life imprisonment. The commission of the second
2 or subsequent offense is required to have been after the
3 initial conviction for this paragraph (3) to apply.

4 (4) A second or subsequent conviction for a
5 violation of paragraph ~~(a)(3)~~ (a)(4) or under any
6 similar statute of this State or any other state for any
7 offense involving criminal sexual assault that is
8 substantially equivalent to or more serious than the
9 sexual assault prohibited under paragraph ~~(a)(3)~~
10 (a)(4) is a Class X felony.

11 (5) When a person has any such prior conviction,
12 the information or indictment charging that person shall
13 state such prior conviction so as to give notice of the
14 State's intention to treat the charge as a Class X
15 felony. The fact of such prior conviction is not an
16 element of the offense and may not be disclosed to the
17 jury during trial unless otherwise permitted by issues
18 properly raised during such trial.

19 (Source: P.A. 90-396, eff. 1-1-98.)

20 (720 ILCS 5/12-16) (from Ch. 38, par. 12-16)

21 Sec. 12-16. Aggravated Criminal Sexual Abuse.

22 (a) The accused commits aggravated criminal sexual abuse
23 if he or she commits criminal sexual abuse as defined in
24 subsection (a) of Section 12-15 of this Code and any of the
25 following aggravating circumstances existed during, or for
26 the purposes of paragraph (7) of this subsection (a) as part
27 of the same course of conduct as, the commission of the
28 offense:

29 (1) the accused displayed, threatened to use or
30 used a dangerous weapon or any object fashioned or
31 utilized in such a manner as to lead the victim under the
32 circumstances reasonably to believe it to be a dangerous
33 weapon; or

1 (2) the accused caused bodily harm to the victim;
2 or

3 (3) the victim was 60 years of age or over when the
4 offense was committed; or

5 (4) the victim was a physically handicapped person;
6 or

7 (5) the accused acted in such a manner as to
8 threaten or endanger the life of the victim or any other
9 person; or

10 (6) the criminal sexual abuse was perpetrated
11 during the course of the commission or attempted
12 commission of any other felony by the accused; or

13 (7) the accused delivered (by injection,
14 inhalation, ingestion, transfer of possession, or any
15 other means) to the victim without his or her consent, or
16 by threat or deception, and for other than medical
17 purposes, any controlled substance.

18 (b) (Blank) ~~The--accused--commits--aggravated--criminal~~
19 ~~sexual--abuse--if--he--or--she--commits--an--act--of--sexual~~
20 ~~conduct--with-a-victim-who-was-under-18-years-of-age-when-the~~
21 ~~act-was-committed-and-the-accused-was-a-family-member.~~

22 (c) The accused commits aggravated criminal sexual abuse
23 if:

24 (1) the accused was 17 years of age or over and (i)
25 commits an act of sexual conduct with a victim who was
26 under 13 years of age when the act was committed; or (ii)
27 commits an act of sexual conduct with a victim who was at
28 least 13 years of age but under 17 years of age when the
29 act was committed and the accused used force or threat of
30 force to commit the act; or

31 (2) the accused was under 17 years of age and (i)
32 commits an act of sexual conduct with a victim who was
33 under 9 years of age when the act was committed; or (ii)
34 commits an act of sexual conduct with a victim who was at

1 least 9 years of age but under 17 years of age when the
2 act was committed and the accused used force or threat of
3 force to commit the act.

4 (d) The accused commits aggravated criminal sexual abuse
5 if he or she commits an act of sexual penetration or sexual
6 conduct with a victim who was at least 13 years of age but
7 under 17 years of age and the accused was at least 5 years
8 older than the victim.

9 (e) The accused commits aggravated criminal sexual abuse
10 if he or she commits an act of sexual conduct with a victim
11 who was a severely or profoundly mentally retarded person at
12 the time the act was committed.

13 (f) The accused commits aggravated criminal sexual abuse
14 if he or she commits an act of sexual conduct with a victim
15 who was ~~at--least-13-years-of-age-but~~ under 18 years of age
16 when the act was committed and the accused was 17 years of
17 age or over and held a position of trust, authority or
18 supervision in relation to the victim.

19 (g) Sentence. Aggravated criminal sexual abuse is a
20 Class 2 felony.

21 (Source: P.A. 92-434, eff. 1-1-02.)

22 Section 10. The Unified Code of Corrections is amended
23 by changing Sections 5-5-3 and 5-9-1.7 as follows:

24 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

25 Sec. 5-5-3. Disposition.

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

28 (b) The following options shall be appropriate
29 dispositions, alone or in combination, for all felonies and
30 misdemeanors other than those identified in subsection (c) of
31 this Section:

32 (1) A period of probation.

1 (2) A term of periodic imprisonment.

2 (3) A term of conditional discharge.

3 (4) A term of imprisonment.

4 (5) An order directing the offender to clean up and
5 repair the damage, if the offender was convicted under
6 paragraph (h) of Section 21-1 of the Criminal Code of
7 1961.

8 (6) A fine.

9 (7) An order directing the offender to make
10 restitution to the victim under Section 5-5-6 of this
11 Code.

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

14 Whenever an individual is sentenced for an offense based
15 upon an arrest for a violation of Section 11-501 of the
16 Illinois Vehicle Code, or a similar provision of a local
17 ordinance, and the professional evaluation recommends
18 remedial or rehabilitative treatment or education, neither
19 the treatment nor the education shall be the sole disposition
20 and either or both may be imposed only in conjunction with
21 another disposition. The court shall monitor compliance with
22 any remedial education or treatment recommendations contained
23 in the professional evaluation. Programs conducting alcohol
24 or other drug evaluation or remedial education must be
25 licensed by the Department of Human Services. However, if
26 the individual is not a resident of Illinois, the court may
27 accept an alcohol or other drug evaluation or remedial
28 education program in the state of such individual's
29 residence. Programs providing treatment must be licensed
30 under existing applicable alcoholism and drug treatment
31 licensure standards.

32 In addition to any other fine or penalty required by law,
33 any individual convicted of a violation of Section 11-501 of
34 the Illinois Vehicle Code or a similar provision of local

1 ordinance, whose operation of a motor vehicle while in
2 violation of Section 11-501 or such ordinance proximately
3 caused an incident resulting in an appropriate emergency
4 response, shall be required to make restitution to a public
5 agency for the costs of that emergency response. Such
6 restitution shall not exceed \$500 per public agency for each
7 such emergency response. For the purpose of this paragraph,
8 emergency response shall mean any incident requiring a
9 response by: a police officer as defined under Section 1-162
10 of the Illinois Vehicle Code; a fireman carried on the rolls
11 of a regularly constituted fire department; and an ambulance
12 as defined under Section 3.85 4-05 of the Emergency Medical
13 Services (EMS) Systems Act.

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

17 (c) (1) When a defendant is found guilty of first degree
18 murder the State may either seek a sentence of
19 imprisonment under Section 5-8-1 of this Code, or where
20 appropriate seek a sentence of death under Section 9-1 of
21 the Criminal Code of 1961.

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

29 (A) First degree murder where the death
30 penalty is not imposed.

31 (B) Attempted first degree murder.

32 (C) A Class X felony.

33 (D) A violation of Section 401.1 or 407 of the
34 Illinois Controlled Substances Act, or a violation

1 of subdivision (c)(1) or (c)(2) of Section 401 of
2 that Act which relates to more than 5 grams of a
3 substance containing heroin or cocaine or an analog
4 thereof.

5 (E) A violation of Section 5.1 or 9 of the
6 Cannabis Control Act.

7 (F) A Class 2 or greater felony if the
8 offender had been convicted of a Class 2 or greater
9 felony within 10 years of the date on which the
10 offender committed the offense for which he or she
11 is being sentenced, except as otherwise provided in
12 Section 40-10 of the Alcoholism and Other Drug Abuse
13 and Dependency Act.

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

17 (H) Criminal sexual assault, except as
18 otherwise provided in subsection (e) of this
19 Section.

20 (I) Aggravated battery of a senior citizen.

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

23 Before July 1, 1994, for the purposes of this
24 paragraph, "organized gang" means an association of
25 5 or more persons, with an established hierarchy,
26 that encourages members of the association to
27 perpetrate crimes or provides support to the members
28 of the association who do commit crimes.

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

33 (K) Vehicular hijacking.

34 (L) A second or subsequent conviction for the

1 offense of hate crime when the underlying offense
2 upon which the hate crime is based is felony
3 aggravated assault or felony mob action.

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

7 (N) A Class 3 felony violation of paragraph
8 (1) of subsection (a) of Section 2 of the Firearm
9 Owners Identification Card Act.

10 (O) A violation of Section 12-6.1 of the
11 Criminal Code of 1961.

12 (P) A violation of paragraph (1), (2), (3),
13 (4), (5), or (7) of subsection (a) of Section
14 11-20.1 of the Criminal Code of 1961.

15 (Q) A violation of Section 20-1.2 of the
16 Criminal Code of 1961.

17 (R) A violation of Section 24-3A of the
18 Criminal Code of 1961.

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

21 (3) A minimum term of imprisonment of not less than
22 5 days or 30 days of community service as may be
23 determined by the court shall be imposed for a second
24 violation committed within 5 years of a previous
25 violation of Section 11-501 of the Illinois Vehicle Code
26 or a similar provision of a local ordinance. In the case
27 of a third or subsequent violation committed within 5
28 years of a previous violation of Section 11-501 of the
29 Illinois Vehicle Code or a similar provision of a local
30 ordinance, a minimum term of either 10 days of
31 imprisonment or 60 days of community service shall be
32 imposed.

33 (4) A minimum term of imprisonment of not less than
34 10 consecutive days or 30 days of community service shall

1 be imposed for a violation of paragraph (c) of Section
2 6-303 of the Illinois Vehicle Code.

3 (4.1) A minimum term of 30 consecutive days of
4 imprisonment, 40 days of 24 hour periodic imprisonment or
5 720 hours of community service, as may be determined by
6 the court, shall be imposed for a violation of Section
7 11-501 of the Illinois Vehicle Code during a period in
8 which the defendant's driving privileges are revoked or
9 suspended, where the revocation or suspension was for a
10 violation of Section 11-501 or Section 11-501.1 of that
11 Code.

12 (4.2) Except as provided in paragraph (4.3) of this
13 subsection (c), a minimum of 100 hours of community
14 service shall be imposed for a second violation of
15 Section 6-303 of the Illinois Vehicle Code.

16 (4.3) A minimum term of imprisonment of 30 days or
17 300 hours of community service, as determined by the
18 court, shall be imposed for a second violation of
19 subsection (c) of Section 6-303 of the Illinois Vehicle
20 Code.

21 (4.4) Except as provided in paragraph (4.5) and
22 paragraph (4.6) of this subsection (c), a minimum term of
23 imprisonment of 30 days or 300 hours of community
24 service, as determined by the court, shall be imposed for
25 a third or subsequent violation of Section 6-303 of the
26 Illinois Vehicle Code.

27 (4.5) A minimum term of imprisonment of 30 days
28 shall be imposed for a third violation of subsection (c)
29 of Section 6-303 of the Illinois Vehicle Code.

30 (4.6) A minimum term of imprisonment of 180 days
31 shall be imposed for a fourth or subsequent violation of
32 subsection (c) of Section 6-303 of the Illinois Vehicle
33 Code.

34 (5) The court may sentence an offender convicted of

1 a business offense or a petty offense or a corporation or
2 unincorporated association convicted of any offense to:

3 (A) a period of conditional discharge;

4 (B) a fine;

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

7 (5.1) In addition to any penalties imposed under
8 paragraph (5) of this subsection (c), and except as
9 provided in paragraph (5.2) or (5.3), a person convicted
10 of violating subsection (c) of Section 11-907 of the
11 Illinois Vehicle Code shall have his or her driver's
12 license, permit, or privileges suspended for at least 90
13 days but not more than one year, if the violation
14 resulted in damage to the property of another person.

15 (5.2) In addition to any penalties imposed under
16 paragraph (5) of this subsection (c), and except as
17 provided in paragraph (5.3), a person convicted of
18 violating subsection (c) of Section 11-907 of the
19 Illinois Vehicle Code shall have his or her driver's
20 license, permit, or privileges suspended for at least 180
21 days but not more than 2 years, if the violation resulted
22 in injury to another person.

23 (5.3) In addition to any penalties imposed under
24 paragraph (5) of this subsection (c), a person convicted
25 of violating subsection (c) of Section 11-907 of the
26 Illinois Vehicle Code shall have his or her driver's
27 license, permit, or privileges suspended for 2 years, if
28 the violation resulted in the death of another person.

29 (6) In no case shall an offender be eligible for a
30 disposition of probation or conditional discharge for a
31 Class 1 felony committed while he was serving a term of
32 probation or conditional discharge for a felony.

33 (7) When a defendant is adjudged a habitual
34 criminal under Article 33B of the Criminal Code of 1961,

1 the court shall sentence the defendant to a term of
2 natural life imprisonment.

3 (8) When a defendant, over the age of 21 years, is
4 convicted of a Class 1 or Class 2 felony, after having
5 twice been convicted in any state or federal court of an
6 offense that contains the same elements as an offense now
7 classified in Illinois as a Class 2 or greater Class
8 felony and such charges are separately brought and tried
9 and arise out of different series of acts, such defendant
10 shall be sentenced as a Class X offender. This paragraph
11 shall not apply unless (1) the first felony was committed
12 after the effective date of this amendatory Act of 1977;
13 and (2) the second felony was committed after conviction
14 on the first; and (3) the third felony was committed
15 after conviction on the second. A person sentenced as a
16 Class X offender under this paragraph is not eligible to
17 apply for treatment as a condition of probation as
18 provided by Section 40-10 of the Alcoholism and Other
19 Drug Abuse and Dependency Act.

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

23 (10) When a person is convicted of violating
24 Section 11-501 of the Illinois Vehicle Code or a similar
25 provision of a local ordinance, the following penalties
26 apply when his or her blood, breath, or urine was .16 or
27 more based on the definition of blood, breath, or urine
28 units in Section 11-501.2 or that person is convicted of
29 violating Section 11-501 of the Illinois Vehicle Code
30 while transporting a child under the age of 16:

31 (A) For a first violation of subsection (a) of
32 Section 11-501, in addition to any other penalty
33 that may be imposed under subsection (c) of Section
34 11-501: a mandatory minimum of 100 hours of

1 community service and a minimum fine of \$500.

2 (B) For a second violation of subsection (a)
3 of Section 11-501, in addition to any other penalty
4 that may be imposed under subsection (c) of Section
5 11-501 within 10 years: a mandatory minimum of 2
6 days of imprisonment and a minimum fine of \$1,250.

7 (C) For a third violation of subsection (a) of
8 Section 11-501, in addition to any other penalty
9 that may be imposed under subsection (c) of Section
10 11-501 within 20 years: a mandatory minimum of 90
11 days of imprisonment and a minimum fine of \$2,500.

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

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

1 (e) In cases where prosecution for criminal sexual
2 assault or aggravated criminal sexual abuse under Section
3 12-13 or 12-16 of the Criminal Code of 1961 results in
4 conviction of a defendant who held a position of trust,
5 authority, or supervision in relation to the was-a-family
6 member-of-the victim at the time of the commission of the
7 offense, the court shall consider the safety and welfare of
8 the victim and may impose a sentence of probation only where:

9 (1) the court finds (A) or (B) or both are
10 appropriate:

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

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

17 (i) removal from the household;

18 (ii) restricted contact with the victim;

19 (iii) continued financial support of the
20 family;

21 (iv) restitution for harm done to the
22 victim; and

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

25 (2) the court orders the defendant to pay for the
26 victim's counseling services, to the extent that the
27 court finds, after considering the defendant's income and
28 assets, that the defendant is financially capable of
29 paying for such services, if the victim was under 18
30 years of age at the time the offense was committed and
31 requires counseling as a result of the offense.

32 Probation may be revoked or modified pursuant to Section
33 5-6-4; except where the court determines at the hearing that
34 the defendant violated a condition of his or her probation

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

5 For the purposes of this Section, "family member" and
6 "victim" shall have the meanings ascribed to them in Section
7 12-12 of the Criminal Code of 1961.

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

12 (g) Whenever a defendant is convicted of an offense
13 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,
14 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,
15 12-15 or 12-16 of the Criminal Code of 1961, the defendant
16 shall undergo medical testing to determine whether the
17 defendant has any sexually transmissible disease, including a
18 test for infection with human immunodeficiency virus (HIV) or
19 any other identified causative agent of acquired
20 immunodeficiency syndrome (AIDS). Any such medical test
21 shall be performed only by appropriately licensed medical
22 practitioners and may include an analysis of any bodily
23 fluids as well as an examination of the defendant's person.
24 Except as otherwise provided by law, the results of such test
25 shall be kept strictly confidential by all medical personnel
26 involved in the testing and must be personally delivered in a
27 sealed envelope to the judge of the court in which the
28 conviction was entered for the judge's inspection in camera.
29 Acting in accordance with the best interests of the victim
30 and the public, the judge shall have the discretion to
31 determine to whom, if anyone, the results of the testing may
32 be revealed. The court shall notify the defendant of the test
33 results. The court shall also notify the victim if requested
34 by the victim, and if the victim is under the age of 15 and

1 if requested by the victim's parents or legal guardian, the
2 court shall notify the victim's parents or legal guardian of
3 the test results. The court shall provide information on the
4 availability of HIV testing and counseling at Department of
5 Public Health facilities to all parties to whom the results
6 of the testing are revealed and shall direct the State's
7 Attorney to provide the information to the victim when
8 possible. A State's Attorney may petition the court to obtain
9 the results of any HIV test administered under this Section,
10 and the court shall grant the disclosure if the State's
11 Attorney shows it is relevant in order to prosecute a charge
12 of criminal transmission of HIV under Section 12-16.2 of the
13 Criminal Code of 1961 against the defendant. The court shall
14 order that the cost of any such test shall be paid by the
15 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
19 Department of Public Health including but not limited to
20 tuberculosis, the results of the test shall be personally
21 delivered by the warden or his or her designee in a sealed
22 envelope to the judge of the court in which the inmate must
23 appear for the judge's inspection in camera if requested by
24 the judge. Acting in accordance with the best interests of
25 those in the courtroom, the judge shall have the discretion
26 to determine what if any precautions need to be taken to
27 prevent transmission of the disease in the courtroom.

28 (h) Whenever a defendant is convicted of an offense
29 under Section 1 or 2 of the Hypodermic Syringes and Needles
30 Act, the defendant shall undergo medical testing to determine
31 whether the defendant has been exposed to human
32 immunodeficiency virus (HIV) or any other identified
33 causative agent of acquired immunodeficiency syndrome (AIDS).
34 Except as otherwise provided by law, the results of such test

1 shall be kept strictly confidential by all medical personnel
2 involved in the testing and must be personally delivered in a
3 sealed envelope to the judge of the court in which the
4 conviction was entered for the judge's inspection in camera.
5 Acting in accordance with the best interests of the public,
6 the judge shall have the discretion to determine to whom, if
7 anyone, the results of the testing may be revealed. The court
8 shall notify the defendant of a positive test showing an
9 infection with the human immunodeficiency virus (HIV). The
10 court shall provide information on the availability of HIV
11 testing and counseling at Department of Public Health
12 facilities to all parties to whom the results of the testing
13 are revealed and shall direct the State's Attorney to provide
14 the information to the victim when possible. A State's
15 Attorney may petition the court to obtain the results of any
16 HIV test administered under this Section, and the court
17 shall grant the disclosure if the State's Attorney shows it
18 is relevant in order to prosecute a charge of criminal
19 transmission of HIV under Section 12-16.2 of the Criminal
20 Code of 1961 against the defendant. The court shall order
21 that the cost of any such test shall be paid by the county
22 and may be taxed as costs against the convicted defendant.

23 (i) All fines and penalties imposed under this Section
24 for any violation of Chapters 3, 4, 6, and 11 of the Illinois
25 Vehicle Code, or a similar provision of a local ordinance,
26 and any violation of the Child Passenger Protection Act, or a
27 similar provision of a local ordinance, shall be collected
28 and disbursed by the circuit clerk as provided under Section
29 27.5 of the Clerks of Courts Act.

30 (j) In cases when prosecution for any violation of
31 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,
32 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,
33 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or
34 12-16 of the Criminal Code of 1961, any violation of the

1 Illinois Controlled Substances Act, or any violation of the
2 Cannabis Control Act results in conviction, a disposition of
3 court supervision, or an order of probation granted under
4 Section 10 of the Cannabis Control Act or Section 410 of the
5 Illinois Controlled Substance Act of a defendant, the court
6 shall determine whether the defendant is employed by a
7 facility or center as defined under the Child Care Act of
8 1969, a public or private elementary or secondary school, or
9 otherwise works with children under 18 years of age on a
10 daily basis. When a defendant is so employed, the court
11 shall order the Clerk of the Court to send a copy of the
12 judgment of conviction or order of supervision or probation
13 to the defendant's employer by certified mail. If the
14 employer of the defendant is a school, the Clerk of the Court
15 shall direct the mailing of a copy of the judgment of
16 conviction or order of supervision or probation to the
17 appropriate regional superintendent of schools. The regional
18 superintendent of schools shall notify the State Board of
19 Education of any notification under this subsection.

20 (j-5) A defendant at least 17 years of age who is
21 convicted of a felony and who has not been previously
22 convicted of a misdemeanor or felony and who is sentenced to
23 a term of imprisonment in the Illinois Department of
24 Corrections shall as a condition of his or her sentence be
25 required by the court to attend educational courses designed
26 to prepare the defendant for a high school diploma and to
27 work toward a high school diploma or to work toward passing
28 the high school level Test of General Educational Development
29 (GED) or to work toward completing a vocational training
30 program offered by the Department of Corrections. If a
31 defendant fails to complete the educational training required
32 by his or her sentence during the term of incarceration, the
33 Prisoner Review Board shall, as a condition of mandatory
34 supervised release, require the defendant, at his or her own

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

19 (k) A court may not impose a sentence or disposition for
20 a felony or misdemeanor that requires the defendant to be
21 implanted or injected with or to use any form of birth
22 control.

23 (l) (A) Except as provided in paragraph (C) of
24 subsection (l), whenever a defendant, who is an alien as
25 defined by the Immigration and Nationality Act, is
26 convicted of any felony or misdemeanor offense, the court
27 after sentencing the defendant may, upon motion of the
28 State's Attorney, hold sentence in abeyance and remand
29 the defendant to the custody of the Attorney General of
30 the United States or his or her designated agent to be
31 deported when:

32 (1) a final order of deportation has been
33 issued against the defendant pursuant to proceedings
34 under the Immigration and Nationality Act, and

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

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

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

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

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

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

25 (D) Upon motion of the State's Attorney, if a
26 defendant sentenced under this Section returns to the
27 jurisdiction of the United States, the defendant shall be
28 recommitted to the custody of the county from which he or
29 she was sentenced. Thereafter, the defendant shall be
30 brought before the sentencing court, which may impose any
31 sentence that was available under Section 5-5-3 at the
32 time of initial sentencing. In addition, the defendant
33 shall not be eligible for additional good conduct credit
34 for meritorious service as provided under Section 3-6-6.

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

7 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;
8 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.
9 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,
10 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;
11 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff.
12 7-19-02; revised 2-17-03.)

13 (730 ILCS 5/5-9-1.7) (from Ch. 38, par. 1005-9-1.7)

14 Sec. 5-9-1.7. Sexual assault fines.

15 (a) Definitions. The terms used in this Section shall
16 have the following meanings ascribed to them:

17 (1) "Sexual assault" means the commission or
18 attempted commission of the following: criminal sexual
19 assault, predatory criminal sexual assault of a child,
20 aggravated criminal sexual assault, criminal sexual
21 abuse, aggravated criminal sexual abuse, indecent
22 solicitation of a child, public indecency, sexual
23 relations within families, soliciting for a juvenile
24 prostitute, keeping a place of juvenile prostitution,
25 patronizing a juvenile prostitute, juvenile pimping,
26 exploitation of a child, obscenity, child pornography, or
27 harmful material, as those offenses are defined in the
28 Criminal Code of 1961.

29 (2) "Family member" shall have the meaning ascribed
30 to it in Section 12-12 of the Criminal Code of 1961.

31 (3) "Sexual assault organization" means any
32 not-for-profit organization providing comprehensive,
33 community-based services to victims of sexual assault.

1 "Community-based services" include, but are not limited
2 to, direct crisis intervention through a 24-hour
3 response, medical and legal advocacy, counseling,
4 information and referral services, training, and
5 community education.

6 (b) Sexual assault fine; collection by clerk.

7 (1) In addition to any other penalty imposed, a
8 fine of \$100 shall be imposed upon any person who pleads
9 guilty or who is convicted of, or who receives a
10 disposition of court supervision for, a sexual assault or
11 attempt of a sexual assault. Upon request of the victim
12 or the victim's representative, the court shall determine
13 whether the fine will impose an undue burden on the
14 victim of the offense. For purposes of this paragraph,
15 the defendant may not be considered the victim's
16 representative. If the court finds that the fine would
17 impose an undue burden on the victim, the court may
18 reduce or waive the fine. The court shall order that the
19 defendant may not use funds belonging solely to the
20 victim of the offense for payment of the fine.

21 (2) Sexual assault fines shall be assessed by the
22 court imposing the sentence and shall be collected by the
23 circuit clerk. The circuit clerk shall retain 10% of the
24 penalty to cover the costs involved in administering and
25 enforcing this Section. The circuit clerk shall remit
26 the remainder of each fine within one month of its
27 receipt to the State Treasurer for deposit as follows:

28 (i) for offenders who held a position of
29 trust, authority, or supervision in relation to the
30 victim family--member--offenders, one-half to the
31 Sexual Assault Services Fund, and one-half to the
32 Domestic Violence Shelter and Service Fund; and

33 (ii) for other than offenders who held a
34 position of trust, authority, or supervision in

1 relation to the victim family-member-offenders, the
2 full amount to the Sexual Assault Services Fund.

3 (c) Sexual Assault Services Fund; administration. There
4 is created a Sexual Assault Services Fund. Moneys deposited
5 into the Fund under this Section shall be appropriated to the
6 Department of Public Health. Upon appropriation of moneys
7 from the Sexual Assault Services Fund, the Department of
8 Public Health shall make grants of these moneys from the Fund
9 to sexual assault organizations with whom the Department has
10 contracts for the purpose of providing community-based
11 services to victims of sexual assault. Grants made under this
12 Section are in addition to, and are not substitutes for,
13 other grants authorized and made by the Department.

14 (Source: P.A. 88-45; 89-428, eff. 12-13-95; 89-462, eff.
15 5-29-96.)