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1 AMENDMENT TO HOUSE BILL 2582

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2582 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Controlled Substances Act is  
5 amended by changing Sections 401 and 402 as follows:

6 (720 ILCS 570/401) (from Ch. 56 1/2, par. 1401)

7 Sec. 401. Except as authorized by this Act, it is unlawful  
8 for any person knowingly to: (i) manufacture or deliver, or  
9 possess with intent to manufacture or deliver, a controlled or  
10 counterfeit substance or controlled substance analog or (ii)  
11 possess any methamphetamine manufacturing chemical listed in  
12 paragraph (z-1) of Section 102 with the intent to manufacture  
13 methamphetamine or the salt of an optical isomer of  
14 methamphetamine or an analog thereof. A violation of this Act  
15 with respect to each of the controlled substances listed herein  
16 constitutes a single and separate violation of this Act. For  
17 purposes of this Section, "controlled substance analog" or  
18 "analog" means a substance which is intended for human  
19 consumption, other than a controlled substance, that has a  
20 chemical structure substantially similar to that of a  
21 controlled substance in Schedule I or II, or that was  
22 specifically designed to produce an effect substantially  
23 similar to that of a controlled substance in Schedule I or II.  
24 Examples of chemical classes in which controlled substance

1 analogs are found include, but are not limited to, the  
2 following: phenethylamines, N-substituted piperidines,  
3 morphinans, ecgonines, quinazolinones, substituted indoles,  
4 and arylcycloalkylamines. For purposes of this Act, a  
5 controlled substance analog shall be treated in the same manner  
6 as the controlled substance to which it is substantially  
7 similar.

8 (a) Any person who violates this Section with respect to  
9 the following amounts of controlled or counterfeit substances  
10 or controlled substance analogs, notwithstanding any of the  
11 provisions of subsections (c), (c-5), (d), (d-5), (e), (f), (g)  
12 or (h) to the contrary, is guilty of a Class X felony and shall  
13 be sentenced to a term of imprisonment as provided in this  
14 subsection (a) and fined as provided in subsection (b):

15 (1) (A) not less than 6 years and not more than 30  
16 years with respect to: (i) 15 grams or more but less  
17 than 100 grams of a substance containing heroin, or an  
18 analog thereof, or (ii) 15 or more objects or 15 or  
19 more segregated parts of an object or objects, or  
20 number of objects intended to be segregated or derived  
21 from an object or objects, but less than 200 objects or  
22 200 segregated parts of an object or objects, or number  
23 of objects intended to be segregated or derived from an  
24 object or objects, containing in them or having upon  
25 them any amounts of any substance containing heroin, or  
26 an analog thereof;

27 (B) not less than 9 years and not more than 40  
28 years with respect to: (i) 100 grams or more but less  
29 than 400 grams of a substance containing heroin, or an  
30 analog thereof, or (ii) 200 or more objects or 200 or  
31 more segregated parts of an object or objects, or  
32 number of objects intended to be segregated or derived  
33 from an object or objects, but less than 600 objects or  
34 less than 600 segregated parts of an object or objects,

1 or number of objects intended to be segregated or  
2 derived from an object or objects, containing in them  
3 or having upon them any amount of any substance  
4 containing heroin, or an analog thereof;

5 (C) not less than 12 years and not more than 50  
6 years with respect to: (i) 400 grams or more but less  
7 than 900 grams of a substance containing heroin, or an  
8 analog thereof, or (ii) 600 or more objects or 600 or  
9 more segregated parts of an object or objects, or  
10 number of objects intended to be segregated or derived  
11 from an object or objects, but less than 1500 objects  
12 or 1500 segregated parts of an object or objects, or  
13 number of objects intended to be segregated or derived  
14 from an object or objects, containing in them or having  
15 upon them any amount of any substance containing  
16 heroin, or an analog thereof;

17 (D) not less than 15 years and not more than 60  
18 years with respect to: (i) 900 grams or more of any  
19 substance containing heroin, or an analog thereof, or  
20 (ii) 1500 or more objects or 1500 or more segregated  
21 parts of an object or objects, or number of objects  
22 intended to be segregated or derived from an object or  
23 objects, containing in them or having upon them any  
24 amount of a substance containing heroin, or an analog  
25 thereof;

26 (2) (A) not less than 6 years and not more than 30  
27 years with respect to 15 grams or more but less than  
28 100 grams of a substance containing cocaine, or an  
29 analog thereof;

30 (B) not less than 9 years and not more than 40  
31 years with respect to 100 grams or more but less than  
32 400 grams of a substance containing cocaine, or an  
33 analog thereof;

34 (C) not less than 12 years and not more than 50

1 years with respect to 400 grams or more but less than  
2 900 grams of a substance containing cocaine, or an  
3 analog thereof;

4 (D) not less than 15 years and not more than 60  
5 years with respect to 900 grams or more of any  
6 substance containing cocaine, or an analog thereof;

7 (3) (A) not less than 6 years and not more than 30  
8 years with respect to 15 grams or more but less than  
9 100 grams of a substance containing morphine, or an  
10 analog thereof;

11 (B) not less than 9 years and not more than 40  
12 years with respect to 100 grams or more but less than  
13 400 grams of a substance containing morphine, or an  
14 analog thereof;

15 (C) not less than 12 years and not more than 50  
16 years with respect to 400 grams or more but less than  
17 900 grams of a substance containing morphine, or an  
18 analog thereof;

19 (D) not less than 15 years and not more than 60  
20 years with respect to 900 grams or more of a substance  
21 containing morphine, or an analog thereof;

22 (4) 200 grams or more of any substance containing  
23 peyote, or an analog thereof;

24 (5) 200 grams or more of any substance containing a  
25 derivative of barbituric acid or any of the salts of a  
26 derivative of barbituric acid, or an analog thereof;

27 (6) 200 grams or more of any substance containing  
28 amphetamine or any salt of an optical isomer of  
29 amphetamine, or an analog thereof;

30 (6.5) (A) not less than 6 years and not more than 30  
31 years with respect to 15 grams or more but less than  
32 100 grams of a substance containing methamphetamine or  
33 any salt of an optical isomer of methamphetamine, or an  
34 analog thereof;

1 (B) not less than 9 years and not more than 40  
2 years with respect to 100 grams or more but less than  
3 400 grams of a substance containing methamphetamine or  
4 any salt of an optical isomer of methamphetamine, or an  
5 analog thereof;

6 (C) not less than 12 years and not more than 50  
7 years with respect to 400 grams or more but less than  
8 900 grams of a substance containing methamphetamine or  
9 any salt of an optical isomer of methamphetamine, or an  
10 analog thereof;

11 (D) not less than 15 years and not more than 60  
12 years with respect to 900 grams or more of any  
13 substance containing methamphetamine or any salt of an  
14 optical isomer of methamphetamine, or an analog  
15 thereof.

16 (6.6) (A) not less than 6 years and not more than 30  
17 years for the possession of any methamphetamine  
18 manufacturing chemical set forth in paragraph (z-1) of  
19 Section 102 with intent to manufacture 30 grams or more  
20 but less than 150 grams of any substance containing  
21 methamphetamine, or salt of any optical isomer of  
22 methamphetamine, or an analog thereof;

23 (B) not less than 6 years and not more than 40  
24 years for the possession of any methamphetamine  
25 manufacturing chemical set forth in paragraph (z-1) of  
26 Section 102 with intent to manufacture 150 grams or  
27 more but less than 500 grams of any substance  
28 containing methamphetamine, or salt of an optical  
29 isomer of methamphetamine, or an analog thereof;

30 (C) not less than 6 years and not more than 50  
31 years for the possession of any methamphetamine  
32 manufacturing chemical set forth in paragraph (z-1) of  
33 Section 102 with intent to manufacture 500 grams or  
34 more but less than 1200 grams of any substance

1 containing methamphetamine, or salt of an optical  
2 isomer of methamphetamine, or an analog thereof;

3 (D) not less than 6 years and not more than 60  
4 years for the possession of any methamphetamine  
5 manufacturing chemical set forth in paragraph (z-1) of  
6 Section 102 with intent to manufacture 1200 grams or  
7 more of any substance containing methamphetamine, or  
8 salt of an optical isomer of methamphetamine, or an  
9 analog thereof;

10 (7) (A) not less than 6 years and not more than 30  
11 years with respect to: (i) 15 grams or more but less  
12 than 100 grams of a substance containing lysergic acid  
13 diethylamide (LSD), or an analog thereof, or (ii) 15 or  
14 more objects or 15 or more segregated parts of an  
15 object or objects but less than 200 objects or 200  
16 segregated parts of an object or objects containing in  
17 them or having upon them any amounts of any substance  
18 containing lysergic acid diethylamide (LSD), or an  
19 analog thereof;

20 (B) not less than 9 years and not more than 40  
21 years with respect to: (i) 100 grams or more but less  
22 than 400 grams of a substance containing lysergic acid  
23 diethylamide (LSD), or an analog thereof, or (ii) 200  
24 or more objects or 200 or more segregated parts of an  
25 object or objects but less than 600 objects or less  
26 than 600 segregated parts of an object or objects  
27 containing in them or having upon them any amount of  
28 any substance containing lysergic acid diethylamide  
29 (LSD), or an analog thereof;

30 (C) not less than 12 years and not more than 50  
31 years with respect to: (i) 400 grams or more but less  
32 than 900 grams of a substance containing lysergic acid  
33 diethylamide (LSD), or an analog thereof, or (ii) 600  
34 or more objects or 600 or more segregated parts of an

1 object or objects but less than 1500 objects or 1500  
2 segregated parts of an object or objects containing in  
3 them or having upon them any amount of any substance  
4 containing lysergic acid diethylamide (LSD), or an  
5 analog thereof;

6 (D) not less than 15 years and not more than 60  
7 years with respect to: (i) 900 grams or more of any  
8 substance containing lysergic acid diethylamide (LSD),  
9 or an analog thereof, or (ii) 1500 or more objects or  
10 1500 or more segregated parts of an object or objects  
11 containing in them or having upon them any amount of a  
12 substance containing lysergic acid diethylamide (LSD),  
13 or an analog thereof;

14 (7.5) (A) not less than 6 years and not more than 30  
15 years with respect to: (i) 15 grams or more but less  
16 than 100 grams of a substance listed in paragraph (1),  
17 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
18 (25), or (26) of subsection (d) of Section 204, or an  
19 analog or derivative thereof, or (ii) 15 or more pills,  
20 tablets, caplets, capsules, or objects but less than  
21 200 pills, tablets, caplets, capsules, or objects  
22 containing in them or having upon them any amounts of  
23 any substance listed in paragraph (1), (2), (2.1), (3),  
24 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
25 subsection (d) of Section 204, or an analog or  
26 derivative thereof;

27 (B) not less than 9 years and not more than 40  
28 years with respect to: (i) 100 grams or more but less  
29 than 400 grams of a substance listed in paragraph (1),  
30 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
31 (25), or (26) of subsection (d) of Section 204, or an  
32 analog or derivative thereof, or (ii) 200 or more  
33 pills, tablets, caplets, capsules, or objects but less  
34 than 600 pills, tablets, caplets, capsules, or objects

1 containing in them or having upon them any amount of  
2 any substance listed in paragraph (1), (2), (2.1), (3),  
3 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
4 subsection (d) of Section 204, or an analog or  
5 derivative thereof;

6 (C) not less than 12 years and not more than 50  
7 years with respect to: (i) 400 grams or more but less  
8 than 900 grams of a substance listed in paragraph (1),  
9 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
10 (25), or (26) of subsection (d) of Section 204, or an  
11 analog or derivative thereof, or (ii) 600 or more  
12 pills, tablets, caplets, capsules, or objects but less  
13 than 1,500 pills, tablets, caplets, capsules, or  
14 objects containing in them or having upon them any  
15 amount of any substance listed in paragraph (1), (2),  
16 (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or  
17 (26) of subsection (d) of Section 204, or an analog or  
18 derivative thereof;

19 (D) not less than 15 years and not more than 60  
20 years with respect to: (i) 900 grams or more of any  
21 substance listed in paragraph (1), (2), (2.1), (3),  
22 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
23 subsection (d) of Section 204, or an analog or  
24 derivative thereof, or (ii) 1,500 or more pills,  
25 tablets, caplets, capsules, or objects containing in  
26 them or having upon them any amount of a substance  
27 listed in paragraph (1), (2), (2.1), (3), (14.1), (19),  
28 (20), (20.1), (21), (25), or (26) of subsection (d) of  
29 Section 204, or an analog or derivative thereof;

30 (8) 30 grams or more of any substance containing  
31 pentazocine or any of the salts, isomers and salts of  
32 isomers of pentazocine, or an analog thereof;

33 (9) 30 grams or more of any substance containing  
34 methaqualone or any of the salts, isomers and salts of



1 isomers of methaqualone, or an analog thereof;

2 (10) 30 grams or more of any substance containing  
3 phencyclidine or any of the salts, isomers and salts of  
4 isomers of phencyclidine (PCP), or an analog thereof;

5 (10.5) 30 grams or more of any substance containing  
6 ketamine or any of the salts, isomers and salts of isomers  
7 of ketamine, or an analog thereof;

8 (11) 200 grams or more of any substance containing any  
9 other controlled substance classified in Schedules I or II,  
10 or an analog thereof, which is not otherwise included in  
11 this subsection.

12 (b) Any person sentenced with respect to violations of  
13 paragraph (1), (2), (3), (6.5), (6.6), (7), or (7.5) of  
14 subsection (a) involving 100 grams or more of the controlled  
15 substance named therein, may in addition to the penalties  
16 provided therein, be fined an amount not more than \$500,000 or  
17 the full street value of the controlled or counterfeit  
18 substance or controlled substance analog, whichever is  
19 greater. The term "street value" shall have the meaning  
20 ascribed in Section 110-5 of the Code of Criminal Procedure of  
21 1963. Any person sentenced with respect to any other provision  
22 of subsection (a), may in addition to the penalties provided  
23 therein, be fined an amount not to exceed \$500,000.

24 (c) Any person who violates this Section with regard to the  
25 following amounts of controlled or counterfeit substances or  
26 controlled substance analogs, notwithstanding any of the  
27 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)  
28 to the contrary, is guilty of a Class 1 felony. The fine for  
29 violation of this subsection (c) shall not be more than  
30 \$250,000:

31 (1) (i) 1 gram or more but less than 15 grams of any  
32 substance containing heroin, or an analog thereof, or (ii)  
33 more than 10 objects or more than 10 segregated parts of an  
34 object or objects, or number of objects intended to be

1 segregated or derived from an object or objects, but less  
2 than 15 objects or less than 15 segregated parts of an  
3 object, or number of objects intended to be segregated or  
4 derived from an object or objects, containing in them or  
5 having upon them any amount of any substance containing  
6 heroin, or an analog thereof;

7 (2) 1 gram or more but less than 15 grams of any  
8 substance containing cocaine, or an analog thereof;

9 (3) 10 grams or more but less than 15 grams of any  
10 substance containing morphine, or an analog thereof;

11 (4) 50 grams or more but less than 200 grams of any  
12 substance containing peyote, or an analog thereof;

13 (5) 50 grams or more but less than 200 grams of any  
14 substance containing a derivative of barbituric acid or any  
15 of the salts of a derivative of barbituric acid, or an  
16 analog thereof;

17 (6) 50 grams or more but less than 200 grams of any  
18 substance containing amphetamine or any salt of an optical  
19 isomer of amphetamine, or an analog thereof;

20 (6.5) 5 grams or more but less than 15 grams of any  
21 substance containing methamphetamine or any salt or  
22 optical isomer of methamphetamine, or an analog thereof;

23 (7) (i) 5 grams or more but less than 15 grams of any  
24 substance containing lysergic acid diethylamide (LSD), or  
25 an analog thereof, or (ii) more than 10 objects or more  
26 than 10 segregated parts of an object or objects but less  
27 than 15 objects or less than 15 segregated parts of an  
28 object containing in them or having upon them any amount of  
29 any substance containing lysergic acid diethylamide (LSD),  
30 or an analog thereof;

31 (7.5) (i) 5 grams or more but less than 15 grams of any  
32 substance listed in paragraph (1), (2), (2.1), (3), (14.1),  
33 (19), (20), (20.1), (21), (25), or (26) of subsection (d)  
34 of Section 204, or an analog or derivative thereof, or (ii)

1 more than 10 pills, tablets, caplets, capsules, or objects  
2 but less than 15 pills, tablets, caplets, capsules, or  
3 objects containing in them or having upon them any amount  
4 of any substance listed in paragraph (1), (2), (2.1), (3),  
5 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
6 subsection (d) of Section 204, or an analog or derivative  
7 thereof;

8 (8) 10 grams or more but less than 30 grams of any  
9 substance containing pentazocine or any of the salts,  
10 isomers and salts of isomers of pentazocine, or an analog  
11 thereof;

12 (9) 10 grams or more but less than 30 grams of any  
13 substance containing methaqualone or any of the salts,  
14 isomers and salts of isomers of methaqualone, or an analog  
15 thereof;

16 (10) 10 grams or more but less than 30 grams of any  
17 substance containing phencyclidine or any of the salts,  
18 isomers and salts of isomers of phencyclidine (PCP), or an  
19 analog thereof;

20 (10.5) 10 grams or more but less than 30 grams of any  
21 substance containing ketamine or any of the salts, isomers  
22 and salts of isomers of ketamine, or an analog thereof;

23 (11) 50 grams or more but less than 200 grams of any  
24 substance containing a substance classified in Schedules I  
25 or II, or an analog thereof, which is not otherwise  
26 included in this subsection.

27 (c-5) Any person who violates this Section with regard to  
28 possession of any methamphetamine manufacturing chemical set  
29 forth in paragraph (z-1) of Section 102 with intent to  
30 manufacture 15 grams or more but less than 30 grams of  
31 methamphetamine, or salt of an optical isomer of  
32 methamphetamine or any analog thereof, is guilty of a Class 1  
33 felony. The fine for violation of this subsection (c-5) shall  
34 not be more than \$250,000.

1 (d) Any person who violates this Section with regard to any  
2 other amount of a controlled or counterfeit substance  
3 classified in Schedules I or II, or an analog thereof, which is  
4 (i) a narcotic drug, (ii) lysergic acid diethylamide (LSD) or  
5 an analog thereof, or (iii) any substance containing  
6 amphetamine or methamphetamine or any salt or optical isomer of  
7 amphetamine or methamphetamine, or an analog thereof, is guilty  
8 of a Class 2 felony. The fine for violation of this subsection  
9 (d) shall not be more than \$200,000.

10 (d-5) Any person who violates this Section with regard to  
11 possession of any methamphetamine manufacturing chemical set  
12 forth in paragraph (z-1) of Section 102 with intent to  
13 manufacture less than 15 grams of methamphetamine, or salt of  
14 an optical isomer of methamphetamine or any analog thereof, is  
15 guilty of a Class 2 felony. The fine for violation of this  
16 subsection (d-5) shall not be more than \$200,000.

17 (e) Any person who violates this Section with regard to any  
18 other amount of a controlled or counterfeit substance  
19 classified in Schedule I or II, or an analog thereof, which  
20 substance is not included under subsection (d) of this Section,  
21 is guilty of a Class 3 felony. The fine for violation of this  
22 subsection (e) shall not be more than \$150,000.

23 (f) Any person who violates this Section with regard to any  
24 other amount of a controlled or counterfeit substance  
25 classified in Schedule III is guilty of a Class 3 felony. The  
26 fine for violation of this subsection (f) shall not be more  
27 than \$125,000.

28 (g) Any person who violates this Section with regard to any  
29 other amount of a controlled or counterfeit substance  
30 classified in Schedule IV is guilty of a Class 3 felony. The  
31 fine for violation of this subsection (g) shall not be more  
32 than \$100,000.

33 (h) Any person who violates this Section with regard to any  
34 other amount of a controlled or counterfeit substance

1 classified in Schedule V is guilty of a Class 3 felony. The  
2 fine for violation of this subsection (h) shall not be more  
3 than \$75,000.

4 (i) This Section does not apply to the manufacture,  
5 possession or distribution of a substance in conformance with  
6 the provisions of an approved new drug application or an  
7 exemption for investigational use within the meaning of Section  
8 505 of the Federal Food, Drug and Cosmetic Act.

9 (j) The presence of any methamphetamine manufacturing  
10 chemical in a sealed, factory imprinted container, including,  
11 but not limited to a bottle, box, or plastic blister package,  
12 at the time of seizure by law enforcement, is prima facie  
13 evidence that the methamphetamine manufacturing chemical  
14 located within the container is in fact the chemical so  
15 described and in the amount and dosage listed on the container.  
16 The factory imprinted container is admissible for a violation  
17 of this Section for purposes of proving the contents of the  
18 container.

19 (Source: P.A. 92-16, eff. 6-28-01; 92-256, eff. 1-1-02; 92-698,  
20 eff. 7-19-02; 93-278, eff. 1-1-04.)

21 (720 ILCS 570/402) (from Ch. 56 1/2, par. 1402)

22 Sec. 402. Except as otherwise authorized by this Act, it is  
23 unlawful for any person knowingly to possess a controlled or  
24 counterfeit substance. A violation of this Act with respect to  
25 each of the controlled substances listed herein constitutes a  
26 single and separate violation of this Act.

27 (a) Any person who violates this Section with respect to  
28 the following controlled or counterfeit substances and  
29 amounts, notwithstanding any of the provisions of subsections  
30 (c) and (d) to the contrary, is guilty of a Class 1 felony and  
31 shall, if sentenced to a term of imprisonment, be sentenced as  
32 provided in this subsection (a) and fined as provided in  
33 subsection (b):

1 (1) (A) not less than 4 years and not more than 15  
2 years with respect to: (i) 15 grams or more but less  
3 than 100 grams of a substance containing heroin, or  
4 (ii) 15 or more objects or 15 or more segregated parts  
5 of an object or objects, or number of objects intended  
6 to be segregated or derived from an object or objects,  
7 but less than 200 objects or 200 segregated parts of an  
8 object or objects, or number of objects intended to be  
9 segregated or derived from an object or objects,  
10 containing in them or having upon them any amount of  
11 any substance containing heroin, or an analog thereof;

12 (B) not less than 6 years and not more than 30  
13 years with respect to: (i) 100 grams or more but less  
14 than 400 grams of a substance containing heroin, or  
15 (ii) 200 or more objects or 200 or more segregated  
16 parts of an object or objects, or number of objects  
17 intended to be segregated or derived from an object or  
18 objects, but less than 600 objects or less than 600  
19 segregated parts of an object or objects, or number of  
20 objects intended to be segregated or derived from an  
21 object or objects, containing in them or having upon  
22 them any amount of any substance containing heroin, or  
23 an analog thereof;

24 (C) not less than 8 years and not more than 40  
25 years with respect to: (i) 400 grams or more but less  
26 than 900 grams of any substance containing heroin, or  
27 (ii) 600 or more objects or 600 or more segregated  
28 parts of an object or objects, or number of objects  
29 intended to be segregated or derived from an object or  
30 objects, but less than 1500 objects or 1500 segregated  
31 parts of an object or objects, or number of objects  
32 intended to be segregated or derived from an object or  
33 objects, containing in them or having upon them any  
34 amount of any substance containing heroin, or an analog

1           thereof;

2           (D) not less than 10 years and not more than 50  
3 years with respect to: (i) 900 grams or more of any  
4 substance containing heroin, or (ii) 1500 or more  
5 objects or 1500 or more segregated parts of an object  
6 or objects, or number of objects intended to be  
7 segregated or derived from an object or objects,  
8 containing in them or having upon them any amount of a  
9 substance containing heroin, or an analog thereof;

10           (2) (A) not less than 4 years and not more than 15  
11 years with respect to 15 grams or more but less than  
12 100 grams of any substance containing cocaine;

13           (B) not less than 6 years and not more than 30  
14 years with respect to 100 grams or more but less than  
15 400 grams of any substance containing cocaine;

16           (C) not less than 8 years and not more than 40  
17 years with respect to 400 grams or more but less than  
18 900 grams of any substance containing cocaine;

19           (D) not less than 10 years and not more than 50  
20 years with respect to 900 grams or more of any  
21 substance containing cocaine;

22           (3) (A) not less than 4 years and not more than 15  
23 years with respect to 15 grams or more but less than  
24 100 grams of any substance containing morphine;

25           (B) not less than 6 years and not more than 30  
26 years with respect to 100 grams or more but less than  
27 400 grams of any substance containing morphine;

28           (C) not less than 6 years and not more than 40  
29 years with respect to 400 grams or more but less than  
30 900 grams of any substance containing morphine;

31           (D) not less than 10 years and not more than 50  
32 years with respect to 900 grams or more of any

1 substance containing morphine;

2 (4) 200 grams or more of any substance containing  
3 peyote;

4 (5) 200 grams or more of any substance containing a  
5 derivative of barbituric acid or any of the salts of a  
6 derivative of barbituric acid;

7 (6) 200 grams or more of any substance containing  
8 amphetamine or any salt of an optical isomer of  
9 amphetamine;

10 (6.5) (A) not less than 4 years and not more than 15  
11 years with respect to 15 grams or more but less than  
12 100 grams of a substance containing methamphetamine or  
13 any salt of an optical isomer of methamphetamine;

14 (B) not less than 6 years and not more than 30  
15 years with respect to 100 grams or more but less than  
16 400 grams of a substance containing methamphetamine or  
17 any salt of an optical isomer of methamphetamine;

18 (C) not less than 8 years and not more than 40  
19 years with respect to 400 grams or more but less than  
20 900 grams of a substance containing methamphetamine or  
21 any salt of an optical isomer of methamphetamine;

22 (D) not less than 10 years and not more than 50  
23 years with respect to 900 grams or more of any  
24 substance containing methamphetamine or any salt of an  
25 optical isomer of methamphetamine;

26 (7) (A) not less than 4 years and not more than 15  
27 years with respect to: (i) 15 grams or more but less  
28 than 100 grams of any substance containing lysergic  
29 acid diethylamide (LSD), or an analog thereof, or (ii)  
30 15 or more objects or 15 or more segregated parts of an  
31 object or objects but less than 200 objects or 200  
32 segregated parts of an object or objects containing in  
33 them or having upon them any amount of any substance  
34 containing lysergic acid diethylamide (LSD), or an



1 analog thereof;

2 (B) not less than 6 years and not more than 30  
3 years with respect to: (i) 100 grams or more but less  
4 than 400 grams of any substance containing lysergic  
5 acid diethylamide (LSD), or an analog thereof, or (ii)  
6 200 or more objects or 200 or more segregated parts of  
7 an object or objects but less than 600 objects or less  
8 than 600 segregated parts of an object or objects  
9 containing in them or having upon them any amount of  
10 any substance containing lysergic acid diethylamide  
11 (LSD), or an analog thereof;

12 (C) not less than 8 years and not more than 40  
13 years with respect to: (i) 400 grams or more but less  
14 than 900 grams of any substance containing lysergic  
15 acid diethylamide (LSD), or an analog thereof, or (ii)  
16 600 or more objects or 600 or more segregated parts of  
17 an object or objects but less than 1500 objects or 1500  
18 segregated parts of an object or objects containing in  
19 them or having upon them any amount of any substance  
20 containing lysergic acid diethylamide (LSD), or an  
21 analog thereof;

22 (D) not less than 10 years and not more than 50  
23 years with respect to: (i) 900 grams or more of any  
24 substance containing lysergic acid diethylamide (LSD),  
25 or an analog thereof, or (ii) 1500 or more objects or  
26 1500 or more segregated parts of an object or objects  
27 containing in them or having upon them any amount of a  
28 substance containing lysergic acid diethylamide (LSD),  
29 or an analog thereof;

30 (7.5) (A) not less than 4 years and not more than 15  
31 years with respect to: (i) 15 grams or more but less  
32 than 100 grams of any substance listed in paragraph  
33 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
34 (25), or (26) of subsection (d) of Section 204, or an

1 analog or derivative thereof, or (ii) 15 or more pills,  
2 tablets, caplets, capsules, or objects but less than  
3 200 pills, tablets, caplets, capsules, or objects  
4 containing in them or having upon them any amount of  
5 any substance listed in paragraph (1), (2), (2.1), (3),  
6 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
7 subsection (d) of Section 204, or an analog or  
8 derivative thereof;

9 (B) not less than 6 years and not more than 30  
10 years with respect to: (i) 100 grams or more but less  
11 than 400 grams of any substance listed in paragraph  
12 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
13 (25), or (26) of subsection (d) of Section 204, or an  
14 analog or derivative thereof, or (ii) 200 or more  
15 pills, tablets, caplets, capsules, or objects but less  
16 than 600 pills, tablets, caplets, capsules, or objects  
17 containing in them or having upon them any amount of  
18 any substance listed in paragraph (1), (2), (2.1), (3),  
19 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
20 subsection (d) of Section 204, or an analog or  
21 derivative thereof;

22 (C) not less than 8 years and not more than 40  
23 years with respect to: (i) 400 grams or more but less  
24 than 900 grams of any substance listed in paragraph  
25 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
26 (25), or (26) of subsection (d) of Section 204, or an  
27 analog or derivative thereof, or (ii) 600 or more  
28 pills, tablets, caplets, capsules, or objects but less  
29 than 1,500 pills, tablets, caplets, capsules, or  
30 objects containing in them or having upon them any  
31 amount of any substance listed in paragraph (1), (2),  
32 (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or  
33 (26) of subsection (d) of Section 204, or an analog or  
34 derivative thereof;

1 (D) not less than 10 years and not more than 50  
2 years with respect to: (i) 900 grams or more of any  
3 substance listed in paragraph (1), (2), (2.1), (3),  
4 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
5 subsection (d) of Section 204, or an analog or  
6 derivative thereof, or (ii) 1,500 or more pills,  
7 tablets, caplets, capsules, or objects containing in  
8 them or having upon them any amount of a substance  
9 listed in paragraph (1), (2), (2.1), (3), (14.1), (19),  
10 (20), (20.1), (21), (25), or (26) of subsection (d) of  
11 Section 204, or an analog or derivative thereof;

12 (8) 30 grams or more of any substance containing  
13 pentazocine or any of the salts, isomers and salts of  
14 isomers of pentazocine, or an analog thereof;

15 (9) 30 grams or more of any substance containing  
16 methaqualone or any of the salts, isomers and salts of  
17 isomers of methaqualone;

18 (10) 30 grams or more of any substance containing  
19 phencyclidine or any of the salts, isomers and salts of  
20 isomers of phencyclidine (PCP);

21 (10.5) 30 grams or more of any substance containing  
22 ketamine or any of the salts, isomers and salts of isomers  
23 of ketamine;

24 (11) 200 grams or more of any substance containing any  
25 substance classified as a narcotic drug in Schedules I or  
26 II which is not otherwise included in this subsection.

27 (b) Any person sentenced with respect to violations of  
28 paragraph (1), (2), (3), (6.5), (7), or (7.5) of subsection (a)  
29 involving 100 grams or more of the controlled substance named  
30 therein, may in addition to the penalties provided therein, be  
31 fined an amount not to exceed \$200,000 or the full street value  
32 of the controlled or counterfeit substances, whichever is  
33 greater. The term "street value" shall have the meaning  
34 ascribed in Section 110-5 of the Code of Criminal Procedure of

1 1963. Any person sentenced with respect to any other provision  
2 of subsection (a), may in addition to the penalties provided  
3 therein, be fined an amount not to exceed \$200,000.

4 (c) Any person who violates this Section with regard to an  
5 amount of a controlled or counterfeit substance not set forth  
6 in subsection (a) or (d) is guilty of a Class 4 felony. The  
7 fine for a violation punishable under this subsection (c) shall  
8 not be more than \$25,000.

9 (d) Any person who violates this Section with regard to any  
10 amount of anabolic steroid is guilty of a Class C misdemeanor  
11 for the first offense and a Class B misdemeanor for a  
12 subsequent offense committed within 2 years of a prior  
13 conviction.

14 (Source: P.A. 91-336, eff. 1-1-00; 91-357, eff. 7-29-99;  
15 92-256, eff. 1-1-02.)

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

18 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

19 Sec. 5-5-3. Disposition.

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

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

27 (1) A period of probation.

28 (2) A term of periodic imprisonment.

29 (3) A term of conditional discharge.

30 (4) A term of imprisonment.

31 (5) An order directing the offender to clean up and  
32 repair the damage, if the offender was convicted under

1 paragraph (h) of Section 21-1 of the Criminal Code of 1961  
2 (now repealed).

3 (6) A fine.

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

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

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

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

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

20 (2) A period of probation, a term of periodic  
21 imprisonment or conditional discharge shall not be imposed  
22 for the following offenses. The court shall sentence the  
23 offender to not less than the minimum term of imprisonment  
24 set forth in this Code for the following offenses, and may  
25 order a fine or restitution or both in conjunction with  
26 such term of imprisonment:

27 (A) First degree murder where the death penalty is  
28 not imposed.

29 (B) Attempted first degree murder.

30 (C) A Class X felony.

31 (D) A violation of Section 401.1 or 407 of the  
32 Illinois Controlled Substances Act, or a violation of  
33 subdivision (c) (1) or (c) (2) of Section 401 of that Act  
34 which relates to more than 5 grams of a substance

1 containing heroin or cocaine or an analog thereof.

2 (D-5) A second or subsequent violation of Section  
3 401 or 402 of the Illinois Controlled Substances Act  
4 with regard to an amount of 5 or more objects or 5 or  
5 more segregated parts of an object or objects  
6 containing in them or having upon them any amounts of  
7 any substance containing heroin, or an analog thereof.

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

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

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

19 (H) Criminal sexual assault.

20 (I) Aggravated battery of a senior citizen.

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

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

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

33 (K) Vehicular hijacking.

34 (L) A second or subsequent conviction for the

1 offense of hate crime when the underlying offense upon  
2 which the hate crime is based is felony aggravated  
3 assault or felony mob action.

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

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

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

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

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

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

19 (S) (Blank).

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

24 (3) (Blank).

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

29 (4.1) (Blank).

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

1 hours of community service, as determined by the court,  
2 shall be imposed for a second violation of subsection (c)  
3 of Section 6-303 of the Illinois Vehicle Code.

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

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

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

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

20 (A) a period of conditional discharge;

21 (B) a fine;

22 (C) make restitution to the victim under Section  
23 5-5-6 of this Code.

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

32 (5.2) In addition to any penalties imposed under  
33 paragraph (5) of this subsection (c), and except as  
34 provided in paragraph (5.3), a person convicted of



1           violating subsection (c) of Section 11-907 of the Illinois  
2           Vehicle Code shall have his or her driver's license,  
3           permit, or privileges suspended for at least 180 days but  
4           not more than 2 years, if the violation resulted in injury  
5           to another person.

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

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

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

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

1 Alcoholism and Other Drug Abuse and Dependency Act.

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

5 (10) (Blank).

6 (11) The court shall impose a minimum fine of \$1,000  
7 for a first offense and \$2,000 for a second or subsequent  
8 offense upon a person convicted of or placed on supervision  
9 for battery when the individual harmed was a sports  
10 official or coach at any level of competition and the act  
11 causing harm to the sports official or coach occurred  
12 within an athletic facility or within the immediate  
13 vicinity of the athletic facility at which the sports  
14 official or coach was an active participant of the athletic  
15 contest held at the athletic facility. For the purposes of  
16 this paragraph (11), "sports official" means a person at an  
17 athletic contest who enforces the rules of the contest,  
18 such as an umpire or referee; "athletic facility" means an  
19 indoor or outdoor playing field or recreational area where  
20 sports activities are conducted; and "coach" means a person  
21 recognized as a coach by the sanctioning authority that  
22 conducted the sporting event.

23 (12) ~~(11)~~ A person may not receive a disposition of  
24 court supervision for a violation of Section 5-16 of the  
25 Boat Registration and Safety Act if that person has  
26 previously received a disposition of court supervision for  
27 a violation of that Section.

28 (d) In any case in which a sentence originally imposed is  
29 vacated, the case shall be remanded to the trial court. The  
30 trial court shall hold a hearing under Section 5-4-1 of the  
31 Unified Code of Corrections which may include evidence of the  
32 defendant's life, moral character and occupation during the  
33 time since the original sentence was passed. The trial court  
34 shall then impose sentence upon the defendant. The trial court

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

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

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

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

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

25 (i) removal from the household;

26 (ii) restricted contact with the victim;

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

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

30 and

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

33 (2) the court orders the defendant to pay for the  
34 victim's counseling services, to the extent that the court

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

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

13 For the purposes of this Section, "family member" and  
14 "victim" shall have the meanings ascribed to them in Section  
15 12-12 of the Criminal Code of 1961.

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

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

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

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

33 (h) Whenever a defendant is convicted of an offense under  
34 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the

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

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

1 (j) In cases when prosecution for any violation of Section  
2 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,  
3 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
4 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal  
5 Code of 1961, any violation of the Illinois Controlled  
6 Substances Act, or any violation of the Cannabis Control Act  
7 results in conviction, a disposition of court supervision, or  
8 an order of probation granted under Section 10 of the Cannabis  
9 Control Act or Section 410 of the Illinois Controlled Substance  
10 Act of a defendant, the court shall determine whether the  
11 defendant is employed by a facility or center as defined under  
12 the Child Care Act of 1969, a public or private elementary or  
13 secondary school, or otherwise works with children under 18  
14 years of age on a daily basis. When a defendant is so employed,  
15 the court shall order the Clerk of the Court to send a copy of  
16 the judgment of conviction or order of supervision or probation  
17 to the defendant's employer by certified mail. If the employer  
18 of the defendant is a school, the Clerk of the Court shall  
19 direct the mailing of a copy of the judgment of conviction or  
20 order of supervision or probation to the appropriate regional  
21 superintendent of schools. The regional superintendent of  
22 schools shall notify the State Board of Education of any  
23 notification under this subsection.

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

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

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

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

33 (1) a final order of deportation has been issued  
34 against the defendant pursuant to proceedings under



1 the Immigration and Nationality Act, and

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

5 Otherwise, the defendant shall be sentenced as  
6 provided in this Chapter V.

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

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

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

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

24 (D) Upon motion of the State's Attorney, if a defendant  
25 sentenced under this Section returns to the jurisdiction of  
26 the United States, the defendant shall be recommitted to  
27 the custody of the county from which he or she was  
28 sentenced. Thereafter, the defendant shall be brought  
29 before the sentencing court, which may impose any sentence  
30 that was available under Section 5-5-3 at the time of  
31 initial sentencing. In addition, the defendant shall not be  
32 eligible for additional good conduct credit for  
33 meritorious service as provided under Section 3-6-6.

34 (m) A person convicted of criminal defacement of property

1 under Section 21-1.3 of the Criminal Code of 1961, in which the  
2 property damage exceeds \$300 and the property damaged is a  
3 school building, shall be ordered to perform community service  
4 that may include cleanup, removal, or painting over the  
5 defacement.

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

14 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;  
15 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.  
16 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,  
17 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,  
18 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,  
19 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,  
20 eff. 1-1-05; 93-1014, eff. 1-1-05; revised 10-25-04.)".