

1 AN ACT in relation to vehicles.

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

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

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

8 Sec. 5-2. Reckless operation.

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

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

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

27 (625 ILCS 45/6-1) (from Ch. 95 1/2, par. 316-1)

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

29 A. The operator of a vessel involved in a collision,
30 accident, or other casualty, so far as he can without serious
31 danger to his own vessel, crew, passengers and guests, if any,

1 shall render to other persons affected by the collision,
2 accident, or other casualty assistance as may be practicable
3 and as may be necessary in order to save them from or minimize
4 any danger caused by the collision, accident, or other
5 casualty, and also shall give his name, address, and
6 identification of his vessel to any person injured and to the
7 owner of any property damaged in the collision, accident, or
8 other casualty.

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

12 A-1. Any person who has failed to stop or to comply with
13 the requirements of subsection A must, as soon as possible but
14 in no case later than one hour after the collision, accident,
15 or other casualty, or, if hospitalized and incapacitated from
16 reporting at any time during that period, as soon as possible
17 but in no case later than one hour after being discharged from
18 the hospital, report the date, place, and approximate time of
19 the collision, accident, or other casualty, the watercraft
20 operator's name and address, the identification number of the
21 watercraft, if any, and the names of all other occupants of the
22 watercraft, at a police station or sheriff's office near the
23 location where the collision, accident, or other casualty
24 occurred. A report made as required under this subsection A-1
25 may not be used, directly or indirectly, as a basis for the
26 prosecution of any violation of subsection A.

27 As used in this Section, personal injury means any injury
28 requiring treatment beyond first aid.

29 Any person failing to comply with this subsection A-1 is
30 guilty of a Class 4 felony if the collision, accident, or other
31 casualty does not result in the death of any person. Any person
32 failing to comply with this subsection A-1 when the collision,
33 accident, or other casualty results in the death of any person
34 is guilty of a Class 2 felony, for which the person, if
35 sentenced to a term of imprisonment, shall be sentenced to a
36 term of not less than 3 years and not more than 14 years.

1 B. In the case of collision, accident, or other casualty
2 involving a vessel, the operator, if the collision, accident,
3 or other casualty results in death or injury to a person or
4 damage to property in excess of \$500, shall file with the
5 Department a full description of the collision, accident, or
6 other casualty, including information as the Department may by
7 regulation require. Reports of the accidents must be filed with
8 the Department on a Department Accident Report form within 5
9 days.

10 C. Reports of accidents resulting in personal injury, where
11 a person is incapacitated for a period exceeding 72 hours, must
12 be filed with the Department on a Department Accident Report
13 form within 5 days. Accidents that result in loss of life shall
14 be reported to the Department on a Department form within 48
15 hours.

16 D. All required accident reports and supplemental reports
17 are without prejudice to the individual reporting, and are for
18 the confidential use of the Department, except that the
19 Department may disclose the identity of a person involved in an
20 accident when the identity is not otherwise known or when the
21 person denies his presence at the accident. No report to the
22 Department may be used as evidence in any trial, civil or
23 criminal, arising out of an accident, except that the
24 Department must furnish upon demand of any person who has or
25 claims to have made a report or upon demand of any court a
26 certificate showing that a specified accident report has or has
27 not been made to the Department solely to prove a compliance or
28 a failure to comply with the requirements that a report be made
29 to the Department.

30 E. (1) Every coroner or medical examiner shall on or before
31 the 10th day of each month report in writing to the
32 Department the circumstances surrounding the death of any
33 person that has occurred as the result of a boating
34 accident within the examiner's jurisdiction during the
35 preceding calendar month.

36 (2) Within 6 hours after a death resulting from a

1 boating accident, but in any case not more than 12 hours
2 after the occurrence of the boating accident, a blood
3 specimen of at least 10 cc shall be withdrawn from the body
4 of the decedent by the coroner or medical examiner or by a
5 qualified person at the direction of the physician. All
6 morticians shall obtain a release from the coroner or
7 medical examiner prior to proceeding with embalming any
8 body coming under the scope of this Section. The blood so
9 drawn shall be forwarded to a laboratory approved by the
10 Department of State Police for analysis of the alcoholic
11 content of the blood specimen. The coroner or medical
12 examiner causing the blood to be withdrawn shall be
13 notified of the results of each analysis made and shall
14 forward the results of each analysis to the Department. The
15 Department shall keep a record of all examinations to be
16 used for statistical purposes only. The cumulative results
17 of the examinations, without identifying the individuals
18 involved, shall be disseminated and made public by the
19 Department.

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

21 (625 ILCS 45/11A-3) (from Ch. 95 1/2, par. 321A-3)

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

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

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

29 (625 ILCS 45/11A-4) (from Ch. 95 1/2, par. 321A-4)

30 Sec. 11A-4. Any person who is convicted of a violation of
31 Sections 5-1, ~~5-2~~ or 11A-5 of this Act, in addition to any
32 other penalties authorized in this Act, may in the discretion
33 of the court be refused the privilege of operating any
34 watercraft on any of the waterways of this State for a period

1 of not less than one year.

2 Any person who is convicted of a violation of Section 5-2
3 of this Act or subsection A-1 of Section 6-1 of this Act, in
4 addition to any other penalties authorized in this Act, shall
5 have his or her privilege of operating any watercraft on any of
6 the waterways of this State suspended by the Department for a
7 period of not less than one year.

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

9 (625 ILCS 45/11A-5) (from Ch. 95 1/2, par. 321A-5)

10 Sec. 11A-5. Any person who operates any watercraft during
11 the period when he is denied the privilege to so operate is
12 guilty of a Class A misdemeanor for a first offense and a Class
13 4 felony for a second or subsequent offense.

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

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

17 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

18 Sec. 5-5-3. Disposition.

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

21 (b) The following options shall be appropriate
22 dispositions, alone or in combination, for all felonies and
23 misdemeanors other than those identified in subsection (c) of
24 this Section:

25 (1) A period of probation.

26 (2) A term of periodic imprisonment.

27 (3) A term of conditional discharge.

28 (4) A term of imprisonment.

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

33 (6) A fine.

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

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

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

22 In addition to any other fine or penalty required by law,
23 any individual convicted of a violation of Section 11-501 of
24 the Illinois Vehicle Code, Section 5-7 of the Snowmobile
25 Registration and Safety Act, Section 5-16 of the Boat
26 Registration and Safety Act, or a similar provision of local
27 ordinance, whose operation of a motor vehicle while in
28 violation of Section 11-501, Section 5-7, Section 5-16, or such
29 ordinance proximately caused an incident resulting in an
30 appropriate emergency response, shall be required to make
31 restitution to a public agency for the costs of that emergency
32 response. Such restitution shall not exceed \$1,000 per public
33 agency for each such emergency response. For the purpose of
34 this paragraph, emergency response shall mean any incident
35 requiring a response by: a police officer as defined under
36 Section 1-162 of the Illinois Vehicle Code; a fireman carried

1 on the rolls of a regularly constituted fire department; and an
2 ambulance as defined under Section 3.85 of the Emergency
3 Medical Services (EMS) Systems Act.

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

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

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

19 (A) First degree murder where the death penalty is
20 not imposed.

21 (B) Attempted first degree murder.

22 (C) A Class X felony.

23 (D) A violation of Section 401.1 or 407 of the
24 Illinois Controlled Substances Act, or a violation of
25 subdivision (c) (1) or (c) (2) of Section 401 of that Act
26 which relates to more than 5 grams of a substance
27 containing heroin or cocaine or an analog thereof.

28 (E) A violation of Section 5.1 or 9 of the Cannabis
29 Control Act.

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

36 (G) Residential burglary, except as otherwise

1 provided in Section 40-10 of the Alcoholism and Other
2 Drug Abuse and Dependency Act.

3 (H) Criminal sexual assault.

4 (I) Aggravated battery of a senior citizen.

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

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

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

17 (K) Vehicular hijacking.

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

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

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

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

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

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

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

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

3 (T) A second or subsequent violation of paragraph
4 (6.6) of subsection (a), subsection (c-5), or
5 subsection (d-5) of Section 401 of the Illinois
6 Controlled Substances Act.

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

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

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

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

34 (4.3) A minimum term of imprisonment of 30 days or 300
35 hours of community service, as determined by the court,
36 shall be imposed for a second violation of subsection (c)

1 of Section 6-303 of the Illinois Vehicle Code.

2 (4.4) Except as provided in paragraph (4.5) and
3 paragraph (4.6) of this subsection (c), a minimum term of
4 imprisonment of 30 days or 300 hours of community service,
5 as determined by the court, shall be imposed for a third or
6 subsequent violation of Section 6-303 of the Illinois
7 Vehicle Code.

8 (4.5) A minimum term of imprisonment of 30 days shall
9 be imposed for a third violation of subsection (c) of
10 Section 6-303 of the Illinois Vehicle Code.

11 (4.6) A minimum term of imprisonment of 180 days shall
12 be imposed for a fourth or subsequent violation of
13 subsection (c) of Section 6-303 of the Illinois Vehicle
14 Code.

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

18 (A) a period of conditional discharge;

19 (B) a fine;

20 (C) make restitution to the victim under Section
21 5-5-6 of this Code.

22 (5.1) In addition to any penalties imposed under
23 paragraph (5) of this subsection (c), and except as
24 provided in paragraph (5.2) or (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 90 days but
28 not more than one year, if the violation resulted in damage
29 to the property of another person.

30 (5.2) In addition to any penalties imposed under
31 paragraph (5) of this subsection (c), and except as
32 provided in paragraph (5.3), 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,
35 permit, or privileges suspended for at least 180 days but
36 not more than 2 years, if the violation resulted in injury

1 to another person.

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

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

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

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

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

35 (10) When a person is convicted of violating Section
36 11-501 of the Illinois Vehicle Code or a similar provision

1 of a local ordinance, the following penalties apply when
2 his or her blood, breath, or urine was .16 or more based on
3 the definition of blood, breath, or urine units in Section
4 11-501.2 or that person is convicted of violating Section
5 11-501 of the Illinois Vehicle Code while transporting a
6 child under the age of 16:

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

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

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

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

26 (11) A person may not receive a disposition of court
27 supervision for a violation of Section 5-16 of the Boat
28 Registration and Safety Act if that person has previously
29 received a disposition of court supervision for a violation
30 of that Section.

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
35 defendant's life, moral character and occupation during the
36 time since the original sentence was passed. The trial court

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

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

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

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

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

26 (i) removal from the household;

27 (ii) restricted contact with the victim;

28 (iii) continued financial support of the
29 family;

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

31 and

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

34 (2) the court orders the defendant to pay for the
35 victim's counseling services, to the extent that the court
36 finds, after considering the defendant's income and

1 assets, that the defendant is financially capable of paying
2 for such services, if the victim was under 18 years of age
3 at the time the offense was committed and requires
4 counseling as a result of the offense.

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

12 For the purposes of this Section, "family member" and
13 "victim" shall have the meanings ascribed to them in Section
14 12-12 of the Criminal Code of 1961.

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

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

1 determine to whom, if anyone, the results of the testing may be
2 revealed. The court shall notify the defendant of the test
3 results. The court shall also notify the victim if requested by
4 the victim, and if the victim is under the age of 15 and if
5 requested by the victim's parents or legal guardian, the court
6 shall notify the victim's parents or legal guardian of the test
7 results. The court shall provide information on the
8 availability of HIV testing and counseling at Department of
9 Public Health facilities to all parties to whom the results of
10 the testing are revealed and shall direct the State's Attorney
11 to provide the information to the victim when possible. A
12 State's Attorney may petition the court to obtain the results
13 of any HIV test administered under this Section, and the court
14 shall grant the disclosure if the State's Attorney shows it is
15 relevant in order to prosecute a charge of criminal
16 transmission of HIV under Section 12-16.2 of the Criminal Code
17 of 1961 against the defendant. The court shall order that the
18 cost of any such test shall be paid by the county and may be
19 taxed as costs against the convicted defendant.

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

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

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

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

30 (j) In cases when prosecution for any violation of Section
31 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
32 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
33 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
34 Code of 1961, any violation of the Illinois Controlled
35 Substances Act, or any violation of the Cannabis Control Act
36 results in conviction, a disposition of court supervision, or

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

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

1 term; however, the inability of the defendant after making a
2 good faith effort to obtain financial aid or pay for the
3 educational training shall not be deemed a wilful failure to
4 comply. The Prisoner Review Board shall recommit the defendant
5 whose mandatory supervised release term has been revoked under
6 this subsection (j-5) as provided in Section 3-3-9. This
7 subsection (j-5) does not apply to a defendant who has a high
8 school diploma or has successfully passed the GED test. This
9 subsection (j-5) does not apply to a defendant who is
10 determined by the court to be developmentally disabled or
11 otherwise mentally incapable of completing the educational or
12 vocational program.

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

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

24 (1) a final order of deportation has been issued
25 against the defendant pursuant to proceedings under
26 the Immigration and Nationality Act, and

27 (2) the deportation of the defendant would not
28 deprecate the seriousness of the defendant's conduct
29 and would not be inconsistent with the ends of justice.

30 Otherwise, the defendant shall be sentenced as
31 provided in this Chapter V.

32 (B) If the defendant has already been sentenced for a
33 felony or misdemeanor offense, or has been placed on
34 probation under Section 10 of the Cannabis Control Act or
35 Section 410 of the Illinois Controlled Substances Act, the
36 court may, upon motion of the State's Attorney to suspend

1 the sentence imposed, commit the defendant to the custody
2 of the Attorney General of the United States or his or her
3 designated agent when:

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

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

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

13 (D) Upon motion of the State's Attorney, if a defendant
14 sentenced under this Section returns to the jurisdiction of
15 the United States, the defendant shall be recommitted to
16 the custody of the county from which he or she was
17 sentenced. Thereafter, the defendant shall be brought
18 before the sentencing court, which may impose any sentence
19 that was available under Section 5-5-3 at the time of
20 initial sentencing. In addition, the defendant shall not be
21 eligible for additional good conduct credit for
22 meritorious service as provided under Section 3-6-6.

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

29 (n) The court may sentence a person convicted of a
30 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
31 Code of 1961 (i) to an impact incarceration program if the
32 person is otherwise eligible for that program under Section
33 5-8-1.1, (ii) to community service, or (iii) if the person is
34 an addict or alcoholic, as defined in the Alcoholism and Other
35 Drug Abuse and Dependency Act, to a substance or alcohol abuse
36 program licensed under that Act.

1 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
2 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
3 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
4 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
5 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
6 eff. 1-1-04; revised 10-9-03.)