



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2962

Introduced 1/20/2006, by Sen. Edward Petka

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-205	from Ch. 95 1/2, par. 6-205
625 ILCS 5/6-303	from Ch. 95 1/2, par. 6-303
730 ILCS 5/5-5-3	from Ch. 38, par. 1005-5-3

Amends the Illinois Vehicle Code and the Unified Code of Corrections. Provides that the Secretary of State shall immediately revoke the license, permit, or driving privileges of any driver upon receiving a report of the driver's conviction for a sex offense defined in the Sex Offender Registration Act and upon a showing of the person's records or other sufficient evidence that the person failed to comply with the annual renewal provisions established by the Secretary of State. Provides that a person who drives a motor vehicle upon such revocation is guilty of a Class A misdemeanor. Provides that the Secretary of State shall revoke the driver's license or permit of a driver who is a convicted sex offender who fails to renew the license or permit on an annual basis.

LRB094 18882 RLC 54326 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning driving privileges.

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

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Sections 6-205 and 6-303 as follows:

6 (625 ILCS 5/6-205) (from Ch. 95 1/2, par. 6-205)

7 Sec. 6-205. Mandatory revocation of license or permit;
8 Hardship cases.

9 (a) Except as provided in this Section, the Secretary of
10 State shall immediately revoke the license, permit, or driving
11 privileges of any driver upon receiving a report of the
12 driver's conviction of any of the following offenses:

13 1. Reckless homicide resulting from the operation of a
14 motor vehicle;

15 2. Violation of Section 11-501 of this Code or a
16 similar provision of a local ordinance relating to the
17 offense of operating or being in physical control of a
18 vehicle while under the influence of alcohol, other drug or
19 drugs, intoxicating compound or compounds, or any
20 combination thereof;

21 3. Any felony under the laws of any State or the
22 federal government in the commission of which a motor
23 vehicle was used;

24 4. Violation of Section 11-401 of this Code relating to
25 the offense of leaving the scene of a traffic accident
26 involving death or personal injury;

27 5. Perjury or the making of a false affidavit or
28 statement under oath to the Secretary of State under this
29 Code or under any other law relating to the ownership or
30 operation of motor vehicles;

31 6. Conviction upon 3 charges of violation of Section
32 11-503 of this Code relating to the offense of reckless

1 driving committed within a period of 12 months;

2 7. Conviction of any offense defined in Section 4-102
3 of this Code;

4 8. Violation of Section 11-504 of this Code relating to
5 the offense of drag racing;

6 9. Violation of Chapters 8 and 9 of this Code;

7 10. Violation of Section 12-5 of the Criminal Code of
8 1961 arising from the use of a motor vehicle;

9 11. Violation of Section 11-204.1 of this Code relating
10 to aggravated fleeing or attempting to elude a peace
11 officer;

12 12. Violation of paragraph (1) of subsection (b) of
13 Section 6-507, or a similar law of any other state,
14 relating to the unlawful operation of a commercial motor
15 vehicle;

16 13. Violation of paragraph (a) of Section 11-502 of
17 this Code or a similar provision of a local ordinance if
18 the driver has been previously convicted of a violation of
19 that Section or a similar provision of a local ordinance
20 and the driver was less than 21 years of age at the time of
21 the offense.

22 (a-5) Except as otherwise provided in this Section, the
23 Secretary of State shall immediately revoke the license,
24 permit, or driving privileges of any driver upon receiving a
25 report of the driver's conviction for a sex offense as defined
26 in Section 2 of the Sex Offender Registration Act and upon a
27 showing of the person's records or other sufficient evidence
28 that the person failed to comply with the annual renewal
29 provisions established by the Secretary of State. The Secretary
30 of State shall revoke the driver's license or permit of a
31 driver described in this subsection (a-5) who fails to renew
32 the license or permit on an annual basis.

33 (b) The Secretary of State shall also immediately revoke
34 the license or permit of any driver in the following
35 situations:

36 1. Of any minor upon receiving the notice provided for

1 in Section 5-901 of the Juvenile Court Act of 1987 that the
2 minor has been adjudicated under that Act as having
3 committed an offense relating to motor vehicles prescribed
4 in Section 4-103 of this Code;

5 2. Of any person when any other law of this State
6 requires either the revocation or suspension of a license
7 or permit.

8 (c) Whenever a person is convicted of any of the offenses
9 enumerated in this Section, the court may recommend and the
10 Secretary of State in his discretion, without regard to whether
11 the recommendation is made by the court may, upon application,
12 issue to the person a restricted driving permit granting the
13 privilege of driving a motor vehicle between the petitioner's
14 residence and petitioner's place of employment or within the
15 scope of the petitioner's employment related duties, or to
16 allow transportation for the petitioner or a household member
17 of the petitioner's family for the receipt of necessary medical
18 care or, if the professional evaluation indicates, provide
19 transportation for the petitioner for alcohol remedial or
20 rehabilitative activity, or for the petitioner to attend
21 classes, as a student, in an accredited educational
22 institution; if the petitioner is able to demonstrate that no
23 alternative means of transportation is reasonably available
24 and the petitioner will not endanger the public safety or
25 welfare; provided that the Secretary's discretion shall be
26 limited to cases where undue hardship would result from a
27 failure to issue the restricted driving permit.

28 If a person's license or permit has been revoked or
29 suspended due to 2 or more convictions of violating Section
30 11-501 of this Code or a similar provision of a local ordinance
31 or a similar out-of-state offense, arising out of separate
32 occurrences, that person, if issued a restricted driving
33 permit, may not operate a vehicle unless it has been equipped
34 with an ignition interlock device as defined in Section
35 1-129.1.

36 If a person's license or permit has been revoked or

1 suspended 2 or more times within a 10 year period due to a
2 single conviction of violating Section 11-501 of this Code or a
3 similar provision of a local ordinance or a similar
4 out-of-state offense, and a statutory summary suspension under
5 Section 11-501.1, or 2 or more statutory summary suspensions,
6 or combination of 2 offenses, or of an offense and a statutory
7 summary suspension, arising out of separate occurrences, that
8 person, if issued a restricted driving permit, may not operate
9 a vehicle unless it has been equipped with an ignition
10 interlock device as defined in Section 1-129.1. The person must
11 pay to the Secretary of State DUI Administration Fund an amount
12 not to exceed \$20 per month. The Secretary shall establish by
13 rule the amount and the procedures, terms, and conditions
14 relating to these fees. If the restricted driving permit was
15 issued for employment purposes, then this provision does not
16 apply to the operation of an occupational vehicle owned or
17 leased by that person's employer. In each case the Secretary of
18 State may issue a restricted driving permit for a period he
19 deems appropriate, except that the permit shall expire within
20 one year from the date of issuance. The Secretary may not,
21 however, issue a restricted driving permit to any person whose
22 current revocation is the result of a second or subsequent
23 conviction for a violation of Section 11-501 of this Code or a
24 similar provision of a local ordinance relating to the offense
25 of operating or being in physical control of a motor vehicle
26 while under the influence of alcohol, other drug or drugs,
27 intoxicating compound or compounds, or any similar
28 out-of-state offense, or any combination thereof, until the
29 expiration of at least one year from the date of the
30 revocation. A restricted driving permit issued under this
31 Section shall be subject to cancellation, revocation, and
32 suspension by the Secretary of State in like manner and for
33 like cause as a driver's license issued under this Code may be
34 cancelled, revoked, or suspended; except that a conviction upon
35 one or more offenses against laws or ordinances regulating the
36 movement of traffic shall be deemed sufficient cause for the

1 revocation, suspension, or cancellation of a restricted
2 driving permit. The Secretary of State may, as a condition to
3 the issuance of a restricted driving permit, require the
4 applicant to participate in a designated driver remedial or
5 rehabilitative program. The Secretary of State is authorized to
6 cancel a restricted driving permit if the permit holder does
7 not successfully complete the program. However, if an
8 individual's driving privileges have been revoked in
9 accordance with paragraph 13 of subsection (a) of this Section,
10 no restricted driving permit shall be issued until the
11 individual has served 6 months of the revocation period.

12 (d) Whenever a person under the age of 21 is convicted
13 under Section 11-501 of this Code or a similar provision of a
14 local ordinance, the Secretary of State shall revoke the
15 driving privileges of that person. One year after the date of
16 revocation, and upon application, the Secretary of State may,
17 if satisfied that the person applying will not endanger the
18 public safety or welfare, issue a restricted driving permit
19 granting the privilege of driving a motor vehicle only between
20 the hours of 5 a.m. and 9 p.m. or as otherwise provided by this
21 Section for a period of one year. After this one year period,
22 and upon reapplication for a license as provided in Section
23 6-106, upon payment of the appropriate reinstatement fee
24 provided under paragraph (b) of Section 6-118, the Secretary of
25 State, in his discretion, may issue the applicant a license, or
26 extend the restricted driving permit as many times as the
27 Secretary of State deems appropriate, by additional periods of
28 not more than 12 months each, until the applicant attains 21
29 years of age.

30 If a person's license or permit has been revoked or
31 suspended due to 2 or more convictions of violating Section
32 11-501 of this Code or a similar provision of a local ordinance
33 or a similar out-of-state offense, arising out of separate
34 occurrences, that person, if issued a restricted driving
35 permit, may not operate a vehicle unless it has been equipped
36 with an ignition interlock device as defined in Section

1 1-129.1.

2 If a person's license or permit has been revoked or
3 suspended 2 or more times within a 10 year period due to a
4 single conviction of violating Section 11-501 of this Code or a
5 similar provision of a local ordinance or a similar
6 out-of-state offense, and a statutory summary suspension under
7 Section 11-501.1, or 2 or more statutory summary suspensions,
8 or combination of 2 offenses, or of an offense and a statutory
9 summary suspension, arising out of separate occurrences, that
10 person, if issued a restricted driving permit, may not operate
11 a vehicle unless it has been equipped with an ignition
12 interlock device as defined in Section 1-129.1. The person must
13 pay to the Secretary of State DUI Administration Fund an amount
14 not to exceed \$20 per month. The Secretary shall establish by
15 rule the amount and the procedures, terms, and conditions
16 relating to these fees. If the restricted driving permit was
17 issued for employment purposes, then this provision does not
18 apply to the operation of an occupational vehicle owned or
19 leased by that person's employer. A restricted driving permit
20 issued under this Section shall be subject to cancellation,
21 revocation, and suspension by the Secretary of State in like
22 manner and for like cause as a driver's license issued under
23 this Code may be cancelled, revoked, or suspended; except that
24 a conviction upon one or more offenses against laws or
25 ordinances regulating the movement of traffic shall be deemed
26 sufficient cause for the revocation, suspension, or
27 cancellation of a restricted driving permit. The revocation
28 periods contained in this subparagraph shall apply to similar
29 out-of-state convictions.

30 (e) This Section is subject to the provisions of the Driver
31 License Compact.

32 (f) Any revocation imposed upon any person under
33 subsections 2 and 3 of paragraph (b) that is in effect on
34 December 31, 1988 shall be converted to a suspension for a like
35 period of time.

36 (g) The Secretary of State shall not issue a restricted

1 driving permit to a person under the age of 16 years whose
2 driving privileges have been revoked under any provisions of
3 this Code.

4 (h) The Secretary of State shall require the use of
5 ignition interlock devices on all vehicles owned by an
6 individual who has been convicted of a second or subsequent
7 offense under Section 11-501 of this Code or a similar
8 provision of a local ordinance. The Secretary shall establish
9 by rule and regulation the procedures for certification and use
10 of the interlock system.

11 (i) The Secretary of State may not issue a restricted
12 driving permit for a period of one year after a second or
13 subsequent revocation of driving privileges under clause
14 (a) (2) of this Section; however, one year after the date of a
15 second or subsequent revocation of driving privileges under
16 clause (a) (2) of this Section, the Secretary of State may, upon
17 application, issue a restricted driving permit under the terms
18 and conditions of subsection (c).

19 (j) In accordance with 49 C.F.R. 384, the Secretary of
20 State may not issue a restricted driving permit for the
21 operation of a commercial motor vehicle to a person holding a
22 CDL whose driving privileges have been revoked under any
23 provisions of this Code.

24 (Source: P.A. 93-120, eff. 1-1-04; 94-307, eff. 9-30-05.)

25 (625 ILCS 5/6-303) (from Ch. 95 1/2, par. 6-303)

26 Sec. 6-303. Driving while driver's license, permit or
27 privilege to operate a motor vehicle is suspended or revoked.

28 (a) Any person who drives or is in actual physical control
29 of a motor vehicle on any highway of this State at a time when
30 such person's driver's license, permit or privilege to do so or
31 the privilege to obtain a driver's license or permit is revoked
32 or suspended as provided by this Code or the law of another
33 state, except as may be specifically allowed by a judicial
34 driving permit, family financial responsibility driving
35 permit, probationary license to drive, or a restricted driving

1 permit issued pursuant to this Code or under the law of another
2 state, shall be guilty of a Class A misdemeanor.

3 (a-5) Any person who drives or is in actual physical
4 control of a motor vehicle on any highway of this State at a
5 time when such person's driver's license, permit, or privilege
6 to do so has been revoked under subsection (a-5) of Section
7 6-205 of this Code is guilty of a Class A misdemeanor.

8 (b) The Secretary of State upon receiving a report of the
9 conviction of any violation indicating a person was operating a
10 motor vehicle during the time when said person's driver's
11 license, permit or privilege was suspended by the Secretary, by
12 the appropriate authority of another state, or pursuant to
13 Section 11-501.1; except as may be specifically allowed by a
14 probationary license to drive, judicial driving permit or
15 restricted driving permit issued pursuant to this Code or the
16 law of another state; shall extend the suspension for the same
17 period of time as the originally imposed suspension; however,
18 if the period of suspension has then expired, the Secretary
19 shall be authorized to suspend said person's driving privileges
20 for the same period of time as the originally imposed
21 suspension; and if the conviction was upon a charge which
22 indicated that a vehicle was operated during the time when the
23 person's driver's license, permit or privilege was revoked;
24 except as may be allowed by a restricted driving permit issued
25 pursuant to this Code or the law of another state; the
26 Secretary shall not issue a driver's license for an additional
27 period of one year from the date of such conviction indicating
28 such person was operating a vehicle during such period of
29 revocation.

30 (c) Any person convicted of violating this Section shall
31 serve a minimum term of imprisonment of 10 consecutive days or
32 30 days of community service when the person's driving
33 privilege was revoked or suspended as a result of:

34 (1) a violation of Section 11-501 of this Code or a
35 similar provision of a local ordinance relating to the
36 offense of operating or being in physical control of a

1 vehicle while under the influence of alcohol, any other
2 drug or any combination thereof; or

3 (2) a violation of paragraph (b) of Section 11-401 of
4 this Code or a similar provision of a local ordinance
5 relating to the offense of leaving the scene of a motor
6 vehicle accident involving personal injury or death; or

7 (3) a violation of Section 9-3 of the Criminal Code of
8 1961, as amended, relating to the offense of reckless
9 homicide; or

10 (4) a statutory summary suspension under Section
11 11-501.1 of this Code.

12 Such sentence of imprisonment or community service shall
13 not be subject to suspension in order to reduce such sentence.

14 (c-1) Except as provided in subsection (d), any person
15 convicted of a second violation of this Section shall be
16 ordered by the court to serve a minimum of 100 hours of
17 community service.

18 (c-2) In addition to other penalties imposed under this
19 Section, the court may impose on any person convicted a fourth
20 time of violating this Section any of the following:

21 (1) Seizure of the license plates of the person's
22 vehicle.

23 (2) Immobilization of the person's vehicle for a period
24 of time to be determined by the court.

25 (d) Any person convicted of a second violation of this
26 Section shall be guilty of a Class 4 felony and shall serve a
27 minimum term of imprisonment of 30 days or 300 hours of
28 community service, as determined by the court, if the
29 revocation or suspension was for a violation of Section 11-401
30 or 11-501 of this Code, or a similar out-of-state offense, or a
31 similar provision of a local ordinance, a violation of Section
32 9-3 of the Criminal Code of 1961, relating to the offense of
33 reckless homicide, or a similar out-of-state offense, or a
34 statutory summary suspension under Section 11-501.1 of this
35 Code.

36 (d-1) Except as provided in subsection (d-2) and subsection

1 (d-3), any person convicted of a third or subsequent violation
2 of this Section shall serve a minimum term of imprisonment of
3 30 days or 300 hours of community service, as determined by the
4 court.

5 (d-2) Any person convicted of a third violation of this
6 Section is guilty of a Class 4 felony and must serve a minimum
7 term of imprisonment of 30 days if the revocation or suspension
8 was for a violation of Section 11-401 or 11-501 of this Code,
9 or a similar out-of-state offense, or a similar provision of a
10 local ordinance, a violation of Section 9-3 of the Criminal
11 Code of 1961, relating to the offense of reckless homicide, or
12 a similar out-of-state offense, or a statutory summary
13 suspension under Section 11-501.1 of this Code.

14 (d-3) Any person convicted of a fourth, fifth, sixth,
15 seventh, eighth, or ninth violation of this Section is guilty
16 of a Class 4 felony and must serve a minimum term of
17 imprisonment of 180 days if the revocation or suspension was
18 for a violation of Section 11-401 or 11-501 of this Code, or a
19 similar out-of-state offense, or a similar provision of a local
20 ordinance, a violation of Section 9-3 of the Criminal Code of
21 1961, relating to the offense of reckless homicide, or a
22 similar out-of-state offense, or a statutory summary
23 suspension under Section 11-501.1 of this Code.

24 (d-4) Any person convicted of a tenth, eleventh, twelfth,
25 thirteenth, or fourteenth violation of this Section is guilty
26 of a Class 3 felony, and is not eligible for probation or
27 conditional discharge, if the revocation or suspension was for
28 a violation of Section 11-401 or 11-501 of this Code, or a
29 similar out-of-state offense, or a similar provision of a local
30 ordinance, a violation of Section 9-3 of the Criminal Code of
31 1961, relating to the offense of reckless homicide, or a
32 similar out-of-state offense, or a statutory summary
33 suspension under Section 11-501.1 of this Code.

34 (d-5) Any person convicted of a fifteenth or subsequent
35 violation of this Section is guilty of a Class 2 felony, and is
36 not eligible for probation or conditional discharge, if the

1 revocation or suspension was for a violation of Section 11-401
2 or 11-501 of this Code, or a similar out-of-state offense, or a
3 similar provision of a local ordinance, a violation of Section
4 9-3 of the Criminal Code of 1961, relating to the offense of
5 reckless homicide, or a similar out-of-state offense, or a
6 statutory summary suspension under Section 11-501.1 of this
7 Code.

8 (e) Any person in violation of this Section who is also in
9 violation of Section 7-601 of this Code relating to mandatory
10 insurance requirements, in addition to other penalties imposed
11 under this Section, shall have his or her motor vehicle
12 immediately impounded by the arresting law enforcement
13 officer. The motor vehicle may be released to any licensed
14 driver upon a showing of proof of insurance for the vehicle
15 that was impounded and the notarized written consent for the
16 release by the vehicle owner.

17 (f) For any prosecution under this Section, a certified
18 copy of the driving abstract of the defendant shall be admitted
19 as proof of any prior conviction.

20 (g) The motor vehicle used in a violation of this Section
21 is subject to seizure and forfeiture as provided in Sections
22 36-1 and 36-2 of the Criminal Code of 1961 if the person's
23 driving privilege was revoked or suspended as a result of a
24 violation listed in paragraph (1), (2), or (3) of subsection
25 (c) of this Section or as a result of a summary suspension as
26 provided in paragraph (4) of subsection (c) of this Section.

27 (Source: P.A. 94-112, eff. 1-1-06.)

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

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

31 Sec. 5-5-3. Disposition.

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

1 (b) The following options shall be appropriate
2 dispositions, alone or in combination, for all felonies and
3 misdemeanors other than those identified in subsection (c) of
4 this Section:

5 (1) A period of probation.

6 (2) A term of periodic imprisonment.

7 (3) A term of conditional discharge.

8 (4) A term of imprisonment.

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

13 (6) A fine.

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

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

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

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

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

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

1 (A) First degree murder where the death penalty is
2 not imposed.

3 (B) Attempted first degree murder.

4 (C) A Class X felony.

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

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

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

18 (F-5) A violation of Section 24-1, 24-1.1, or
19 24-1.6 of the Criminal Code of 1961 for which
20 imprisonment is prescribed in those Sections.

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

24 (H) Criminal sexual assault.

25 (I) Aggravated battery of a senior citizen.

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

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

34 Beginning July 1, 1994, for the purposes of this
35 paragraph, "organized gang" has the meaning ascribed
36 to it in Section 10 of the Illinois Streetgang

1 Terrorism Omnibus Prevention Act.

2 (K) Vehicular hijacking.

3 (L) A second or subsequent conviction for the
4 offense of hate crime when the underlying offense upon
5 which the hate crime is based is felony aggravated
6 assault or felony mob action.

7 (M) A second or subsequent conviction for the
8 offense of institutional vandalism if the damage to the
9 property exceeds \$300.

10 (N) A Class 3 felony violation of paragraph (1) of
11 subsection (a) of Section 2 of the Firearm Owners
12 Identification Card Act.

13 (O) A violation of Section 12-6.1 of the Criminal
14 Code of 1961.

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

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

20 (R) A violation of Section 24-3A of the Criminal
21 Code of 1961.

22 (S) (Blank).

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

25 (3) (Blank).

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

30 (4.1) (Blank).

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

35 (4.3) A minimum term of imprisonment of 30 days or 300
36 hours of community service, as determined by the court,

1 shall be imposed for a second violation of subsection (c)
2 of Section 6-303 of the Illinois Vehicle Code.

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

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

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

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

19 (A) a period of conditional discharge;

20 (B) a fine;

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

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

31 (5.2) In addition to any penalties imposed under
32 paragraph (5) of this subsection (c), and except as
33 provided in paragraph (5.3), a person convicted of
34 violating subsection (c) of Section 11-907 of the Illinois
35 Vehicle Code shall have his or her driver's license,
36 permit, or privileges suspended for at least 180 days but

1 not more than 2 years, if the violation resulted in injury
2 to another person.

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

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

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

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

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

36 (10) (Blank).

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

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

23 (d) In any case in which a sentence originally imposed is
24 vacated, the case shall be remanded to the trial court. The
25 trial court shall hold a hearing under Section 5-4-1 of the
26 Unified Code of Corrections which may include evidence of the
27 defendant's life, moral character and occupation during the
28 time since the original sentence was passed. The trial court
29 shall then impose sentence upon the defendant. The trial court
30 may impose any sentence which could have been imposed at the
31 original trial subject to Section 5-5-4 of the Unified Code of
32 Corrections. If a sentence is vacated on appeal or on
33 collateral attack due to the failure of the trier of fact at
34 trial to determine beyond a reasonable doubt the existence of a
35 fact (other than a prior conviction) necessary to increase the
36 punishment for the offense beyond the statutory maximum

1 otherwise applicable, either the defendant may be re-sentenced
2 to a term within the range otherwise provided or, if the State
3 files notice of its intention to again seek the extended
4 sentence, the defendant shall be afforded a new trial.

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

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

12 (A) the defendant is willing to undergo a court
13 approved counseling program for a minimum duration of 2
14 years; or

15 (B) the defendant is willing to participate in a
16 court approved plan including but not limited to the
17 defendant's:

18 (i) removal from the household;

19 (ii) restricted contact with the victim;

20 (iii) continued financial support of the
21 family;

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

23 and

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

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

33 Probation may be revoked or modified pursuant to Section
34 5-6-4; except where the court determines at the hearing that
35 the defendant violated a condition of his or her probation
36 restricting contact with the victim or other family members or

1 commits another offense with the victim or other family
2 members, the court shall revoke the defendant's probation and
3 impose a term of imprisonment.

4 For the purposes of this Section, "family member" and
5 "victim" shall have the meanings ascribed to them in Section
6 12-12 of the Criminal Code of 1961.

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

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

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

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

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

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

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

22 (j) In cases when prosecution for any violation of Section
23 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
24 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
25 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
26 Code of 1961, any violation of the Illinois Controlled
27 Substances Act, any violation of the Cannabis Control Act, or
28 any violation of the Methamphetamine Control and Community
29 Protection Act results in conviction, a disposition of court
30 supervision, or an order of probation granted under Section 10
31 of the Cannabis Control Act, Section 410 of the Illinois
32 Controlled Substance Act, or Section 70 of the Methamphetamine
33 Control and Community Protection Act of a defendant, the court
34 shall determine whether the defendant is employed by a facility
35 or center as defined under the Child Care Act of 1969, a public
36 or private elementary or secondary school, or otherwise works

1 with children under 18 years of age on a daily basis. When a
2 defendant is so employed, the court shall order the Clerk of
3 the Court to send a copy of the judgment of conviction or order
4 of supervision or probation to the defendant's employer by
5 certified mail. If the employer of the defendant is a school,
6 the Clerk of the Court shall direct the mailing of a copy of
7 the judgment of conviction or order of supervision or probation
8 to the appropriate regional superintendent of schools. The
9 regional superintendent of schools shall notify the State Board
10 of Education of any notification under this subsection.

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

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

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

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

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

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

24 Otherwise, the defendant shall be sentenced as
25 provided in this Chapter V.

26 (B) If the defendant has already been sentenced for a
27 felony or misdemeanor offense, or has been placed on
28 probation under Section 10 of the Cannabis Control Act,
29 Section 410 of the Illinois Controlled Substances Act, or
30 Section 70 of the Methamphetamine Control and Community
31 Protection Act, the court may, upon motion of the State's
32 Attorney to suspend the sentence imposed, commit the
33 defendant to the custody of the Attorney General of the
34 United States or his or her designated agent when:

35 (1) a final order of deportation has been issued
36 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 (C) This subsection (1) does not apply to offenders who
6 are subject to the provisions of paragraph (2) of
7 subsection (a) of Section 3-6-3.

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

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

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

32 (o) Whenever a person is convicted of a sex offense as
33 defined in Section 2 of the Sex Offender Registration Act, the
34 defendant's drivers license or permit shall be subject to
35 renewal on an annual basis in accordance with the provisions of
36 license renewal established by the Secretary of State.

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