



Judiciary II - Criminal Law Committee

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09500HB0722ham001

LRB095 07087 DRH 31903 a

1 AMENDMENT TO HOUSE BILL 722

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 722 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by  
5 changing 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

1 offense of operating or being in physical control of a  
2 vehicle while under the influence of alcohol, other drug or  
3 drugs, intoxicating compound or compounds, or any  
4 combination thereof;

5 3. Any felony under the laws of any State or the  
6 federal government in the commission of which a motor  
7 vehicle was used;

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

11 5. Perjury or the making of a false affidavit or  
12 statement under oath to the Secretary of State under this  
13 Code or under any other law relating to the ownership or  
14 operation of motor vehicles;

15 6. Conviction upon 3 charges of violation of Section  
16 11-503 of this Code relating to the offense of reckless  
17 driving committed within a period of 12 months;

18 7. Conviction of any offense defined in Section 4-102  
19 of this Code;

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

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

23 10. Violation of Section 12-5 of the Criminal Code of  
24 1961 arising from the use of a motor vehicle;

25 11. Violation of Section 11-204.1 of this Code relating  
26 to aggravated fleeing or attempting to elude a peace

1 officer;

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

6 13. Violation of paragraph (a) of Section 11-502 of  
7 this Code or a similar provision of a local ordinance if  
8 the driver has been previously convicted of a violation of  
9 that Section or a similar provision of a local ordinance  
10 and the driver was less than 21 years of age at the time of  
11 the offense.

12 (b) The Secretary of State shall also immediately revoke  
13 the license or permit of any driver in the following  
14 situations:

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

20 2. Of any person when any other law of this State  
21 requires either the revocation or suspension of a license  
22 or permit.

23 (c) Except as provided in subsection (c-5), whenever  
24 ~~Whenever~~ a person is convicted of any of the offenses  
25 enumerated in this Section, the court may recommend and the  
26 Secretary of State in his discretion, without regard to whether

1 the recommendation is made by the court may, upon application,  
2 issue to the person a restricted driving permit granting the  
3 privilege of driving a motor vehicle between the petitioner's  
4 residence and petitioner's place of employment or within the  
5 scope of the petitioner's employment related duties, or to  
6 allow transportation for the petitioner or a household member  
7 of the petitioner's family for the receipt of necessary medical  
8 care or, if the professional evaluation indicates, provide  
9 transportation for the petitioner for alcohol remedial or  
10 rehabilitative activity, or for the petitioner to attend  
11 classes, as a student, in an accredited educational  
12 institution; if the petitioner is able to demonstrate that no  
13 alternative means of transportation is reasonably available  
14 and the petitioner will not endanger the public safety or  
15 welfare; provided that the Secretary's discretion shall be  
16 limited to cases where undue hardship would result from a  
17 failure to issue the restricted driving permit.

18 If a person's license or permit has been revoked or  
19 suspended due to 2 or more convictions of violating Section  
20 11-501 of this Code or a similar provision of a local ordinance  
21 or a similar out-of-state offense, arising out of separate  
22 occurrences, that person, if issued a restricted driving  
23 permit, may not operate a vehicle unless it has been equipped  
24 with an ignition interlock device as defined in Section  
25 1-129.1.

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

1 suspended 2 or more times within a 10 year period due to a  
2 single conviction of violating Section 11-501 of this Code or a  
3 similar provision of a local ordinance or a similar  
4 out-of-state offense, and a statutory summary suspension under  
5 Section 11-501.1, or 2 or more statutory summary suspensions,  
6 or combination of 2 offenses, or of an offense and a statutory  
7 summary suspension, arising out of separate occurrences, or if  
8 a person has been convicted of one violation of Section 6-303  
9 of this Code committed while his or her driver's license,  
10 permit, or privilege was revoked because of a violation of  
11 Section 9-3 of the Criminal Code of 1961, relating to the  
12 offense of reckless homicide, or a similar provision of a law  
13 of another state, or because of the offense of aggravated  
14 driving under the influence of alcohol, other drug or drugs,  
15 intoxicating compound or compounds, or any combination  
16 thereof, based on involvement in a motor vehicle accident that  
17 caused great bodily harm or permanent disability or  
18 disfigurement or death to another, when the violation was a  
19 proximate cause of the injuries or death, as provided in  
20 subdivision (d) (1) (C) or (d) (1) (F) of Section 11-501 of this  
21 Code or a similar provision of a local ordinance or a similar  
22 provision of a law of another State, that person, if issued a  
23 restricted driving permit, may not operate a vehicle unless it  
24 has been equipped with an ignition interlock device as defined  
25 in Section 1-129.1. The person must pay to the Secretary of  
26 State DUI Administration Fund an amount not to exceed \$20 per

1 month. The Secretary shall establish by rule the amount and the  
2 procedures, terms, and conditions relating to these fees. If  
3 the restricted driving permit was issued for employment  
4 purposes, then this provision does not apply to the operation  
5 of an occupational vehicle owned or leased by that person's  
6 employer. In each case the Secretary of State may issue a  
7 restricted driving permit for a period he deems appropriate,  
8 except that the permit shall expire within one year from the  
9 date of issuance. The Secretary may not, however, issue a  
10 restricted driving permit to any person whose current  
11 revocation is the result of a second or subsequent conviction  
12 for a violation of Section 11-501 of this Code or a similar  
13 provision of a local ordinance relating to the offense of  
14 operating or being in physical control of a motor vehicle while  
15 under the influence of alcohol, other drug or drugs,  
16 intoxicating compound or compounds, or any similar  
17 out-of-state offense, or any combination thereof, until the  
18 expiration of at least one year from the date of the  
19 revocation. A restricted driving permit issued under this  
20 Section shall be subject to cancellation, revocation, and  
21 suspension by the Secretary of State in like manner and for  
22 like cause as a driver's license issued under this Code may be  
23 cancelled, revoked, or suspended; except that a conviction upon  
24 one or more offenses against laws or ordinances regulating the  
25 movement of traffic shall be deemed sufficient cause for the  
26 revocation, suspension, or cancellation of a restricted

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

11 (c-5) The Secretary may not issue a restricted driving  
12 permit to any person who has been convicted of a second or  
13 subsequent violation of Section 6-303 of this Code committed  
14 while his or her driver's license, permit, or privilege was  
15 revoked because of a violation of Section 9-3 of the Criminal  
16 Code of 1961, relating to the offense of reckless homicide, or  
17 a similar provision of a law of another state, or because of  
18 the offense of aggravated driving under the influence of  
19 alcohol, other drug or drugs, intoxicating compound or  
20 compounds, or any combination thereof, based on involvement in  
21 a motor vehicle accident that caused great bodily harm or  
22 permanent disability or disfigurement or death to another, when  
23 the violation was a proximate cause of the injuries or death,  
24 as provided in subdivision (d) (1) (C) or (d) (1) (F) of Section  
25 11-501 of this Code or a similar provision of a local ordinance  
26 or a similar provision of a law of another State.

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

19           If a person's license or permit has been revoked or  
20 suspended due to 2 or more convictions of violating Section  
21 11-501 of this Code or a similar provision of a local ordinance  
22 or a similar out-of-state offense, arising out of separate  
23 occurrences, that person, if issued a restricted driving  
24 permit, may not operate a vehicle unless it has been equipped  
25 with an ignition interlock device as defined in Section  
26 1-129.1.



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

1 periods contained in this subparagraph shall apply to similar  
2 out-of-state convictions.

3 (d-5) The revocation of the license, permit, or driving  
4 privileges of a person convicted of a third or subsequent  
5 violation of Section 6-303 of this Code committed while his or  
6 her driver's license, permit, or privilege was revoked because  
7 of a violation of Section 9-3 of the Criminal Code of 1961,  
8 relating to the offense of reckless homicide, or a similar  
9 provision of a law of another state, or because of the offense  
10 of aggravated driving under the influence of alcohol, other  
11 drug or drugs, intoxicating compound or compounds, or any  
12 combination thereof, based on involvement in a motor vehicle  
13 accident that caused great bodily harm or permanent disability  
14 or disfigurement or death to another, when the violation was a  
15 proximate cause of the injuries or death, as provided in  
16 subdivision (d)(1)(C) or (d)(1)(F) of Section 11-501 of this  
17 Code or a similar provision of a local ordinance or a similar  
18 provision of a law of another State, is permanent. The  
19 Secretary may not, at any time, issue a license or permit to  
20 that person.

21 (e) This Section is subject to the provisions of the Driver  
22 License Compact.

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

1           (g) The Secretary of State shall not issue a restricted  
2 driving permit to a person under the age of 16 years whose  
3 driving privileges have been revoked under any provisions of  
4 this Code.

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

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

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

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

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

2 Sec. 6-208. Period of Suspension - Application After  
3 Revocation.

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

8 (b) Any person whose license, permit or privilege to drive  
9 a motor vehicle on the highways has been revoked shall not be  
10 entitled to have such license, permit or privilege renewed or  
11 restored. However, such person may, except as provided under  
12 subsections ~~subsection~~ (d) and (d-5) of Section 6-205, make  
13 application for a license pursuant to Section 6-106 (i) if the  
14 revocation was for a cause which has been removed or (ii) as  
15 provided in the following subparagraphs:

16 1. Except as provided in subparagraphs 1.5, 2, 3, ~~and~~  
17 4, and 5, the person may make application for a license  
18 after the expiration of one year from the effective date of  
19 the revocation or, in the case of a violation of paragraph  
20 (b) of Section 11-401 of this Code or a similar provision  
21 of a local ordinance, after the expiration of 3 years from  
22 the effective date of the revocation or, in the case of a  
23 violation of Section 9-3 of the Criminal Code of 1961 or a  
24 similar provision of a law of another state relating to the  
25 offense of reckless homicide or a violation of subparagraph  
26 (F) of paragraph 1 of subsection (d) of Section 11-501 of

1 this Code relating to aggravated driving under the  
2 influence of alcohol, other drug or drugs, intoxicating  
3 compound or compounds, or any combination thereof, if the  
4 violation was the proximate cause of a death, after the  
5 expiration of 2 years from the effective date of the  
6 revocation or after the expiration of 24 months from the  
7 date of release from a period of imprisonment as provided  
8 in Section 6-103 of this Code, whichever is later.

9 1.5. If the person is convicted of a violation of  
10 Section 6-303 of this Code committed while his or her  
11 driver's license, permit, or privilege was revoked because  
12 of a violation of Section 9-3 of the Criminal Code of 1961,  
13 relating to the offense of reckless homicide, or a similar  
14 provision of a law of another state, or because of the  
15 offense of aggravated driving under the influence of  
16 alcohol, other drug or drugs, intoxicating compound or  
17 compounds, or any combination thereof, based on  
18 involvement in a motor vehicle accident that caused great  
19 bodily harm or permanent disability or disfigurement or  
20 death to another, when the violation was a proximate cause  
21 of the injuries or death, as provided in subdivision  
22 (d) (1) (C) or (d) (1) (F) of Section 11-501 of this Code or a  
23 similar provision of a local ordinance or a similar  
24 provision of a law of another State, the person may not  
25 make application for a license or permit until the  
26 expiration of 3 years from the effective date of the most

1       recent revocation.

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

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

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

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

11           (D) any combination of the above offenses  
12 committed at different instances;

13 then such person may not make application for a license  
14 until after the expiration of 5 years from the effective  
15 date of the most recent revocation. The 20 year period  
16 shall be computed by using the dates the offenses were  
17 committed and shall also include similar out-of-state  
18 offenses.

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

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

8           5. The person may not make application for a license or  
9 permit if the person is convicted of a third or subsequent  
10 violation of Section 6-303 of this Code committed while his  
11 or her driver's license, permit, or privilege was revoked  
12 because of a violation of Section 9-3 of the Criminal Code  
13 of 1961, relating to the offense of reckless homicide, or a  
14 similar provision of a law of another state, or because of  
15 the offense of aggravated driving under the influence of  
16 alcohol, other drug or drugs, intoxicating compound or  
17 compounds, or any combination thereof, based on  
18 involvement in a motor vehicle accident that caused great  
19 bodily harm or permanent disability or disfigurement or  
20 death to another, when the violation was a proximate cause  
21 of the injuries or death, as provided in subdivision  
22 (d) (1) (C) or (d) (1) (F) of Section 11-501 of this Code or a  
23 similar provision of a local ordinance or a similar  
24 provision of a law of another State.

25           Notwithstanding any other provision of this Code, all  
26 persons referred to in this paragraph (b) may not have their

1 privileges restored until the Secretary receives payment of the  
2 required reinstatement fee pursuant to subsection (b) of  
3 Section 6-118.

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

10 (c) (Blank).

11 (Source: P.A. 92-343, eff. 1-1-02; 92-418, eff. 8-17-01;  
12 92-458, eff. 8-22-01; 92-651, eff. 7-11-02; 93-712, eff.  
13 1-1-05; 93-788, eff. 1-1-05; revised 10-14-04.)

14 (625 ILCS 5/6-303) (from Ch. 95 1/2, par. 6-303)

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

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



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

3 (a-5) Any person who violates this Section as provided in  
4 subsection (a) while his or her driver's license, permit or  
5 privilege is revoked because of a violation of Section 9-3 of  
6 the Criminal Code of 1961, relating to the offense of reckless  
7 homicide or a similar provision of a law of another state, or  
8 because of the offense of aggravated driving under the  
9 influence of alcohol, other drug or drugs, intoxicating  
10 compound or compounds, or any combination thereof, based on  
11 involvement in a motor vehicle accident that caused great  
12 bodily harm or permanent disability or disfigurement or death  
13 to another, when the violation was a proximate cause of the  
14 injuries or death, as provided in subdivision (d)(1)(C) or  
15 (d)(1)(F) of Section 11-501 of this Code or a similar provision  
16 of a local ordinance or a similar provision of a law of another  
17 State, is guilty of a Class 4 felony. The person shall be  
18 required to undergo a professional evaluation, as provided in  
19 Section 11-501 of this Code, to determine if an alcohol, drug,  
20 or intoxicating compound problem exists and the extent of the  
21 problem, and to undergo the imposition of treatment as  
22 appropriate.

23 (b) The Secretary of State upon receiving a report of the  
24 conviction of any violation indicating a person was operating a  
25 motor vehicle during the time when said person's driver's  
26 license, permit or privilege was suspended by the Secretary, by

1 the appropriate authority of another state, or pursuant to  
2 Section 11-501.1; except as may be specifically allowed by a  
3 probationary license to drive, judicial driving permit or  
4 restricted driving permit issued pursuant to this Code or the  
5 law of another state; shall extend the suspension for the same  
6 period of time as the originally imposed suspension; however,  
7 if the period of suspension has then expired, the Secretary  
8 shall be authorized to suspend said person's driving privileges  
9 for the same period of time as the originally imposed  
10 suspension; and if the conviction was upon a charge which  
11 indicated that a vehicle was operated during the time when the  
12 person's driver's license, permit or privilege was revoked;  
13 except as may be allowed by a restricted driving permit issued  
14 pursuant to this Code or the law of another state; the  
15 Secretary shall not issue a driver's license for an additional  
16 period of one year from the date of such conviction indicating  
17 such person was operating a vehicle during such period of  
18 revocation.

19 (b-5) Any person convicted of violating this Section shall  
20 serve a minimum term of imprisonment of 30 consecutive days or  
21 300 hours of community service when the person's driving  
22 privilege was revoked or suspended as a result of a violation  
23 of Section 9-3 of the Criminal Code of 1961, as amended,  
24 relating to the offense of reckless homicide, or a similar  
25 provision of a law of another state, or because of the offense  
26 of aggravated driving under the influence of alcohol, other

1 drug or drugs, intoxicating compound or compounds, or any  
2 combination thereof, based on involvement in a motor vehicle  
3 accident that caused great bodily harm or permanent disability  
4 or disfigurement or death to another, when the violation was a  
5 proximate cause of the injuries or death, as provided in  
6 subdivision (d)(1)(C) or (d)(1)(F) of Section 11-501 of this  
7 Code or a similar provision of a local ordinance or a similar  
8 provision of a law of another State.

9 (c) Any person convicted of violating this Section shall  
10 serve a minimum term of imprisonment of 10 consecutive days or  
11 30 days of community service when the person's driving  
12 privilege was revoked or suspended as a result of:

13 (1) a violation of Section 11-501 of this Code or a  
14 similar provision of a local ordinance relating to the  
15 offense of operating or being in physical control of a  
16 vehicle while under the influence of alcohol, any other  
17 drug or any combination thereof; or

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

22 ~~(3) a violation of Section 9-3 of the Criminal Code of~~  
23 ~~1961, as amended, relating to the offense of reckless~~  
24 ~~homicide; or~~

25 ~~(4)~~ a statutory summary suspension under Section  
26 11-501.1 of this Code.

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

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

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

10           (1) Seizure of the license plates of the person's  
11 vehicle.

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

14           (c-5) Any person convicted of a second violation of this  
15 Section is guilty of a Class 2 felony, is not eligible for  
16 probation or conditional discharge, and shall serve a mandatory  
17 term of imprisonment, if the revocation or suspension was for a  
18 violation of Section 9-3 of the Criminal Code of 1961, relating  
19 to the offense of reckless homicide, or a similar out-of-state  
20 offense, or because of the offense of aggravated driving under  
21 the influence of alcohol, other drug or drugs, intoxicating  
22 compound or compounds, or any combination thereof, based on  
23 involvement in a motor vehicle accident that caused great  
24 bodily harm or permanent disability or disfigurement or death  
25 to another, when the violation was a proximate cause of the  
26 injuries or death, as provided in subdivision (d)(1)(C) or

1 (d) (1) (F) of Section 11-501 of this Code or a similar provision  
2 of a local ordinance or a similar provision of a law of another  
3 State.

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

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

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

1 ~~a similar out of state offense,~~ or a statutory summary  
2 suspension under Section 11-501.1 of this Code.

3 (d-2.5) Any person convicted of a third violation of this  
4 Section is guilty of a Class 1 felony, is not eligible for  
5 probation or conditional discharge, and must serve a mandatory  
6 term if the revocation or suspension was for a violation of  
7 Section 9-3 of the Criminal Code of 1961, relating to the  
8 offense of reckless homicide, or a similar out-of-state  
9 offense, or because of the offense of aggravated driving under  
10 the influence of alcohol, other drug or drugs, intoxicating  
11 compound or compounds, or any combination thereof, based on  
12 involvement in a motor vehicle accident that caused great  
13 bodily harm or permanent disability or disfigurement or death  
14 to another, when the violation was a proximate cause of the  
15 injuries or death, as provided in subdivision (d)(1)(C) or  
16 (d)(1)(F) of Section 11-501 of this Code or a similar provision  
17 of a local ordinance or a similar provision of a law of another  
18 State.

19 (d-3) Any person convicted of a fourth, fifth, sixth,  
20 seventh, eighth, or ninth violation of this Section is guilty  
21 of a Class 4 felony and must serve a minimum term of  
22 imprisonment of 180 days if the revocation or suspension was  
23 for a violation of Section 11-401 or 11-501 of this Code, or a  
24 similar out-of-state offense, or a similar provision of a local  
25 ordinance, ~~a violation of Section 9-3 of the Criminal Code of~~  
26 ~~1961, relating to the offense of reckless homicide, or a~~

1 ~~similar out of state offense,~~ or a statutory summary  
2 suspension under Section 11-501.1 of this Code.

3 (d-3.5) Any person convicted of a fourth or subsequent  
4 violation of this Section is guilty of a Class 1 felony, is not  
5 eligible for probation or conditional discharge, and must serve  
6 a mandatory term of imprisonment, and is eligible for an  
7 extended term, if the revocation or suspension was for a  
8 violation of Section 9-3 of the Criminal Code of 1961, relating  
9 to the offense of reckless homicide, or a similar out-of-state  
10 offense, or because of the offense of aggravated driving under  
11 the influence of alcohol, other drug or drugs, intoxicating  
12 compound or compounds, or any combination thereof, based on  
13 involvement in a motor vehicle accident that caused great  
14 bodily harm or permanent disability or disfigurement or death  
15 to another, when the violation was a proximate cause of the  
16 injuries or death, as provided in subdivision (d)(1)(C) or  
17 (d)(1)(F) of Section 11-501 of this Code or a similar provision  
18 of a local ordinance or a similar provision of a law of another  
19 State.

20 (d-4) Any person convicted of a tenth, eleventh, twelfth,  
21 thirteenth, or fourteenth violation of this Section is guilty  
22 of a Class 3 felony, and is not eligible for probation or  
23 conditional discharge, if the revocation or suspension was for  
24 a violation of Section 11-401 or 11-501 of this Code, or a  
25 similar out-of-state offense, or a similar provision of a local  
26 ordinance, ~~a violation of Section 9-3 of the Criminal Code of~~

1 ~~1961, relating to the offense of reckless homicide, or a~~  
2 ~~similar out-of-state offense,~~ or a statutory summary  
3 suspension under Section 11-501.1 of this Code.

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

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

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

26 (g) The motor vehicle used in a violation of this Section



1 is subject to seizure and forfeiture as provided in Sections  
2 36-1 and 36-2 of the Criminal Code of 1961 if the person's  
3 driving privilege was revoked or suspended as a result of a  
4 violation listed in paragraph (1), (2), or (3) of subsection  
5 (c) of this Section or as a result of a summary suspension as  
6 provided in paragraph (4) of subsection (c) of this Section.  
7 (Source: P.A. 94-112, eff. 1-1-06.)

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

10 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

11 Sec. 5-5-3. Disposition.

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

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

19 (1) A period of probation.

20 (2) A term of periodic imprisonment.

21 (3) A term of conditional discharge.

22 (4) A term of imprisonment.

23 (5) An order directing the offender to clean up and  
24 repair the damage, if the offender was convicted under

1 paragraph (h) of Section 21-1 of the Criminal Code of 1961  
2 (now repealed).

3 (6) A fine.

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

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

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

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

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

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

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

3 (B) Attempted first degree murder.

4 (C) A Class X felony.

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

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

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

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

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

24 (H) Criminal sexual assault.

25 (I) Aggravated battery of a senior citizen.

26 (J) A forcible felony if the offense was related to

1 the activities of an organized gang.

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

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

12 (K) Vehicular hijacking.

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

17 (M) A second or subsequent conviction for the  
18 offense of institutional vandalism if the damage to the  
19 property exceeds \$300.

20 (N) A Class 3 felony violation of paragraph (1) of  
21 subsection (a) of Section 2 of the Firearm Owners  
22 Identification Card Act.

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

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

1 Criminal Code of 1961.

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

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

6 (S) (Blank).

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

9 (U) A second or subsequent violation of Section  
10 6-303 of the Illinois Vehicle Code committed while his  
11 or her driver's license, permit, or privilege was  
12 revoked because of a violation of Section 9-3 of the  
13 Criminal Code of 1961, relating to the offense of  
14 reckless homicide, or a similar provision of a law of  
15 another state, or because of the offense of aggravated  
16 driving under the influence of alcohol, other drug or  
17 drugs, intoxicating compound or compounds, or any  
18 combination thereof, based on involvement in a motor  
19 vehicle accident that caused great bodily harm or  
20 permanent disability or disfigurement or death to  
21 another, when the violation was a proximate cause of  
22 the injuries or death, as provided in subdivision  
23 (d) (1) (C) or (d) (1) (F) of Section 11-501 of the  
24 Illinois Vehicle Code or a similar provision of a local  
25 ordinance or a similar provision of a law of another  
26 State.

1 (3) (Blank).

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

6 (4.1) (Blank).

7 (4.2) Except as provided in paragraphs ~~paragraph~~ (4.3)  
8 and (4.8) of this subsection (c), a minimum of 100 hours of  
9 community service shall be imposed for a second violation  
10 of Section 6-303 of the Illinois Vehicle Code.

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

15 (4.4) Except as provided in paragraphs ~~paragraph~~  
16 (4.5), ~~and paragraph~~ (4.6), and (4.9) of this subsection  
17 (c), a minimum term of imprisonment of 30 days or 300 hours  
18 of community service, as determined by the court, shall be  
19 imposed for a third or subsequent violation of Section  
20 6-303 of the Illinois Vehicle Code.

21 (4.5) A minimum term of imprisonment of 30 days shall  
22 be imposed for a third violation of subsection (c) of  
23 Section 6-303 of the Illinois Vehicle Code.

24 (4.6) Except as provided in paragraph (4.10) of this  
25 subsection (c), a ~~A~~ minimum term of imprisonment of 180  
26 days shall be imposed for a fourth or subsequent violation

1 of subsection (c) of Section 6-303 of the Illinois Vehicle  
2 Code.

3 (4.7) A minimum term of imprisonment of not less than  
4 30 consecutive days, or 300 hours of community service,  
5 shall be imposed for a violation of subsection (a-5) of  
6 Section 6-303 of the Illinois Vehicle Code, as provided in  
7 subsection (b-5) of that Section.

8 (4.8) A mandatory prison sentence shall be imposed for  
9 a second violation of subsection (a-5) of Section 6-303 of  
10 the Illinois Vehicle Code, as provided in subsection (c-5)  
11 of that Section. The person's driving privileges shall be  
12 revoked for a period of not less than 5 years from the date  
13 of his or her release from prison.

14 (4.9) A mandatory prison sentence of not less than 4  
15 and not more than 15 years shall be imposed for a third  
16 violation of subsection (a-5) of Section 6-303 of the  
17 Illinois Vehicle Code, as provided in subsection (d-2.5) of  
18 that Section. The person's driving privileges shall be  
19 revoked for the remainder of his or her life.

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

1           (5) The court may sentence an offender convicted of a  
2 business offense or a petty offense or a corporation or  
3 unincorporated association convicted of any offense to:

4           (A) a period of conditional discharge;

5           (B) a fine;

6           (C) make restitution to the victim under Section  
7 5-5-6 of this Code.

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

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

24           (5.3) In addition to any penalties imposed under  
25 paragraph (5) of this subsection (c), a person convicted of  
26 violating subsection (c) of Section 11-907 of the Illinois



1 Vehicle Code shall have his or her driver's license,  
2 permit, or privileges suspended for 2 years, if the  
3 violation resulted in the death of another person.

4 (5.4) 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 shall  
7 have his or her driver's license, permit, or privileges  
8 suspended for 3 months and until he or she has paid a  
9 reinstatement fee of \$100.

10 (5.5) 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 during  
13 a period in which his or her driver's license, permit, or  
14 privileges were suspended for a previous violation of that  
15 Section shall have his or her driver's license, permit, or  
16 privileges suspended for an additional 6 months after the  
17 expiration of the original 3-month suspension and until he  
18 or she has paid a reinstatement fee of \$100.

19 (6) In no case shall an offender be eligible for a  
20 disposition of probation or conditional discharge for a  
21 Class 1 felony committed while he was serving a term of  
22 probation or conditional discharge for a felony.

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

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

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

20           (10) (Blank).

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

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 (l) (A) Except as provided in paragraph (C) of subsection  
13 (l), 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.)

3 (730 ILCS 5/5-6-1) (from Ch. 38, par. 1005-6-1)

4 Sec. 5-6-1. Sentences of Probation and of Conditional  
5 Discharge and Disposition of Supervision. The General Assembly  
6 finds that in order to protect the public, the criminal justice  
7 system must compel compliance with the conditions of probation  
8 by responding to violations with swift, certain and fair  
9 punishments and intermediate sanctions. The Chief Judge of each  
10 circuit shall adopt a system of structured, intermediate  
11 sanctions for violations of the terms and conditions of a  
12 sentence of probation, conditional discharge or disposition of  
13 supervision.

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

20 (1) his imprisonment or periodic imprisonment is  
21 necessary for the protection of the public; or

22 (2) probation or conditional discharge would deprecate  
23 the seriousness of the offender's conduct and would be  
24 inconsistent with the ends of justice; or

25 (3) a combination of imprisonment with concurrent or

1           consecutive probation when an offender has been admitted  
2           into a drug court program under Section 20 of the Drug  
3           Court Treatment Act is necessary for the protection of the  
4           public and for the rehabilitation of the offender.

5           The court shall impose as a condition of a sentence of  
6           probation, conditional discharge, or supervision, that the  
7           probation agency may invoke any sanction from the list of  
8           intermediate sanctions adopted by the chief judge of the  
9           circuit court for violations of the terms and conditions of the  
10          sentence of probation, conditional discharge, or supervision,  
11          subject to the provisions of Section 5-6-4 of this Act.

12          (b) The court may impose a sentence of conditional  
13          discharge for an offense if the court is of the opinion that  
14          neither a sentence of imprisonment nor of periodic imprisonment  
15          nor of probation supervision is appropriate.

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

23          (c) The court may, upon a plea of guilty or a stipulation  
24          by the defendant of the facts supporting the charge or a  
25          finding of guilt, defer further proceedings and the imposition  
26          of a sentence, and enter an order for supervision of the

1 defendant, if the defendant is not charged with: (i) a Class A  
2 misdemeanor, as defined by the following provisions of the  
3 Criminal Code of 1961: Sections 11-9.1; 12-3.2; 12-15; 26-5;  
4 31-1; 31-6; 31-7; subsections (b) and (c) of Section 21-1;  
5 paragraph (1) through (5), (8), (10), and (11) of subsection  
6 (a) of Section 24-1; (ii) a Class A misdemeanor violation of  
7 Section 3.01, 3.03-1, or 4.01 of the Humane Care for Animals  
8 Act; or (iii) felony. If the defendant is not barred from  
9 receiving an order for supervision as provided in this  
10 subsection, the court may enter an order for supervision after  
11 considering the circumstances of the offense, and the history,  
12 character and condition of the offender, if the court is of the  
13 opinion that:

14 (1) the offender is not likely to commit further  
15 crimes;

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

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

21 (c-5) Subsections (a), (b), and (c) of this Section do not  
22 apply to a defendant charged with a second or subsequent  
23 violation of Section 6-303 of the Illinois Vehicle Code  
24 committed while his or her driver's license, permit or  
25 privileges were revoked because of a violation of Section 9-3  
26 of the Criminal Code of 1961, relating to the offense of



1 reckless homicide, or a similar provision of a law of another  
2 state, or because of the offense of aggravated driving under  
3 the influence of alcohol, other drug or drugs, intoxicating  
4 compound or compounds, or any combination thereof, based on  
5 involvement in a motor vehicle accident that caused great  
6 bodily harm or permanent disability or disfigurement or death  
7 to another, when the violation was a proximate cause of the  
8 injuries or death, as provided in subdivision (d)(1)(C) or  
9 (d)(1)(F) of Section 11-501 of the Illinois Vehicle Code or a  
10 similar provision of a local ordinance or a similar provision  
11 of a law of another State.

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

16 (1) convicted for a violation of Section 11-501 of the  
17 Illinois Vehicle Code or a similar provision of a local  
18 ordinance or any similar law or ordinance of another state;  
19 or

20 (2) assigned supervision for a violation of Section  
21 11-501 of the Illinois Vehicle Code or a similar provision  
22 of a local ordinance or any similar law or ordinance of  
23 another state; or

24 (3) pleaded guilty to or stipulated to the facts  
25 supporting a charge or a finding of guilty to a violation  
26 of Section 11-503 of the Illinois Vehicle Code or a similar

1 provision of a local ordinance or any similar law or  
2 ordinance of another state, and the plea or stipulation was  
3 the result of a plea agreement.

4 The court shall consider the statement of the prosecuting  
5 authority with regard to the standards set forth in this  
6 Section.

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

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

13 (2) assigned supervision for a violation of Section  
14 16A-3 of the Criminal Code of 1961.

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

18 (f) The provisions of paragraph (c) shall not apply to a  
19 defendant charged with violating Sections 15-111, 15-112,  
20 15-301, paragraph (b) of Section 6-104, Section 11-605, or  
21 Section 11-1414 of the Illinois Vehicle Code or a similar  
22 provision of a local ordinance.

23 (g) Except as otherwise provided in paragraph (i) of this  
24 Section, the provisions of paragraph (c) shall not apply to a  
25 defendant charged with violating Section 3-707, 3-708, 3-710,  
26 or 5-401.3 of the Illinois Vehicle Code or a similar provision

1 of a local ordinance if the defendant has within the last 5  
2 years been:

3 (1) convicted for a violation of Section 3-707, 3-708,  
4 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar  
5 provision of a local ordinance; or

6 (2) assigned supervision for a violation of Section  
7 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle  
8 Code or a similar provision of a local ordinance.

9 The court shall consider the statement of the prosecuting  
10 authority with regard to the standards set forth in this  
11 Section.

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

16 (1) unless the defendant, upon payment of the fines,  
17 penalties, and costs provided by law, agrees to attend and  
18 successfully complete a traffic safety program approved by  
19 the court under standards set by the Conference of Chief  
20 Circuit Judges. The accused shall be responsible for  
21 payment of any traffic safety program fees. If the accused  
22 fails to file a certificate of successful completion on or  
23 before the termination date of the supervision order, the  
24 supervision shall be summarily revoked and conviction  
25 entered. The provisions of Supreme Court Rule 402 relating  
26 to pleas of guilty do not apply in cases when a defendant

1 enters a guilty plea under this provision; or

2 (2) if the defendant has previously been sentenced  
3 under the provisions of paragraph (c) on or after January  
4 1, 1998 for any serious traffic offense as defined in  
5 Section 1-187.001 of the Illinois Vehicle Code.

6 (i) The provisions of paragraph (c) shall not apply to a  
7 defendant charged with violating Section 3-707 of the Illinois  
8 Vehicle Code or a similar provision of a local ordinance if the  
9 defendant has been assigned supervision for a violation of  
10 Section 3-707 of the Illinois Vehicle Code or a similar  
11 provision of a local ordinance.

12 (j) The provisions of paragraph (c) shall not apply to a  
13 defendant charged with violating Section 6-303 of the Illinois  
14 Vehicle Code or a similar provision of a local ordinance when  
15 the revocation or suspension was for a violation of Section  
16 11-501 or a similar provision of a local ordinance or a  
17 violation of Section 11-501.1 or paragraph (b) of Section  
18 11-401 of the Illinois Vehicle Code, ~~or a violation of Section~~  
19 ~~9-3 of the Criminal Code of 1961~~ if the defendant has within  
20 the last 10 years been:

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

24 (2) assigned supervision for a violation of Section  
25 6-303 of the Illinois Vehicle Code or a similar provision  
26 of a local ordinance.

1           (k) The provisions of paragraph (c) shall not apply to a  
2 defendant charged with violating any provision of the Illinois  
3 Vehicle Code or a similar provision of a local ordinance that  
4 governs the movement of vehicles if, within the 12 months  
5 preceding the date of the defendant's arrest, the defendant has  
6 been assigned court supervision on 2 occasions for a violation  
7 that governs the movement of vehicles under the Illinois  
8 Vehicle Code or a similar provision of a local ordinance.

9           (l) A defendant charged with violating any provision of the  
10 Illinois Vehicle Code who, after a court appearance in the same  
11 matter, receives a disposition of supervision under subsection  
12 (c) shall pay an additional fee of \$20, to be collected as  
13 provided in Sections 27.5 and 27.6 of the Clerks of Courts Act.  
14 In addition to the \$20 fee, the person shall also pay a fee of  
15 \$5, which, if not waived by the court, shall be collected as  
16 provided in Sections 27.5 and 27.6 of the Clerks of Courts Act.  
17 The \$20 fee shall be disbursed as provided in Section 16-104c  
18 of the Illinois Vehicle Code. If the \$5 fee is collected, \$4.50  
19 of the fee shall be deposited into the Circuit Court Clerk  
20 Operation and Administrative Fund created by the Clerk of the  
21 Circuit Court and 50 cents of the fee shall be deposited into  
22 the Prisoner Review Board Vehicle and Equipment Fund in the  
23 State treasury.

24           (Source: P.A. 93-388, eff. 7-25-03; 93-1014, eff. 1-1-05;  
25 94-169, eff. 1-1-06; 94-330, eff. 1-1-06; 94-375, eff. 1-1-06;  
26 94-1009, eff. 1-1-07.)".