



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0231

Introduced 1/19/2007, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

See Index

Amends the Unified Code of Corrections. Provides that upon admission of a committed person to a Department of Corrections facility as part of the prisoner's comprehensive physical examination and immediately prior to release of that person, the committed person shall be required to take tests for HIV/AIDS and methicillin resistant staphylococcus aureus (MRSA) infections administered by the Department. Provides that if the test result is positive, the committed person shall receive medical care for the infection paid by the Department during the committed person's incarceration. Provides that upon release of the committed person from incarceration, the costs of HIV/AIDS and MRSA treatment and counseling shall be paid by the Department of Healthcare and Family Services. Provides that the Department of Corrections shall develop a specialized discharge plan for a committed person who tests positive for HIV/AIDS or MRSA. Provides that the Department of Corrections, in consultation with the Department of Public Health and Prisoner Review Board, shall provide community reentry services for committed persons who test positive for HIV/AIDS or MRSA. Provides that each committed person shall be provided with HIV/AIDS and MRSA counseling. Provides that each committed person shall receive mandatory GED education that includes HIV/AIDS, MRSA, and hepatitis C prevention education. Provides that a defendant at least 17 years of age who has a high school diploma or who has passed the high school level GED test and who is convicted of a felony and who is sentenced to a term of imprisonment in the Department of Corrections shall be provided with an educational program that leads to the completion of an associate, baccalaureate, or higher degree paid by the Department of Corrections. Effective immediately.

LRB095 04121 RLC 24548 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Unified Code of Corrections is amended by
5 changing Sections 3-1-2, 3-5-1, 3-6-2, and 5-5-3 and by adding
6 Sections 5-1-9.1 and 5-1-14.1 as follows:

7 (730 ILCS 5/3-1-2) (from Ch. 38, par. 1003-1-2)

8 Sec. 3-1-2. Definitions.

9 (a) "Chief Administrative Officer" means the person
10 designated by the Director to exercise the powers and duties of
11 the Department of Corrections in regard to committed persons
12 within a correctional institution or facility, and includes the
13 superintendent of any juvenile institution or facility.

14 (a-5) "Sex offense" for the purposes of paragraph (16) of
15 subsection (a) of Section 3-3-7, paragraph (10) of subsection
16 (a) of Section 5-6-3, and paragraph (18) of subsection (c) of
17 Section 5-6-3.1 only means:

18 (i) A violation of any of the following Sections of the
19 Criminal Code of 1961: 10-7 (aiding and abetting child
20 abduction under Section 10-5(b)(10)), 10-5(b)(10) (child
21 luring), 11-6 (indecent solicitation of a child), 11-6.5
22 (indecent solicitation of an adult), 11-15.1 (soliciting
23 for a juvenile prostitute), 11-17.1 (keeping a place of

1 juvenile prostitution), 11-18.1 (patronizing a juvenile
2 prostitute), 11-19.1 (juvenile pimping), 11-19.2
3 (exploitation of a child), 11-20.1 (child pornography),
4 12-14.1 (predatory criminal sexual assault of a child), or
5 12-33 (ritualized abuse of a child). An attempt to commit
6 any of these offenses.

7 (ii) A violation of any of the following Sections of
8 the Criminal Code of 1961: 12-13 (criminal sexual assault),
9 12-14 (aggravated criminal sexual assault), 12-16
10 (aggravated criminal sexual abuse), and subsection (a) of
11 Section 12-15 (criminal sexual abuse). An attempt to commit
12 any of these offenses.

13 (iii) A violation of any of the following Sections of
14 the Criminal Code of 1961 when the defendant is not a
15 parent of the victim:

16 10-1 (kidnapping),
17 10-2 (aggravated kidnapping),
18 10-3 (unlawful restraint),
19 10-3.1 (aggravated unlawful restraint).

20 An attempt to commit any of these offenses.

21 (iv) A violation of any former law of this State
22 substantially equivalent to any offense listed in this
23 subsection (a-5).

24 An offense violating federal law or the law of another
25 state that is substantially equivalent to any offense listed in
26 this subsection (a-5) shall constitute a sex offense for the

1 purpose of this subsection (a-5). A finding or adjudication as
2 a sexually dangerous person under any federal law or law of
3 another state that is substantially equivalent to the Sexually
4 Dangerous Persons Act shall constitute an adjudication for a
5 sex offense for the purposes of this subsection (a-5).

6 (b) "Commitment" means a judicially determined placement
7 in the custody of the Department of Corrections on the basis of
8 delinquency or conviction.

9 (c) "Committed Person" is a person committed to the
10 Department, however a committed person shall not be considered
11 to be an employee of the Department of Corrections for any
12 purpose, including eligibility for a pension, benefits, or any
13 other compensation or rights or privileges which may be
14 provided to employees of the Department.

15 (d) "Correctional Institution or Facility" means any
16 building or part of a building where committed persons are kept
17 in a secured manner.

18 (e) In the case of functions performed before the effective
19 date of this amendatory Act of the 94th General Assembly,
20 "Department" means the Department of Corrections of this State.
21 In the case of functions performed on or after the effective
22 date of this amendatory Act of the 94th General Assembly,
23 "Department" has the meaning ascribed to it in subsection
24 (f-5).

25 (f) In the case of functions performed before the effective
26 date of this amendatory Act of the 94th General Assembly,

1 "Director" means the Director of the Department of Corrections.
2 In the case of functions performed on or after the effective
3 date of this amendatory Act of the 94th General Assembly,
4 "Director" has the meaning ascribed to it in subsection (f-5).

5 (f-5) In the case of functions performed on or after the
6 effective date of this amendatory Act of the 94th General
7 Assembly, references to "Department" or "Director" refer to
8 either the Department of Corrections or the Director of
9 Corrections or to the Department of Juvenile Justice or the
10 Director of Juvenile Justice unless the context is specific to
11 the Department of Juvenile Justice or the Director of Juvenile
12 Justice.

13 (g) "Discharge" means the final termination of a commitment
14 to the Department of Corrections.

15 (h) "Discipline" means the rules and regulations for the
16 maintenance of order and the protection of persons and property
17 within the institutions and facilities of the Department and
18 their enforcement.

19 (i) "Escape" means the intentional and unauthorized
20 absence of a committed person from the custody of the
21 Department.

22 (j) "Furlough" means an authorized leave of absence from
23 the Department of Corrections for a designated purpose and
24 period of time.

25 (j-5) "HIV/AIDS" means the human immunodeficiency virus or
26 any other identified causative agent of acquired

1 immunodeficiency syndrome.

2 (j-6) "MRSA" means methicillin resistant staphylococcus
3 aureus infections.

4 (k) "Parole" means the conditional and revocable release of
5 a committed person under the supervision of a parole officer.

6 (l) "Prisoner Review Board" means the Board established in
7 Section 3-3-1(a), independent of the Department, to review
8 rules and regulations with respect to good time credits, to
9 hear charges brought by the Department against certain
10 prisoners alleged to have violated Department rules with
11 respect to good time credits, to set release dates for certain
12 prisoners sentenced under the law in effect prior to the
13 effective date of this Amendatory Act of 1977, to hear requests
14 and make recommendations to the Governor with respect to
15 pardon, reprieve or commutation, to set conditions for parole
16 and mandatory supervised release and determine whether
17 violations of those conditions justify revocation of parole or
18 release, and to assume all other functions previously exercised
19 by the Illinois Parole and Pardon Board.

20 (m) Whenever medical treatment, service, counseling, or
21 care is referred to in this Unified Code of Corrections, such
22 term may be construed by the Department or Court, within its
23 discretion, to include treatment, service or counseling by a
24 Christian Science practitioner or nursing care appropriate
25 therewith whenever request therefor is made by a person subject
26 to the provisions of this Act.

1 (n) "Victim" shall have the meaning ascribed to it in
2 subsection (a) of Section 3 of the Bill of Rights for Victims
3 and Witnesses of Violent Crime Act.

4 (Source: P.A. 94-159, eff. 7-11-05; 94-696, eff. 6-1-06.)

5 (730 ILCS 5/3-5-1) (from Ch. 38, par. 1003-5-1)

6 Sec. 3-5-1. Master Record File.

7 (a) The Department of Corrections and the Department of
8 Juvenile Justice shall maintain a master record file on each
9 person committed to it, which shall contain the following
10 information:

11 (1) all information from the committing court;

12 (2) reception summary;

13 (3) evaluation and assignment reports and
14 recommendations;

15 (4) reports as to program assignment and progress;

16 (5) reports of disciplinary infractions and
17 disposition;

18 (6) any parole plan;

19 (7) any parole reports;

20 (8) the date and circumstances of final discharge;

21 (9) The results of an HIV/AIDS and MRSA test
22 administered under subsection (i) of Section 3-6-2; and

23 (10) any other pertinent data concerning the person's
24 background, conduct, associations and family relationships
25 as may be required by the respective Department.

1 A current summary index shall be maintained on each file
2 which shall include the person's known active and past gang
3 affiliations and ranks.

4 (b) All files shall be confidential and access shall be
5 limited to authorized personnel of the respective Department.
6 Personnel of other correctional, welfare or law enforcement
7 agencies may have access to files under rules and regulations
8 of the respective Department. The respective Department shall
9 keep a record of all outside personnel who have access to
10 files, the files reviewed, any file material copied, and the
11 purpose of access. If the respective Department or the Prisoner
12 Review Board makes a determination under this Code which
13 affects the length of the period of confinement or commitment,
14 the committed person and his counsel shall be advised of
15 factual information relied upon by the respective Department or
16 Board to make the determination, provided that the Department
17 or Board shall not be required to advise a person committed to
18 the Department of Juvenile Justice any such information which
19 in the opinion of the Department of Juvenile Justice or Board
20 would be detrimental to his treatment or rehabilitation.

21 (c) The master file shall be maintained at a place
22 convenient to its use by personnel of the respective Department
23 in charge of the person. When custody of a person is
24 transferred from the Department to another department or
25 agency, a summary of the file shall be forwarded to the
26 receiving agency with such other information required by law or

1 requested by the agency under rules and regulations of the
2 respective Department.

3 (d) The master file of a person no longer in the custody of
4 the respective Department shall be placed on inactive status
5 and its use shall be restricted subject to rules and
6 regulations of the Department.

7 (e) All public agencies may make available to the
8 respective Department on request any factual data not otherwise
9 privileged as a matter of law in their possession in respect to
10 individuals committed to the respective Department.

11 (Source: P.A. 94-696, eff. 6-1-06.)

12 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

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

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

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

23 (c) The Director or Assistant Director shall have the
24 emergency powers to temporarily transfer individuals without
25 formal procedures to any State, county, municipal or regional

1 correctional or detention institution or facility in the State,
2 subject to the acceptance of such receiving institution or
3 facility, or to designate any reasonably secure place in the
4 State as such an institution or facility and to make transfers
5 thereto. However, transfers made under emergency powers shall
6 be reviewed as soon as practicable under Article 8, and shall
7 be subject to Section 5-905 of the Juvenile Court Act of 1987.
8 This Section shall not apply to transfers to the Department of
9 Human Services which are provided for under Section 3-8-5 or
10 Section 3-10-5.

11 (d) The Department shall provide educational programs for
12 all committed persons so that all persons have an opportunity
13 to attain the achievement level equivalent to the completion of
14 an associate, baccalaureate, or higher degree from a community
15 college, college, or university located in Illinois ~~the twelfth~~
16 ~~grade in the public school system in this State.~~ Other higher
17 levels of attainment shall be encouraged and professional
18 instruction shall be maintained wherever possible. The
19 Department may establish programs of mandatory education and
20 may establish rules and regulations for the administration of
21 such programs. The costs of such educational programs shall be
22 paid by the Department ~~A person committed to the Department~~
23 ~~who, during the period of his or her incarceration,~~
24 ~~participates in an educational program provided by or through~~
25 ~~the Department and through that program is awarded or earns the~~
26 ~~number of hours of credit required for the award of an~~

1 ~~associate, baccalaureate, or higher degree from a community~~
2 ~~college, college, or university located in Illinois shall~~
3 ~~reimburse the State, through the Department, for the costs~~
4 ~~incurred by the State in providing that person during his or~~
5 ~~her incarceration with the education that qualifies him or her~~
6 ~~for the award of that degree. The costs for which reimbursement~~
7 ~~is required under this subsection shall be determined and~~
8 ~~computed by the Department under rules and regulations that it~~
9 ~~shall establish for that purpose. However, interest at the rate~~
10 ~~of 6% per annum shall be charged on the balance of those costs~~
11 ~~from time to time remaining unpaid, from the date of the~~
12 ~~person's parole, mandatory supervised release, or release~~
13 ~~constituting a final termination of his or her commitment to~~
14 ~~the Department until paid.~~

15 (d-5) A person committed to the Department is entitled to
16 confidential testing for infection with human immunodeficiency
17 virus (HIV) and to counseling in connection with such testing,
18 with no copay to the committed person. A person committed to
19 the Department who has tested positive for infection with HIV
20 is entitled to medical care while incarcerated, counseling, and
21 referrals to support services, in connection with that positive
22 test result. Implementation of this subsection (d-5) is subject
23 to appropriation.

24 (e) A person committed to the Department who becomes in
25 need of medical or surgical treatment but is incapable of
26 giving consent thereto shall receive such medical or surgical

1 treatment by the chief administrative officer consenting on the
2 person's behalf. Before the chief administrative officer
3 consents, he or she shall obtain the advice of one or more
4 physicians licensed to practice medicine in all its branches in
5 this State. If such physician or physicians advise:

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

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

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

24 (f) In the event that the person requires medical care and
25 treatment at a place other than the institution or facility,
26 the person may be removed therefrom under conditions prescribed

1 by the Department. The Department shall require the committed
2 person receiving medical or dental services on a non-emergency
3 basis to pay a \$2 co-payment to the Department for each visit
4 for medical or dental services. The amount of each co-payment
5 shall be deducted from the committed person's individual
6 account. A committed person who has a chronic illness, as
7 defined by Department rules and regulations, shall be exempt
8 from the \$2 co-payment for treatment of the chronic illness. A
9 committed person shall not be subject to a \$2 co-payment for
10 follow-up visits ordered by a physician, who is employed by, or
11 contracts with, the Department. A committed person who is
12 indigent is exempt from the \$2 co-payment and is entitled to
13 receive medical or dental services on the same basis as a
14 committed person who is financially able to afford the
15 co-payment. Notwithstanding any other provision in this
16 subsection (f) to the contrary, any person committed to any
17 facility operated by the Department of Juvenile Justice, as set
18 forth in Section 3-2.5-15 of this Code, is exempt from the
19 co-payment requirement for the duration of confinement in those
20 facilities.

21 (g) Any person having sole custody of a child at the time
22 of commitment or any woman giving birth to a child after her
23 commitment, may arrange through the Department of Children and
24 Family Services for suitable placement of the child outside of
25 the Department of Corrections. The Director of the Department
26 of Corrections may determine that there are special reasons why

1 the child should continue in the custody of the mother until
2 the child is 6 years old.

3 (h) The Department may provide Family Responsibility
4 Services which may consist of, but not be limited to the
5 following:

6 (1) family advocacy counseling;

7 (2) parent self-help group;

8 (3) parenting skills training;

9 (4) parent and child overnight program;

10 (5) parent and child reunification counseling, either
11 separately or together, preceding the inmate's release;
12 and

13 (6) a prerelease reunification staffing involving the
14 family advocate, the inmate and the child's counselor, or
15 both and the inmate.

16 (i) The Department of Corrections, in consultation with the
17 Department of Public Health, shall develop and implement an
18 HIV/AIDS and MRSA prevention education program targeted to
19 offenders incarcerated in Department of Corrections
20 facilities, significant others, and families of adult and
21 juvenile prison inmates. Through this program, the Illinois
22 Department of Corrections shall: (1) provide, in all public
23 places of detention facilities and prisons, printed
24 information on the transmission and prevention of HIV/AIDS,
25 hepatitis C, MRSA, and other sexually transmitted diseases and
26 referral information to community-based providers of HIV/AIDS

1 prevention, HIV/AIDS treatment, and HIV/AIDS counseling and
2 testing services throughout Illinois; (2) display in all public
3 places of detention facilities and prisons in which video
4 equipment is available an HIV/AIDS and MRSA informational
5 video, produced by a national organization with expertise in
6 HIV/AIDS prevention; (3) provide written information on the
7 transmission and prevention of HIV/AIDS, hepatitis C, MRSA, and
8 other sexually transmitted diseases to all inmates upon
9 entrance to a detention center or prison and offer voluntary
10 HIV/AIDS and MRSA testing to all inmates; and (4) provide
11 written information on the transmission and prevention of
12 HIV/AIDS, hepatitis C, MRSA, and other sexually transmitted
13 diseases to all inmates just prior to their release from
14 custody and referral to appropriate community based
15 organizations that provide HIV/AIDS services and HIV/AIDS
16 counseling and testing.

17 Upon admission of a committed person to a Department of
18 Corrections facility as part of his or her comprehensive
19 physical examination and immediately prior to release of that
20 person, the committed person shall be required to take a test
21 for HIV/AIDS and MRSA administered by the Department. ~~Prior to~~
22 ~~the release of any inmate who has a documented history of~~
23 ~~intravenous drug use, and upon the receipt of that inmate's~~
24 ~~written informed consent, the Department shall provide for the~~
25 ~~testing of such inmate for infection with human~~
26 ~~immunodeficiency virus (HIV) and any other identified~~

1 ~~causative agent of acquired immunodeficiency syndrome (AIDS).~~

2 The testing provided under this subsection shall consist of an
3 enzyme-linked immunosorbent assay (ELISA) test or such other
4 test as may be approved by the Illinois Department of Public
5 Health. If the test result is positive, the Western Blot Assay
6 or more reliable confirmatory test shall be administered. Each
7 committed person ~~All inmates tested in accordance with the~~
8 ~~provisions of this subsection~~ shall be provided with HIV/AIDS
9 and MRSA ~~pre test and post test~~ counseling. If the test result
10 is positive, the committed person shall receive medical care
11 for the infection paid by the Department during the committed
12 person's incarceration. The Department shall develop a
13 specialized discharge plan for a committed person who tests
14 positive for HIV/AIDS or MRSA. The Department, in consultation
15 with the Department of Public Health and Prisoner Review Board,
16 shall provide community reentry services for committed persons
17 who test positive for HIV/AIDS or MRSA. Upon the release of the
18 committed person from incarceration, the costs of medical
19 treatment and counseling for HIV/AIDS and MRSA shall be paid by
20 the Department of Healthcare and Family Services.

21 One year after the implementation of this amendatory Act of
22 the 95th General Assembly, the Department of Corrections shall
23 report to the General Assembly on the effectiveness of the
24 program created by this amendatory Act in preventing HIV/AIDS
25 and MRSA. ~~Notwithstanding any provision of this subsection to~~
26 ~~the contrary, the Department shall not be required to conduct~~

1 ~~the testing and counseling required by this subsection unless~~
2 ~~sufficient funds to cover all costs of such testing and~~
3 ~~counseling are appropriated for that purpose by the General~~
4 ~~Assembly.~~

5 (j) Any person convicted of a sex offense as defined in the
6 Sex Offender Management Board Act shall be required to receive
7 a sex offender evaluation prior to release into the community
8 from the Department of Corrections. The sex offender evaluation
9 shall be conducted in conformance with the standards and
10 guidelines developed under the Sex Offender Management Board
11 Act and by an evaluator approved by the Board.

12 (k) Any minor committed to the Department of Juvenile
13 Justice for a sex offense as defined by the Sex Offender
14 Management Board Act shall be required to undergo sex offender
15 treatment by a treatment provider approved by the Board and
16 conducted in conformance with the Sex Offender Management Board
17 Act.

18 (l) Prior to the release of any inmate, the Department must
19 provide the inmate with the option of testing for infection
20 with human immunodeficiency virus (HIV), as well as counseling
21 in connection with such testing, with no copayment for the
22 test. At the same time, the Department shall require each such
23 inmate to sign a form stating that the inmate has been informed
24 of his or her rights with respect to the testing required to be
25 offered under this subsection (l) and providing the inmate with
26 an opportunity to indicate either that he or she wants to be

1 tested or that he or she does not want to be tested. The
2 Department, in consultation with the Department of Public
3 Health, shall prescribe the contents of the form. The testing
4 provided under this subsection (1) shall consist of an
5 enzyme-linked immunosorbent assay (ELISA) test or any other
6 test approved by the Department of Public Health. If the test
7 result is positive, the Western Blot Assay or more reliable
8 confirmatory test shall be administered.

9 Prior to the release of an inmate who the Department knows
10 has tested positive for infection with HIV, the Department in a
11 timely manner shall offer the inmate transitional case
12 management, including referrals to other support services.

13 Implementation of this subsection (1) is subject to
14 appropriation.

15 (Source: P.A. 93-616, eff. 1-1-04; 93-928, eff. 1-1-05; 94-629,
16 eff. 1-1-06; 94-696, eff. 6-1-06.)

17 (730 ILCS 5/5-1-9.1 new)

18 Sec. 5-1-9.1. HIV/AIDS. "HIV/AIDS" has the meaning
19 ascribed to it in Section 3-1-2 of this Code.

20 (730 ILCS 5/5-1-14.1 new)

21 Sec. 5-1-14.1. MRSA. "MRSA" has the meaning ascribed to it
22 in Section 3-1-2 of this Code.

23 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

1 (Text of Section before amendment by P.A. 94-1035)

2 Sec. 5-5-3. Disposition.

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

6 (b) The following options shall be appropriate
7 dispositions, alone or in combination, for all felonies and
8 misdemeanors other than those identified in subsection (c) of
9 this Section:

10 (1) A period of probation.

11 (2) A term of periodic imprisonment.

12 (3) A term of conditional discharge.

13 (4) A term of imprisonment.

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

18 (6) A fine.

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

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

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

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

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

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

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

18 (B) Attempted first degree murder.

19 (C) A Class X felony.

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

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

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

7 (F-5) A violation of Section 24-1, 24-1.1, or
8 24-1.6 of the Criminal Code of 1961 for which
9 imprisonment is prescribed in those Sections.

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

13 (H) Criminal sexual assault.

14 (I) Aggravated battery of a senior citizen.

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

17 Before July 1, 1994, for the purposes of this
18 paragraph, "organized gang" means an association of 5
19 or more persons, with an established hierarchy, that
20 encourages members of the association to perpetrate
21 crimes or provides support to the members of the
22 association who do commit crimes.

23 Beginning July 1, 1994, for the purposes of this
24 paragraph, "organized gang" has the meaning ascribed
25 to it in Section 10 of the Illinois Streetgang
26 Terrorism Omnibus Prevention Act.

1 (K) Vehicular hijacking.

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

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

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

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

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

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

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

21 (S) (Blank).

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

24 (3) (Blank).

25 (4) A minimum term of imprisonment of not less than 10
26 consecutive days or 30 days of community service shall be

1 imposed for a violation of paragraph (c) of Section 6-303
2 of the Illinois Vehicle Code.

3 (4.1) (Blank).

4 (4.2) Except as provided in paragraph (4.3) of this
5 subsection (c), a minimum of 100 hours of community service
6 shall be imposed for a second violation of Section 6-303 of
7 the Illinois Vehicle Code.

8 (4.3) A minimum term of imprisonment of 30 days or 300
9 hours of community service, as determined by the court,
10 shall be imposed for a second violation of subsection (c)
11 of Section 6-303 of the Illinois Vehicle Code.

12 (4.4) Except as provided in paragraph (4.5) and
13 paragraph (4.6) of this subsection (c), a minimum term of
14 imprisonment of 30 days or 300 hours of community service,
15 as determined by the court, shall be imposed for a third or
16 subsequent violation of Section 6-303 of the Illinois
17 Vehicle Code.

18 (4.5) A minimum term of imprisonment of 30 days shall
19 be imposed for a third violation of subsection (c) of
20 Section 6-303 of the Illinois Vehicle Code.

21 (4.6) A minimum term of imprisonment of 180 days shall
22 be imposed for a fourth or subsequent violation of
23 subsection (c) of Section 6-303 of the Illinois Vehicle
24 Code.

25 (5) The court may sentence an offender convicted of a
26 business offense or a petty offense or a corporation or

1 unincorporated association convicted of any offense to:

2 (A) a period of conditional discharge;

3 (B) a fine;

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

6 (5.1) In addition to any penalties imposed under
7 paragraph (5) of this subsection (c), and except as
8 provided in paragraph (5.2) or (5.3), a person convicted of
9 violating subsection (c) of Section 11-907 of the Illinois
10 Vehicle Code shall have his or her driver's license,
11 permit, or privileges suspended for at least 90 days but
12 not more than one year, if the violation resulted in damage
13 to the property of another person.

14 (5.2) In addition to any penalties imposed under
15 paragraph (5) of this subsection (c), and except as
16 provided in paragraph (5.3), a person convicted of
17 violating subsection (c) of Section 11-907 of the Illinois
18 Vehicle Code shall have his or her driver's license,
19 permit, or privileges suspended for at least 180 days but
20 not more than 2 years, if the violation resulted in injury
21 to another person.

22 (5.3) In addition to any penalties imposed under
23 paragraph (5) of this subsection (c), a person convicted of
24 violating subsection (c) of Section 11-907 of the Illinois
25 Vehicle Code shall have his or her driver's license,
26 permit, or privileges suspended for 2 years, if the

1 violation resulted in the death of another person.

2 (6) In no case shall an offender be eligible for a
3 disposition of probation or conditional discharge for a
4 Class 1 felony committed while he was serving a term of
5 probation or conditional discharge for a felony.

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

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

26 (9) A defendant convicted of a second or subsequent

1 offense of ritualized abuse of a child may be sentenced to
2 a term of natural life imprisonment.

3 (10) (Blank).

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

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

26 (d) In any case in which a sentence originally imposed is

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

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

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

25 (A) the defendant is willing to undergo a court
26 approved counseling program for a minimum duration of 2

1 years; or

2 (B) the defendant is willing to participate in a
3 court approved plan including but not limited to the
4 defendant's:

5 (i) removal from the household;

6 (ii) restricted contact with the victim;

7 (iii) continued financial support of the
8 family;

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

10 and

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

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

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

1 For the purposes of this Section, "family member" and
2 "victim" shall have the meanings ascribed to them in Section
3 12-12 of the Criminal Code of 1961.

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

8 (g) Whenever a defendant is convicted of an offense under
9 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
10 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
11 of the Criminal Code of 1961, the defendant shall undergo
12 medical testing to determine whether the defendant has any
13 sexually transmissible disease, including a test for infection
14 with human immunodeficiency virus (HIV) or any other identified
15 causative agent of acquired immunodeficiency syndrome (AIDS).
16 Any such medical test shall be performed only by appropriately
17 licensed medical practitioners and may include an analysis of
18 any bodily fluids as well as an examination of the defendant's
19 person. Except as otherwise provided by law, the results of
20 such test shall be kept strictly confidential by all medical
21 personnel involved in the testing and must be personally
22 delivered in a sealed envelope to the judge of the court in
23 which the conviction was entered for the judge's inspection in
24 camera. Acting in accordance with the best interests of the
25 victim and the public, the judge shall have the discretion to
26 determine to whom, if anyone, the results of the testing may be

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

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

1 the discretion to determine what if any precautions need to be
2 taken to prevent transmission of the disease in the courtroom.

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

1 charge of criminal transmission of HIV under Section 12-16.2 of
2 the Criminal Code of 1961 against the defendant. The court
3 shall order that the cost of any such test shall be paid by the
4 county and may be taxed as costs against the convicted
5 defendant.

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

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

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

12 (j-5) A defendant at least 17 years of age who is convicted
13 of a felony ~~and who has not been previously convicted of a~~
14 ~~misdemeanor or felony~~ and who is sentenced to a term of
15 imprisonment in the Illinois Department of Corrections shall as
16 a condition of his or her sentence be required by the court to
17 attend educational courses designed to prepare the defendant
18 for a high school diploma and to work toward a high school
19 diploma or to work toward passing the high school level Test of
20 General Educational Development (GED) or to work toward
21 completing a vocational training program offered by the
22 Department of Corrections. The education courses shall also
23 consist of HIV/AIDS, MRSA, and hepatitis C prevention
24 education. The costs of the educational courses shall be paid
25 by the Department. If a defendant fails to complete the
26 educational training required by his or her sentence during the

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

22 (j-6) A defendant at least 17 years of age who has a high
23 school diploma or who has passed the high school level Test of
24 General Educational Development (GED) and who is convicted of a
25 felony and who is sentenced to a term of imprisonment in the
26 Illinois Department of Corrections shall be provided with an

1 educational program that leads to the completion of an
2 associate, baccalaureate, or higher degree as provided in
3 subsection (d) of Section 3-6-2.

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

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

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

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

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

23 (B) If the defendant has already been sentenced for a
24 felony or misdemeanor offense, or has been placed on
25 probation under Section 10 of the Cannabis Control Act,
26 Section 410 of the Illinois Controlled Substances Act, or

1 Section 70 of the Methamphetamine Control and Community
2 Protection Act, the court may, upon motion of the State's
3 Attorney to suspend the sentence imposed, commit the
4 defendant to the custody of the Attorney General of the
5 United States or his or her designated agent when:

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

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

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

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

25 (m) A person convicted of criminal defacement of property
26 under Section 21-1.3 of the Criminal Code of 1961, in which the

1 property damage exceeds \$300 and the property damaged is a
2 school building, shall be ordered to perform community service
3 that may include cleanup, removal, or painting over the
4 defacement.

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

13 (o) Whenever a person is convicted of a sex offense as
14 defined in Section 2 of the Sex Offender Registration Act, the
15 defendant's driver's license or permit shall be subject to
16 renewal on an annual basis in accordance with the provisions of
17 license renewal established by the Secretary of State.

18 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
19 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
20 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,
21 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,
22 eff. 9-11-05; 94-993, eff. 1-1-07.)

23 (Text of Section after amendment by P.A. 94-1035)

24 Sec. 5-5-3. Disposition.

25 (a) Except as provided in Section 11-501 of the Illinois

1 Vehicle Code, every person convicted of an offense shall be
2 sentenced as provided in this Section.

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

7 (1) A period of probation.

8 (2) A term of periodic imprisonment.

9 (3) A term of conditional discharge.

10 (4) A term of imprisonment.

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

15 (6) A fine.

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

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

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

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

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

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

13 (A) First degree murder where the death penalty is
14 not imposed.

15 (B) Attempted first degree murder.

16 (C) A Class X felony.

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

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

24 (F) A Class 2 or greater felony if the offender had
25 been convicted of a Class 2 or greater felony within 10
26 years of the date on which the offender committed the

1 offense for which he or she is being sentenced, except
2 as otherwise provided in Section 40-10 of the
3 Alcoholism and Other Drug Abuse and Dependency Act.

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

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

10 (H) Criminal sexual assault.

11 (I) Aggravated battery of a senior citizen.

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

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

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

24 (K) Vehicular hijacking.

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

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

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

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

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

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

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

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

18 (S) (Blank).

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

21 (3) (Blank).

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

26 (4.1) (Blank).

1 (4.2) Except as provided in paragraph (4.3) of this
2 subsection (c), a minimum of 100 hours of community service
3 shall be imposed for a second violation of Section 6-303 of
4 the Illinois Vehicle Code.

5 (4.3) A minimum term of imprisonment of 30 days or 300
6 hours of community service, as determined by the court,
7 shall be imposed for a second violation of subsection (c)
8 of Section 6-303 of the Illinois Vehicle Code.

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

15 (4.5) A minimum term of imprisonment of 30 days shall
16 be imposed for a third violation of subsection (c) of
17 Section 6-303 of the Illinois Vehicle Code.

18 (4.6) A minimum term of imprisonment of 180 days shall
19 be imposed for a fourth or subsequent violation of
20 subsection (c) of Section 6-303 of the Illinois Vehicle
21 Code.

22 (5) The court may sentence an offender convicted of a
23 business offense or a petty offense or a corporation or
24 unincorporated association convicted of any offense to:

25 (A) a period of conditional discharge;

26 (B) a fine;

1 (C) make restitution to the victim under Section
2 5-5-6 of this Code.

3 (5.1) In addition to any penalties imposed under
4 paragraph (5) of this subsection (c), and except as
5 provided in paragraph (5.2) or (5.3), a person convicted of
6 violating subsection (c) of Section 11-907 of the Illinois
7 Vehicle Code shall have his or her driver's license,
8 permit, or privileges suspended for at least 90 days but
9 not more than one year, if the violation resulted in damage
10 to the property of another person.

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

19 (5.3) In addition to any penalties imposed under
20 paragraph (5) of this subsection (c), a person convicted of
21 violating subsection (c) of Section 11-907 of the Illinois
22 Vehicle Code shall have his or her driver's license,
23 permit, or privileges suspended for 2 years, if the
24 violation resulted in the death of another person.

25 (5.4) In addition to any penalties imposed under
26 paragraph (5) of this subsection (c), a person convicted of

1 violating Section 3-707 of the Illinois Vehicle Code shall
2 have his or her driver's license, permit, or privileges
3 suspended for 3 months and until he or she has paid a
4 reinstatement fee of \$100.

5 (5.5) In addition to any penalties imposed under
6 paragraph (5) of this subsection (c), a person convicted of
7 violating Section 3-707 of the Illinois Vehicle Code during
8 a period in which his or her driver's license, permit, or
9 privileges were suspended for a previous violation of that
10 Section shall have his or her driver's license, permit, or
11 privileges suspended for an additional 6 months after the
12 expiration of the original 3-month suspension and until he
13 or she has paid a reinstatement fee of \$100.

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

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

22 (8) When a defendant, over the age of 21 years, is
23 convicted of a Class 1 or Class 2 felony, after having
24 twice been convicted in any state or federal court of an
25 offense that contains the same elements as an offense now
26 classified in Illinois as a Class 2 or greater Class felony

1 and such charges are separately brought and tried and arise
2 out of different series of acts, such defendant shall be
3 sentenced as a Class X offender. This paragraph shall not
4 apply unless (1) the first felony was committed after the
5 effective date of this amendatory Act of 1977; and (2) the
6 second felony was committed after conviction on the first;
7 and (3) the third felony was committed after conviction on
8 the second. A person sentenced as a Class X offender under
9 this paragraph is not eligible to apply for treatment as a
10 condition of probation as provided by Section 40-10 of the
11 Alcoholism and Other Drug Abuse and Dependency Act.

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

15 (10) (Blank).

16 (11) The court shall impose a minimum fine of \$1,000
17 for a first offense and \$2,000 for a second or subsequent
18 offense upon a person convicted of or placed on supervision
19 for battery when the individual harmed was a sports
20 official or coach at any level of competition and the act
21 causing harm to the sports official or coach occurred
22 within an athletic facility or within the immediate
23 vicinity of the athletic facility at which the sports
24 official or coach was an active participant of the athletic
25 contest held at the athletic facility. For the purposes of
26 this paragraph (11), "sports official" means a person at an

1 athletic contest who enforces the rules of the contest,
2 such as an umpire or referee; "athletic facility" means an
3 indoor or outdoor playing field or recreational area where
4 sports activities are conducted; and "coach" means a person
5 recognized as a coach by the sanctioning authority that
6 conducted the sporting event.

7 (12) A person may not receive a disposition of court
8 supervision for a violation of Section 5-16 of the Boat
9 Registration and Safety Act if that person has previously
10 received a disposition of court supervision for a violation
11 of that Section.

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

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

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

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

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

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

17 (i) removal from the household;

18 (ii) restricted contact with the victim;

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

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

22 and

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

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

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

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

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

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

20 (g) Whenever a defendant is convicted of an offense under
21 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
22 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
23 of the Criminal Code of 1961, the defendant shall undergo
24 medical testing to determine whether the defendant has any
25 sexually transmissible disease, including a test for infection
26 with human immunodeficiency virus (HIV) or any other identified

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

1 transmission of HIV under Section 12-16.2 of the Criminal Code
2 of 1961 against the defendant. The court shall order that the
3 cost of any such test shall be paid by the county and may be
4 taxed as costs against the convicted defendant.

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

15 (h) Whenever a defendant is convicted of an offense under
16 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
17 defendant shall undergo medical testing to determine whether
18 the defendant has been exposed to human immunodeficiency virus
19 (HIV) or any other identified causative agent of acquired
20 immunodeficiency syndrome (AIDS). Except as otherwise provided
21 by law, the results of such test shall be kept strictly
22 confidential by all medical personnel involved in the testing
23 and must be personally delivered in a sealed envelope to the
24 judge of the court in which the conviction was entered for the
25 judge's inspection in camera. Acting in accordance with the
26 best interests of the public, the judge shall have the

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

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

25 (j) In cases when prosecution for any violation of Section
26 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,

1 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
2 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
3 Code of 1961, any violation of the Illinois Controlled
4 Substances Act, any violation of the Cannabis Control Act, or
5 any violation of the Methamphetamine Control and Community
6 Protection Act results in conviction, a disposition of court
7 supervision, or an order of probation granted under Section 10
8 of the Cannabis Control Act, Section 410 of the Illinois
9 Controlled Substance Act, or Section 70 of the Methamphetamine
10 Control and Community Protection Act of a defendant, the court
11 shall determine whether the defendant is employed by a facility
12 or center as defined under the Child Care Act of 1969, a public
13 or private elementary or secondary school, or otherwise works
14 with children under 18 years of age on a daily basis. When a
15 defendant is so employed, the court shall order the Clerk of
16 the Court to send a copy of the judgment of conviction or order
17 of supervision or probation to the defendant's employer by
18 certified mail. If the employer of the defendant is a school,
19 the Clerk of the Court shall direct the mailing of a copy of
20 the judgment of conviction or order of supervision or probation
21 to the appropriate regional superintendent of schools. The
22 regional superintendent of schools shall notify the State Board
23 of Education of any notification under this subsection.

24 (j-5) A defendant at least 17 years of age who is convicted
25 of a felony ~~and who has not been previously convicted of a~~
26 ~~misdemeanor or felony~~ and who is sentenced to a term of

1 imprisonment in the Illinois Department of Corrections shall as
2 a condition of his or her sentence be required by the court to
3 attend educational courses designed to prepare the defendant
4 for a high school diploma and to work toward a high school
5 diploma or to work toward passing the high school level Test of
6 General Educational Development (GED) or to work toward
7 completing a vocational training program offered by the
8 Department of Corrections. The education courses shall also
9 consist of HIV/AIDS, MRSA, and hepatitis C prevention
10 education. The costs of the educational courses shall be paid
11 by the Department. If a defendant fails to complete the
12 educational training required by his or her sentence during the
13 term of incarceration, the Prisoner Review Board shall, as a
14 condition of mandatory supervised release, require the
15 defendant, ~~at his or her own expense,~~ to pursue a course of
16 study toward a high school diploma or passage of the GED test.
17 The costs of the educational courses shall be paid by the
18 Department. The Prisoner Review Board shall revoke the
19 mandatory supervised release of a defendant who wilfully fails
20 to comply with this subsection (j-5) upon his or her release
21 from confinement in a penal institution while serving a
22 mandatory supervised release term; ~~however, the inability of~~
23 ~~the defendant after making a good faith effort to obtain~~
24 ~~financial aid or pay for the educational training shall not be~~
25 ~~deemed a wilful failure to comply.~~ The Prisoner Review Board
26 shall recommit the defendant whose mandatory supervised

1 release term has been revoked under this subsection (j-5) as
2 provided in Section 3-3-9. This subsection (j-5) does not apply
3 to a defendant who has a high school diploma or has
4 successfully passed the GED test. This subsection (j-5) does
5 not apply to a defendant who is determined by the court to be
6 developmentally disabled or otherwise mentally incapable of
7 completing the educational or vocational program.

8 (j-6) A defendant at least 17 years of age who has a high
9 school diploma or who has passed the high school level Test of
10 General Educational Development (GED) and who is convicted of a
11 felony and who is sentenced to a term of imprisonment in the
12 Illinois Department of Corrections shall be provided with an
13 educational program that leads to the completion of an
14 associate, baccalaureate, or higher degree as provided in
15 subsection (d) of Section 3-6-2.

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

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

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

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

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

9 (B) If the defendant has already been sentenced for a
10 felony or misdemeanor offense, or has been placed on
11 probation under Section 10 of the Cannabis Control Act,
12 Section 410 of the Illinois Controlled Substances Act, or
13 Section 70 of the Methamphetamine Control and Community
14 Protection Act, the court may, upon motion of the State's
15 Attorney to suspend the sentence imposed, commit the
16 defendant to the custody of the Attorney General of the
17 United States or his or her designated agent 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 (C) This subsection (1) does not apply to offenders who
25 are subject to the provisions of paragraph (2) of
26 subsection (a) of Section 3-6-3.

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

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

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

25 (o) Whenever a person is convicted of a sex offense as
26 defined in Section 2 of the Sex Offender Registration Act, the

1 defendant's driver's license or permit shall be subject to
2 renewal on an annual basis in accordance with the provisions of
3 license renewal established by the Secretary of State.

4 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
5 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
6 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,
7 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,
8 eff. 9-11-05; 94-993, eff. 1-1-07; 94-1035, eff. 7-1-07;
9 revised 8-28-06.)

10 Section 95. No acceleration or delay. Where this Act makes
11 changes in a statute that is represented in this Act by text
12 that is not yet or no longer in effect (for example, a Section
13 represented by multiple versions), the use of that text does
14 not accelerate or delay the taking effect of (i) the changes
15 made by this Act or (ii) provisions derived from any other
16 Public Act.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.

1

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2

Statutes amended in order of appearance

3

730 ILCS 5/3-1-2

from Ch. 38, par. 1003-1-2

4

730 ILCS 5/3-5-1

from Ch. 38, par. 1003-5-1

5

730 ILCS 5/3-6-2

from Ch. 38, par. 1003-6-2

6

730 ILCS 5/5-1-9.1 new

7

730 ILCS 5/5-1-14.1 new

8

730 ILCS 5/5-5-3

from Ch. 38, par. 1005-5-3