



Rep. Jack D. Franks

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09300HB5416ham001

LRB093 17142 RLC 49150 a

1 AMENDMENT TO HOUSE BILL 5416

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5416 by replacing  
3 the title with the following:

4 "AN ACT in relation to driving offenses."; and

5 by replacing everything after the enacting clause with the  
6 following:

7 "Section 5. The Illinois Vehicle Code is amended by  
8 changing Section 11-501 as follows:

9 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

10 Sec. 11-501. Driving while under the influence of alcohol,  
11 other drug or drugs, intoxicating compound or compounds or any  
12 combination thereof.

13 (a) A person shall not drive or be in actual physical  
14 control of any vehicle within this State while:

15 (1) the alcohol concentration in the person's blood or  
16 breath is 0.08 or more based on the definition of blood and  
17 breath units in Section 11-501.2;

18 (2) under the influence of alcohol;

19 (3) under the influence of any intoxicating compound or  
20 combination of intoxicating compounds to a degree that  
21 renders the person incapable of driving safely;

22 (4) under the influence of any other drug or  
23 combination of drugs to a degree that renders the person

1 incapable of safely driving;

2 (5) under the combined influence of alcohol, other drug  
3 or drugs, or intoxicating compound or compounds to a degree  
4 that renders the person incapable of safely driving; or

5 (6) there is any amount of a drug, substance, or  
6 compound in the person's breath, blood, or urine resulting  
7 from the unlawful use or consumption of cannabis listed in  
8 the Cannabis Control Act, a controlled substance listed in  
9 the Illinois Controlled Substances Act, or an intoxicating  
10 compound listed in the Use of Intoxicating Compounds Act.

11 (b) The fact that any person charged with violating this  
12 Section is or has been legally entitled to use alcohol, other  
13 drug or drugs, or intoxicating compound or compounds, or any  
14 combination thereof, shall not constitute a defense against any  
15 charge of violating this Section.

16 (c) Except as provided under paragraphs ~~(c-3)~~, (c-4),  
17 (c-5), and (d) of this Section, every person convicted of  
18 violating this Section or a similar provision of a local  
19 ordinance, shall be guilty of a Class A misdemeanor and, in  
20 addition to any other criminal or administrative action, for  
21 any second conviction of violating this Section or a similar  
22 provision of a law of another state or local ordinance  
23 committed within 5 years of a previous violation of this  
24 Section or a similar provision of a local ordinance shall be  
25 mandatorily sentenced to a minimum of 5 days of imprisonment or  
26 assigned to a minimum of 30 days of community service as may be  
27 determined by the court. ~~Every person convicted of violating~~  
28 ~~this Section or a similar provision of a local ordinance shall~~  
29 ~~be subject to an additional mandatory minimum fine of \$500 and~~  
30 ~~an additional mandatory 5 days of community service in a~~  
31 ~~program benefiting children if the person committed a violation~~  
32 ~~of paragraph (a) or a similar provision of a local ordinance~~  
33 ~~while transporting a person under age 16. Every person~~  
34 ~~convicted a second time for violating this Section or a similar~~

1 ~~provision of a local ordinance within 5 years of a previous~~  
2 ~~violation of this Section or a similar provision of a law of~~  
3 ~~another state or local ordinance shall be subject to an~~  
4 ~~additional mandatory minimum fine of \$500 and an additional 10~~  
5 ~~days of mandatory community service in a program benefiting~~  
6 ~~children if the current offense was committed while~~  
7 ~~transporting a person under age 16. The imprisonment or~~  
8 ~~assignment under this subsection shall not be subject to~~  
9 ~~suspension nor shall the person be eligible for probation in~~  
10 ~~order to reduce the sentence or assignment.~~

11 (c-1) (1) A person who violates this Section during a  
12 period in which his or her driving privileges are revoked  
13 or suspended, where the revocation or suspension was for a  
14 violation of this Section, Section 11-501.1, paragraph (b)  
15 of Section 11-401, or Section 9-3 of the Criminal Code of  
16 1961 is guilty of a Class 4 felony.

17 (2) A person who violates this Section a third time  
18 during a period in which his or her driving privileges are  
19 revoked or suspended where the revocation or suspension was  
20 for a violation of this Section, Section 11-501.1,  
21 paragraph (b) of Section 11-401, or Section 9-3 of the  
22 Criminal Code of 1961 is guilty of a Class 3 felony.

23 (3) A person who violates this Section a fourth or  
24 subsequent time during a period in which his or her driving  
25 privileges are revoked or suspended where the revocation or  
26 suspension was for a violation of this Section, Section  
27 11-501.1, paragraph (b) of Section 11-401, or Section 9-3  
28 of the Criminal Code of 1961 is guilty of a Class 2 felony.

29 (c-2) (Blank).

30 (c-3) (Blank). ~~Every person convicted of violating this~~  
31 ~~Section or a similar provision of a local ordinance who had a~~  
32 ~~child under age 16 in the vehicle at the time of the offense~~  
33 ~~shall have his or her punishment under this Act enhanced by 2~~  
34 ~~days of imprisonment for a first offense, 10 days of~~

1 ~~imprisonment for a second offense, 30 days of imprisonment for~~  
2 ~~a third offense, and 90 days of imprisonment for a fourth or~~  
3 ~~subsequent offense, in addition to the fine and community~~  
4 ~~service required under subsection (c) and the possible~~  
5 ~~imprisonment required under subsection (d). The imprisonment~~  
6 ~~or assignment under this subsection shall not be subject to~~  
7 ~~suspension nor shall the person be eligible for probation in~~  
8 ~~order to reduce the sentence or assignment.~~

9 (c-4) When a person is convicted of violating Section  
10 11-501 of this Code or a similar provision of a local  
11 ordinance, the following penalties apply when his or her blood,  
12 breath, or urine was .16 or more based on the definition of  
13 blood, breath, or urine units in Section 11-501.2 ~~or when that~~  
14 ~~person is convicted of violating this Section while~~  
15 ~~transporting a child under the age of 16:~~

16 (1) A person who is convicted of violating subsection  
17 (a) of Section 11-501 of this Code a first time, in  
18 addition to any other penalty that may be imposed under  
19 subsection (c), is subject to a mandatory minimum of 100  
20 hours of community service and a minimum fine of \$500.

21 (2) A person who is convicted of violating subsection  
22 (a) of Section 11-501 of this Code a second time within 10  
23 years, in addition to any other penalty that may be imposed  
24 under subsection (c), is subject to a mandatory minimum of  
25 2 days of imprisonment and a minimum fine of \$1,250.

26 (3) A person who is convicted of violating subsection  
27 (a) of Section 11-501 of this Code a third time within 20  
28 years is guilty of a Class 4 felony and, in addition to any  
29 other penalty that may be imposed under subsection (c), is  
30 subject to a mandatory minimum of 90 days of imprisonment  
31 and a minimum fine of \$2,500.

32 (4) A person who is convicted of violating this  
33 subsection (c-4) a fourth or subsequent time is guilty of a  
34 Class 2 felony and, in addition to any other penalty that

1 may be imposed under subsection (c), is not eligible for a  
2 sentence of probation or conditional discharge and is  
3 subject to a minimum fine of \$2,500.

4 (c-5) When a person is convicted of violating this Section  
5 or a similar provision of a local ordinance, the following  
6 penalties apply when that person is convicted of a violation  
7 while transporting a child under the age of 16:

8 (1) Except as otherwise provided in paragraph (2) of  
9 this subsection (c-5), a person who is convicted of  
10 violating subsection (a) of this Section a first time is  
11 guilty of a Class A misdemeanor and is subject to 6 months  
12 of imprisonment, a mandatory fine of \$1000, and 25 days of  
13 community service in a program benefiting children. The  
14 imprisonment or assignment to community service under this  
15 subsection shall not be subject to suspension, nor shall  
16 the person be eligible for probation in order to reduce the  
17 sentence or assignment.

18 (2) A person who is convicted of violating subsection  
19 (a) of this Section a first time and who in committing that  
20 violation was involved in a motor vehicle accident that  
21 resulted in bodily harm to the child under the age of 16  
22 being transported by the person, if the violation was the  
23 proximate cause of the injury, is guilty of a Class 4  
24 felony and is subject to one year of imprisonment, a  
25 mandatory fine of \$2,500, and 25 days of community service  
26 in a program benefiting children. The imprisonment or  
27 assignment to community service under this subsection  
28 shall not be subject to suspension, nor shall the person be  
29 eligible for probation in order to reduce the sentence or  
30 assignment.

31 (3) Except as otherwise provided in paragraph (4) of  
32 this subsection (c-5), a person who is convicted of  
33 violating subsection (a) of this Section a second time  
34 within 10 years is guilty of a Class 4 felony and is

1 subject to one year of imprisonment, a mandatory fine of  
2 \$2,500, and 25 days of community service in a program  
3 benefiting children. The imprisonment or assignment to  
4 community service under this subsection shall not be  
5 subject to suspension, nor shall the person be eligible for  
6 probation in order to reduce the sentence or assignment.

7 (4) A person who is convicted of violating subsection  
8 (a) of this Section a second time within 10 years and who  
9 in committing that violation was involved in a motor  
10 vehicle accident that resulted in bodily harm to the child  
11 under the age of 16 being transported, if the violation was  
12 the proximate cause of the injury, is guilty of a Class 4  
13 felony and is subject to 18 months of imprisonment, a  
14 mandatory fine of \$5,000, and 25 days of community service  
15 in a program benefiting children. The imprisonment or  
16 assignment to community service under this subsection  
17 shall not be subject to suspension, nor shall the person be  
18 eligible for probation in order to reduce the sentence or  
19 assignment.

20 (5) A person who is convicted of violating subsection  
21 (a) of this Section a third or subsequent time within 20  
22 years is guilty of a Class 3 felony and is subject to 3  
23 years of imprisonment, a mandatory fine of \$25,000, and 25  
24 days of community service in a program benefiting children.  
25 The imprisonment or assignment to community service under  
26 this subsection shall not be subject to suspension, nor  
27 shall the person be eligible for probation in order to  
28 reduce the sentence or assignment.

29 (d) (1) Every person convicted of committing a violation of  
30 this Section shall be guilty of aggravated driving under  
31 the influence of alcohol, other drug or drugs, or  
32 intoxicating compound or compounds, or any combination  
33 thereof if:

34 (A) the person committed a violation of this

1 Section, or a similar provision of a law of another  
2 state or a local ordinance when the cause of action is  
3 the same as or substantially similar to this Section,  
4 for the third or subsequent time;

5 (B) the person committed a violation of paragraph  
6 (a) while driving a school bus with children on board;

7 (C) the person in committing a violation of  
8 paragraph (a) was involved in a motor vehicle accident  
9 that resulted in great bodily harm or permanent  
10 disability or disfigurement to another, when the  
11 violation was a proximate cause of the injuries;

12 (D) the person committed a violation of paragraph  
13 (a) for a second time and has been previously convicted  
14 of violating Section 9-3 of the Criminal Code of 1961  
15 relating to reckless homicide in which the person was  
16 determined to have been under the influence of alcohol,  
17 other drug or drugs, or intoxicating compound or  
18 compounds as an element of the offense or the person  
19 has previously been convicted under subparagraph (C)  
20 or subparagraph (F) of this paragraph (1);

21 (E) the person, in committing a violation of  
22 paragraph (a) while driving at any speed in a school  
23 speed zone at a time when a speed limit of 20 miles per  
24 hour was in effect under subsection (a) of Section  
25 11-605 of this Code, was involved in a motor vehicle  
26 accident that resulted in bodily harm, other than great  
27 bodily harm or permanent disability or disfigurement,  
28 to another person, when the violation of paragraph (a)  
29 was a proximate cause of the bodily harm; or

30 (F) the person, in committing a violation of  
31 paragraph (a), was involved in a motor vehicle,  
32 snowmobile, all-terrain vehicle, or watercraft  
33 accident that resulted in the death of another person,  
34 when the violation of paragraph (a) was a proximate

1           cause of the death.

2           (2) Except as provided in this paragraph (2),  
3           aggravated driving under the influence of alcohol, other  
4           drug or drugs, or intoxicating compound or compounds, or  
5           any combination thereof is a Class 4 felony. For a  
6           violation of subparagraph (C) of paragraph (1) of this  
7           subsection (d), the defendant, if sentenced to a term of  
8           imprisonment, shall be sentenced to not less than one year  
9           nor more than 12 years. Aggravated driving under the  
10          influence of alcohol, other drug or drugs, or intoxicating  
11          compound or compounds, or any combination thereof as  
12          defined in subparagraph (F) of paragraph (1) of this  
13          subsection (d) is a Class 2 felony, for which the  
14          defendant, if sentenced to a term of imprisonment, shall be  
15          sentenced to: (A) a term of imprisonment of not less than 3  
16          years and not more than 14 years if the violation resulted  
17          in the death of one person; or (B) a term of imprisonment  
18          of not less than 6 years and not more than 28 years if the  
19          violation resulted in the deaths of 2 or more persons. For  
20          any prosecution under this subsection (d), a certified copy  
21          of the driving abstract of the defendant shall be admitted  
22          as proof of any prior conviction.

23          (e) After a finding of guilt and prior to any final  
24          sentencing, or an order for supervision, for an offense based  
25          upon an arrest for a violation of this Section or a similar  
26          provision of a local ordinance, individuals shall be required  
27          to undergo a professional evaluation to determine if an  
28          alcohol, drug, or intoxicating compound abuse problem exists  
29          and the extent of the problem, and undergo the imposition of  
30          treatment as appropriate. Programs conducting these  
31          evaluations shall be licensed by the Department of Human  
32          Services. The cost of any professional evaluation shall be paid  
33          for by the individual required to undergo the professional  
34          evaluation.



1           (e-1) Any person who is found guilty of or pleads guilty to  
2 violating this Section, including any person receiving a  
3 disposition of court supervision for violating this Section,  
4 may be required by the Court to attend a victim impact panel  
5 offered by, or under contract with, a County State's Attorney's  
6 office, a probation and court services department, Mothers  
7 Against Drunk Driving, or the Alliance Against Intoxicated  
8 Motorists. All costs generated by the victim impact panel shall  
9 be paid from fees collected from the offender or as may be  
10 determined by the court.

11           (f) Every person found guilty of violating this Section,  
12 whose operation of a motor vehicle while in violation of this  
13 Section proximately caused any incident resulting in an  
14 appropriate emergency response, shall be liable for the expense  
15 of an emergency response as provided under Section 5-5-3 of the  
16 Unified Code of Corrections.

17           (g) The Secretary of State shall revoke the driving  
18 privileges of any person convicted under this Section or a  
19 similar provision of a local ordinance.

20           (h) Every person sentenced under paragraph (2) or (3) of  
21 subsection (c-1) of this Section or subsection (d) of this  
22 Section and who receives a term of probation or conditional  
23 discharge shall be required to serve a minimum term of either  
24 60 days community service or 10 days of imprisonment as a  
25 condition of the probation or conditional discharge. This  
26 mandatory minimum term of imprisonment or assignment of  
27 community service shall not be suspended and shall not be  
28 subject to reduction by the court.

29           (i) The Secretary of State shall require the use of  
30 ignition interlock devices on all vehicles owned by an  
31 individual who has been convicted of a second or subsequent  
32 offense of this Section or a similar provision of a local  
33 ordinance. The Secretary shall establish by rule and regulation  
34 the procedures for certification and use of the interlock

1 system.

2 (j) In addition to any other penalties and liabilities, a  
3 person who is found guilty of or pleads guilty to violating  
4 this Section, including any person placed on court supervision  
5 for violating this Section, shall be fined \$100, payable to the  
6 circuit clerk, who shall distribute the money to the law  
7 enforcement agency that made the arrest. If the person has been  
8 previously convicted of violating this Section or a similar  
9 provision of a local ordinance, the fine shall be \$200. In the  
10 event that more than one agency is responsible for the arrest,  
11 the \$100 or \$200 shall be shared equally. Any moneys received  
12 by a law enforcement agency under this subsection (j) shall be  
13 used to purchase law enforcement equipment that will assist in  
14 the prevention of alcohol related criminal violence throughout  
15 the State. This shall include, but is not limited to, in-car  
16 video cameras, radar and laser speed detection devices, and  
17 alcohol breath testers. Any moneys received by the Department  
18 of State Police under this subsection (j) shall be deposited  
19 into the State Police DUI Fund and shall be used to purchase  
20 law enforcement equipment that will assist in the prevention of  
21 alcohol related criminal violence throughout the State.

22 (k) The Secretary of State Police DUI Fund is created as a  
23 special fund in the State treasury. All moneys received by the  
24 Secretary of State Police under subsection (j) of this Section  
25 shall be deposited into the Secretary of State Police DUI Fund  
26 and, subject to appropriation, shall be used to purchase law  
27 enforcement equipment to assist in the prevention of alcohol  
28 related criminal violence throughout the State.

29 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;  
30 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02;  
31 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff.  
32 7-18-03; 93-584, eff. 8-22-03; revised 8-27-03.)

33 Section 10. The Unified Code of Corrections is amended by

1 changing Section 5-5-3 of as follows:

2 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

3 Sec. 5-5-3. Disposition.

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

6 (b) The following options shall be appropriate  
7 dispositions, alone or in combination, for all felonies and  
8 misdemeanors other than those identified in subsection (c) of  
9 this Section:

10 (1) A period of probation.

11 (2) A term of periodic imprisonment.

12 (3) A term of conditional discharge.

13 (4) A term of imprisonment.

14 (5) An order directing the offender to clean up and  
15 repair the damage, if the offender was convicted under  
16 paragraph (h) of Section 21-1 of the Criminal Code of 1961  
17 (now repealed).

18 (6) A fine.

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

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

23 Whenever an individual is sentenced for an offense based  
24 upon an arrest for a violation of Section 11-501 of the  
25 Illinois Vehicle Code, or a similar provision of a local  
26 ordinance, and the professional evaluation recommends remedial  
27 or rehabilitative treatment or education, neither the  
28 treatment nor the education shall be the sole disposition and  
29 either or both may be imposed only in conjunction with another  
30 disposition. The court shall monitor compliance with any  
31 remedial education or treatment recommendations contained in  
32 the professional evaluation. Programs conducting alcohol or  
33 other drug evaluation or remedial education must be licensed by

1 the Department of Human Services. However, if the individual is  
2 not a resident of Illinois, the court may accept an alcohol or  
3 other drug evaluation or remedial education program in the  
4 state of such individual's residence. Programs providing  
5 treatment must be licensed under existing applicable  
6 alcoholism and drug treatment licensure standards.

7 In addition to any other fine or penalty required by law,  
8 any individual convicted of a violation of Section 11-501 of  
9 the Illinois Vehicle Code, Section 5-7 of the Snowmobile  
10 Registration and Safety Act, Section 5-16 of the Boat  
11 Registration and Safety Act, or a similar provision of local  
12 ordinance, whose operation of a motor vehicle while in  
13 violation of Section 11-501, Section 5-7, Section 5-16, or such  
14 ordinance proximately caused an incident resulting in an  
15 appropriate emergency response, shall be required to make  
16 restitution to a public agency for the costs of that emergency  
17 response. Such restitution shall not exceed \$1,000 per public  
18 agency for each such emergency response. For the purpose of  
19 this paragraph, emergency response shall mean any incident  
20 requiring a response by: a police officer as defined under  
21 Section 1-162 of the Illinois Vehicle Code; a fireman carried  
22 on the rolls of a regularly constituted fire department; and an  
23 ambulance as defined under Section 3.85 of the Emergency  
24 Medical Services (EMS) Systems Act.

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

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

33 (2) A period of probation, a term of periodic  
34 imprisonment or conditional discharge shall not be imposed

1 for the following offenses. The court shall sentence the  
2 offender to not less than the minimum term of imprisonment  
3 set forth in this Code for the following offenses, and may  
4 order a fine or restitution or both in conjunction with  
5 such term of imprisonment:

6 (A) First degree murder where the death penalty is  
7 not imposed.

8 (B) Attempted first degree murder.

9 (C) A Class X felony.

10 (D) A violation of Section 401.1 or 407 of the  
11 Illinois Controlled Substances Act, or a violation of  
12 subdivision (c) (1) or (c) (2) of Section 401 of that Act  
13 which relates to more than 5 grams of a substance  
14 containing heroin or cocaine or an analog thereof.

15 (E) A violation of Section 5.1 or 9 of the Cannabis  
16 Control Act.

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

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

26 (H) Criminal sexual assault.

27 (I) Aggravated battery of a senior citizen.

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

30 Before July 1, 1994, for the purposes of this  
31 paragraph, "organized gang" means an association of 5  
32 or more persons, with an established hierarchy, that  
33 encourages members of the association to perpetrate  
34 crimes or provides support to the members of the

1 association who do commit crimes.

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

6 (K) Vehicular hijacking.

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

11 (M) A second or subsequent conviction for the  
12 offense of institutional vandalism if the damage to the  
13 property exceeds \$300.

14 (N) A Class 3 felony violation of paragraph (1) of  
15 subsection (a) of Section 2 of the Firearm Owners  
16 Identification Card Act.

17 (O) A violation of Section 12-6.1 of the Criminal  
18 Code of 1961.

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

22 (Q) A violation of Section 20-1.2 or 20-1.3 of the  
23 Criminal Code of 1961.

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

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

28 (T) A second or subsequent violation of paragraph  
29 (6.6) of subsection (a), subsection (c-5), or  
30 subsection (d-5) of Section 401 of the Illinois  
31 Controlled Substances Act.

32 (3) A minimum term of imprisonment of not less than 5  
33 days or 30 days of community service as may be determined  
34 by the court shall be imposed for a second violation

1 committed within 5 years of a previous violation of Section  
2 11-501 of the Illinois Vehicle Code or a similar provision  
3 of a local ordinance. In the case of a third or subsequent  
4 violation committed within 5 years of a previous violation  
5 of Section 11-501 of the Illinois Vehicle Code or a similar  
6 provision of a local ordinance, a minimum term of either 10  
7 days of imprisonment or 60 days of community service shall  
8 be imposed.

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

13 (4.1) A minimum term of 30 consecutive days of  
14 imprisonment, 40 days of 24 hour periodic imprisonment or  
15 720 hours of community service, as may be determined by the  
16 court, shall be imposed for a violation of Section 11-501  
17 of the Illinois Vehicle Code during a period in which the  
18 defendant's driving privileges are revoked or suspended,  
19 where the revocation or suspension was for a violation of  
20 Section 11-501 or Section 11-501.1 of that Code.

21 (4.2) Except as provided in paragraph (4.3) of this  
22 subsection (c), a minimum of 100 hours of community service  
23 shall be imposed for a second violation of Section 6-303 of  
24 the Illinois Vehicle Code.

25 (4.3) A minimum term of imprisonment of 30 days or 300  
26 hours of community service, as determined by the court,  
27 shall be imposed for a second violation of subsection (c)  
28 of Section 6-303 of the Illinois Vehicle Code.

29 (4.4) Except as provided in paragraph (4.5) and  
30 paragraph (4.6) of this subsection (c), a minimum term of  
31 imprisonment of 30 days or 300 hours of community service,  
32 as determined by the court, shall be imposed for a third or  
33 subsequent violation of Section 6-303 of the Illinois  
34 Vehicle Code.

1           (4.5) A minimum term of imprisonment of 30 days shall  
2 be imposed for a third violation of subsection (c) of  
3 Section 6-303 of the Illinois Vehicle Code.

4           (4.6) A minimum term of imprisonment of 180 days shall  
5 be imposed for a fourth or subsequent violation of  
6 subsection (c) of Section 6-303 of the Illinois Vehicle  
7 Code.

8           (5) The court may sentence an offender convicted of a  
9 business offense or a petty offense or a corporation or  
10 unincorporated association convicted of any offense to:

11                   (A) a period of conditional discharge;

12                   (B) a fine;

13                   (C) make restitution to the victim under Section  
14 5-5-6 of this Code.

15           (5.1) In addition to any penalties imposed under  
16 paragraph (5) of this subsection (c), and except as  
17 provided in paragraph (5.2) or (5.3), a person convicted of  
18 violating subsection (c) of Section 11-907 of the Illinois  
19 Vehicle Code shall have his or her driver's license,  
20 permit, or privileges suspended for at least 90 days but  
21 not more than one year, if the violation resulted in damage  
22 to the property of another person.

23           (5.2) In addition to any penalties imposed under  
24 paragraph (5) of this subsection (c), and except as  
25 provided in paragraph (5.3), a person convicted of  
26 violating subsection (c) of Section 11-907 of the Illinois  
27 Vehicle Code shall have his or her driver's license,  
28 permit, or privileges suspended for at least 180 days but  
29 not more than 2 years, if the violation resulted in injury  
30 to another person.

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



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

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

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

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

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

30 (10) When a person is convicted of violating Section  
31 11-501 of the Illinois Vehicle Code or a similar provision  
32 of a local ordinance, the following penalties apply when  
33 his or her blood, breath, or urine was .16 or more based on  
34 the definition of blood, breath, or urine units in Section

1       ~~11-501.2 or that person is convicted of violating Section~~  
2       ~~11-501 of the Illinois Vehicle Code while transporting a~~  
3       ~~child under the age of 16:~~

4               (A) For a first violation of subsection (a) of  
5       Section 11-501, in addition to any other penalty that  
6       may be imposed under subsection (c) of Section 11-501:  
7       a mandatory minimum of 100 hours of community service  
8       and a minimum fine of \$500.

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

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

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

23       (11) When a person is convicted of violating Section  
24       11-501 of the Illinois Vehicle Code or a similar provision  
25       of a local ordinance, the following penalties apply when  
26       that person is convicted of violating Section 11-501 of the  
27       Illinois Vehicle Code while transporting a child under the  
28       age of 16:

29              (A) Except as otherwise provided in subparagraph  
30       (B) of this subdivision (c) (11), for a first violation  
31       of subsection (a) of Section 11-501, in addition to any  
32       other penalty that may be imposed under subsection (c)  
33       of Section 11-501: 25 days of community service in a  
34       program benefiting children and a mandatory fine of

1           \$1,000.

2           (B) For a first violation of subsection (a) of  
3           Section 11-501, if the violation was the proximate  
4           cause of an accident resulting in bodily harm to the  
5           child under the age of 16 being transported, in  
6           addition to any other penalty that may be imposed under  
7           subsection (c) of Section 11-501: 25 days of community  
8           service in a program benefiting children and a  
9           mandatory fine of \$2,500.

10           (C) Except as otherwise provided in subparagraph  
11           (D) of this subdivision (c) (11), for a second violation  
12           of subsection (a) of Section 11-501 within 10 years, in  
13           addition to any other penalty that may be imposed under  
14           subsection (c) of Section 11-501: 25 days of community  
15           service in a program benefiting children and a minimum  
16           fine of \$2,500.

17           (D) For a second violation of subsection (a) of  
18           Section 11-501 within 10 years, if the violation was  
19           the proximate cause of an accident resulting in bodily  
20           harm to the person under the age of 16 being  
21           transported, in addition to any other penalty that may  
22           be imposed under subsection (c) of Section 11-501: 25  
23           days of community service in a program benefiting  
24           children and a mandatory fine of \$5,000.

25           (E) For a third or subsequent violation of  
26           subsection (a) of Section 11-501 within 20 years, in  
27           addition to any other penalty that may be imposed under  
28           subsection (c) of Section: 25 days of community service  
29           in a program benefiting children and a mandatory fine  
30           of \$25,000.

31           (d) In any case in which a sentence originally imposed is  
32           vacated, the case shall be remanded to the trial court. The  
33           trial court shall hold a hearing under Section 5-4-1 of the  
34           Unified Code of Corrections which may include evidence of the

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

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

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

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

25 (B) the defendant is willing to participate in a  
26 court approved plan including but not limited to the  
27 defendant's:

28 (i) removal from the household;

29 (ii) restricted contact with the victim;

30 (iii) continued financial support of the  
31 family;

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

33 and

34 (v) compliance with any other measures that

1           the court may deem appropriate; and

2           (2) the court orders the defendant to pay for the  
3           victim's counseling services, to the extent that the court  
4           finds, after considering the defendant's income and  
5           assets, that the defendant is financially capable of paying  
6           for such services, if the victim was under 18 years of age  
7           at the time the offense was committed and requires  
8           counseling as a result of the offense.

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

16          For the purposes of this Section, "family member" and  
17          "victim" shall have the meanings ascribed to them in Section  
18          12-12 of the Criminal Code of 1961.

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

23          (g) Whenever a defendant is convicted of an offense under  
24          Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,  
25          11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16  
26          of the Criminal Code of 1961, the defendant shall undergo  
27          medical testing to determine whether the defendant has any  
28          sexually transmissible disease, including a test for infection  
29          with human immunodeficiency virus (HIV) or any other identified  
30          causative agent of acquired immunodeficiency syndrome (AIDS).  
31          Any such medical test shall be performed only by appropriately  
32          licensed medical practitioners and may include an analysis of  
33          any bodily fluids as well as an examination of the defendant's  
34          person. Except as otherwise provided by law, the results of

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

26 (g-5) When an inmate is tested for an airborne communicable  
27 disease, as determined by the Illinois Department of Public  
28 Health including but not limited to tuberculosis, the results  
29 of the test shall be personally delivered by the warden or his  
30 or her designee in a sealed envelope to the judge of the court  
31 in which the inmate must appear for the judge's inspection in  
32 camera if requested by the judge. Acting in accordance with the  
33 best interests of those in the courtroom, the judge shall have  
34 the discretion to determine what if any precautions need to be

1 taken to prevent transmission of the disease in the courtroom.

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

31 (i) All fines and penalties imposed under this Section for  
32 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
33 Vehicle Code, or a similar provision of a local ordinance, and  
34 any violation of the Child Passenger Protection Act, or a

1 similar provision of a local ordinance, shall be collected and  
2 disbursed by the circuit clerk as provided under Section 27.5  
3 of the Clerks of Courts Act.

4 (j) In cases when prosecution for any violation of Section  
5 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,  
6 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
7 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal  
8 Code of 1961, any violation of the Illinois Controlled  
9 Substances Act, or any violation of the Cannabis Control Act  
10 results in conviction, a disposition of court supervision, or  
11 an order of probation granted under Section 10 of the Cannabis  
12 Control Act or Section 410 of the Illinois Controlled Substance  
13 Act of a defendant, the court shall determine whether the  
14 defendant is employed by a facility or center as defined under  
15 the Child Care Act of 1969, a public or private elementary or  
16 secondary school, or otherwise works with children under 18  
17 years of age on a daily basis. When a defendant is so employed,  
18 the court shall order the Clerk of the Court to send a copy of  
19 the judgment of conviction or order of supervision or probation  
20 to the defendant's employer by certified mail. If the employer  
21 of the defendant is a school, the Clerk of the Court shall  
22 direct the mailing of a copy of the judgment of conviction or  
23 order of supervision or probation to the appropriate regional  
24 superintendent of schools. The regional superintendent of  
25 schools shall notify the State Board of Education of any  
26 notification under this subsection.

27 (j-5) A defendant at least 17 years of age who is convicted  
28 of a felony and who has not been previously convicted of a  
29 misdemeanor or felony and who is sentenced to a term of  
30 imprisonment in the Illinois Department of Corrections shall as  
31 a condition of his or her sentence be required by the court to  
32 attend educational courses designed to prepare the defendant  
33 for a high school diploma and to work toward a high school  
34 diploma or to work toward passing the high school level Test of



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

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

28 (l) (A) Except as provided in paragraph (C) of subsection  
29 (l), whenever a defendant, who is an alien as defined by  
30 the Immigration and Nationality Act, is convicted of any  
31 felony or misdemeanor offense, the court after sentencing  
32 the defendant may, upon motion of the State's Attorney,  
33 hold sentence in abeyance and remand the defendant to the  
34 custody of the Attorney General of the United States or his

1 or her designated agent to be deported when:

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

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

8 Otherwise, the defendant shall be sentenced as  
9 provided in this Chapter V.

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

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

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

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

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

1 eligible for additional good conduct credit for  
2 meritorious service as provided under Section 3-6-6.

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

9 (n) The court may sentence a person convicted of a  
10 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal  
11 Code of 1961 (i) to an impact incarceration program if the  
12 person is otherwise eligible for that program under Section  
13 5-8-1.1, (ii) to community service, or (iii) if the person is  
14 an addict or alcoholic, as defined in the Alcoholism and Other  
15 Drug Abuse and Dependency Act, to a substance or alcohol abuse  
16 program licensed under that Act.

17 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;  
18 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.  
19 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,  
20 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,  
21 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,  
22 eff. 1-1-04; revised 10-9-03.)".