



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB0443**

Introduced 1/26/2007, by Rep. Ronald A. Wait - Ruth Munson

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-3

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

Amends the Unified Code of Corrections. Provides that when a defendant, over the age of 21 years, is convicted of a gang-related felony, after having twice been convicted in any state or federal court of an offense that contains the same elements as an offense now classified in Illinois as a Class 2 or greater Class felony and such charges are separately brought and tried and arise out of different series of acts, such defendant shall be sentenced as a Class X offender.

LRB095 03710 RLC 23737 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

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

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

6 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)  
7 Sec. 5-5-3. Disposition.

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

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

15 (1) A period of probation.

16 (2) A term of periodic imprisonment.

17 (3) A term of conditional discharge.

18 (4) A term of imprisonment.

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22 (now repealed).

23 (6) A fine.

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

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

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

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

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

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

24                   (A) First degree murder where the death penalty is  
25 not imposed.

26                   (B) Attempted first degree murder.

1 (C) A Class X felony.

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

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

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

15 (F-5) A violation of Section 24-1, 24-1.1, or  
16 24-1.6 of the Criminal Code of 1961 for which  
17 imprisonment is prescribed in those Sections.

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

21 (H) Criminal sexual assault.

22 (I) Aggravated battery of a senior citizen.

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

25 Before July 1, 1994, for the purposes of this  
26 paragraph, "organized gang" means an association of 5

1 or more persons, with an established hierarchy, that  
2 encourages members of the association to perpetrate  
3 crimes or provides support to the members of the  
4 association who do commit crimes.

5 Beginning July 1, 1994, for the purposes of this  
6 paragraph, "organized gang" has the meaning ascribed  
7 to it in Section 10 of the Illinois Streetgang  
8 Terrorism Omnibus Prevention Act.

9 (K) Vehicular hijacking.

10 (L) A second or subsequent conviction for the  
11 offense of hate crime when the underlying offense upon  
12 which the hate crime is based is felony aggravated  
13 assault or felony mob action.

14 (M) A second or subsequent conviction for the  
15 offense of institutional vandalism if the damage to the  
16 property exceeds \$300.

17 (N) A Class 3 felony violation of paragraph (1) of  
18 subsection (a) of Section 2 of the Firearm Owners  
19 Identification Card Act.

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

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

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

1 (R) A violation of Section 24-3A of the Criminal  
2 Code of 1961.

3 (S) (Blank).

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

6 (3) (Blank).

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

11 (4.1) (Blank).

12 (4.2) Except as provided in paragraph (4.3) of this  
13 subsection (c), a minimum of 100 hours of community service  
14 shall be imposed for a second violation of Section 6-303 of  
15 the Illinois Vehicle Code.

16 (4.3) A minimum term of imprisonment of 30 days or 300  
17 hours of community service, as determined by the court,  
18 shall be imposed for a second violation of subsection (c)  
19 of Section 6-303 of the Illinois Vehicle Code.

20 (4.4) Except as provided in paragraph (4.5) and  
21 paragraph (4.6) of this subsection (c), a minimum term of  
22 imprisonment of 30 days or 300 hours of community service,  
23 as determined by the court, shall be imposed for a third or  
24 subsequent violation of Section 6-303 of the Illinois  
25 Vehicle Code.

26 (4.5) A minimum term of imprisonment of 30 days shall

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

3 (4.6) A minimum term of imprisonment of 180 days shall  
4 be imposed for a fourth or subsequent violation of  
5 subsection (c) of Section 6-303 of the Illinois Vehicle  
6 Code.

7 (5) The court may sentence an offender convicted of a  
8 business offense or a petty offense or a corporation or  
9 unincorporated association convicted of any offense to:

10 (A) a period of conditional discharge;

11 (B) a fine;

12 (C) make restitution to the victim under Section  
13 5-5-6 of this Code.

14 (5.1) In addition to any penalties imposed under  
15 paragraph (5) of this subsection (c), and except as  
16 provided in paragraph (5.2) or (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 90 days but  
20 not more than one year, if the violation resulted in damage  
21 to the property of another person.

22 (5.2) In addition to any penalties imposed under  
23 paragraph (5) of this subsection (c), and except as  
24 provided in paragraph (5.3), a person convicted of  
25 violating subsection (c) of Section 11-907 of the Illinois  
26 Vehicle Code shall have his or her driver's license,

1 permit, or privileges suspended for at least 180 days but  
2 not more than 2 years, if the violation resulted in injury  
3 to another person.

4 (5.3) In addition to any penalties imposed under  
5 paragraph (5) of this subsection (c), 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 2 years, if the  
9 violation resulted in the death of another person.

10 (5.4) In addition to any penalties imposed under  
11 paragraph (5) of this subsection (c), a person convicted of  
12 violating Section 3-707 of the Illinois Vehicle Code shall  
13 have his or her driver's license, permit, or privileges  
14 suspended for 3 months and until he or she has paid a  
15 reinstatement fee of \$100.

16 (5.5) In addition to any penalties imposed under  
17 paragraph (5) of this subsection (c), a person convicted of  
18 violating Section 3-707 of the Illinois Vehicle Code during  
19 a period in which his or her driver's license, permit, or  
20 privileges were suspended for a previous violation of that  
21 Section shall have his or her driver's license, permit, or  
22 privileges suspended for an additional 6 months after the  
23 expiration of the original 3-month suspension and until he  
24 or she has paid a reinstatement fee of \$100.

25 (6) In no case shall an offender be eligible for a  
26 disposition of probation or conditional discharge for a



1 Class 1 felony committed while he was serving a term of  
2 probation or conditional discharge for a felony.

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

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

23 (8.5) When a defendant, over the age of 21 years, is  
24 convicted of a gang-related felony, after having twice been  
25 convicted in any state or federal court of an offense that  
26 contains the same elements as an offense now classified in

1 Illinois as a Class 2 or greater Class felony and such  
2 charges are separately brought and tried and arise out of  
3 different series of acts, such defendant shall be sentenced  
4 as a Class X offender. This paragraph does not apply unless  
5 (1) the first felony was committed after the effective date  
6 of this amendatory Act of the 95th General Assembly; and  
7 (2) the second felony was committed after conviction on the  
8 first; and (3) the third felony was committed after  
9 conviction on the second. A person sentenced as a Class X  
10 offender under this paragraph is not eligible to apply for  
11 treatment as a condition of probation as provided by  
12 Section 40-10 of the Alcoholism and Other Drug Abuse and  
13 Dependency Act. For the purposes of this paragraph (8.5),  
14 "gang-related" has the meaning ascribed to it in Section 10  
15 of the Illinois Streetgang Terrorism Omnibus Prevention  
16 Act.

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

20 (10) (Blank).

21 (11) The court shall impose a minimum fine of \$1,000  
22 for a first offense and \$2,000 for a second or subsequent  
23 offense upon a person convicted of or placed on supervision  
24 for battery when the individual harmed was a sports  
25 official or coach at any level of competition and the act  
26 causing harm to the sports official or coach occurred

1 within an athletic facility or within the immediate  
2 vicinity of the athletic facility at which the sports  
3 official or coach was an active participant of the athletic  
4 contest held at the athletic facility. For the purposes of  
5 this paragraph (11), "sports official" means a person at an  
6 athletic contest who enforces the rules of the contest,  
7 such as an umpire or referee; "athletic facility" means an  
8 indoor or outdoor playing field or recreational area where  
9 sports activities are conducted; and "coach" means a person  
10 recognized as a coach by the sanctioning authority that  
11 conducted the sporting event.

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

17 (d) In any case in which a sentence originally imposed is  
18 vacated, the case shall be remanded to the trial court. The  
19 trial court shall hold a hearing under Section 5-4-1 of the  
20 Unified Code of Corrections which may include evidence of the  
21 defendant's life, moral character and occupation during the  
22 time since the original sentence was passed. The trial court  
23 shall then impose sentence upon the defendant. The trial court  
24 may impose any sentence which could have been imposed at the  
25 original trial subject to Section 5-5-4 of the Unified Code of  
26 Corrections. If a sentence is vacated on appeal or on

1 collateral attack due to the failure of the trier of fact at  
2 trial to determine beyond a reasonable doubt the existence of a  
3 fact (other than a prior conviction) necessary to increase the  
4 punishment for the offense beyond the statutory maximum  
5 otherwise applicable, either the defendant may be re-sentenced  
6 to a term within the range otherwise provided or, if the State  
7 files notice of its intention to again seek the extended  
8 sentence, the defendant shall be afforded a new trial.

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

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

16 (A) the defendant is willing to undergo a court  
17 approved counseling program for a minimum duration of 2  
18 years; or

19 (B) the defendant is willing to participate in a  
20 court approved plan including but not limited to the  
21 defendant's:

22 (i) removal from the household;

23 (ii) restricted contact with the victim;

24 (iii) continued financial support of the  
25 family;

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

1                   and

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

4                   (2) the court orders the defendant to pay for the  
5                   victim's counseling services, to the extent that the court  
6                   finds, after considering the defendant's income and  
7                   assets, that the defendant is financially capable of paying  
8                   for such services, if the victim was under 18 years of age  
9                   at the time the offense was committed and requires  
10                  counseling as a result of the offense.

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

18                  For the purposes of this Section, "family member" and  
19                  "victim" shall have the meanings ascribed to them in Section  
20                  12-12 of the Criminal Code of 1961.

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

25                  (g) Whenever a defendant is convicted of an offense under  
26                  Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,

1 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16  
2 of the Criminal Code of 1961, the defendant shall undergo  
3 medical testing to determine whether the defendant has any  
4 sexually transmissible disease, including a test for infection  
5 with human immunodeficiency virus (HIV) or any other identified  
6 causative agent of acquired immunodeficiency syndrome (AIDS).  
7 Any such medical test shall be performed only by appropriately  
8 licensed medical practitioners and may include an analysis of  
9 any bodily fluids as well as an examination of the defendant's  
10 person. Except as otherwise provided by law, the results of  
11 such test shall be kept strictly confidential by all medical  
12 personnel involved in the testing and must be personally  
13 delivered in a sealed envelope to the judge of the court in  
14 which the conviction was entered for the judge's inspection in  
15 camera. Acting in accordance with the best interests of the  
16 victim and the public, the judge shall have the discretion to  
17 determine to whom, if anyone, the results of the testing may be  
18 revealed. The court shall notify the defendant of the test  
19 results. The court shall also notify the victim if requested by  
20 the victim, and if the victim is under the age of 15 and if  
21 requested by the victim's parents or legal guardian, the court  
22 shall notify the victim's parents or legal guardian of the test  
23 results. The court shall provide information on the  
24 availability of HIV testing and counseling at Department of  
25 Public Health facilities to all parties to whom the results of  
26 the testing are revealed and shall direct the State's Attorney

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

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

20 (h) Whenever a defendant is convicted of an offense under  
21 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the  
22 defendant shall undergo medical testing to determine whether  
23 the defendant has been exposed to human immunodeficiency virus  
24 (HIV) or any other identified causative agent of acquired  
25 immunodeficiency syndrome (AIDS). Except as otherwise provided  
26 by law, the results of such test shall be kept strictly

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

23 (i) All fines and penalties imposed under this Section for  
24 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
25 Vehicle Code, or a similar provision of a local ordinance, and  
26 any violation of the Child Passenger Protection Act, or a



1 similar provision of a local ordinance, shall be collected and  
2 disbursed by the circuit clerk as provided under Section 27.5  
3 of the Clerks of Courts Act.

4 (j) In cases when prosecution for any violation of Section  
5 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,  
6 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
7 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal  
8 Code of 1961, any violation of the Illinois Controlled  
9 Substances Act, any violation of the Cannabis Control Act, or  
10 any violation of the Methamphetamine Control and Community  
11 Protection Act results in conviction, a disposition of court  
12 supervision, or an order of probation granted under Section 10  
13 of the Cannabis Control Act, Section 410 of the Illinois  
14 Controlled Substance Act, or Section 70 of the Methamphetamine  
15 Control and Community Protection Act of a defendant, the court  
16 shall determine whether the defendant is employed by a facility  
17 or center as defined under the Child Care Act of 1969, a public  
18 or private elementary or secondary school, or otherwise works  
19 with children under 18 years of age on a daily basis. When a  
20 defendant is so employed, the court shall order the Clerk of  
21 the Court to send a copy of the judgment of conviction or order  
22 of supervision or probation to the defendant's employer by  
23 certified mail. If the employer of the defendant is a school,  
24 the Clerk of the Court shall direct the mailing of a copy of  
25 the judgment of conviction or order of supervision or probation  
26 to the appropriate regional superintendent of schools. The

1 regional superintendent of schools shall notify the State Board  
2 of Education of any notification under this subsection.

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

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

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

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

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

23 (2) the deportation of the defendant would not  
24 deprecate the seriousness of the defendant's conduct  
25 and would not be inconsistent with the ends of justice.  
26 Otherwise, the defendant shall be sentenced as

1 provided in this Chapter V.

2 (B) If the defendant has already been sentenced for a  
3 felony or misdemeanor offense, or has been placed on  
4 probation under Section 10 of the Cannabis Control Act,  
5 Section 410 of the Illinois Controlled Substances Act, or  
6 Section 70 of the Methamphetamine Control and Community  
7 Protection Act, the court may, upon motion of the State's  
8 Attorney to suspend the sentence imposed, commit the  
9 defendant to the custody of the Attorney General of the  
10 United States or his or her designated agent when:

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

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

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

20 (D) Upon motion of the State's Attorney, if a defendant  
21 sentenced under this Section returns to the jurisdiction of  
22 the United States, the defendant shall be recommitted to  
23 the custody of the county from which he or she was  
24 sentenced. Thereafter, the defendant shall be brought  
25 before the sentencing court, which may impose any sentence  
26 that was available under Section 5-5-3 at the time of

1 initial sentencing. In addition, the defendant shall not be  
2 eligible for additional good conduct credit for  
3 meritorious service as provided under Section 3-6-6.

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

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

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

23 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,  
24 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,  
25 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,  
26 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,

1 eff. 9-11-05; 94-993, eff. 1-1-07; 94-1035, eff. 7-1-07;  
2 revised 8-28-06.)