

1 AN ACT in relation to driving offenses.

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

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

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

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

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

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

15 (2) under the influence of alcohol;

16 (3) under the influence of any intoxicating compound or
17 combination of intoxicating compounds to a degree that
18 renders the person incapable of driving safely;

19 (4) under the influence of any other drug or
20 combination of drugs to a degree that renders the person
21 incapable of safely driving;

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

25 (6) there is any amount of a drug, substance, or
26 compound in the person's breath, blood, or urine resulting
27 from the unlawful use or consumption of cannabis listed in
28 the Cannabis Control Act, a controlled substance listed in
29 the Illinois Controlled Substances Act, or an intoxicating
30 compound listed in the Use of Intoxicating Compounds Act.

31 (b) The fact that any person charged with violating this
32 Section is or has been legally entitled to use alcohol, other

1 drug or drugs, or intoxicating compound or compounds, or any
2 combination thereof, shall not constitute a defense against any
3 charge of violating this Section.

4 (c) Except as provided under paragraphs ~~(c-3)~~, (c-4),
5 (c-5), and (d) of this Section, every person convicted of
6 violating this Section or a similar provision of a local
7 ordinance, shall be guilty of a Class A misdemeanor and, in
8 addition to any other criminal or administrative action, for
9 any second conviction of violating this Section or a similar
10 provision of a law of another state or local ordinance
11 committed within 5 years of a previous violation of this
12 Section or a similar provision of a local ordinance shall be
13 mandatorily sentenced to a minimum of 5 days of imprisonment or
14 assigned to a minimum of 30 days of community service as may be
15 determined by the court. ~~Every person convicted of violating~~
16 ~~this Section or a similar provision of a local ordinance shall~~
17 ~~be subject to an additional mandatory minimum fine of \$500 and~~
18 ~~an additional mandatory 5 days of community service in a~~
19 ~~program benefiting children if the person committed a violation~~
20 ~~of paragraph (a) or a similar provision of a local ordinance~~
21 ~~while transporting a person under age 16. Every person~~
22 ~~convicted a second time for violating this Section or a similar~~
23 ~~provision of a local ordinance within 5 years of a previous~~
24 ~~violation of this Section or a similar provision of a law of~~
25 ~~another state or local ordinance shall be subject to an~~
26 ~~additional mandatory minimum fine of \$500 and an additional 10~~
27 ~~days of mandatory community service in a program benefiting~~
28 ~~children if the current offense was committed while~~
29 ~~transporting a person under age 16. The imprisonment or~~
30 ~~assignment under this subsection shall not be subject to~~
31 ~~suspension nor shall the person be eligible for probation in~~
32 ~~order to reduce the sentence or assignment.~~

33 (c-1) (1) A person who violates this Section during a
34 period in which his or her driving privileges are revoked
35 or suspended, where the revocation or suspension was for a
36 violation of this Section, Section 11-501.1, paragraph (b)

1 of Section 11-401, or Section 9-3 of the Criminal Code of
2 1961 is guilty of a Class 4 felony.

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

9 (3) A person who violates this Section a fourth or
10 subsequent time during a period in which his or her driving
11 privileges are revoked or suspended where the revocation or
12 suspension was for a violation of this Section, Section
13 11-501.1, paragraph (b) of Section 11-401, or Section 9-3
14 of the Criminal Code of 1961 is guilty of a Class 2 felony.

15 (c-2) (Blank).

16 (c-3) (Blank). ~~Every person convicted of violating this~~
17 ~~Section or a similar provision of a local ordinance who had a~~
18 ~~child under age 16 in the vehicle at the time of the offense~~
19 ~~shall have his or her punishment under this Act enhanced by 2~~
20 ~~days of imprisonment for a first offense, 10 days of~~
21 ~~imprisonment for a second offense, 30 days of imprisonment for~~
22 ~~a third offense, and 90 days of imprisonment for a fourth or~~
23 ~~subsequent offense, in addition to the fine and community~~
24 ~~service required under subsection (c) and the possible~~
25 ~~imprisonment required under subsection (d). The imprisonment~~
26 ~~or assignment under this subsection shall not be subject to~~
27 ~~suspension nor shall the person be eligible for probation in~~
28 ~~order to reduce the sentence or assignment.~~

29 (c-4) When a person is convicted of violating Section
30 11-501 of this Code or a similar provision of a local
31 ordinance, the following penalties apply when his or her blood,
32 breath, or urine was .16 or more based on the definition of
33 blood, breath, or urine units in Section 11-501.2 ~~or when that~~
34 ~~person is convicted of violating this Section while~~
35 ~~transporting a child under the age of 16:~~

36 (1) A person who is convicted of violating subsection

1 (a) of Section 11-501 of this Code a first time, in
2 addition to any other penalty that may be imposed under
3 subsection (c), is subject to a mandatory minimum of 100
4 hours of community service and a minimum fine of \$500.

5 (2) A person who is convicted of violating subsection
6 (a) of Section 11-501 of this Code a second time within 10
7 years, in addition to any other penalty that may be imposed
8 under subsection (c), is subject to a mandatory minimum of
9 2 days of imprisonment and a minimum fine of \$1,250.

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

16 (4) A person who is convicted of violating this
17 subsection (c-4) a fourth or subsequent time is guilty of a
18 Class 2 felony and, in addition to any other penalty that
19 may be imposed under subsection (c), is not eligible for a
20 sentence of probation or conditional discharge and is
21 subject to a minimum fine of \$2,500.

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

26 (1) Except as otherwise provided in paragraph (2) of
27 this subsection (c-5), a person who is convicted of
28 violating subsection (a) of this Section a first time is
29 guilty of a Class A misdemeanor and is subject to 6 months
30 of imprisonment, a mandatory fine of \$1000, and 25 days of
31 community service in a program benefiting children. The
32 imprisonment or assignment to community service under this
33 subsection shall not be subject to suspension, nor shall
34 the person be eligible for probation in order to reduce the
35 sentence or assignment.

36 (2) A person who is convicted of violating subsection

1 (a) of this Section a first time and who in committing that
2 violation was involved in a motor vehicle accident that
3 resulted in bodily harm to the child under the age of 16
4 being transported by the person, if the violation was the
5 proximate cause of the injury, is guilty of a Class 4
6 felony and is subject to one year of imprisonment, a
7 mandatory fine of \$2,500, and 25 days of community service
8 in a program benefiting children. The imprisonment or
9 assignment to community service under this subsection
10 shall not be subject to suspension, nor shall the person be
11 eligible for probation in order to reduce the sentence or
12 assignment.

13 (3) Except as otherwise provided in paragraph (4) of
14 this subsection (c-5), a person who is convicted of
15 violating subsection (a) of this Section a second time
16 within 10 years is guilty of a Class 4 felony and is
17 subject to one year of imprisonment, a mandatory fine of
18 \$2,500, and 25 days of community service in a program
19 benefiting children. The imprisonment or assignment to
20 community service under this subsection shall not be
21 subject to suspension, nor shall the person be eligible for
22 probation in order to reduce the sentence or assignment.

23 (4) A person who is convicted of violating subsection
24 (a) of this Section a second time within 10 years and who
25 in committing that violation was involved in a motor
26 vehicle accident that resulted in bodily harm to the child
27 under the age of 16 being transported, if the violation was
28 the proximate cause of the injury, is guilty of a Class 4
29 felony and is subject to 18 months of imprisonment, a
30 mandatory fine of \$5,000, and 25 days of community service
31 in a program benefiting children. The imprisonment or
32 assignment to community service under this subsection
33 shall not be subject to suspension, nor shall the person be
34 eligible for probation in order to reduce the sentence or
35 assignment.

36 (5) A person who is convicted of violating subsection

1 (a) of this Section a third or subsequent time within 20
2 years is guilty of a Class 3 felony and is subject to 3
3 years of imprisonment, a mandatory fine of \$25,000, and 25
4 days of community service in a program benefiting children.
5 The imprisonment or assignment to community service under
6 this subsection shall not be subject to suspension, nor
7 shall the person be eligible for probation in order to
8 reduce the sentence or assignment.

9 (d) (1) Every person convicted of committing a violation of
10 this Section shall be guilty of aggravated driving under
11 the influence of alcohol, other drug or drugs, or
12 intoxicating compound or compounds, or any combination
13 thereof if:

14 (A) the person committed a violation of this
15 Section, or a similar provision of a law of another
16 state or a local ordinance when the cause of action is
17 the same as or substantially similar to this Section,
18 for the third or subsequent time;

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

21 (C) the person in committing a violation of
22 paragraph (a) was involved in a motor vehicle accident
23 that resulted in great bodily harm or permanent
24 disability or disfigurement to another, when the
25 violation was a proximate cause of the injuries;

26 (D) the person committed a violation of paragraph
27 (a) for a second time and has been previously convicted
28 of violating Section 9-3 of the Criminal Code of 1961
29 relating to reckless homicide in which the person was
30 determined to have been under the influence of alcohol,
31 other drug or drugs, or intoxicating compound or
32 compounds as an element of the offense or the person
33 has previously been convicted under subparagraph (C)
34 or subparagraph (F) of this paragraph (1);

35 (E) the person, in committing a violation of
36 paragraph (a) while driving at any speed in a school

1 speed zone at a time when a speed limit of 20 miles per
2 hour was in effect under subsection (a) of Section
3 11-605 of this Code, was involved in a motor vehicle
4 accident that resulted in bodily harm, other than great
5 bodily harm or permanent disability or disfigurement,
6 to another person, when the violation of paragraph (a)
7 was a proximate cause of the bodily harm; or

8 (F) the person, in committing a violation of
9 paragraph (a), was involved in a motor vehicle,
10 snowmobile, all-terrain vehicle, or watercraft
11 accident that resulted in the death of another person,
12 when the violation of paragraph (a) was a proximate
13 cause of the death.

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

35 (e) After a finding of guilt and prior to any final
36 sentencing, or an order for supervision, for an offense based

1 upon an arrest for a violation of this Section or a similar
2 provision of a local ordinance, individuals shall be required
3 to undergo a professional evaluation to determine if an
4 alcohol, drug, or intoxicating compound abuse problem exists
5 and the extent of the problem, and undergo the imposition of
6 treatment as appropriate. Programs conducting these
7 evaluations shall be licensed by the Department of Human
8 Services. The cost of any professional evaluation shall be paid
9 for by the individual required to undergo the professional
10 evaluation.

11 (e-1) Any person who is found guilty of or pleads guilty to
12 violating this Section, including any person receiving a
13 disposition of court supervision for violating this Section,
14 may be required by the Court to attend a victim impact panel
15 offered by, or under contract with, a County State's Attorney's
16 office, a probation and court services department, Mothers
17 Against Drunk Driving, or the Alliance Against Intoxicated
18 Motorists. All costs generated by the victim impact panel shall
19 be paid from fees collected from the offender or as may be
20 determined by the court.

21 (f) Every person found guilty of violating this Section,
22 whose operation of a motor vehicle while in violation of this
23 Section proximately caused any incident resulting in an
24 appropriate emergency response, shall be liable for the expense
25 of an emergency response as provided under Section 5-5-3 of the
26 Unified Code of Corrections.

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

30 (h) Every person sentenced under paragraph (2) or (3) of
31 subsection (c-1) of this Section or subsection (d) of this
32 Section and who receives a term of probation or conditional
33 discharge shall be required to serve a minimum term of either
34 60 days community service or 10 days of imprisonment as a
35 condition of the probation or conditional discharge. This
36 mandatory minimum term of imprisonment or assignment of

1 community service shall not be suspended and shall not be
2 subject to reduction by the court.

3 (i) The Secretary of State shall require the use of
4 ignition interlock devices on all vehicles owned by an
5 individual who has been convicted of a second or subsequent
6 offense of this Section or a similar provision of a local
7 ordinance. The Secretary shall establish by rule and regulation
8 the procedures for certification and use of the interlock
9 system.

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

30 (k) The Secretary of State Police DUI Fund is created as a
31 special fund in the State treasury. All moneys received by the
32 Secretary of State Police under subsection (j) of this Section
33 shall be deposited into the Secretary of State Police DUI Fund
34 and, subject to appropriation, shall be used to purchase law
35 enforcement equipment to assist in the prevention of alcohol
36 related criminal violence throughout the State.

1 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;
2 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02;
3 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff.
4 7-18-03; 93-584, eff. 8-22-03; revised 8-27-03.)

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

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

8 Sec. 5-5-3. Disposition.

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

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

15 (1) A period of probation.

16 (2) A term of periodic imprisonment.

17 (3) A term of conditional discharge.

18 (4) A term of imprisonment.

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

23 (6) A fine.

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

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

28 Whenever an individual is sentenced for an offense based
29 upon an arrest for a violation of Section 11-501 of the
30 Illinois Vehicle Code, or a similar provision of a local
31 ordinance, and the professional evaluation recommends remedial
32 or rehabilitative treatment or education, neither the
33 treatment nor the education shall be the sole disposition and
34 either or both may be imposed only in conjunction with another

1 disposition. The court shall monitor compliance with any
2 remedial education or treatment recommendations contained in
3 the professional evaluation. Programs conducting alcohol or
4 other drug evaluation or remedial education must be licensed by
5 the Department of Human Services. However, if the individual is
6 not a resident of Illinois, the court may accept an alcohol or
7 other drug evaluation or remedial education program in the
8 state of such individual's residence. Programs providing
9 treatment must be licensed under existing applicable
10 alcoholism and drug treatment licensure standards.

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

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

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

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

8 (A) First degree murder where the death penalty is
9 not imposed.

10 (B) Attempted first degree murder.

11 (C) A Class X felony.

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

17 (E) A violation of Section 5.1 or 9 of the Cannabis
18 Control Act.

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

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

28 (H) Criminal sexual assault.

29 (I) Aggravated battery of a senior citizen.

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

32 Before July 1, 1994, for the purposes of this
33 paragraph, "organized gang" means an association of 5
34 or more persons, with an established hierarchy, that
35 encourages members of the association to perpetrate
36 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
35 committed within 5 years of a previous violation of Section
36 11-501 of the Illinois Vehicle Code or a similar provision

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

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

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

19 (4.2) Except as provided in paragraph (4.3) of this
20 subsection (c), a minimum of 100 hours of community service
21 shall be imposed for a second violation of Section 6-303 of
22 the Illinois Vehicle Code.

23 (4.3) A minimum term of imprisonment of 30 days or 300
24 hours of community service, as determined by the court,
25 shall be imposed for a second violation of subsection (c)
26 of Section 6-303 of the Illinois Vehicle Code.

27 (4.4) Except as provided in paragraph (4.5) and
28 paragraph (4.6) of this subsection (c), a minimum term of
29 imprisonment of 30 days or 300 hours of community service,
30 as determined by the court, shall be imposed for a third or
31 subsequent violation of Section 6-303 of the Illinois
32 Vehicle Code.

33 (4.5) A minimum term of imprisonment of 30 days shall
34 be imposed for a third violation of subsection (c) of
35 Section 6-303 of the Illinois Vehicle Code.

36 (4.6) A minimum term of imprisonment of 180 days shall

1 be imposed for a fourth or subsequent violation of
2 subsection (c) of Section 6-303 of the Illinois Vehicle
3 Code.

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

7 (A) a period of conditional discharge;

8 (B) a fine;

9 (C) make restitution to the victim under Section
10 5-5-6 of this Code.

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

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

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

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

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

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

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

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

32 (A) For a first violation of subsection (a) of
33 Section 11-501, in addition to any other penalty that
34 may be imposed under subsection (c) of Section 11-501:
35 a mandatory minimum of 100 hours of community service
36 and a minimum fine of \$500.

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

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

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

15 (11) When a person is convicted of violating Section
16 11-501 of the Illinois Vehicle Code or a similar provision
17 of a local ordinance, the following penalties apply when
18 that person is convicted of violating Section 11-501 of the
19 Illinois Vehicle Code while transporting a child under the
20 age of 16:

21 (A) Except as otherwise provided in subparagraph
22 (B) of this subdivision (c) (11), for a first violation
23 of subsection (a) of Section 11-501, in addition to any
24 other penalty that may be imposed under subsection (c)
25 of Section 11-501: 25 days of community service in a
26 program benefiting children and a mandatory fine of
27 \$1,000.

28 (B) For a first violation of subsection (a) of
29 Section 11-501, if the violation was the proximate
30 cause of an accident resulting in bodily harm to the
31 child under the age of 16 being transported, in
32 addition to any other penalty that may be imposed under
33 subsection (c) of Section 11-501: 25 days of community
34 service in a program benefiting children and a
35 mandatory fine of \$2,500.

36 (C) Except as otherwise provided in subparagraph

1 (D) of this subdivision (c) (11), for a second violation
2 of subsection (a) of Section 11-501 within 10 years, in
3 addition to any other penalty that may be imposed under
4 subsection (c) of Section 11-501: 25 days of community
5 service in a program benefiting children and a minimum
6 fine of \$2,500.

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

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

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

1 files notice of its intention to again seek the extended
2 sentence, the defendant shall be afforded a new trial.

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

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

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

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

16 (i) removal from the household;

17 (ii) restricted contact with the victim;

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

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

21 and

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

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

31 Probation may be revoked or modified pursuant to Section
32 5-6-4; except where the court determines at the hearing that
33 the defendant violated a condition of his or her probation
34 restricting contact with the victim or other family members or
35 commits another offense with the victim or other family
36 members, the court shall revoke the defendant's probation and

1 impose a term of imprisonment.

2 For the purposes of this Section, "family member" and
3 "victim" shall have the meanings ascribed to them in Section
4 12-12 of the Criminal Code of 1961.

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

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

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

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

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

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

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

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

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

7 (j-5) A defendant at least 17 years of age who is convicted
8 of a felony and who has not been previously convicted of a
9 misdemeanor or felony and who is sentenced to a term of
10 imprisonment in the Illinois Department of Corrections shall as
11 a condition of his or her sentence be required by the court to
12 attend educational courses designed to prepare the defendant
13 for a high school diploma and to work toward a high school
14 diploma or to work toward passing the high school level Test of
15 General Educational Development (GED) or to work toward
16 completing a vocational training program offered by the
17 Department of Corrections. If a defendant fails to complete the
18 educational training required by his or her sentence during the
19 term of incarceration, the Prisoner Review Board shall, as a
20 condition of mandatory supervised release, require the
21 defendant, at his or her own expense, to pursue a course of
22 study toward a high school diploma or passage of the GED test.
23 The Prisoner Review Board shall revoke the mandatory supervised
24 release of a defendant who wilfully fails to comply with this
25 subsection (j-5) upon his or her release from confinement in a
26 penal institution while serving a mandatory supervised release
27 term; however, the inability of the defendant after making a
28 good faith effort to obtain financial aid or pay for the
29 educational training shall not be deemed a wilful failure to
30 comply. The Prisoner Review Board shall recommit the defendant
31 whose mandatory supervised release term has been revoked under
32 this subsection (j-5) as provided in Section 3-3-9. This
33 subsection (j-5) does not apply to a defendant who has a high
34 school diploma or has successfully passed the GED test. This
35 subsection (j-5) does not apply to a defendant who is
36 determined by the court to be developmentally disabled or

1 otherwise mentally incapable of completing the educational or
2 vocational program.

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

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

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

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

20 Otherwise, the defendant shall be sentenced as
21 provided in this Chapter V.

22 (B) If the defendant has already been sentenced for a
23 felony or misdemeanor offense, or has been placed on
24 probation under Section 10 of the Cannabis Control Act or
25 Section 410 of the Illinois Controlled Substances Act, the
26 court may, upon motion of the State's Attorney to suspend
27 the sentence imposed, commit the defendant to the custody
28 of the Attorney General of the United States or his or her
29 designated agent when:

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

33 (2) the deportation of the defendant would not
34 deprecate the seriousness of the defendant's conduct
35 and would not be inconsistent with the ends of justice.

36 (C) This subsection (l) does not apply to offenders who

1 are subject to the provisions of paragraph (2) of
2 subsection (a) of Section 3-6-3.

3 (D) Upon motion of the State's Attorney, if a defendant
4 sentenced under this Section returns to the jurisdiction of
5 the United States, the defendant shall be recommitted to
6 the custody of the county from which he or she was
7 sentenced. Thereafter, the defendant shall be brought
8 before the sentencing court, which may impose any sentence
9 that was available under Section 5-5-3 at the time of
10 initial sentencing. In addition, the defendant shall not be
11 eligible for additional good conduct credit for
12 meritorious service as provided under Section 3-6-6.

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

19 (n) The court may sentence a person convicted of a
20 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
21 Code of 1961 (i) to an impact incarceration program if the
22 person is otherwise eligible for that program under Section
23 5-8-1.1, (ii) to community service, or (iii) if the person is
24 an addict or alcoholic, as defined in the Alcoholism and Other
25 Drug Abuse and Dependency Act, to a substance or alcohol abuse
26 program licensed under that Act.

27 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
28 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
29 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
30 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
31 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
32 eff. 1-1-04; revised 10-9-03.)