



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/09/04, by Jim Sacia

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-3

from Ch. 38, par. 1005-5-3

Amends the Unified Code of Corrections. Provides that, if a person's operation of motor vehicle, snowmobile, or watercraft under the influence of alcohol, drugs, or intoxicating compounds proximately caused an incident that resulted in an appropriate emergency response, the person shall, in addition to any other fine or penalty, be charged a service fee (rather than shall make restitution) of no more than \$500 (rather than no more than \$1,000) to any one public agency that responded to the incident.

LRB093 17834 DRH 43515 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning driving offenses.

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

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

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

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

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

14 (1) A period of probation.

15 (2) A term of periodic imprisonment.

16 (3) A term of conditional discharge.

17 (4) A term of imprisonment.

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21 (now repealed).

22 (6) A fine.

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

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

27 Whenever an individual is sentenced for an offense based
28 upon an arrest for a violation of Section 11-501 of the
29 Illinois Vehicle Code, or a similar provision of a local
30 ordinance, and the professional evaluation recommends remedial
31 or rehabilitative treatment or education, neither the
32 treatment nor the education shall be the sole disposition and

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

12 In addition to any other fine or penalty required by law,
13 any individual convicted of a violation of Section 11-501 of
14 the Illinois Vehicle Code, Section 5-7 of the Snowmobile
15 Registration and Safety Act, Section 5-16 of the Boat
16 Registration and Safety Act, or a similar provision of local
17 ordinance, whose operation of a motor vehicle while in
18 violation of Section 11-501, Section 5-7, Section 5-16, or such
19 ordinance proximately caused an incident resulting in an
20 appropriate emergency response, shall be required to pay a
21 service fee ~~make restitution~~ to a public agency for the costs
22 of that emergency response. Such service fee ~~restitution~~ shall
23 not exceed \$500 ~~\$1,000~~ per public agency for each such
24 emergency response. For the purpose of this paragraph,
25 emergency response shall mean any incident requiring a response
26 by: a police officer as defined under Section 1-162 of the
27 Illinois Vehicle Code; a fireman carried on the rolls of a
28 regularly constituted fire department; and an ambulance as
29 defined under Section 3.85 of the Emergency Medical Services
30 (EMS) Systems Act.

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

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

1 a sentence of death under Section 9-1 of the Criminal Code
2 of 1961.

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

10 (A) First degree murder where the death penalty is
11 not imposed.

12 (B) Attempted first degree murder.

13 (C) A Class X felony.

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

19 (E) A violation of Section 5.1 or 9 of the Cannabis
20 Control Act.

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

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

30 (H) Criminal sexual assault.

31 (I) Aggravated battery of a senior citizen.

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

34 Before July 1, 1994, for the purposes of this
35 paragraph, "organized gang" means an association of 5
36 or more persons, with an established hierarchy, that

1 encourages members of the association to perpetrate
2 crimes or provides support to the members of the
3 association who do commit crimes.

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

8 (K) Vehicular hijacking.

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

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

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

19 (O) A violation of Section 12-6.1 of the Criminal
20 Code of 1961.

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

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

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

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

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

34 (3) A minimum term of imprisonment of not less than 5
35 days or 30 days of community service as may be determined
36 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.

35 (4.5) A minimum term of imprisonment of 30 days shall
36 be imposed for a third violation of subsection (c) of

1 Section 6-303 of the Illinois Vehicle Code.

2

3 (4.6) A minimum term of imprisonment of 180 days shall
4 be imposed for a fourth or subsequent violation of
5 subsection (c) of Section 6-303 of the Illinois Vehicle
6 Code.

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

10 (A) a period of conditional discharge;

11 (B) a fine;

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

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

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

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

36 (6) In no case shall an offender be eligible for a

1 disposition of probation or conditional discharge for a
2 Class 1 felony committed while he was serving a term of
3 probation or conditional discharge for a felony.

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

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

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

27 (10) When a person is convicted of violating Section
28 11-501 of the Illinois Vehicle Code or a similar provision
29 of a local ordinance, the following penalties apply when
30 his or her blood, breath, or urine was .16 or more based on
31 the definition of blood, breath, or urine units in Section
32 11-501.2 or that person is convicted of violating Section
33 11-501 of the Illinois Vehicle Code while transporting a
34 child under the age of 16:

35 (A) For a first violation of subsection (a) of
36 Section 11-501, in addition to any other penalty that

1 may be imposed under subsection (c) of Section 11-501:
2 a mandatory minimum of 100 hours of community service
3 and a minimum fine of \$500.

4 (B) For a second 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 within 10 years: a mandatory minimum of 2 days of
8 imprisonment and a minimum fine of \$1,250.

9 (C) For a third 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 20 years: a mandatory minimum of 90 days of
13 imprisonment and a minimum fine of \$2,500.

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

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

36 (e) In cases where prosecution for aggravated criminal

1 sexual abuse under Section 12-16 of the Criminal Code of 1961
2 results in conviction of a defendant who was a family member of
3 the victim at the time of the commission of the offense, the
4 court shall consider the safety and welfare of the victim and
5 may impose a sentence of probation only where:

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

7 (A) the defendant is willing to undergo a court
8 approved counseling program for a minimum duration of 2
9 years; or

10 (B) the defendant is willing to participate in a
11 court approved plan including but not limited to the
12 defendant's:

13 (i) removal from the household;

14 (ii) restricted contact with the victim;

15 (iii) continued financial support of the
16 family;

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

18 and

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

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

28 Probation may be revoked or modified pursuant to Section
29 5-6-4; except where the court determines at the hearing that
30 the defendant violated a condition of his or her probation
31 restricting contact with the victim or other family members or
32 commits another offense with the victim or other family
33 members, the court shall revoke the defendant's probation and
34 impose a term of imprisonment.

35 For the purposes of this Section, "family member" and
36 "victim" shall have the meanings ascribed to them in Section

1 12-12 of the Criminal Code of 1961.

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

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

1 shall grant the disclosure if the State's Attorney shows it is
2 relevant in order to prosecute a charge of criminal
3 transmission of HIV under Section 12-16.2 of the Criminal Code
4 of 1961 against the defendant. The court shall order that the
5 cost of any such test shall be paid by the county and may be
6 taxed as costs against the convicted defendant.

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

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

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

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

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

1 superintendent of schools. The regional superintendent of
2 schools shall notify the State Board of Education of any
3 notification under this subsection.

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

36 (k) A court may not impose a sentence or disposition for a

1 felony or misdemeanor that requires the defendant to be
2 implanted or injected with or to use any form of birth control.

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

11 (1) a final order of deportation has been issued
12 against the defendant pursuant to proceedings under
13 the Immigration and Nationality Act, and

14 (2) the deportation of the defendant would not
15 deprecate the seriousness of the defendant's conduct
16 and would not be inconsistent with the ends of justice.

17 Otherwise, the defendant shall be sentenced as
18 provided in this Chapter V.

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

27 (1) a final order of deportation has been issued
28 against the defendant pursuant to proceedings under
29 the Immigration and Nationality Act, and

30 (2) the deportation of the defendant would not
31 deprecate the seriousness of the defendant's conduct
32 and would not be inconsistent with the ends of justice.

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

36 (D) Upon motion of the State's Attorney, if a defendant

1 sentenced under this Section returns to the jurisdiction of
2 the United States, the defendant shall be recommitted to
3 the custody of the county from which he or she was
4 sentenced. Thereafter, the defendant shall be brought
5 before the sentencing court, which may impose any sentence
6 that was available under Section 5-5-3 at the time of
7 initial sentencing. In addition, the defendant shall not be
8 eligible for additional good conduct credit for
9 meritorious service as provided under Section 3-6-6.

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

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

24 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
25 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
26 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
27 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
28 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
29 eff. 1-1-04; revised 10-9-03.)