

1 AN ACT concerning health.

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

4 Section 1. Short title. This Act may be cited as the
5 HIV/AIDS Prevention Program for Department of Corrections
6 Offenders, Significant Others, and Family Act.

7 Section 5. Definition. In this Act, "HIV/AIDS" means the
8 human immunodeficiency virus or any other identified causative
9 agent of acquired immunodeficiency syndrome.

10 Section 10. HIV/AIDS Prevention Program for Department of
11 Corrections Offenders, Significant Others, and Family. The
12 Department of Corrections and the Department of Public Health
13 shall jointly develop and implement an HIV/AIDS prevention
14 education program targeted to offenders incarcerated in
15 Department of Corrections facilities, significant others, and
16 family of adult and juvenile prison inmates. Through this
17 program, the Illinois Department of Corrections shall: (1)
18 provide, in all public waiting rooms of detention facilities
19 and prisons, printed information on the transmission and
20 prevention of HIV/AIDS, hepatitis C, and other sexually
21 transmitted diseases and referral information to
22 community-based-providers of HIV/AIDS prevention, HIV/AIDS
23 treatment, and HIV/AIDS counseling and testing services
24 throughout Illinois; (2) display in all public waiting rooms of
25 detention facilities and prisons an HIV/AIDS informational
26 video, produced by a national organization with expertise in
27 HIV/AIDS prevention; (3) provide written information on the
28 transmission and prevention of HIV/AIDS, hepatitis C, and other
29 sexually transmitted diseases to all inmates upon entrance to a
30 detention center or prison and offer voluntary HIV/AIDS testing
31 to all inmates; and (4) provide written information on the

1 transmission and prevention of HIV/AIDS, hepatitis C, and other
2 sexually transmitted diseases to all inmates just prior to
3 their release from custody and referral to appropriate
4 community based organizations that provide HIV/AIDS services
5 and HIV/AIDS counseling and testing.

6 Section 15. Report to the General Assembly. One year after
7 implementation of this Act, the Illinois Department of
8 Corrections shall report to the General Assembly on the
9 effectiveness of this program in increasing voluntary HIV/AIDS
10 testing.

11 Section 55. The Unified Code of Corrections is amended by
12 changing Sections 3-6-2 and 5-5-3 as follows:

13 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

14 Sec. 3-6-2. Institutions and Facility Administration.

15 (a) Each institution and facility of the Department shall
16 be administered by a chief administrative officer appointed by
17 the Director. A chief administrative officer shall be
18 responsible for all persons assigned to the institution or
19 facility. The chief administrative officer shall administer
20 the programs of the Department for the custody and treatment of
21 such persons.

22 (b) The chief administrative officer shall have such
23 assistants as the Department may assign.

24 (c) The Director or Assistant Director shall have the
25 emergency powers to temporarily transfer individuals without
26 formal procedures to any State, county, municipal or regional
27 correctional or detention institution or facility in the State,
28 subject to the acceptance of such receiving institution or
29 facility, or to designate any reasonably secure place in the
30 State as such an institution or facility and to make transfers
31 thereto. However, transfers made under emergency powers shall
32 be reviewed as soon as practicable under Article 8, and shall
33 be subject to Section 5-905 of the Juvenile Court Act of 1987.

1 This Section shall not apply to transfers to the Department of
2 Human Services which are provided for under Section 3-8-5 or
3 Section 3-10-5.

4 (d) The Department shall provide educational programs for
5 all committed persons so that all persons have an opportunity
6 to attain the achievement level equivalent to the completion of
7 the twelfth grade in the public school system in this State.
8 Other higher levels of attainment shall be encouraged and
9 professional instruction shall be maintained wherever
10 possible. The Department may establish programs of mandatory
11 education and may establish rules and regulations for the
12 administration of such programs. A person committed to the
13 Department who, during the period of his or her incarceration,
14 participates in an educational program provided by or through
15 the Department and through that program is awarded or earns the
16 number of hours of credit required for the award of an
17 associate, baccalaureate, or higher degree from a community
18 college, college, or university located in Illinois shall
19 reimburse the State, through the Department, for the costs
20 incurred by the State in providing that person during his or
21 her incarceration with the education that qualifies him or her
22 for the award of that degree. The costs for which reimbursement
23 is required under this subsection shall be determined and
24 computed by the Department under rules and regulations that it
25 shall establish for that purpose. However, interest at the rate
26 of 6% per annum shall be charged on the balance of those costs
27 from time to time remaining unpaid, from the date of the
28 person's parole, mandatory supervised release, or release
29 constituting a final termination of his or her commitment to
30 the Department until paid.

31 (e) A person committed to the Department who becomes in
32 need of medical or surgical treatment but is incapable of
33 giving consent thereto shall receive such medical or surgical
34 treatment by the chief administrative officer consenting on the
35 person's behalf. Before the chief administrative officer
36 consents, he or she shall obtain the advice of one or more

1 physicians licensed to practice medicine in all its branches in
2 this State. If such physician or physicians advise:

3 (1) that immediate medical or surgical treatment is
4 required relative to a condition threatening to cause
5 death, damage or impairment to bodily functions, or
6 disfigurement; and

7 (2) that the person is not capable of giving consent to
8 such treatment; the chief administrative officer may give
9 consent for such medical or surgical treatment, and such
10 consent shall be deemed to be the consent of the person for
11 all purposes, including, but not limited to, the authority
12 of a physician to give such treatment.

13 (e-5) If a physician providing medical care to a committed
14 person on behalf of the Department advises the chief
15 administrative officer that the committed person's mental or
16 physical health has deteriorated as a result of the cessation
17 of ingestion of food or liquid to the point where medical or
18 surgical treatment is required to prevent death, damage, or
19 impairment to bodily functions, the chief administrative
20 officer may authorize such medical or surgical treatment.

21 (f) In the event that the person requires medical care and
22 treatment at a place other than the institution or facility,
23 the person may be removed therefrom under conditions prescribed
24 by the Department. The Department shall require the committed
25 person receiving medical or dental services on a non-emergency
26 basis to pay a \$2 co-payment to the Department for each visit
27 for medical or dental services. The amount of each co-payment
28 shall be deducted from the committed person's individual
29 account. A committed person who has a chronic illness, as
30 defined by Department rules and regulations, shall be exempt
31 from the \$2 co-payment for treatment of the chronic illness. A
32 committed person shall not be subject to a \$2 co-payment for
33 follow-up visits ordered by a physician, who is employed by, or
34 contracts with, the Department. A committed person who is
35 indigent is exempt from the \$2 co-payment and is entitled to
36 receive medical or dental services on the same basis as a

1 committed person who is financially able to afford the
2 co-payment. Notwithstanding any other provision in this
3 subsection (f) to the contrary, any person committed to any
4 facility operated by the Juvenile Division, as set forth in
5 subsection (b) of Section 3-2-5 of this Code, is exempt from
6 the co-payment requirement for the duration of confinement in
7 those facilities.

8 (g) Any person having sole custody of a child at the time
9 of commitment or any woman giving birth to a child after her
10 commitment, may arrange through the Department of Children and
11 Family Services for suitable placement of the child outside of
12 the Department of Corrections. The Director of the Department
13 of Corrections may determine that there are special reasons why
14 the child should continue in the custody of the mother until
15 the child is 6 years old.

16 (h) The Department may provide Family Responsibility
17 Services which may consist of, but not be limited to the
18 following:

19 (1) family advocacy counseling;

20 (2) parent self-help group;

21 (3) parenting skills training;

22 (4) parent and child overnight program;

23 (5) parent and child reunification counseling, either
24 separately or together, preceding the inmate's release;
25 and

26 (6) a prerelease reunification staffing involving the
27 family advocate, the inmate and the child's counselor, or
28 both and the inmate.

29 (i) Upon admission of an inmate to an institution or
30 facility of the Department and prior to release of the inmate,
31 he or she shall be given a physical examination and upon
32 admission and prior ~~Prior~~ to the release of any inmate ~~who has~~
33 ~~a documented history of intravenous drug use, and upon the~~
34 ~~receipt of that inmate's written informed consent,~~ the
35 Department shall provide for the testing of such inmate for
36 infection with human immunodeficiency virus (HIV) and any other

1 identified causative agent of acquired immunodeficiency
2 syndrome (AIDS). The testing provided under this subsection
3 shall consist of an enzyme-linked immunosorbent assay (ELISA)
4 test or such other test as may be approved by the Illinois
5 Department of Public Health. If the test result is positive,
6 the Western Blot Assay or more reliable confirmatory test shall
7 be administered. All inmates tested in accordance with the
8 provisions of this subsection shall be provided with pre-test
9 and post-test counseling. ~~Notwithstanding any provision of~~
10 ~~this subsection to the contrary, the Department shall not be~~
11 ~~required to conduct the testing and counseling required by this~~
12 ~~subsection unless sufficient funds to cover all costs of such~~
13 ~~testing and counseling are appropriated for that purpose by the~~
14 ~~General Assembly.~~

15 (j) Any person convicted of a sex offense as defined in the
16 Sex Offender Management Board Act shall be required to receive
17 a sex offender evaluation prior to release into the community
18 from the Department of Corrections. The sex offender evaluation
19 shall be conducted in conformance with the standards and
20 guidelines developed under the Sex Offender Management Board
21 Act and by an evaluator approved by the Board.

22 (k) Any minor committed to the Department of
23 Corrections-Juvenile Division for a sex offense as defined by
24 the Sex Offender Management Board Act shall be required to
25 undergo sex offender treatment by a treatment provider approved
26 by the Board and conducted in conformance with the Sex Offender
27 Management Board Act.

28 (Source: P.A. 92-292, eff. 8-9-01; 93-616, eff. 1-1-04; 93-928,
29 eff. 1-1-05.)

30 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

31 Sec. 5-5-3. Disposition.

32 (a) Except as provided in Section 11-501 of the Illinois
33 Vehicle Code, every person convicted of an offense shall be
34 sentenced as provided in this Section.

35 (b) The following options shall be appropriate

1 dispositions, alone or in combination, for all felonies and
2 misdemeanors other than those identified in subsection (c) of
3 this Section:

4 (1) A period of probation.

5 (2) A term of periodic imprisonment.

6 (3) A term of conditional discharge.

7 (4) A term of imprisonment.

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

12 (6) A fine.

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

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

17 (9) A term of imprisonment in combination with a term
18 of probation when the offender has been admitted into a
19 drug court program under Section 20 of the Drug Court
20 Treatment Act.

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

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

29 (2) A period of probation, a term of periodic
30 imprisonment or conditional discharge shall not be imposed
31 for the following offenses. The court shall sentence the
32 offender to not less than the minimum term of imprisonment
33 set forth in this Code for the following offenses, and may
34 order a fine or restitution or both in conjunction with
35 such term of imprisonment:

36 (A) First degree murder where the death penalty is

1 not imposed.

2 (B) Attempted first degree murder.

3 (C) A Class X felony.

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

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

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

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

20 (H) Criminal sexual assault.

21 (I) Aggravated battery of a senior citizen.

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

24 Before July 1, 1994, for the purposes of this
25 paragraph, "organized gang" means an association of 5
26 or more persons, with an established hierarchy, that
27 encourages members of the association to perpetrate
28 crimes or provides support to the members of the
29 association who do commit crimes.

30 Beginning July 1, 1994, for the purposes of this
31 paragraph, "organized gang" has the meaning ascribed
32 to it in Section 10 of the Illinois Streetgang
33 Terrorism Omnibus Prevention Act.

34 (K) Vehicular hijacking.

35 (L) A second or subsequent conviction for the
36 offense of hate crime when the underlying offense upon

1 which the hate crime is based is felony aggravated
2 assault or felony mob action.

3 (M) A second or subsequent conviction for the
4 offense of institutional vandalism if the damage to the
5 property exceeds \$300.

6 (N) A Class 3 felony violation of paragraph (1) of
7 subsection (a) of Section 2 of the Firearm Owners
8 Identification Card Act.

9 (O) A violation of Section 12-6.1 of the Criminal
10 Code of 1961.

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

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

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

18 (S) (Blank).

19 (T) A second or subsequent violation of paragraph
20 (6.6) of subsection (a), subsection (c-5), or
21 subsection (d-5) of Section 401 of the Illinois
22 Controlled Substances Act.

23 (3) (Blank).

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

28 (4.1) (Blank).

29 (4.2) Except as provided in paragraph (4.3) of this
30 subsection (c), a minimum of 100 hours of community service
31 shall be imposed for a second violation of Section 6-303 of
32 the Illinois Vehicle Code.

33 (4.3) A minimum term of imprisonment of 30 days or 300
34 hours of community service, as determined by the court,
35 shall be imposed for a second violation of subsection (c)
36 of Section 6-303 of the Illinois Vehicle Code.

1 (4.4) Except as provided in paragraph (4.5) and
2 paragraph (4.6) of this subsection (c), a minimum term of
3 imprisonment of 30 days or 300 hours of community service,
4 as determined by the court, shall be imposed for a third or
5 subsequent violation of Section 6-303 of the Illinois
6 Vehicle Code.

7 (4.5) A minimum term of imprisonment of 30 days shall
8 be imposed for a third violation of subsection (c) of
9 Section 6-303 of the Illinois Vehicle Code.

10 (4.6) A minimum term of imprisonment of 180 days shall
11 be imposed for a fourth or subsequent violation of
12 subsection (c) of Section 6-303 of the Illinois Vehicle
13 Code.

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

17 (A) a period of conditional discharge;

18 (B) a fine;

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

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

29 (5.2) In addition to any penalties imposed under
30 paragraph (5) of this subsection (c), and except as
31 provided in paragraph (5.3), 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 at least 180 days but
35 not more than 2 years, if the violation resulted in injury
36 to another person.

1 (5.3) In addition to any penalties imposed under
2 paragraph (5) of this subsection (c), a person convicted of
3 violating subsection (c) of Section 11-907 of the Illinois
4 Vehicle Code shall have his or her driver's license,
5 permit, or privileges suspended for 2 years, if the
6 violation resulted in the death of another person.

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

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

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

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

34 (10) (Blank).

35 (11) The court shall impose a minimum fine of \$1,000
36 for a first offense and \$2,000 for a second or subsequent

1 offense upon a person convicted of or placed on supervision
2 for battery when the individual harmed was a sports
3 official or coach at any level of competition and the act
4 causing harm to the sports official or coach occurred
5 within an athletic facility or within the immediate
6 vicinity of the athletic facility at which the sports
7 official or coach was an active participant of the athletic
8 contest held at the athletic facility. For the purposes of
9 this paragraph (11), "sports official" means a person at an
10 athletic contest who enforces the rules of the contest,
11 such as an umpire or referee; "athletic facility" means an
12 indoor or outdoor playing field or recreational area where
13 sports activities are conducted; and "coach" means a person
14 recognized as a coach by the sanctioning authority that
15 conducted the sporting event.

16 (12) ~~(11)~~ A person may not receive a disposition of
17 court supervision for a violation of Section 5-16 of the
18 Boat Registration and Safety Act if that person has
19 previously received a disposition of court supervision for
20 a violation of that Section.

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. The costs of the educational courses
18 shall be paid by the Department. If a defendant fails to
19 complete the educational training required by his or her
20 sentence during the term of incarceration, the Prisoner Review
21 Board shall, as a condition of mandatory supervised release,
22 require the defendant, ~~at his or her own expense,~~ to pursue a
23 course of study toward a high school diploma or passage of the
24 GED test. The costs of the educational courses shall be paid by
25 the Department. The Prisoner Review Board shall revoke the
26 mandatory supervised release of a defendant who wilfully fails
27 to comply with this subsection (j-5) upon his or her release
28 from confinement in a penal institution while serving a
29 mandatory supervised release term; ~~however, the inability of~~
30 ~~the defendant after making a good faith effort to obtain~~
31 ~~financial aid or pay for the educational training shall not be~~
32 ~~deemed a wilful failure to comply.~~ The Prisoner Review Board
33 shall recommit the defendant whose mandatory supervised
34 release term has been revoked under this subsection (j-5) as
35 provided in Section 3-3-9. This subsection (j-5) does not apply
36 to a defendant who has a high school diploma or has

1 successfully passed the GED test. This subsection (j-5) does
2 not apply to a defendant who is determined by the court to be
3 developmentally disabled or otherwise mentally incapable of
4 completing the educational or vocational program.

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

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

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

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

22 Otherwise, the defendant shall be sentenced as
23 provided in this Chapter V.

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

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

35 (2) the deportation of the defendant would not
36 deprecate the seriousness of the defendant's conduct

1 and would not be inconsistent with the ends of justice.

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

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

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

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

29 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
30 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
31 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
32 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
33 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
34 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,
35 eff. 1-1-05; 93-1014, eff. 1-1-05; revised 10-25-04.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.