



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

**HB4664**

Introduced 1/12/2006, by Rep. Frank J. Mautino

#### SYNOPSIS AS INTRODUCED:

720 ILCS 570/401	from Ch. 56 1/2, par. 1401
720 ILCS 570/402	from Ch. 56 1/2, par. 1402
730 ILCS 5/5-5-3	from Ch. 38, par. 1005-5-3

Amends the Illinois Controlled Substances Act. Provides that the penalties for the illegal manufacture, delivery, possession with intent to manufacture or deliver, or possession of heroin may also be calculated on the amount of objects or segregated parts of objects containing heroin. Also provides that the penalties for the unlawful manufacture, delivery, and possession of heroin may also be based upon the number of objects intended to be segregated or derived from an object or objects. Amends the Unified Code of Corrections. Requires that a sentence of imprisonment be imposed for a second or subsequent violation relating to the unlawful manufacture, delivery, possession with intent to manufacture or deliver, or possession of an amount of 5 or more objects or 5 or more segregated parts of an object or objects containing in them or having upon them any amounts of any substance containing heroin, or an analog thereof.

LRB094 18165 RLC 53475 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

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

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 manufacture or deliver, or possess  
9 with intent to manufacture or deliver, a controlled substance  
10 other than methamphetamine, a counterfeit substance, or a  
11 controlled substance analog. A violation of this Act with  
12 respect to each of the controlled substances listed herein  
13 constitutes a single and separate violation of this Act. For  
14 purposes of this Section, "controlled substance analog" or  
15 "analog" means a substance which is intended for human  
16 consumption, other than a controlled substance, that has a  
17 chemical structure substantially similar to that of a  
18 controlled substance in Schedule I or II, or that was  
19 specifically designed to produce an effect substantially  
20 similar to that of a controlled substance in Schedule I or II.  
21 Examples of chemical classes in which controlled substance  
22 analogs are found include, but are not limited to, the  
23 following: phenethylamines, N-substituted piperidines,  
24 morphinans, ecgonines, quinazolinones, substituted indoles,  
25 and arylcycloalkylamines. For purposes of this Act, a  
26 controlled substance analog shall be treated in the same manner  
27 as the controlled substance to which it is substantially  
28 similar.

29 (a) Any person who violates this Section with respect to  
30 the following amounts of controlled or counterfeit substances  
31 or controlled substance analogs, notwithstanding any of the  
32 provisions of subsections (c), (d), (e), (f), (g) or (h) to the

1 contrary, is guilty of a Class X felony and shall be sentenced  
2 to a term of imprisonment as provided in this subsection (a)  
3 and fined as provided in subsection (b):

4 (1) (A) not less than 6 years and not more than 30  
5 years with respect to: (i) 15 grams or more but less  
6 than 100 grams of a substance containing heroin, or an  
7 analog thereof, or (ii) 15 or more objects or 15 or  
8 more segregated parts of an object or objects, or  
9 number of objects intended to be segregated or derived  
10 from an object or objects, but less than 200 objects or  
11 200 segregated parts of an object or objects, or number  
12 of objects intended to be segregated or derived from an  
13 object or objects, containing in them or having upon  
14 them any amounts of any substance containing heroin, or  
15 an analog thereof;

16 (B) not less than 9 years and not more than 40  
17 years with respect to: (i) 100 grams or more but less  
18 than 400 grams of a substance containing heroin, or an  
19 analog thereof, or (ii) 200 or more objects or 200 or  
20 more segregated parts of an object or objects, or  
21 number of objects intended to be segregated or derived  
22 from an object or objects, but less than 600 objects or  
23 less than 600 segregated parts of an object or objects,  
24 or number of objects intended to be segregated or  
25 derived from an object or objects, containing in them  
26 or having upon them any amount of any substance  
27 containing heroin, or an analog thereof;

28 (C) not less than 12 years and not more than 50  
29 years with respect to: (i) 400 grams or more but less  
30 than 900 grams of a substance containing heroin, or an  
31 analog thereof, or (ii) 600 or more objects or 600 or  
32 more segregated parts of an object or objects, or  
33 number of objects intended to be segregated or derived  
34 from an object or objects, but less than 1500 objects  
35 or 1500 segregated parts of an object or objects, or  
36 number of objects intended to be segregated or derived

1 from an object or objects, containing in them or having  
2 upon them any amount of any substance containing  
3 heroin, or an analog thereof;

4 (D) not less than 15 years and not more than 60  
5 years with respect to: (i) 900 grams or more of any  
6 substance containing heroin, or an analog thereof, or  
7 (ii) 1500 or more objects or 1500 or more segregated  
8 parts of an object or objects, or number of objects  
9 intended to be segregated or derived from an object or  
10 objects, containing in them or having upon them any  
11 amount of a substance containing heroin, or an analog  
12 thereof;

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

17 (B) not less than 9 years and not more than 40  
18 years with respect to 100 grams or more but less than  
19 400 grams of a substance containing cocaine, or an  
20 analog thereof;

21 (C) not less than 12 years and not more than 50  
22 years with respect to 400 grams or more but less than  
23 900 grams of a substance containing cocaine, or an  
24 analog thereof;

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

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

32 (B) not less than 9 years and not more than 40  
33 years with respect to 100 grams or more but less than  
34 400 grams of a substance containing morphine, or an  
35 analog thereof;

36 (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 morphine, 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 a substance  
6 containing morphine, or an analog thereof;

7 (4) 200 grams or more of any substance containing  
8 peyote, or an analog thereof;

9 (5) 200 grams or more of any substance containing a  
10 derivative of barbituric acid or any of the salts of a  
11 derivative of barbituric acid, or an analog thereof;

12 (6) 200 grams or more of any substance containing  
13 amphetamine or any salt of an optical isomer of  
14 amphetamine, or an analog thereof;

15 (6.5) (blank);

16 (6.6) (blank);

17 (7) (A) not less than 6 years and not more than 30  
18 years with respect to: (i) 15 grams or more but less  
19 than 100 grams of a substance containing lysergic acid  
20 diethylamide (LSD), or an analog thereof, or (ii) 15 or  
21 more objects or 15 or more segregated parts of an  
22 object or objects but less than 200 objects or 200  
23 segregated parts of an object or objects containing in  
24 them or having upon them any amounts of any substance  
25 containing lysergic acid diethylamide (LSD), or an  
26 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 lysergic acid  
30 diethylamide (LSD), or an analog thereof, or (ii) 200  
31 or more objects or 200 or more segregated parts of an  
32 object or objects but less than 600 objects or less  
33 than 600 segregated parts of an object or objects  
34 containing in them or having upon them any amount of  
35 any substance containing lysergic acid diethylamide  
36 (LSD), or an analog thereof;

1 (C) not less than 12 years and not more than 50  
2 years with respect to: (i) 400 grams or more but less  
3 than 900 grams of a substance containing lysergic acid  
4 diethylamide (LSD), or an analog thereof, or (ii) 600  
5 or more objects or 600 or more segregated parts of an  
6 object or objects but less than 1500 objects or 1500  
7 segregated parts of an object or objects containing in  
8 them or having upon them any amount of any substance  
9 containing lysergic acid diethylamide (LSD), or an  
10 analog thereof;

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

19 (7.5) (A) not less than 6 years and not more than 30  
20 years with respect to: (i) 15 grams or more but less  
21 than 100 grams of a substance listed in paragraph (1),  
22 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
23 (25), or (26) of subsection (d) of Section 204, or an  
24 analog or derivative thereof, or (ii) 15 or more pills,  
25 tablets, caplets, capsules, or objects but less than  
26 200 pills, tablets, caplets, capsules, or objects  
27 containing in them or having upon them any amounts of  
28 any substance listed in paragraph (1), (2), (2.1), (3),  
29 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
30 subsection (d) of Section 204, or an analog or  
31 derivative thereof;

32 (B) not less than 9 years and not more than 40  
33 years with respect to: (i) 100 grams or more but less  
34 than 400 grams of a substance listed in paragraph (1),  
35 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
36 (25), or (26) of subsection (d) of Section 204, or an

1 analog or derivative thereof, or (ii) 200 or more  
2 pills, tablets, caplets, capsules, or objects but less  
3 than 600 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 (C) not less than 12 years and not more than 50  
10 years with respect to: (i) 400 grams or more but less  
11 than 900 grams of a substance listed in paragraph (1),  
12 (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) 600 or more  
15 pills, tablets, caplets, capsules, or objects but less  
16 than 1,500 pills, tablets, caplets, capsules, or  
17 objects containing in them or having upon them any  
18 amount of any substance listed in paragraph (1), (2),  
19 (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or  
20 (26) of subsection (d) of Section 204, or an analog or  
21 derivative thereof;

22 (D) not less than 15 years and not more than 60  
23 years with respect to: (i) 900 grams or more of any  
24 substance listed in paragraph (1), (2), (2.1), (3),  
25 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
26 subsection (d) of Section 204, or an analog or  
27 derivative thereof, or (ii) 1,500 or more pills,  
28 tablets, caplets, capsules, or objects containing in  
29 them or having upon them any amount of a substance  
30 listed in paragraph (1), (2), (2.1), (3), (14.1), (19),  
31 (20), (20.1), (21), (25), or (26) of subsection (d) of  
32 Section 204, or an analog or derivative thereof;

33 (8) 30 grams or more of any substance containing  
34 pentazocine or any of the salts, isomers and salts of  
35 isomers of pentazocine, or an analog thereof;

36 (9) 30 grams or more of any substance containing

1 methaqualone or any of the salts, isomers and salts of  
2 isomers of methaqualone, or an analog thereof;

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

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

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

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

25 (c) Any person who violates this Section with regard to the  
26 following amounts of controlled or counterfeit substances or  
27 controlled substance analogs, notwithstanding any of the  
28 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)  
29 to the contrary, is guilty of a Class 1 felony. The fine for  
30 violation of this subsection (c) shall not be more than  
31 \$250,000:

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



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

6 (2) 1 gram or more but less than 15 grams of any  
7 substance containing cocaine, or an analog thereof;

8 (3) 10 grams or more but less than 15 grams of any  
9 substance containing morphine, or an analog thereof;

10 (4) 50 grams or more but less than 200 grams of any  
11 substance containing peyote, or an analog thereof;

12 (5) 50 grams or more but less than 200 grams of any  
13 substance containing a derivative of barbituric acid or any  
14 of the salts of a derivative of barbituric acid, or an  
15 analog thereof;

16 (6) 50 grams or more but less than 200 grams of any  
17 substance containing amphetamine or any salt of an optical  
18 isomer of amphetamine, or an analog thereof;

19 (6.5) (blank);

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

28 (7.5) (i) 5 grams or more but less than 15 grams of any  
29 substance listed in paragraph (1), (2), (2.1), (3), (14.1),  
30 (19), (20), (20.1), (21), (25), or (26) of subsection (d)  
31 of Section 204, or an analog or derivative thereof, or (ii)  
32 more than 10 pills, tablets, caplets, capsules, or objects  
33 but less than 15 pills, tablets, caplets, capsules, or  
34 objects containing in them or having upon them any amount  
35 of any substance listed in paragraph (1), (2), (2.1), (3),  
36 (14.1), (19), (20), (20.1), (21), (25), or (26) of

1 subsection (d) of Section 204, or an analog or derivative  
2 thereof;

3 (8) 10 grams or more but less than 30 grams of any  
4 substance containing pentazocine or any of the salts,  
5 isomers and salts of isomers of pentazocine, or an analog  
6 thereof;

7 (9) 10 grams or more but less than 30 grams of any  
8 substance containing methaqualone or any of the salts,  
9 isomers and salts of isomers of methaqualone, or an analog  
10 thereof;

11 (10) 10 grams or more but less than 30 grams of any  
12 substance containing phencyclidine or any of the salts,  
13 isomers and salts of isomers of phencyclidine (PCP), or an  
14 analog thereof;

15 (10.5) 10 grams or more but less than 30 grams of any  
16 substance containing ketamine or any of the salts, isomers  
17 and salts of isomers of ketamine, or an analog thereof;

18 (11) 50 grams or more but less than 200 grams of any  
19 substance containing a substance classified in Schedules I  
20 or II, or an analog thereof, which is not otherwise  
21 included in this subsection.

22 (c-5) (Blank).

23 (d) Any person who violates this Section with regard to any  
24 other amount of a controlled or counterfeit substance  
25 classified in Schedules I or II, or an analog thereof, which is  
26 (i) a narcotic drug, (ii) lysergic acid diethylamide (LSD) or  
27 an analog thereof, or (iii) any substance containing  
28 amphetamine or any salt or optical isomer of amphetamine, or an  
29 analog thereof, is guilty of a Class 2 felony. The fine for  
30 violation of this subsection (d) shall not be more than  
31 \$200,000.

32 (d-5) (Blank).

33 (e) Any person who violates this Section with regard to any  
34 other amount of a controlled substance other than  
35 methamphetamine or counterfeit substance classified in  
36 Schedule I or II, or an analog thereof, which substance is not

1 included under subsection (d) of this Section, is guilty of a  
2 Class 3 felony. The fine for violation of this subsection (e)  
3 shall not be more than \$150,000.

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

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

14 (h) Any person who violates this Section with regard to any  
15 other amount of a controlled or counterfeit substance  
16 classified in Schedule V is guilty of a Class 3 felony. The  
17 fine for violation of this subsection (h) shall not be more  
18 than \$75,000.

19 (i) This Section does not apply to the manufacture,  
20 possession or distribution of a substance in conformance with  
21 the provisions of an approved new drug application or an  
22 exemption for investigational use within the meaning of Section  
23 505 of the Federal Food, Drug and Cosmetic Act.

24 (j) (Blank).

25 (Source: P.A. 93-278, eff. 1-1-04; 94-556, eff. 9-11-05.)

26 (720 ILCS 570/402) (from Ch. 56 1/2, par. 1402)

27 Sec. 402. Except as otherwise authorized by this Act, it is  
28 unlawful for any person knowingly to possess a controlled or  
29 counterfeit substance or controlled substance analog. A  
30 violation of this Act with respect to each of the controlled  
31 substances listed herein constitutes a single and separate  
32 violation of this Act. For purposes of this Section,  
33 "controlled substance analog" or "analog" means a substance  
34 which is intended for human consumption, other than a  
35 controlled substance, that has a chemical structure

1 substantially similar to that of a controlled substance in  
2 Schedule I or II, or that was specifically designed to produce  
3 an effect substantially similar to that of a controlled  
4 substance in Schedule I or II. Examples of chemical classes in  
5 which controlled substance analogs are found include, but are  
6 not limited to, the following: phenethylamines, N-substituted  
7 piperidines, morphinans, ecgonines, quinazolinones,  
8 substituted indoles, and arylcycloalkylamines. For purposes of  
9 this Act, a controlled substance analog shall be treated in the  
10 same manner as the controlled substance to which it is  
11 substantially similar.

12 (a) Any person who violates this Section with respect to  
13 the following controlled or counterfeit substances and  
14 amounts, notwithstanding any of the provisions of subsections  
15 (c) and (d) to the contrary, is guilty of a Class 1 felony and  
16 shall, if sentenced to a term of imprisonment, be sentenced as  
17 provided in this subsection (a) and fined as provided in  
18 subsection (b):

19 (1) (A) not less than 4 years and not more than 15  
20 years with respect to: (i) 15 grams or more but less  
21 than 100 grams of a substance containing heroin, or  
22 (ii) 15 or more objects or 15 or more segregated parts  
23 of an object or objects, or number of objects intended  
24 to be segregated or derived from an object or objects,  
25 but less than 200 objects or 200 segregated parts of an  
26 object or objects, or number of objects intended to be  
27 segregated or derived from an object or objects,  
28 containing in them or having upon them any amount of  
29 any substance containing heroin, or an analog thereof;

30 (B) not less than 6 years and not more than 30  
31 years with respect to: (i) 100 grams or more but less  
32 than 400 grams of a substance containing heroin, or  
33 (ii) 200 or more objects or 200 or more segregated  
34 parts of an object or objects, or number of objects  
35 intended to be segregated or derived from an object or  
36 objects, but less than 600 objects or less than 600

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

6 (C) not less than 8 years and not more than 40  
7 years with respect to: (i) 400 grams or more but less  
8 than 900 grams of any substance containing heroin, or  
9 (ii) 600 or more objects or 600 or more segregated  
10 parts of an object or objects, or number of objects  
11 intended to be segregated or derived from an object or  
12 objects, but less than 1500 objects or 1500 segregated  
13 parts of an object or objects, or number of objects  
14 intended to be segregated or derived from an object or  
15 objects, containing in them or having upon them any  
16 amount of any substance containing heroin, or an analog  
17 thereof;

18 (D) not less than 10 years and not more than 50  
19 years with respect to : (i) 900 grams or more of any  
20 substance containing heroin, or (ii) 1500 or more  
21 objects or 1500 or more segregated parts of an object  
22 or objects, or number of objects intended to be  
23 segregated or derived from an object or objects,  
24 containing in them or having upon them any amount of a  
25 substance containing heroin, or an analog thereof;

26 (2) (A) not less than 4 years and not more than 15  
27 years with respect to 15 grams or more but less than  
28 100 grams of any substance containing cocaine;

29 (B) not less than 6 years and not more than 30  
30 years with respect to 100 grams or more but less than  
31 400 grams of any substance containing cocaine;

32 (C) not less than 8 years and not more than 40  
33 years with respect to 400 grams or more but less than  
34 900 grams of any substance containing cocaine;

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

1 substance containing cocaine;

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

5 (B) not less than 6 years and not more than 30  
6 years with respect to 100 grams or more but less than  
7 400 grams of any substance containing morphine;

8 (C) not less than 6 years and not more than 40  
9 years with respect to 400 grams or more but less than  
10 900 grams of any substance containing morphine;

11 (D) not less than 10 years and not more than 50  
12 years with respect to 900 grams or more of any  
13 substance containing morphine;

14 (4) 200 grams or more of any substance containing  
15 peyote;

16 (5) 200 grams or more of any substance containing a  
17 derivative of barbituric acid or any of the salts of a  
18 derivative of barbituric acid;

19 (6) 200 grams or more of any substance containing  
20 amphetamine or any salt of an optical isomer of  
21 amphetamine;

22 (6.5) (blank);

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

33 (B) not less than 6 years and not more than 30  
34 years with respect to: (i) 100 grams or more but less  
35 than 400 grams of any substance containing lysergic  
36 acid diethylamide (LSD), or an analog thereof, or (ii)

1 200 or more objects or 200 or more segregated parts of  
2 an object or objects but less than 600 objects or less  
3 than 600 segregated parts of an object or objects  
4 containing in them or having upon them any amount of  
5 any substance containing lysergic acid diethylamide  
6 (LSD), or an analog thereof;

7 (C) not less than 8 years and not more than 40  
8 years with respect to: (i) 400 grams or more but less  
9 than 900 grams of any substance containing lysergic  
10 acid diethylamide (LSD), or an analog thereof, or (ii)  
11 600 or more objects or 600 or more segregated parts of  
12 an object or objects but less than 1500 objects or 1500  
13 segregated parts of an object or objects containing in  
14 them or having upon them any amount of any substance  
15 containing lysergic acid diethylamide (LSD), or an  
16 analog thereof;

17 (D) not less than 10 years and not more than 50  
18 years with respect to: (i) 900 grams or more of any  
19 substance containing lysergic acid diethylamide (LSD),  
20 or an analog thereof, or (ii) 1500 or more objects or  
21 1500 or more segregated parts of an object or objects  
22 containing in them or having upon them any amount of a  
23 substance containing lysergic acid diethylamide (LSD),  
24 or an analog thereof;

25 (7.5) (A) not less than 4 years and not more than 15  
26 years with respect to: (i) 15 grams or more but less  
27 than 100 grams of any substance listed in paragraph  
28 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
29 (25), or (26) of subsection (d) of Section 204, or an  
30 analog or derivative thereof, or (ii) 15 or more pills,  
31 tablets, caplets, capsules, or objects but less than  
32 200 pills, tablets, caplets, capsules, or objects  
33 containing in them or having upon them any amount of  
34 any substance listed in paragraph (1), (2), (2.1), (3),  
35 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
36 subsection (d) of Section 204, or an analog or

1 derivative 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 listed in paragraph  
5 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
6 (25), or (26) of subsection (d) of Section 204, or an  
7 analog or derivative thereof, or (ii) 200 or more  
8 pills, tablets, caplets, capsules, or objects but less  
9 than 600 pills, tablets, caplets, capsules, or objects  
10 containing in them or having upon them any amount of  
11 any substance listed in paragraph (1), (2), (2.1), (3),  
12 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
13 subsection (d) of Section 204, or an analog or  
14 derivative thereof;

15 (C) not less than 8 years and not more than 40  
16 years with respect to: (i) 400 grams or more but less  
17 than 900 grams of any substance listed in paragraph  
18 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
19 (25), or (26) of subsection (d) of Section 204, or an  
20 analog or derivative thereof, or (ii) 600 or more  
21 pills, tablets, caplets, capsules, or objects but less  
22 than 1,500 pills, tablets, caplets, capsules, or  
23 objects containing in them or having upon them any  
24 amount of any substance listed in paragraph (1), (2),  
25 (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or  
26 (26) of subsection (d) of Section 204, or an analog or  
27 derivative thereof;

28 (D) not less than 10 years and not more than 50  
29 years with respect to: (i) 900 grams or more of any  
30 substance listed in paragraph (1), (2), (2.1), (3),  
31 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
32 subsection (d) of Section 204, or an analog or  
33 derivative thereof, or (ii) 1,500 or more pills,  
34 tablets, caplets, capsules, or objects containing in  
35 them or having upon them any amount of a substance  
36 listed in paragraph (1), (2), (2.1), (3), (14.1), (19),



1 (20), (20.1), (21), (25), or (26) of subsection (d) of  
2 Section 204, or an analog or derivative thereof;

3 (8) 30 grams or more of any substance containing  
4 pentazocine or any of the salts, isomers and salts of  
5 isomers of pentazocine, or an analog thereof;

6 (9) 30 grams or more of any substance containing  
7 methaqualone or any of the salts, isomers and salts of  
8 isomers of methaqualone;

9 (10) 30 grams or more of any substance containing  
10 phencyclidine or any of the salts, isomers and salts of  
11 isomers of phencyclidine (PCP);

12 (10.5) 30 grams or more of any substance containing  
13 ketamine or any of the salts, isomers and salts of isomers  
14 of ketamine;

15 (11) 200 grams or more of any substance containing any  
16 substance classified as a narcotic drug in Schedules I or  
17 II, or an analog thereof, which is not otherwise included  
18 in this subsection.

19 (b) Any person sentenced with respect to violations of  
20 paragraph (1), (2), (3), (7), or (7.5) of subsection (a)  
21 involving 100 grams or more of the controlled substance named  
22 therein, may in addition to the penalties provided therein, be  
23 fined an amount not to exceed \$200,000 or the full street value  
24 of the controlled or counterfeit substances, whichever is  
25 greater. The term "street value" shall have the meaning  
26 ascribed in Section 110-5 of the Code of Criminal Procedure of  
27 1963. Any person sentenced with respect to any other provision  
28 of subsection (a), may in addition to the penalties provided  
29 therein, be fined an amount not to exceed \$200,000.

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

35 (d) Any person who violates this Section with regard to any  
36 amount of anabolic steroid is guilty of a Class C misdemeanor

1 for the first offense and a Class B misdemeanor for a  
2 subsequent offense committed within 2 years of a prior  
3 conviction.

4 (Source: P.A. 94-324, eff. 7-26-05; 94-556, eff. 9-11-05;  
5 revised 8-19-05.)

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

8 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

9 Sec. 5-5-3. Disposition.

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

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

17 (1) A period of probation.

18 (2) A term of periodic imprisonment.

19 (3) A term of conditional discharge.

20 (4) A term of imprisonment.

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

25 (6) A fine.

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

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

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

34 Neither a fine nor restitution shall be the sole

1 disposition for a felony and either or both may be imposed only  
2 in conjunction with another disposition.

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

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

15 (A) First degree murder where the death penalty is  
16 not imposed.

17 (B) Attempted first degree murder.

18 (C) A Class X felony.

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

24 (D-5) A second or subsequent violation of Section  
25 401 or 402 of the Illinois Controlled Substances Act  
26 with regard to an amount of 5 or more objects or 5 or  
27 more segregated parts of an object or objects  
28 containing in them or having upon them any amounts of  
29 any substance containing heroin, or an analog thereof.

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

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

1 Alcoholism and Other Drug Abuse and Dependency Act.

2 (F-5) A violation of Section 24-1, 24-1.1, or  
3 24-1.6 of the Criminal Code of 1961 for which  
4 imprisonment is prescribed in those Sections.

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

8 (H) Criminal sexual assault.

9 (I) Aggravated battery of a senior citizen.

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

12 Before July 1, 1994, for the purposes of this  
13 paragraph, "organized gang" means an association of 5  
14 or more persons, with an established hierarchy, that  
15 encourages members of the association to perpetrate  
16 crimes or provides support to the members of the  
17 association who do commit crimes.

18 Beginning July 1, 1994, for the purposes of this  
19 paragraph, "organized gang" has the meaning ascribed  
20 to it in Section 10 of the Illinois Streetgang  
21 Terrorism Omnibus Prevention Act.

22 (K) Vehicular hijacking.

23 (L) A second or subsequent conviction for the  
24 offense of hate crime when the underlying offense upon  
25 which the hate crime is based is felony aggravated  
26 assault or felony mob action.

27 (M) A second or subsequent conviction for the  
28 offense of institutional vandalism if the damage to the  
29 property exceeds \$300.

30 (N) A Class 3 felony violation of paragraph (1) of  
31 subsection (a) of Section 2 of the Firearm Owners  
32 Identification Card Act.

33 (O) A violation of Section 12-6.1 of the Criminal  
34 Code of 1961.

35 (P) A violation of paragraph (1), (2), (3), (4),  
36 (5), or (7) of subsection (a) of Section 11-20.1 of the

1 Criminal Code of 1961.

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

4 (R) A violation of Section 24-3A of the Criminal  
5 Code of 1961.

6 (S) (Blank).

7 (T) A second or subsequent violation of the  
8 Methamphetamine Control and Community Protection Act.

9 (3) (Blank).

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

14 (4.1) (Blank).

15 (4.2) Except as provided in paragraph (4.3) of this  
16 subsection (c), a minimum of 100 hours of community service  
17 shall be imposed for a second violation of Section 6-303 of  
18 the Illinois Vehicle Code.

19 (4.3) A minimum term of imprisonment of 30 days or 300  
20 hours of community service, as determined by the court,  
21 shall be imposed for a second violation of subsection (c)  
22 of Section 6-303 of the Illinois Vehicle Code.

23 (4.4) Except as provided in paragraph (4.5) and  
24 paragraph (4.6) of this subsection (c), a minimum term of  
25 imprisonment of 30 days or 300 hours of community service,  
26 as determined by the court, shall be imposed for a third or  
27 subsequent violation of Section 6-303 of the Illinois  
28 Vehicle Code.

29 (4.5) A minimum term of imprisonment of 30 days shall  
30 be imposed for a third violation of subsection (c) of  
31 Section 6-303 of the Illinois Vehicle Code.

32 (4.6) A minimum term of imprisonment of 180 days shall  
33 be imposed for a fourth or subsequent violation of  
34 subsection (c) of Section 6-303 of the Illinois Vehicle  
35 Code.

36 (5) The court may sentence an offender convicted of a

1 business offense or a petty offense or a corporation or  
2 unincorporated association convicted of any offense to:

3 (A) a period of conditional discharge;

4 (B) a fine;

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

7 (5.1) In addition to any penalties imposed under  
8 paragraph (5) of this subsection (c), and except as  
9 provided in paragraph (5.2) or (5.3), a person convicted of  
10 violating subsection (c) of Section 11-907 of the Illinois  
11 Vehicle Code shall have his or her driver's license,  
12 permit, or privileges suspended for at least 90 days but  
13 not more than one year, if the violation resulted in damage  
14 to the property of another person.

15 (5.2) In addition to any penalties imposed under  
16 paragraph (5) of this subsection (c), and except as  
17 provided in paragraph (5.3), a person convicted of  
18 violating subsection (c) of Section 11-907 of the Illinois  
19 Vehicle Code shall have his or her driver's license,  
20 permit, or privileges suspended for at least 180 days but  
21 not more than 2 years, if the violation resulted in injury  
22 to another person.

23 (5.3) In addition to any penalties imposed under  
24 paragraph (5) of this subsection (c), a person convicted of  
25 violating subsection (c) of Section 11-907 of the Illinois  
26 Vehicle Code shall have his or her driver's license,  
27 permit, or privileges suspended for 2 years, if the  
28 violation resulted in the death of another person.

29 (6) In no case shall an offender be eligible for a  
30 disposition of probation or conditional discharge for a  
31 Class 1 felony committed while he was serving a term of  
32 probation or conditional discharge for a felony.

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

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

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

20           (10) (Blank).

21           (11) The court shall impose a minimum fine of \$1,000  
22 for a first offense and \$2,000 for a second or subsequent  
23 offense upon a person convicted of or placed on supervision  
24 for battery when the individual harmed was a sports  
25 official or coach at any level of competition and the act  
26 causing harm to the sports official or coach occurred  
27 within an athletic facility or within the immediate  
28 vicinity of the athletic facility at which the sports  
29 official or coach was an active participant of the athletic  
30 contest held at the athletic facility. For the purposes of  
31 this paragraph (11), "sports official" means a person at an  
32 athletic contest who enforces the rules of the contest,  
33 such as an umpire or referee; "athletic facility" means an  
34 indoor or outdoor playing field or recreational area where  
35 sports activities are conducted; and "coach" means a person  
36 recognized as a coach by the sanctioning authority that

1 conducted the sporting event.

2 (12) A person may not receive a disposition of court  
3 supervision for a violation of Section 5-16 of the Boat  
4 Registration and Safety Act if that person has previously  
5 received a disposition of court supervision for a violation  
6 of that Section.

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

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

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

32 (A) the defendant is willing to undergo a court  
33 approved counseling program for a minimum duration of 2  
34 years; or

35 (B) the defendant is willing to participate in a  
36 court approved plan including but not limited to the



1 defendant's:

2 (i) removal from the household;

3 (ii) restricted contact with the victim;

4 (iii) continued financial support of the  
5 family;

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

7 and

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

10 (2) the court orders the defendant to pay for the  
11 victim's counseling services, to the extent that the court  
12 finds, after considering the defendant's income and  
13 assets, that the defendant is financially capable of paying  
14 for such services, if the victim was under 18 years of age  
15 at the time the offense was committed and requires  
16 counseling as a result of the offense.

17 Probation may be revoked or modified pursuant to Section  
18 5-6-4; except where the court determines at the hearing that  
19 the defendant violated a condition of his or her probation  
20 restricting contact with the victim or other family members or  
21 commits another offense with the victim or other family  
22 members, the court shall revoke the defendant's probation and  
23 impose a term of imprisonment.

24 For the purposes of this Section, "family member" and  
25 "victim" shall have the meanings ascribed to them in Section  
26 12-12 of the Criminal Code of 1961.

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

31 (g) Whenever a defendant is convicted of an offense under  
32 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,  
33 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16  
34 of the Criminal Code of 1961, the defendant shall undergo  
35 medical testing to determine whether the defendant has any  
36 sexually transmissible disease, including a test for infection

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

32 (g-5) When an inmate is tested for an airborne communicable  
33 disease, as determined by the Illinois Department of Public  
34 Health including but not limited to tuberculosis, the results  
35 of the test shall be personally delivered by the warden or his  
36 or her designee in a sealed envelope to the judge of the court

1 in which the inmate must appear for the judge's inspection in  
2 camera if requested by the judge. Acting in accordance with the  
3 best interests of those in the courtroom, the judge shall have  
4 the discretion to determine what if any precautions need to be  
5 taken to prevent transmission of the disease in the courtroom.

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

35 (i) All fines and penalties imposed under this Section for  
36 any violation of Chapters 3, 4, 6, and 11 of the Illinois

1 Vehicle Code, or a similar provision of a local ordinance, and  
2 any violation of the Child Passenger Protection Act, or a  
3 similar provision of a local ordinance, shall be collected and  
4 disbursed by the circuit clerk as provided under Section 27.5  
5 of the Clerks of Courts Act.

6 (j) In cases when prosecution for any violation of Section  
7 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,  
8 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
9 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal  
10 Code of 1961, any violation of the Illinois Controlled  
11 Substances Act, any violation of the Cannabis Control Act, or  
12 any violation of the Methamphetamine Control and Community  
13 Protection Act results in conviction, a disposition of court  
14 supervision, or an order of probation granted under Section 10  
15 of the Cannabis Control Act, Section 410 of the Illinois  
16 Controlled Substance Act, or Section 70 of the Methamphetamine  
17 Control and Community Protection Act of a defendant, the court  
18 shall determine whether the defendant is employed by a facility  
19 or center as defined under the Child Care Act of 1969, a public  
20 or private elementary or secondary school, or otherwise works  
21 with children under 18 years of age on a daily basis. When a  
22 defendant is so employed, the court shall order the Clerk of  
23 the Court to send a copy of the judgment of conviction or order  
24 of supervision or probation to the defendant's employer by  
25 certified mail. If the employer of the defendant is a school,  
26 the Clerk of the Court shall direct the mailing of a copy of  
27 the judgment of conviction or order of supervision or probation  
28 to the appropriate regional superintendent of schools. The  
29 regional superintendent of schools shall notify the State Board  
30 of Education of any notification under this subsection.

31 (j-5) A defendant at least 17 years of age who is convicted  
32 of a felony and who has not been previously convicted of a  
33 misdemeanor or felony and who is sentenced to a term of  
34 imprisonment in the Illinois Department of Corrections shall as  
35 a condition of his or her sentence be required by the court to  
36 attend educational courses designed to prepare the defendant

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

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

30 (l) (A) Except as provided in paragraph (C) of subsection  
31 (l), whenever a defendant, who is an alien as defined by  
32 the Immigration and Nationality Act, is convicted of any  
33 felony or misdemeanor offense, the court after sentencing  
34 the defendant may, upon motion of the State's Attorney,  
35 hold sentence in abeyance and remand the defendant to the  
36 custody of the Attorney General of the United States or his

1 or her designated agent to be deported when:

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

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

8 Otherwise, the defendant shall be sentenced as  
9 provided in this Chapter V.

10 (B) If the defendant has already been sentenced for a  
11 felony or misdemeanor offense, or has been placed on  
12 probation under Section 10 of the Cannabis Control Act,  
13 Section 410 of the Illinois Controlled Substances Act, or  
14 Section 70 of the Methamphetamine Control and Community  
15 Protection Act, the court may, upon motion of the State's  
16 Attorney to suspend the sentence imposed, commit the  
17 defendant to the custody of the Attorney General of the  
18 United States or his or her designated agent when:

19 (1) a final order of deportation has been issued  
20 against the defendant pursuant to proceedings under  
21 the Immigration and Nationality Act, and

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

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

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

1 meritorious service as provided under Section 3-6-6.

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

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

16 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,  
17 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,  
18 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,  
19 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,  
20 eff. 9-11-05; revised 8-19-05.)