



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0722

Introduced 2/6/2007, by Rep. Joe Dunn

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-205	from Ch. 95 1/2, par. 6-205
625 ILCS 5/6-208	from Ch. 95 1/2, par. 6-208
625 ILCS 5/6-303	from Ch. 95 1/2, par. 6-303
730 ILCS 5/5-5-3	from Ch. 38, par. 1005-5-3
730 ILCS 5/5-6-1	from Ch. 38, par. 1005-6-1

Amends the Illinois Vehicle Code and the Unified Code of Corrections. Increases the penalties for the offense of driving with a revoked driver's license, permit, or privilege to operate a motor vehicle, if the revocation was because of the offense of reckless homicide. Provides that a first violation is a Class 4 felony and provides for mandatory imprisonment or community service. Provides that the revocation is extended a minimum of 3 years. Provides that if the person is granted a restricted driving permit, the person may not drive a vehicle not equipped with an ignition interlock device. Requires the defendant to undergo a drug or alcohol evaluation. Provides that a second violation is a Class 2 felony, for which a mandatory prison sentence shall be imposed. Provides that revocation of the person's driving privileges extends at least 5 years from the date of his or her release from prison. Provides that the person is not eligible for a restricted driving permit. Provides that a third violation is a Class 1 felony, for which a mandatory term of imprisonment years shall be imposed. Provides that the person's driver's license is revoked for life. Provides that a fourth or subsequent violation is a Class 1 felony for which a mandatory prison term shall be imposed. Provides that the defendant is eligible for an extended term of imprisonment.

LRB095 07087 DRH 27212 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

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

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Sections 6-205, 6-208 and 6-303 as follows:

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

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

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

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

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

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

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

4 5. Perjury or the making of a false affidavit or
5 statement under oath to the Secretary of State under this
6 Code or under any other law relating to the ownership or
7 operation of motor vehicles;

8 6. Conviction upon 3 charges of violation of Section
9 11-503 of this Code relating to the offense of reckless
10 driving committed within a period of 12 months;

11 7. Conviction of any offense defined in Section 4-102
12 of this Code;

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

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

16 10. Violation of Section 12-5 of the Criminal Code of
17 1961 arising from the use of a motor vehicle;

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

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

25 13. Violation of paragraph (a) of Section 11-502 of
26 this Code or a similar provision of a local ordinance if

1 the driver has been previously convicted of a violation of
2 that Section or a similar provision of a local ordinance
3 and the driver was less than 21 years of age at the time of
4 the offense.

5 (b) The Secretary of State shall also immediately revoke
6 the license or permit of any driver in the following
7 situations:

8 1. Of any minor upon receiving the notice provided for
9 in Section 5-901 of the Juvenile Court Act of 1987 that the
10 minor has been adjudicated under that Act as having
11 committed an offense relating to motor vehicles prescribed
12 in Section 4-103 of this Code;

13 2. Of any person when any other law of this State
14 requires either the revocation or suspension of a license
15 or permit.

16 (c) Except as provided in subsection (c-5), whenever
17 ~~whenever~~ a person is convicted of any of the offenses
18 enumerated in this Section, the court may recommend and the
19 Secretary of State in his discretion, without regard to whether
20 the recommendation is made by the court may, upon application,
21 issue to the person a restricted driving permit granting the
22 privilege of driving a motor vehicle between the petitioner's
23 residence and petitioner's place of employment or within the
24 scope of the petitioner's employment related duties, or to
25 allow transportation for the petitioner or a household member
26 of the petitioner's family for the receipt of necessary medical

1 care or, if the professional evaluation indicates, provide
2 transportation for the petitioner for alcohol remedial or
3 rehabilitative activity, or for the petitioner to attend
4 classes, as a student, in an accredited educational
5 institution; if the petitioner is able to demonstrate that no
6 alternative means of transportation is reasonably available
7 and the petitioner will not endanger the public safety or
8 welfare; provided that the Secretary's discretion shall be
9 limited to cases where undue hardship would result from a
10 failure to issue the restricted driving permit.

11 If a person's license or permit has been revoked or
12 suspended due to 2 or more convictions of violating Section
13 11-501 of this Code or a similar provision of a local ordinance
14 or a similar out-of-state offense, arising out of separate
15 occurrences, that person, if issued a restricted driving
16 permit, may not operate a vehicle unless it has been equipped
17 with an ignition interlock device as defined in Section
18 1-129.1.

19 If a person's license or permit has been revoked or
20 suspended 2 or more times within a 10 year period due to a
21 single conviction of violating Section 11-501 of this Code or a
22 similar provision of a local ordinance or a similar
23 out-of-state offense, and a statutory summary suspension under
24 Section 11-501.1, or 2 or more statutory summary suspensions,
25 or combination of 2 offenses, or of an offense and a statutory
26 summary suspension, arising out of separate occurrences, or if

1 a person has been convicted of one violation of Section 6-303
2 of this Code committed while his or her driver's license,
3 permit, or privilege was revoked because of a violation of
4 Section 9-3 of the Criminal Code of 1961, relating to the
5 offense of reckless homicide, or a similar provision of a law
6 of another state, that person, if issued a restricted driving
7 permit, may not operate a vehicle unless it has been equipped
8 with an ignition interlock device as defined in Section
9 1-129.1. The person must pay to the Secretary of State DUI
10 Administration Fund an amount not to exceed \$20 per month. The
11 Secretary shall establish by rule the amount and the
12 procedures, terms, and conditions relating to these fees. If
13 the restricted driving permit was issued for employment
14 purposes, then this provision does not apply to the operation
15 of an occupational vehicle owned or leased by that person's
16 employer. In each case the Secretary of State may issue a
17 restricted driving permit for a period he deems appropriate,
18 except that the permit shall expire within one year from the
19 date of issuance. The Secretary may not, however, issue a
20 restricted driving permit to any person whose current
21 revocation is the result of a second or subsequent conviction
22 for a violation of Section 11-501 of this Code or a similar
23 provision of a local ordinance relating to the offense of
24 operating or being in physical control of a motor vehicle while
25 under the influence of alcohol, other drug or drugs,
26 intoxicating compound or compounds, or any similar

1 out-of-state offense, or any combination thereof, until the
2 expiration of at least one year from the date of the
3 revocation. A restricted driving permit issued under this
4 Section shall be subject to cancellation, revocation, and
5 suspension by the Secretary of State in like manner and for
6 like cause as a driver's license issued under this Code may be
7 cancelled, revoked, or suspended; except that a conviction upon
8 one or more offenses against laws or ordinances regulating the
9 movement of traffic shall be deemed sufficient cause for the
10 revocation, suspension, or cancellation of a restricted
11 driving permit. The Secretary of State may, as a condition to
12 the issuance of a restricted driving permit, require the
13 applicant to participate in a designated driver remedial or
14 rehabilitative program. The Secretary of State is authorized to
15 cancel a restricted driving permit if the permit holder does
16 not successfully complete the program. However, if an
17 individual's driving privileges have been revoked in
18 accordance with paragraph 13 of subsection (a) of this Section,
19 no restricted driving permit shall be issued until the
20 individual has served 6 months of the revocation period.

21 (c-5) The Secretary may not issue a restricted driving
22 permit to any person who has been convicted of a second or
23 subsequent violation of Section 6-303 of this Code committed
24 while his or her driver's license, permit, or privilege was
25 revoked because of a violation of Section 9-3 of the Criminal
26 Code of 1961, relating to the offense of reckless homicide, or

1 a similar provision of a law of another state.

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

20 If a person's license or permit has been revoked or
21 suspended due to 2 or more convictions of violating Section
22 11-501 of this Code or a similar provision of a local ordinance
23 or a similar out-of-state offense, arising out of separate
24 occurrences, that person, if issued a restricted driving
25 permit, may not operate a vehicle unless it has been equipped
26 with an ignition interlock device as defined in Section

1 1-129.1.

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

1 cancellation of a restricted driving permit. The revocation
2 periods contained in this subparagraph shall apply to similar
3 out-of-state convictions.

4 (d-5) The revocation of the license, permit, or driving
5 privileges of a person convicted of a third or subsequent
6 violation of Section 6-303 of this Code committed while his or
7 her driver's license, permit, or privilege was revoked because
8 of a violation of Section 9-3 of the Criminal Code of 1961,
9 relating to the offense of reckless homicide, or a similar
10 provision of a law of another state, is permanent. The
11 Secretary may not, at any time, issue a license or permit to
12 that person.

13 (e) This Section is subject to the provisions of the Driver
14 License Compact.

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

19 (g) The Secretary of State shall not issue a restricted
20 driving permit to a person under the age of 16 years whose
21 driving privileges have been revoked under any provisions of
22 this Code.

23 (h) The Secretary of State shall require the use of
24 ignition interlock devices on all vehicles owned by an
25 individual who has been convicted of a second or subsequent
26 offense under Section 11-501 of this Code or a similar

1 provision of a local ordinance. The Secretary shall establish
2 by rule and regulation the procedures for certification and use
3 of the interlock system.

4 (i) The Secretary of State may not issue a restricted
5 driving permit for a period of one year after a second or
6 subsequent revocation of driving privileges under clause
7 (a) (2) of this Section; however, one year after the date of a
8 second or subsequent revocation of driving privileges under
9 clause (a) (2) of this Section, the Secretary of State may, upon
10 application, issue a restricted driving permit under the terms
11 and conditions of subsection (c).

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

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

18 (625 ILCS 5/6-208) (from Ch. 95 1/2, par. 6-208)

19 Sec. 6-208. Period of Suspension - Application After
20 Revocation.

21 (a) Except as otherwise provided by this Code or any other
22 law of this State, the Secretary of State shall not suspend a
23 driver's license, permit or privilege to drive a motor vehicle
24 on the highways for a period of more than one year.

25 (b) Any person whose license, permit or privilege to drive

1 a motor vehicle on the highways has been revoked shall not be
2 entitled to have such license, permit or privilege renewed or
3 restored. However, such person may, except as provided under
4 subsections ~~subsection~~ (d) and (d-5) of Section 6-205, make
5 application for a license pursuant to Section 6-106 (i) if the
6 revocation was for a cause which has been removed or (ii) as
7 provided in the following subparagraphs:

8 1. Except as provided in subparagraphs 1.5, 2, 3, ~~and~~
9 4, and 5, the person may make application for a license
10 after the expiration of one year from the effective date of
11 the revocation or, in the case of a violation of paragraph
12 (b) of Section 11-401 of this Code or a similar provision
13 of a local ordinance, after the expiration of 3 years from
14 the effective date of the revocation or, in the case of a
15 violation of Section 9-3 of the Criminal Code of 1961 or a
16 similar provision of a law of another state relating to the
17 offense of reckless homicide or a violation of subparagraph
18 (F) of paragraph 1 of subsection (d) of Section 11-501 of
19 this Code relating to aggravated driving under the
20 influence of alcohol, other drug or drugs, intoxicating
21 compound or compounds, or any combination thereof, if the
22 violation was the proximate cause of a death, after the
23 expiration of 2 years from the effective date of the
24 revocation or after the expiration of 24 months from the
25 date of release from a period of imprisonment as provided
26 in Section 6-103 of this Code, whichever is later.

1 1.5. If the person is convicted of a violation of
2 Section 6-303 of this Code committed while his or her
3 driver's license, permit, or privilege was revoked because
4 of a violation of Section 9-3 of the Criminal Code of 1961,
5 relating to the offense of reckless homicide, or a similar
6 provision of a law of another state, the person may not
7 make application for a license or permit until the
8 expiration of 3 years from the effective date of the most
9 recent revocation.

10 2. If such person is convicted of committing a second
11 violation within a 20 year period of:

12 (A) Section 11-501 of this Code, or a similar
13 provision of a local ordinance; or

14 (B) Paragraph (b) of Section 11-401 of this Code,
15 or a similar provision of a local ordinance; or

16 (C) Section 9-3 of the Criminal Code of 1961, as
17 amended, relating to the offense of reckless homicide;
18 or

19 (D) any combination of the above offenses
20 committed at different instances;

21 then such person may not make application for a license
22 until after the expiration of 5 years from the effective
23 date of the most recent revocation. The 20 year period
24 shall be computed by using the dates the offenses were
25 committed and shall also include similar out-of-state
26 offenses.

1 3. However, except as provided in subparagraph 4, if
2 such person is convicted of committing a third, or
3 subsequent, violation or any combination of the above
4 offenses, including similar out-of-state offenses,
5 contained in subparagraph 2, then such person may not make
6 application for a license until after the expiration of 10
7 years from the effective date of the most recent
8 revocation.

9 4. The person may not make application for a license if
10 the person is convicted of committing a fourth or
11 subsequent violation of Section 11-501 of this Code or a
12 similar provision of a local ordinance, Section 11-401 of
13 this Code, Section 9-3 of the Criminal Code of 1961, or a
14 combination of these offenses or similar provisions of
15 local ordinances or similar out-of-state offenses.

16 5. The person may not make application for a license or
17 permit if the person is convicted of a third or subsequent
18 violation of Section 6-303 of this Code committed while his
19 or her driver's license, permit, or privilege was revoked
20 because of a violation of Section 9-3 of the Criminal Code
21 of 1961, relating to the offense of reckless homicide, or a
22 similar provision of a law of another state.

23 Notwithstanding any other provision of this Code, all
24 persons referred to in this paragraph (b) may not have their
25 privileges restored until the Secretary receives payment of the
26 required reinstatement fee pursuant to subsection (b) of

1 Section 6-118.

2 In no event shall the Secretary issue such license unless
3 and until such person has had a hearing pursuant to this Code
4 and the appropriate administrative rules and the Secretary is
5 satisfied, after a review or investigation of such person, that
6 to grant the privilege of driving a motor vehicle on the
7 highways will not endanger the public safety or welfare.

8 (c) (Blank).

9 (Source: P.A. 92-343, eff. 1-1-02; 92-418, eff. 8-17-01;
10 92-458, eff. 8-22-01; 92-651, eff. 7-11-02; 93-712, eff.
11 1-1-05; 93-788, eff. 1-1-05; revised 10-14-04.)

12 (625 ILCS 5/6-303) (from Ch. 95 1/2, par. 6-303)

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

15 (a) Except as otherwise provided in subsection (a-5), any
16 ~~Any~~ person who drives or is in actual physical control of a
17 motor vehicle on any highway of this State at a time when such
18 person's driver's license, permit or privilege to do so or the
19 privilege to obtain a driver's license or permit is revoked or
20 suspended as provided by this Code or the law of another state,
21 except as may be specifically allowed by a judicial driving
22 permit, family financial responsibility driving permit,
23 probationary license to drive, or a restricted driving permit
24 issued pursuant to this Code or under the law of another state,
25 shall be guilty of a Class A misdemeanor.

1 (a-5) Any person who violates this Section as provided in
2 subsection (a) while his or her driver's license, permit or
3 privilege is revoked because of a violation of Section 9-3 of
4 the Criminal Code of 1961, relating to the offense of reckless
5 homicide or a similar provision of a law of another state, is
6 guilty of a Class 4 felony. The person shall be required to
7 undergo a professional evaluation, as provided in Section
8 11-501 of this Code, to determine if an alcohol, drug, or
9 intoxicating compound problem exists and the extent of the
10 problem, and to undergo the imposition of treatment as
11 appropriate.

12 (b) The Secretary of State upon receiving a report of the
13 conviction of any violation indicating a person was operating a
14 motor vehicle during the time when said person's driver's
15 license, permit or privilege was suspended by the Secretary, by
16 the appropriate authority of another state, or pursuant to
17 Section 11-501.1; except as may be specifically allowed by a
18 probationary license to drive, judicial driving permit or
19 restricted driving permit issued pursuant to this Code or the
20 law of another state; shall extend the suspension for the same
21 period of time as the originally imposed suspension; however,
22 if the period of suspension has then expired, the Secretary
23 shall be authorized to suspend said person's driving privileges
24 for the same period of time as the originally imposed
25 suspension; and if the conviction was upon a charge which
26 indicated that a vehicle was operated during the time when the

1 person's driver's license, permit or privilege was revoked;
2 except as may be allowed by a restricted driving permit issued
3 pursuant to this Code or the law of another state; the
4 Secretary shall not issue a driver's license for an additional
5 period of one year from the date of such conviction indicating
6 such person was operating a vehicle during such period of
7 revocation.

8 (b-5) Any person convicted of violating this Section shall
9 serve a minimum term of imprisonment of 30 consecutive days or
10 300 hours of community service when the person's driving
11 privilege was revoked or suspended as a result of a violation
12 of Section 9-3 of the Criminal Code of 1961, as amended,
13 relating to the offense of reckless homicide, or a similar
14 provision of a law of another state.

15 (c) Any person convicted of violating this Section shall
16 serve a minimum term of imprisonment of 10 consecutive days or
17 30 days of community service when the person's driving
18 privilege was revoked or suspended as a result of:

19 (1) a violation of Section 11-501 of this Code or a
20 similar provision of a local ordinance relating to the
21 offense of operating or being in physical control of a
22 vehicle while under the influence of alcohol, any other
23 drug or any combination thereof; or

24 (2) a violation of paragraph (b) of Section 11-401 of
25 this Code or a similar provision of a local ordinance
26 relating to the offense of leaving the scene of a motor

1 vehicle accident involving personal injury or death; or

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

5 ~~(4)~~ a statutory summary suspension under Section
6 11-501.1 of this Code.

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

9 (c-1) Except as provided in subsections (c-5) and
10 ~~subsection~~ (d), any person convicted of a second violation of
11 this Section shall be ordered by the court to serve a minimum
12 of 100 hours of community service.

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

16 (1) Seizure of the license plates of the person's
17 vehicle.

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

20 (c-5) Any person convicted of a second violation of this
21 Section is guilty of a Class 2 felony, is not eligible for
22 probation or conditional discharge, and shall serve a mandatory
23 term of imprisonment, if the revocation or suspension was for a
24 violation of Section 9-3 of the Criminal Code of 1961, relating
25 to the offense of reckless homicide, or a similar out-of-state
26 offense.

1 (d) Any person convicted of a second violation of this
2 Section shall be guilty of a Class 4 felony and shall serve a
3 minimum term of imprisonment of 30 days or 300 hours of
4 community service, as determined by the court, if the
5 revocation or suspension was for a violation of Section 11-401
6 or 11-501 of this Code, or a similar out-of-state offense, or a
7 similar provision of a local ordinance, ~~a violation of Section~~
8 ~~9-3 of the Criminal Code of 1961, relating to the offense of~~
9 ~~reckless homicide, or a similar out of state offense,~~ or a
10 statutory summary suspension under Section 11-501.1 of this
11 Code.

12 (d-1) Except as provided in subsections ~~subsection~~ (d-2),
13 (d-2.5), and ~~subsection~~ (d-3), any person convicted of a third
14 or subsequent violation of this Section shall serve a minimum
15 term of imprisonment of 30 days or 300 hours of community
16 service, as determined by the court.

17 (d-2) Any person convicted of a third violation of this
18 Section is guilty of a Class 4 felony and must serve a minimum
19 term of imprisonment of 30 days if the revocation or suspension
20 was for a violation of Section 11-401 or 11-501 of this Code,
21 or a similar out-of-state offense, or a similar provision of a
22 local ordinance, ~~a violation of Section 9-3 of the Criminal~~
23 ~~Code of 1961, relating to the offense of reckless homicide, or~~
24 ~~a similar out of state offense,~~ or a statutory summary
25 suspension under Section 11-501.1 of this Code.

26 (d-2.5) Any person convicted of a third violation of this

1 Section is guilty of a Class 1 felony, is not eligible for
2 probation or conditional discharge, and must serve a mandatory
3 term if the revocation or suspension was for a violation of
4 Section 9-3 of the Criminal Code of 1961, relating to the
5 offense of reckless homicide, or a similar out-of-state
6 offense.

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

17 (d-3.5) Any person convicted of a fourth or subsequent
18 violation of this Section is guilty of a Class 1 felony, is not
19 eligible for probation or conditional discharge, and must serve
20 a mandatory term of imprisonment, and is eligible for an
21 extended term, if the revocation or suspension was for a
22 violation of Section 9-3 of the Criminal Code of 1961, relating
23 to the offense of reckless homicide, or a similar out-of-state
24 offense.

25 (d-4) Any person convicted of a tenth, eleventh, twelfth,
26 thirteenth, or fourteenth violation of this Section is guilty

1 of a Class 3 felony, and is not eligible for probation or
2 conditional discharge, if the revocation or suspension was for
3 a violation of Section 11-401 or 11-501 of this Code, or a
4 similar out-of-state offense, or a similar provision of a local
5 ordinance, ~~a violation of Section 9-3 of the Criminal Code of~~
6 ~~1961, relating to the offense of reckless homicide, or a~~
7 ~~similar out of state offense,~~ or a statutory summary
8 suspension under Section 11-501.1 of this Code.

9 (d-5) Any person convicted of a fifteenth or subsequent
10 violation of this Section is guilty of a Class 2 felony, and is
11 not eligible for probation or conditional discharge, if the
12 revocation or suspension was for a violation of Section 11-401
13 or 11-501 of this Code, or a similar out-of-state offense, or a
14 similar provision of a local ordinance, ~~a violation of Section~~
15 ~~9-3 of the Criminal Code of 1961, relating to the offense of~~
16 ~~reckless homicide, or a similar out of state offense,~~ or a
17 statutory summary suspension under Section 11-501.1 of this
18 Code.

19 (e) Any person in violation of this Section who is also in
20 violation of Section 7-601 of this Code relating to mandatory
21 insurance requirements, in addition to other penalties imposed
22 under this Section, shall have his or her motor vehicle
23 immediately impounded by the arresting law enforcement
24 officer. The motor vehicle may be released to any licensed
25 driver upon a showing of proof of insurance for the vehicle
26 that was impounded and the notarized written consent for the

1 release by the vehicle owner.

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

5 (g) The motor vehicle used in a violation of this Section
6 is subject to seizure and forfeiture as provided in Sections
7 36-1 and 36-2 of the Criminal Code of 1961 if the person's
8 driving privilege was revoked or suspended as a result of a
9 violation listed in paragraph (1), (2), or (3) of subsection
10 (c) of this Section or as a result of a summary suspension as
11 provided in paragraph (4) of subsection (c) of this Section.

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

13 Section 10. The Unified Code of Corrections is amended by
14 changing Sections 5-5-3, 5-6-1, and 5-6-3 as follows:

15 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

16 Sec. 5-5-3. Disposition.

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

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

24 (1) A period of probation.

1 (2) A term of periodic imprisonment.

2 (3) A term of conditional discharge.

3 (4) A term of imprisonment.

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

8 (6) A fine.

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

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

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

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

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

25 (2) A period of probation, a term of periodic
26 imprisonment or conditional discharge shall not be imposed

1 for the following offenses. The court shall sentence the
2 offender to not less than the minimum term of imprisonment
3 set forth in this Code for the following offenses, and may
4 order a fine or restitution or both in conjunction with
5 such term of imprisonment:

6 (A) First degree murder where the death penalty is
7 not imposed.

8 (B) Attempted first degree murder.

9 (C) A Class X felony.

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

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

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

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

26 (G) Residential burglary, except as otherwise

1 provided in Section 40-10 of the Alcoholism and Other
2 Drug Abuse and Dependency Act.

3 (H) Criminal sexual assault.

4 (I) Aggravated battery of a senior citizen.

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

7 Before July 1, 1994, for the purposes of this
8 paragraph, "organized gang" means an association of 5
9 or more persons, with an established hierarchy, that
10 encourages members of the association to perpetrate
11 crimes or provides support to the members of the
12 association who do commit crimes.

13 Beginning July 1, 1994, for the purposes of this
14 paragraph, "organized gang" has the meaning ascribed
15 to it in Section 10 of the Illinois Streetgang
16 Terrorism Omnibus Prevention Act.

17 (K) Vehicular hijacking.

18 (L) A second or subsequent conviction for the
19 offense of hate crime when the underlying offense upon
20 which the hate crime is based is felony aggravated
21 assault or felony mob action.

22 (M) A second or subsequent conviction for the
23 offense of institutional vandalism if the damage to the
24 property exceeds \$300.

25 (N) A Class 3 felony violation of paragraph (1) of
26 subsection (a) of Section 2 of the Firearm Owners

1 Identification Card Act.

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

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

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

9 (R) A violation of Section 24-3A of the Criminal
10 Code of 1961.

11 (S) (Blank).

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

14 (U) A second or subsequent violation of Section
15 6-303 of the Illinois Vehicle Code committed while his
16 or her driver's license, permit, or privilege was
17 revoked because of a violation of Section 9-3 of the
18 Criminal Code of 1961, relating to the offense of
19 reckless homicide, or a similar provision of a law of
20 another state.

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 paragraphs ~~paragraph~~ (4.3)
2 and (4.8) of this subsection (c), a minimum of 100 hours of
3 community service shall be imposed for a second violation
4 of Section 6-303 of 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 paragraphs ~~paragraph~~
10 (4.5), ~~and paragraph~~ (4.6), and (4.9) of this subsection
11 (c), a minimum term of imprisonment of 30 days or 300 hours
12 of community service, as determined by the court, shall be
13 imposed for a third or subsequent violation of Section
14 6-303 of the Illinois 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) Except as provided in paragraph (4.10) of this
19 subsection (c), a ~~A~~ minimum term of imprisonment of 180
20 days shall be imposed for a fourth or subsequent violation
21 of subsection (c) of Section 6-303 of the Illinois Vehicle
22 Code.

23 (4.7) A minimum term of imprisonment of not less than
24 30 consecutive days, or 300 hours of community service,
25 shall be imposed for a violation of subsection (a-5) of
26 Section 6-303 of the Illinois Vehicle Code, as provided in

1 subsection (b-5) of that Section.

2 (4.8) A mandatory prison sentence shall be imposed for
3 a second violation of subsection (a-5) of Section 6-303 of
4 the Illinois Vehicle Code, as provided in subsection (c-5)
5 of that Section. The person's driving privileges shall be
6 revoked for a period of not less than 5 years from the date
7 of his or her release from prison.

8 (4.9) A mandatory prison sentence of not less than 4
9 and not more than 15 years shall be imposed for a third
10 violation of subsection (a-5) of Section 6-303 of the
11 Illinois Vehicle Code, as provided in subsection (d-2.5) of
12 that Section. The person's driving privileges shall be
13 revoked for the remainder of his or her life.

14 (4.10) A mandatory prison sentence for a Class 1 felony
15 shall be imposed, and the person shall be eligible for an
16 extended term sentence, for a fourth or subsequent
17 violation of subsection (a-5) of Section 6-303 of the
18 Illinois Vehicle Code, as provided in subsection (d-3.5) of
19 that Section. The persons driving privileges shall be
20 revoked for the remainder of his or her life.

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

24 (A) a period of conditional discharge;

25 (B) a fine;

26 (C) make restitution to the victim under Section

1 5-5-6 of this Code.

2 (5.1) In addition to any penalties imposed under
3 paragraph (5) of this subsection (c), and except as
4 provided in paragraph (5.2) or (5.3), a person convicted of
5 violating subsection (c) of Section 11-907 of the Illinois
6 Vehicle Code shall have his or her driver's license,
7 permit, or privileges suspended for at least 90 days but
8 not more than one year, if the violation resulted in damage
9 to the property of another person.

10 (5.2) In addition to any penalties imposed under
11 paragraph (5) of this subsection (c), and except as
12 provided in paragraph (5.3), a person convicted of
13 violating subsection (c) of Section 11-907 of the Illinois
14 Vehicle Code shall have his or her driver's license,
15 permit, or privileges suspended for at least 180 days but
16 not more than 2 years, if the violation resulted in injury
17 to another person.

18 (5.3) In addition to any penalties imposed under
19 paragraph (5) of this subsection (c), a person convicted of
20 violating subsection (c) of Section 11-907 of the Illinois
21 Vehicle Code shall have his or her driver's license,
22 permit, or privileges suspended for 2 years, if the
23 violation resulted in the death of another person.

24 (5.4) In addition to any penalties imposed under
25 paragraph (5) of this subsection (c), a person convicted of
26 violating Section 3-707 of the Illinois Vehicle Code shall

1 have his or her driver's license, permit, or privileges
2 suspended for 3 months and until he or she has paid a
3 reinstatement fee of \$100.

4 (5.5) In addition to any penalties imposed under
5 paragraph (5) of this subsection (c), a person convicted of
6 violating Section 3-707 of the Illinois Vehicle Code during
7 a period in which his or her driver's license, permit, or
8 privileges were suspended for a previous violation of that
9 Section shall have his or her driver's license, permit, or
10 privileges suspended for an additional 6 months after the
11 expiration of the original 3-month suspension and until he
12 or she has paid a reinstatement fee of \$100.

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

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

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

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

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

14 (10) (Blank).

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

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

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

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

1 files notice of its intention to again seek the extended
2 sentence, the defendant shall be afforded a new trial.

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

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

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

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

16 (i) removal from the household;

17 (ii) restricted contact with the victim;

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

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

21 and

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

24 (2) the court orders the defendant to pay for the
25 victim's counseling services, to the extent that the court
26 finds, after considering the defendant's income and

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

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

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

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

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

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

1 of 1961 against the defendant. The court shall order that the
2 cost of any such test shall be paid by the county and may be
3 taxed as costs against the convicted defendant.

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

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

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

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

24 (j) In cases when prosecution for any violation of Section
25 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
26 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,

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

23 (j-5) A defendant at least 17 years of age who is convicted
24 of a felony and who has not been previously convicted of a
25 misdemeanor or felony and who is sentenced to a term of
26 imprisonment in the Illinois Department of Corrections shall as

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

1 otherwise mentally incapable of completing the educational or
2 vocational program.

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

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

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

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

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

22 (B) If the defendant has already been sentenced for a
23 felony or misdemeanor offense, or has been placed on
24 probation under Section 10 of the Cannabis Control Act,
25 Section 410 of the Illinois Controlled Substances Act, or
26 Section 70 of the Methamphetamine Control and Community

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

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

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

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

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

24 (m) A person convicted of criminal defacement of property
25 under Section 21-1.3 of the Criminal Code of 1961, in which the
26 property damage exceeds \$300 and the property damaged is a

1 school building, shall be ordered to perform community service
2 that may include cleanup, removal, or painting over the
3 defacement.

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

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

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

23 (730 ILCS 5/5-6-1) (from Ch. 38, par. 1005-6-1)

24 Sec. 5-6-1. Sentences of Probation and of Conditional
25 Discharge and Disposition of Supervision. The General Assembly

1 finds that in order to protect the public, the criminal justice
2 system must compel compliance with the conditions of probation
3 by responding to violations with swift, certain and fair
4 punishments and intermediate sanctions. The Chief Judge of each
5 circuit shall adopt a system of structured, intermediate
6 sanctions for violations of the terms and conditions of a
7 sentence of probation, conditional discharge or disposition of
8 supervision.

9 (a) Except where specifically prohibited by other
10 provisions of this Code, the court shall impose a sentence of
11 probation or conditional discharge upon an offender unless,
12 having regard to the nature and circumstance of the offense,
13 and to the history, character and condition of the offender,
14 the court is of the opinion that:

15 (1) his imprisonment or periodic imprisonment is
16 necessary for the protection of the public; or

17 (2) probation or conditional discharge would deprecate
18 the seriousness of the offender's conduct and would be
19 inconsistent with the ends of justice; or

20 (3) a combination of imprisonment with concurrent or
21 consecutive probation when an offender has been admitted
22 into a drug court program under Section 20 of the Drug
23 Court Treatment Act is necessary for the protection of the
24 public and for the rehabilitation of the offender.

25 The court shall impose as a condition of a sentence of
26 probation, conditional discharge, or supervision, that the

1 probation agency may invoke any sanction from the list of
2 intermediate sanctions adopted by the chief judge of the
3 circuit court for violations of the terms and conditions of the
4 sentence of probation, conditional discharge, or supervision,
5 subject to the provisions of Section 5-6-4 of this Act.

6 (b) The court may impose a sentence of conditional
7 discharge for an offense if the court is of the opinion that
8 neither a sentence of imprisonment nor of periodic imprisonment
9 nor of probation supervision is appropriate.

10 (b-1) Subsections (a) and (b) of this Section do not apply
11 to a defendant charged with a misdemeanor or felony under the
12 Illinois Vehicle Code or reckless homicide under Section 9-3 of
13 the Criminal Code of 1961 if the defendant within the past 12
14 months has been convicted of or pleaded guilty to a misdemeanor
15 or felony under the Illinois Vehicle Code or reckless homicide
16 under Section 9-3 of the Criminal Code of 1961.

17 (c) The court may, upon a plea of guilty or a stipulation
18 by the defendant of the facts supporting the charge or a
19 finding of guilt, defer further proceedings and the imposition
20 of a sentence, and enter an order for supervision of the
21 defendant, if the defendant is not charged with: (i) a Class A
22 misdemeanor, as defined by the following provisions of the
23 Criminal Code of 1961: Sections 11-9.1; 12-3.2; 12-15; 26-5;
24 31-1; 31-6; 31-7; subsections (b) and (c) of Section 21-1;
25 paragraph (1) through (5), (8), (10), and (11) of subsection
26 (a) of Section 24-1; (ii) a Class A misdemeanor violation of

1 Section 3.01, 3.03-1, or 4.01 of the Humane Care for Animals
2 Act; or (iii) felony. If the defendant is not barred from
3 receiving an order for supervision as provided in this
4 subsection, the court may enter an order for supervision after
5 considering the circumstances of the offense, and the history,
6 character and condition of the offender, if the court is of the
7 opinion that:

8 (1) the offender is not likely to commit further
9 crimes;

10 (2) the defendant and the public would be best served
11 if the defendant were not to receive a criminal record; and

12 (3) in the best interests of justice an order of
13 supervision is more appropriate than a sentence otherwise
14 permitted under this Code.

15 (c-5) Subsections (a), (b), and (c) of this Section do not
16 apply to a defendant charged with a second or subsequent
17 violation of Section 6-303 of the Illinois Vehicle Code
18 committed while his or her driver's license, permit or
19 privileges were revoked because of a violation of Section 9-3
20 of the Criminal Code of 1961, relating to the offense of
21 reckless homicide, or a similar provision of a law of another
22 state.

23 (d) The provisions of paragraph (c) shall not apply to a
24 defendant charged with violating Section 11-501 of the Illinois
25 Vehicle Code or a similar provision of a local ordinance when
26 the defendant has previously been:

1 (1) convicted for a violation of Section 11-501 of the
2 Illinois Vehicle Code or a similar provision of a local
3 ordinance or any similar law or ordinance of another state;
4 or

5 (2) assigned supervision for a violation of Section
6 11-501 of the Illinois Vehicle Code or a similar provision
7 of a local ordinance or any similar law or ordinance of
8 another state; or

9 (3) pleaded guilty to or stipulated to the facts
10 supporting a charge or a finding of guilty to a violation
11 of Section 11-503 of the Illinois Vehicle Code or a similar
12 provision of a local ordinance or any similar law or
13 ordinance of another state, and the plea or stipulation was
14 the result of a plea agreement.

15 The court shall consider the statement of the prosecuting
16 authority with regard to the standards set forth in this
17 Section.

18 (e) The provisions of paragraph (c) shall not apply to a
19 defendant charged with violating Section 16A-3 of the Criminal
20 Code of 1961 if said defendant has within the last 5 years
21 been:

22 (1) convicted for a violation of Section 16A-3 of the
23 Criminal Code of 1961; or

24 (2) assigned supervision for a violation of Section
25 16A-3 of the Criminal Code of 1961.

26 The court shall consider the statement of the prosecuting

1 authority with regard to the standards set forth in this
2 Section.

3 (f) The provisions of paragraph (c) shall not apply to a
4 defendant charged with violating Sections 15-111, 15-112,
5 15-301, paragraph (b) of Section 6-104, Section 11-605, or
6 Section 11-1414 of the Illinois Vehicle Code or a similar
7 provision of a local ordinance.

8 (g) Except as otherwise provided in paragraph (i) of this
9 Section, the provisions of paragraph (c) shall not apply to a
10 defendant charged with violating Section 3-707, 3-708, 3-710,
11 or 5-401.3 of the Illinois Vehicle Code or a similar provision
12 of a local ordinance if the defendant has within the last 5
13 years been:

14 (1) convicted for a violation of Section 3-707, 3-708,
15 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar
16 provision of a local ordinance; or

17 (2) assigned supervision for a violation of Section
18 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle
19 Code or a similar provision of a local ordinance.

20 The court shall consider the statement of the prosecuting
21 authority with regard to the standards set forth in this
22 Section.

23 (h) The provisions of paragraph (c) shall not apply to a
24 defendant under the age of 21 years charged with violating a
25 serious traffic offense as defined in Section 1-187.001 of the
26 Illinois Vehicle Code:

1 (1) unless the defendant, upon payment of the fines,
2 penalties, and costs provided by law, agrees to attend and
3 successfully complete a traffic safety program approved by
4 the court under standards set by the Conference of Chief
5 Circuit Judges. The accused shall be responsible for
6 payment of any traffic safety program fees. If the accused
7 fails to file a certificate of successful completion on or
8 before the termination date of the supervision order, the
9 supervision shall be summarily revoked and conviction
10 entered. The provisions of Supreme Court Rule 402 relating
11 to pleas of guilty do not apply in cases when a defendant
12 enters a guilty plea under this provision; or

13 (2) if the defendant has previously been sentenced
14 under the provisions of paragraph (c) on or after January
15 1, 1998 for any serious traffic offense as defined in
16 Section 1-187.001 of the Illinois Vehicle Code.

17 (i) The provisions of paragraph (c) shall not apply to a
18 defendant charged with violating Section 3-707 of the Illinois
19 Vehicle Code or a similar provision of a local ordinance if the
20 defendant has been assigned supervision for a violation of
21 Section 3-707 of the Illinois Vehicle Code or a similar
22 provision of a local ordinance.

23 (j) The provisions of paragraph (c) shall not apply to a
24 defendant charged with violating Section 6-303 of the Illinois
25 Vehicle Code or a similar provision of a local ordinance when
26 the revocation or suspension was for a violation of Section

1 11-501 or a similar provision of a local ordinance or a
2 violation of Section 11-501.1 or paragraph (b) of Section
3 11-401 of the Illinois Vehicle Code, ~~or a violation of Section~~
4 ~~9-3 of the Criminal Code of 1961~~ if the defendant has within
5 the last 10 years been:

6 (1) convicted for a violation of Section 6-303 of the
7 Illinois Vehicle Code or a similar provision of a local
8 ordinance; or

9 (2) assigned supervision for a violation of Section
10 6-303 of the Illinois Vehicle Code or a similar provision
11 of a local ordinance.

12 (k) The provisions of paragraph (c) shall not apply to a
13 defendant charged with violating any provision of the Illinois
14 Vehicle Code or a similar provision of a local ordinance that
15 governs the movement of vehicles if, within the 12 months
16 preceding the date of the defendant's arrest, the defendant has
17 been assigned court supervision on 2 occasions for a violation
18 that governs the movement of vehicles under the Illinois
19 Vehicle Code or a similar provision of a local ordinance.

20 (l) A defendant charged with violating any provision of the
21 Illinois Vehicle Code who, after a court appearance in the same
22 matter, receives a disposition of supervision under subsection
23 (c) shall pay an additional fee of \$20, to be collected as
24 provided in Sections 27.5 and 27.6 of the Clerks of Courts Act.
25 In addition to the \$20 fee, the person shall also pay a fee of
26 \$5, which, if not waived by the court, shall be collected as

1 provided in Sections 27.5 and 27.6 of the Clerks of Courts Act.
2 The \$20 fee shall be disbursed as provided in Section 16-104c
3 of the Illinois Vehicle Code. If the \$5 fee is collected, \$4.50
4 of the fee shall be deposited into the Circuit Court Clerk
5 Operation and Administrative Fund created by the Clerk of the
6 Circuit Court and 50 cents of the fee shall be deposited into
7 the Prisoner Review Board Vehicle and Equipment Fund in the
8 State treasury.

9 (Source: P.A. 93-388, eff. 7-25-03; 93-1014, eff. 1-1-05;
10 94-169, eff. 1-1-06; 94-330, eff. 1-1-06; 94-375, eff. 1-1-06;
11 94-1009, eff. 1-1-07.)