

1 AN ACT in relation to vehicles.

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

4 Section 5. The Boat Registration and Safety Act is
5 amended by changing Sections 5-2, 5-16, 6-1, 11A-3, 11A-4,
6 and 11A-5 as follows:

7 (625 ILCS 45/5-2) (from Ch. 95 1/2, par. 315-2)

8 Sec. 5-2. Reckless operation.

9 (a) No person shall operate any watercraft, specialty
10 prop-craft, personal watercraft or manipulate any water skis,
11 aquaplane, or similar device in such a manner as to willfully
12 or wantonly endanger the life, limb or property of any
13 person, to weave through congested traffic, to jump the wake
14 of another vessel unreasonably or unnecessarily close to the
15 other vessel or when visibility around the other vessel is
16 obstructed, to wait until the last possible moment to swerve
17 to avoid collision, or operate any watercraft so as to
18 approach or pass another watercraft in such a manner or at
19 such a rate of speed as to create a hazardous wake or wash.

20 (b) A person convicted of committing a violation of this
21 Section shall be guilty of aggravated reckless operation of a
22 watercraft if the violation of this Section resulted in great
23 bodily harm or permanent disability or disfigurement of
24 another, when the violation was a proximate cause of the
25 injuries.

26 (Source: P.A. 87-798.)

27 (625 ILCS 45/5-16)

28 Sec. 5-16. Operating a watercraft under the influence of
29 alcohol, other drug, or combination thereof.

30 (A) 1. A person shall not operate or be in actual

1 physical control of any watercraft within this State
2 while:

3 (a) The alcohol concentration in such person's
4 blood or breath is a concentration at which driving
5 a motor vehicle is prohibited under subdivision (1)
6 of subsection (a) of Section 11-501 of the Illinois
7 Vehicle Code;

8 (b) Under the influence of alcohol;

9 (c) Under the influence of any other drug or
10 combination of drugs to a degree which renders such
11 person incapable of safely operating any watercraft;

12 (d) Under the combined influence of alcohol
13 and any other drug or drugs to a degree which
14 renders such person incapable of safely operating a
15 watercraft; or

16 (e) There is any amount of a drug, substance,
17 or compound in the person's blood or urine resulting
18 from the unlawful use or consumption of cannabis as
19 defined in the Cannabis Control Act or a controlled
20 substance listed in the Illinois Controlled
21 Substances Act.

22 2. The fact that any person charged with violating
23 this Section is or has been legally entitled to use
24 alcohol, or other drugs, or any combination of both,
25 shall not constitute a defense against any charge of
26 violating this Section.

27 3. Every person convicted of violating this Section
28 shall be guilty of a Class A misdemeanor, except as
29 otherwise provided in this Section.

30 4. Every person convicted of violating this Section
31 shall be guilty of a Class 4 felony if:

32 (a) He has a previous conviction under this
33 Section; or

34 (b) The offense results in personal injury

1 where a person other than the operator suffers great
2 bodily harm or permanent disability or
3 disfigurement, when the violation was a proximate
4 cause of the injuries. A person guilty of a Class 4
5 felony under this subparagraph (b), if sentenced to
6 a term of imprisonment, shall be sentenced to a term
7 of not less than one year nor more than 12 years;
8 or-

9 (c) At the time the person committed the
10 offense, the person's watercraft operation
11 privileges were suspended under this Section.

12 5. Every person convicted of violating this Section
13 shall be guilty of a Class 2 felony if the offense
14 results in the death of a person. A person guilty of a
15 Class 2 felony under this paragraph 5, if sentenced to a
16 term of imprisonment, shall be sentenced to a term of not
17 less than 3 years and not more than 14 years.

18 6. (a) In addition to any criminal penalties
19 imposed, the Department of Natural Resources shall
20 suspend the watercraft operation privileges of any
21 person convicted of a misdemeanor under this Section
22 for a period of one year.

23 (b) In addition to any criminal penalties
24 imposed, the Department of Natural Resources shall
25 suspend the watercraft operation privileges of any
26 person convicted of a felony under this Section for
27 a period of 3 years.

28 (B) 1. Any person who operates or is in actual physical
29 control of any watercraft upon the waters of this State
30 shall be deemed to have given consent to a chemical test
31 or tests of blood, breath or urine for the purpose of
32 determining the alcohol, other drug, or combination
33 thereof content of such person's blood if arrested for
34 any offense of subsection (A) above. The test or tests

1 shall be administered at the direction of the arresting
2 officer.

3 2. Any person who is dead, unconscious or who is
4 otherwise in a condition rendering such person incapable
5 of refusal, shall be deemed not to have withdrawn the
6 consent provided above.

7 3. A person requested to submit to a test as
8 provided above shall be verbally advised by the law
9 enforcement officer requesting the test that a refusal to
10 submit to the test will result in suspension of such
11 person's privilege to operate a watercraft. Following
12 this warning, if a person under arrest refuses upon the
13 request of a law enforcement officer to submit to a test
14 designated by the officer, none shall be given, but the
15 law enforcement officer shall file with the clerk of the
16 circuit court for the county in which the arrest was
17 made, a sworn statement naming the person refusing to
18 take and complete the test or tests requested under the
19 provisions of this Section. Such sworn statement shall
20 identify the arrested person, such person's current
21 residence address and shall specify that a refusal by
22 such person to take the test or tests was made. Such
23 sworn statement shall include a statement that the
24 arresting officer had reasonable cause to believe the
25 person was operating or was in actual physical control of
26 the watercraft within this State while under the
27 influence of alcohol, other drug, or combination thereof
28 and that such test or tests were made as an incident to
29 and following the lawful arrest for an offense as defined
30 in this Section or a similar provision of a local
31 ordinance, and that the person after being arrested for
32 an offense arising out of acts alleged to have been
33 committed while so operating or in actual physical
34 control of a watercraft refused to submit to and complete

1 a test or tests as requested by the law enforcement
2 officer.

3 The clerk shall thereupon notify such person in
4 writing that the person's privilege to operate a
5 watercraft will be suspended unless, within 28 days from
6 the date of mailing of the notice, such person shall
7 request in writing a hearing thereon; if the person
8 desires a hearing, such person shall file a complaint in
9 the circuit court for and in the county in which such
10 person was arrested for such hearing. Such hearing shall
11 proceed in the court in the same manner as other civil
12 proceedings, shall cover only the issues of whether the
13 person was placed under arrest for an offense as defined
14 in this Section or a similar provision of a local
15 ordinance as evidenced by the issuance of a uniform
16 citation; whether the arresting officer had reasonable
17 grounds to believe that such person was operating or was
18 in actual physical control of a watercraft while under
19 the influence of alcohol, other drug, or combination
20 thereof; and whether such person refused to submit and
21 complete the test or tests upon the request of the law
22 enforcement officer. Whether the person was informed that
23 such person's privilege to operate a watercraft would be
24 suspended if such person refused to submit to the test or
25 tests shall not be an issue.

26 If the court finds against the person on the issues
27 before the court, the clerk shall immediately notify the
28 Department of Natural Resources of the court's decision,
29 and the Department shall suspend the watercraft operation
30 privileges of the person for at least 2 years.

31 4. A person must submit to each test offered by the
32 law enforcement officer in order to comply with the
33 implied consent provisions of this Section.

34 5. The provisions of Section 11-501.2 of the

1 Illinois Vehicle Code, as amended, concerning the
2 certification and use of chemical tests apply to the use
3 of such tests under this Section.

4 (C) Upon the trial of any civil or criminal action or
5 proceeding arising out of acts alleged to have been committed
6 by any person while operating or in actual physical control
7 of a watercraft while under the influence of alcohol, the
8 concentration of alcohol in the person's blood or breath at
9 the time alleged as shown by analysis of a person's blood,
10 urine, breath, or other bodily substance shall give rise to
11 the presumptions specified in subdivisions 1, 2, and 3 of
12 subsection (b) of Section 11-501.2 of the Illinois Vehicle
13 Code. The foregoing provisions of this subsection (C) shall
14 not be construed as limiting the introduction of any other
15 relevant evidence bearing upon the question whether the
16 person was under the influence of alcohol.

17 (D) If a person under arrest refuses to submit to a
18 chemical test under the provisions of this Section, evidence
19 of refusal shall be admissible in any civil or criminal
20 action or proceeding arising out of acts alleged to have been
21 committed while the person under the influence of alcohol, or
22 other drugs, or combination of both was operating or was in
23 actual physical control of a watercraft.

24 (E) The owner of any watercraft or any person given
25 supervisory authority over a watercraft, may not knowingly
26 permit a watercraft to be operated by any person under the
27 influence of alcohol, other drug, or combination thereof.

28 (F) Whenever any person is convicted of a violation of
29 this Section, the court shall notify the Division of Law
30 Enforcement of the Department of Natural Resources, to
31 provide the Department with the records essential for the
32 performance of the Department's duties to monitor and enforce
33 any order of suspension or revocation concerning the
34 privilege to operate a watercraft.

1 (G) No person who has been arrested and charged for
2 violating paragraph 1 of subsection (A) of this Section shall
3 operate or be in actual physical control of any watercraft
4 within this State for a period of 6 hours after such arrest.
5 (Source: P.A. 92-615, eff. 1-1-03.)

6 (625 ILCS 45/6-1) (from Ch. 95 1/2, par. 316-1)

7 Sec. 6-1. Collisions, accidents, and casualties;
8 reports.

9 A. The operator of a vessel involved in a collision,
10 accident, or other casualty, so far as he can without serious
11 danger to his own vessel, crew, passengers and guests, if
12 any, shall render to other persons affected by the collision,
13 accident, or other casualty assistance as may be practicable
14 and as may be necessary in order to save them from or
15 minimize any danger caused by the collision, accident, or
16 other casualty, and also shall give his name, address, and
17 identification of his vessel to any person injured and to the
18 owner of any property damaged in the collision, accident, or
19 other casualty.

20 If the collision, accident, or other casualty has
21 resulted in the death of or personal injury to any person,
22 failure to comply with this subsection A is a Class A
23 misdemeanor.

24 A-1. Any person who has failed to stop or to comply with
25 the requirements of subsection A must, as soon as possible
26 but in no case later than one hour after the collision,
27 accident, or other casualty, or, if hospitalized and
28 incapacitated from reporting at any time during that period,
29 as soon as possible but in no case later than one hour after
30 being discharged from the hospital, report the date, place,
31 and approximate time of the collision, accident, or other
32 casualty, the watercraft operator's name and address, the
33 identification number of the watercraft, if any, and the

1 names of all other occupants of the watercraft, at a police
2 station or sheriff's office near the location where the
3 collision, accident, or other casualty occurred. A report
4 made as required under this subsection A-1 may not be used,
5 directly or indirectly, as a basis for the prosecution of any
6 violation of subsection A.

7 As used in this Section, personal injury means any injury
8 requiring immediate professional treatment in a medical
9 facility or doctor's office.

10 Any person failing to comply with this subsection A-1 is
11 guilty of a Class 4 felony if the collision, accident, or
12 other casualty does not result in the death of any person.

13 Any person failing to comply with this subsection A-1 when
14 the collision, accident, or other casualty results in the
15 death of any person is guilty of a Class 2 felony, for which
16 the person, if sentenced to a term of imprisonment, shall be
17 sentenced to a term of not less than 3 years and not more
18 than 14 years.

19 B. In the case of collision, accident, or other casualty
20 involving a vessel, the operator, if the collision, accident,
21 or other casualty results in death or injury to a person or
22 damage to property in excess of \$500, shall file with the
23 Department a full description of the collision, accident, or
24 other casualty, including information as the Department may
25 by regulation require. Reports of the accidents must be
26 filed with the Department on a Department Accident Report
27 form within 5 days.

28 C. Reports of accidents resulting in personal injury,
29 where a person is incapacitated for a period exceeding 72
30 hours, must be filed with the Department on a Department
31 Accident Report form within 5 days. Accidents that result in
32 loss of life shall be reported to the Department on a
33 Department form within 48 hours.

34 D. All required accident reports and supplemental

1 reports are without prejudice to the individual reporting,
2 and are for the confidential use of the Department, except
3 that the Department may disclose the identity of a person
4 involved in an accident when the identity is not otherwise
5 known or when the person denies his presence at the accident.
6 No report to the Department may be used as evidence in any
7 trial, civil or criminal, arising out of an accident, except
8 that the Department must furnish upon demand of any person
9 who has or claims to have made a report or upon demand of any
10 court a certificate showing that a specified accident report
11 has or has not been made to the Department solely to prove a
12 compliance or a failure to comply with the requirements that
13 a report be made to the Department.

14 E. (1) Every coroner or medical examiner shall on or
15 before the 10th day of each month report in writing to
16 the Department the circumstances surrounding the death of
17 any person that has occurred as the result of a boating
18 accident within the examiner's jurisdiction during the
19 preceding calendar month.

20 (2) Within 6 hours after a death resulting from a
21 boating accident, but in any case not more than 12 hours
22 after the occurrence of the boating accident, a blood
23 specimen of at least 10 cc shall be withdrawn from the
24 body of the decedent by the coroner or medical examiner
25 or by a qualified person at the direction of the
26 physician. All morticians shall obtain a release from the
27 coroner or medical examiner prior to proceeding with
28 embalming any body coming under the scope of this
29 Section. The blood so drawn shall be forwarded to a
30 laboratory approved by the Department of State Police for
31 analysis of the alcoholic content of the blood specimen.
32 The coroner or medical examiner causing the blood to be
33 withdrawn shall be notified of the results of each
34 analysis made and shall forward the results of each

1 analysis to the Department. The Department shall keep a
 2 record of all examinations to be used for statistical
 3 purposes only. The cumulative results of the
 4 examinations, without identifying the individuals
 5 involved, shall be disseminated and made public by the
 6 Department.

7 (Source: P.A. 91-828, eff. 1-1-01.)

8 (625 ILCS 45/11A-3) (from Ch. 95 1/2, par. 321A-3)

9 Sec. 11A-3. Any person who violates any of the
 10 provisions of Section 5-1 or 5-2 of this Act is guilty of a
 11 Class B misdemeanor.

12 Any person who violates Section 5-2 of this Act is guilty
 13 of a Class A misdemeanor, except that aggravated reckless
 14 operation of a watercraft is a Class 4 felony.

15 (Source: P.A. 85-149.)

16 (625 ILCS 45/11A-4) (from Ch. 95 1/2, par. 321A-4)

17 Sec. 11A-4. Any person who is convicted of a violation
 18 of Sections 5-1, 5-2 or 11A-5 of this Act, in addition to any
 19 other penalties authorized in this Act, may in the discretion
 20 of the court be refused the privilege of operating any
 21 watercraft on any of the waterways of this State for a period
 22 of not less than one year.

23 Any person who is convicted of a violation of Section 5-2
 24 of this Act or subsection A-1 of Section 6-1 of this Act, in
 25 addition to any other penalties authorized in this Act, shall
 26 be refused the privilege of operating any watercraft on any
 27 of the waterways of this Section for a period of not less
 28 than one year.

29 (Source: P.A. 85-149.)

30 (625 ILCS 45/11A-5) (from Ch. 95 1/2, par. 321A-5)

31 Sec. 11A-5. Any person who operates any watercraft

1 during the period when he is denied the privilege to so
2 operate is guilty of a Class A misdemeanor for a first
3 offense and a Class 4 felony for a second or subsequent
4 offense.

5 (Source: P.A. 85-149.)

6 Section 10. The Unified Code of Corrections is amended
7 by changing Section 5-5-3 as follows:

8 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

9 Sec. 5-5-3. Disposition.

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

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

16 (1) A period of probation.

17 (2) A term of periodic imprisonment.

18 (3) A term of conditional discharge.

19 (4) A term of imprisonment.

20 (5) An order directing the offender to clean up and
21 repair the damage, if the offender was convicted under
22 paragraph (h) of Section 21-1 of the Criminal Code of
23 1961.

24 (6) A fine.

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

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

30 Whenever an individual is sentenced for an offense based
31 upon an arrest for a violation of Section 11-501 of the
32 Illinois Vehicle Code, or a similar provision of a local

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

16 In addition to any other fine or penalty required by law,
17 any individual convicted of a violation of Section 11-501 of
18 the Illinois Vehicle Code or a similar provision of local
19 ordinance, whose operation of a motor vehicle while in
20 violation of Section 11-501 or such ordinance proximately
21 caused an incident resulting in an appropriate emergency
22 response, shall be required to make restitution to a public
23 agency for the costs of that emergency response. Such
24 restitution shall not exceed \$500 per public agency for each
25 such emergency response. For the purpose of this paragraph,
26 emergency response shall mean any incident requiring a
27 response by: a police officer as defined under Section 1-162
28 of the Illinois Vehicle Code; a fireman carried on the rolls
29 of a regularly constituted fire department; and an ambulance
30 as defined under Section 3.85 4-05 of the Emergency Medical
31 Services (EMS) Systems Act.

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

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

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

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

15 (B) Attempted first degree murder.

16 (C) A Class X felony.

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

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

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

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

1 (H) Criminal sexual assault, except as
2 otherwise provided in subsection (e) of this
3 Section.

4 (I) Aggravated battery of a senior citizen.

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

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

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

17 (K) Vehicular hijacking.

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

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

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

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

30 (P) A violation of paragraph (1), (2), (3),
31 (4), (5), or (7) of subsection (a) of Section
32 11-20.1 of the Criminal Code of 1961.

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

1 (R) A violation of Section 24-3A of the
2 Criminal Code of 1961.

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

5 (3) A minimum term of imprisonment of not less than
6 5 days or 30 days of community service as may be
7 determined by the court shall be imposed for a second
8 violation committed within 5 years of a previous
9 violation of Section 11-501 of the Illinois Vehicle Code
10 or a similar provision of a local ordinance. In the case
11 of a third or subsequent violation committed within 5
12 years of a previous violation of Section 11-501 of the
13 Illinois Vehicle Code or a similar provision of a local
14 ordinance, a minimum term of either 10 days of
15 imprisonment or 60 days of community service shall be
16 imposed.

17 (4) A minimum term of imprisonment of not less than
18 10 consecutive days or 30 days of community service shall
19 be imposed for a violation of paragraph (c) of Section
20 6-303 of the Illinois Vehicle Code.

21 (4.1) A minimum term of 30 consecutive days of
22 imprisonment, 40 days of 24 hour periodic imprisonment or
23 720 hours of community service, as may be determined by
24 the court, shall be imposed for a violation of Section
25 11-501 of the Illinois Vehicle Code during a period in
26 which the defendant's driving privileges are revoked or
27 suspended, where the revocation or suspension was for a
28 violation of Section 11-501 or Section 11-501.1 of that
29 Code.

30 (4.2) Except as provided in paragraph (4.3) of this
31 subsection (c), a minimum of 100 hours of community
32 service shall be imposed for a second violation of
33 Section 6-303 of the Illinois Vehicle Code.

34 (4.3) A minimum term of imprisonment of 30 days or

1 300 hours of community service, as determined by the
2 court, shall be imposed for a second violation of
3 subsection (c) of Section 6-303 of the Illinois Vehicle
4 Code.

5 (4.4) Except as provided in paragraph (4.5) and
6 paragraph (4.6) of this subsection (c), a minimum term of
7 imprisonment of 30 days or 300 hours of community
8 service, as determined by the court, shall be imposed for
9 a third or subsequent violation of Section 6-303 of the
10 Illinois Vehicle Code.

11 (4.5) A minimum term of imprisonment of 30 days
12 shall be imposed for a third violation of subsection (c)
13 of Section 6-303 of the Illinois Vehicle Code.

14 (4.6) A minimum term of imprisonment of 180 days
15 shall be imposed for a fourth or subsequent violation of
16 subsection (c) of Section 6-303 of the Illinois Vehicle
17 Code.

18 (5) The court may sentence an offender convicted of
19 a business offense or a petty offense or a corporation or
20 unincorporated association convicted of any offense to:

- 21 (A) a period of conditional discharge;
- 22 (B) a fine;
- 23 (C) make restitution to the victim under
24 Section 5-5-6 of this Code.

25 (5.1) In addition to any penalties imposed under
26 paragraph (5) of this subsection (c), and except as
27 provided in paragraph (5.2) or (5.3), a person convicted
28 of violating subsection (c) of Section 11-907 of the
29 Illinois Vehicle Code shall have his or her driver's
30 license, permit, or privileges suspended for at least 90
31 days but not more than one year, if the violation
32 resulted in damage to the property of another person.

33 (5.2) In addition to any penalties imposed under
34 paragraph (5) of this subsection (c), and except as

1 provided in paragraph (5.3), a person convicted of
2 violating subsection (c) of Section 11-907 of the
3 Illinois Vehicle Code shall have his or her driver's
4 license, permit, or privileges suspended for at least 180
5 days but not more than 2 years, if the violation resulted
6 in injury to another person.

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

13 (6) In no case shall an offender be eligible for a
14 disposition of probation or conditional discharge for a
15 Class 1 felony committed while he was serving a term of
16 probation or conditional discharge for a felony.

17 (7) When a defendant is adjudged a habitual
18 criminal under Article 33B of the Criminal Code of 1961,
19 the court shall sentence the defendant to a term of
20 natural life imprisonment.

21 (8) When a defendant, over the age of 21 years, is
22 convicted of a Class 1 or Class 2 felony, after having
23 twice been convicted in any state or federal court of an
24 offense that contains the same elements as an offense now
25 classified in Illinois as a Class 2 or greater Class
26 felony and such charges are separately brought and tried
27 and arise out of different series of acts, such defendant
28 shall be sentenced as a Class X offender. This paragraph
29 shall not apply unless (1) the first felony was committed
30 after the effective date of this amendatory Act of 1977;
31 and (2) the second felony was committed after conviction
32 on the first; and (3) the third felony was committed
33 after conviction on the second. A person sentenced as a
34 Class X offender under this paragraph is not eligible to

1 apply for treatment as a condition of probation as
2 provided by Section 40-10 of the Alcoholism and Other
3 Drug Abuse and Dependency Act.

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

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

15 (A) For a first violation of subsection (a) of
16 Section 11-501, in addition to any other penalty
17 that may be imposed under subsection (c) of Section
18 11-501: a mandatory minimum of 100 hours of
19 community service and a minimum fine of \$500.

20 (B) For a second violation of subsection (a)
21 of Section 11-501, in addition to any other penalty
22 that may be imposed under subsection (c) of Section
23 11-501 within 10 years: a mandatory minimum of 2
24 days of imprisonment and a minimum fine of \$1,250.

25 (C) For a third violation of subsection (a) of
26 Section 11-501, in addition to any other penalty
27 that may be imposed under subsection (c) of Section
28 11-501 within 20 years: a mandatory minimum of 90
29 days of imprisonment and a minimum fine of \$2,500.

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

34 (11) A person may not receive a disposition of

1 court supervision for a violation of Section 5-16 of the
2 Boat Registration and Safety Act if that person has
3 previously received a disposition of court supervision
4 for a violation of that Section.

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; revised 2-17-03.)