



Sen. Donne E. Trotter

Filed: 4/19/2007

09500HB0722sam001

LRB095 07087 DRH 35170 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, that person, if issued a restricted driving
14 permit, may not operate a vehicle unless it has been equipped
15 with an ignition interlock device as defined in Section
16 1-129.1. The person must pay to the Secretary of State DUI
17 Administration Fund an amount not to exceed \$20 per month. The
18 Secretary shall establish by rule the amount and the
19 procedures, terms, and conditions relating to these fees. If
20 the restricted driving permit was issued for employment
21 purposes, then this provision does not apply to the operation
22 of an occupational vehicle owned or leased by that person's
23 employer. In each case the Secretary of State may issue a
24 restricted driving permit for a period he deems appropriate,
25 except that the permit shall expire within one year from the
26 date of issuance. The Secretary may not, however, issue a

1 restricted driving permit to any person whose current
2 revocation is the result of a second or subsequent conviction
3 for a violation of Section 11-501 of this Code or a similar
4 provision of a local ordinance relating to the offense of
5 operating or being in physical control of a motor vehicle while
6 under the influence of alcohol, other drug or drugs,
7 intoxicating compound or compounds, or any similar
8 out-of-state offense, or any combination thereof, until the
9 expiration of at least one year from the date of the
10 revocation. A restricted driving permit issued under this
11 Section shall be subject to cancellation, revocation, and
12 suspension by the Secretary of State in like manner and for
13 like cause as a driver's license issued under this Code may be
14 cancelled, revoked, or suspended; except that a conviction upon
15 one or more offenses against laws or ordinances regulating the
16 movement of traffic shall be deemed sufficient cause for the
17 revocation, suspension, or cancellation of a restricted
18 driving permit. The Secretary of State may, as a condition to
19 the issuance of a restricted driving permit, require the
20 applicant to participate in a designated driver remedial or
21 rehabilitative program. The Secretary of State is authorized to
22 cancel a restricted driving permit if the permit holder does
23 not successfully complete the program. However, if an
24 individual's driving privileges have been revoked in
25 accordance with paragraph 13 of subsection (a) of this Section,
26 no restricted driving permit shall be issued until the

1 individual has served 6 months of the revocation period.

2 (c-5) The Secretary may not issue a restricted driving
3 permit to any person who has been convicted of a second or
4 subsequent violation of Section 6-303 of this Code committed
5 while his or her driver's license, permit, or privilege was
6 revoked because of a violation of Section 9-3 of the Criminal
7 Code of 1961, relating to the offense of reckless homicide, or
8 a similar provision of a law of another state.

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

1 If a person's license or permit has been revoked or
2 suspended due to 2 or more convictions of violating Section
3 11-501 of this Code or a similar provision of a local ordinance
4 or a similar out-of-state offense, arising out of separate
5 occurrences, that person, if issued a restricted driving
6 permit, may not operate a vehicle unless it has been equipped
7 with an ignition interlock device as defined in Section
8 1-129.1.

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

1 issued under this Section shall be subject to cancellation,
2 revocation, and suspension by the Secretary of State in like
3 manner and for like cause as a driver's license issued under
4 this Code may be cancelled, revoked, or suspended; except that
5 a conviction upon one or more offenses against laws or
6 ordinances regulating the movement of traffic shall be deemed
7 sufficient cause for the revocation, suspension, or
8 cancellation of a restricted driving permit. The revocation
9 periods contained in this subparagraph shall apply to similar
10 out-of-state convictions.

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

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

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

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

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

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

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

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

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

25 (625 ILCS 5/6-208) (from Ch. 95 1/2, par. 6-208)

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

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

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

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

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

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

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

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

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

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

26 (D) any combination of the above offenses

1 committed at different instances;
2 then such person may not make application for a license
3 until after the expiration of 5 years from the effective
4 date of the most recent revocation. The 20 year period
5 shall be computed by using the dates the offenses were
6 committed and shall also include similar out-of-state
7 offenses.

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

16 4. The person may not make application for a license if
17 the person is convicted of committing a fourth or
18 subsequent violation of Section 11-501 of this Code or a
19 similar provision of a local ordinance, Section 11-401 of
20 this Code, Section 9-3 of the Criminal Code of 1961, or a
21 combination of these offenses or similar provisions of
22 local ordinances or similar out-of-state offenses.

23 5. The person may not make application for a license or
24 permit if the person is convicted of a third or subsequent
25 violation of Section 6-303 of this Code committed while his
26 or her driver's license, permit, or privilege was revoked

1 because of a violation of Section 9-3 of the Criminal Code
2 of 1961, relating to the offense of reckless homicide, or a
3 similar provision of a law of another state.

4 Notwithstanding any other provision of this Code, all
5 persons referred to in this paragraph (b) may not have their
6 privileges restored until the Secretary receives payment of the
7 required reinstatement fee pursuant to subsection (b) of
8 Section 6-118.

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

15 (c) (Blank).

16 (Source: P.A. 92-343, eff. 1-1-02; 92-418, eff. 8-17-01;
17 92-458, eff. 8-22-01; 92-651, eff. 7-11-02; 93-712, eff.
18 1-1-05; 93-788, eff. 1-1-05; revised 10-14-04.)

19 (625 ILCS 5/6-303) (from Ch. 95 1/2, par. 6-303)

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

22 (a) Except as otherwise provided in subsection (a-5), any
23 ~~Any~~ person who drives or is in actual physical control of a
24 motor vehicle on any highway of this State at a time when such
25 person's driver's license, permit or privilege to do so or the

1 privilege to obtain a driver's license or permit is revoked or
2 suspended as provided by this Code or the law of another state,
3 except as may be specifically allowed by a judicial driving
4 permit, family financial responsibility driving permit,
5 probationary license to drive, or a restricted driving permit
6 issued pursuant to this Code or under the law of another state,
7 shall be guilty of a Class A misdemeanor.

8 (a-5) Any person who violates this Section as provided in
9 subsection (a) while his or her driver's license, permit or
10 privilege is revoked because of a violation of Section 9-3 of
11 the Criminal Code of 1961, relating to the offense of reckless
12 homicide or a similar provision of a law of another state, is
13 guilty of a Class 4 felony. The person shall be required to
14 undergo a professional evaluation, as provided in Section
15 11-501 of this Code, to determine if an alcohol, drug, or
16 intoxicating compound problem exists and the extent of the
17 problem, and to undergo the imposition of treatment as
18 appropriate.

19 (b) The Secretary of State upon receiving a report of the
20 conviction of any violation indicating a person was operating a
21 motor vehicle during the time when said person's driver's
22 license, permit or privilege was suspended by the Secretary, by
23 the appropriate authority of another state, or pursuant to
24 Section 11-501.1; except as may be specifically allowed by a
25 probationary license to drive, judicial driving permit or
26 restricted driving permit issued pursuant to this Code or the

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

15 (b-5) Any person convicted of violating this Section shall
16 serve a minimum term of imprisonment of 30 consecutive days or
17 300 hours of community service when the person's driving
18 privilege was revoked or suspended as a result of a violation
19 of Section 9-3 of the Criminal Code of 1961, as amended,
20 relating to the offense of reckless homicide, or a similar
21 provision of a law of another state.

22 (c) Any person convicted of violating this Section shall
23 serve a minimum term of imprisonment of 10 consecutive days or
24 30 days of community service when the person's driving
25 privilege was revoked or suspended as a result of:

26 (1) a violation of Section 11-501 of this Code or a

1 similar provision of a local ordinance relating to the
2 offense of operating or being in physical control of a
3 vehicle while under the influence of alcohol, any other
4 drug or any combination thereof; or

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

9 ~~(3) a violation of Section 9-3 of the Criminal Code of~~
10 ~~1961, as amended, relating to the offense of reckless~~
11 ~~homicide; or~~

12 ~~(4)~~ a statutory summary suspension under Section
13 11-501.1 of this Code.

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

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

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

23 (1) Seizure of the license plates of the person's
24 vehicle.

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

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

8 (d) Any person convicted of a second violation of this
9 Section shall be guilty of a Class 4 felony and shall serve a
10 minimum term of imprisonment of 30 days or 300 hours of
11 community service, as determined by the court, 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 (d-1) Except as provided in subsections ~~subsection~~ (d-2),
20 (d-2.5), and ~~subsection~~ (d-3), any person convicted of a third
21 or subsequent violation of this Section shall serve a minimum
22 term of imprisonment of 30 days or 300 hours of community
23 service, as determined by the court.

24 (d-2) Any person convicted of a third violation of this
25 Section is guilty of a Class 4 felony and must serve a minimum
26 term of imprisonment of 30 days if the revocation or suspension

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

7 (d-2.5) Any person convicted of a third violation of this
8 Section is guilty of a Class 1 felony, is not eligible for
9 probation or conditional discharge, and must serve a mandatory
10 term if the revocation or suspension was for a violation of
11 Section 9-3 of the Criminal Code of 1961, relating to the
12 offense of reckless homicide, or a similar out-of-state
13 offense.

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

24 (d-3.5) Any person convicted of a fourth or subsequent
25 violation of this Section is guilty of a Class 1 felony, is not
26 eligible for probation or conditional discharge, and must serve

1 a mandatory term of imprisonment, and is eligible for an
2 extended term, if the revocation or suspension was for a
3 violation of Section 9-3 of the Criminal Code of 1961, relating
4 to the offense of reckless homicide, or a similar out-of-state
5 offense.

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

16 (d-5) Any person convicted of a fifteenth or subsequent
17 violation of this Section is guilty of a Class 2 felony, and is
18 not eligible for probation or conditional discharge, if the
19 revocation or suspension was for a violation of Section 11-401
20 or 11-501 of this Code, or a similar out-of-state offense, or a
21 similar provision of a local ordinance, ~~a violation of Section~~
22 ~~9-3 of the Criminal Code of 1961, relating to the offense of~~
23 ~~reckless homicide, or a similar out-of-state offense,~~ or a
24 statutory summary suspension under Section 11-501.1 of this
25 Code.

26 (e) Any person in violation of this Section who is also in

1 violation of Section 7-601 of this Code relating to mandatory
2 insurance requirements, in addition to other penalties imposed
3 under this Section, shall have his or her motor vehicle
4 immediately impounded by the arresting law enforcement
5 officer. The motor vehicle may be released to any licensed
6 driver upon a showing of proof of insurance for the vehicle
7 that was impounded and the notarized written consent for the
8 release by the vehicle owner.

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

12 (g) The motor vehicle used in a violation of this Section
13 is subject to seizure and forfeiture as provided in Sections
14 36-1 and 36-2 of the Criminal Code of 1961 if the person's
15 driving privilege was revoked or suspended as a result of a
16 violation listed in paragraph (1), (2), or (3) of subsection
17 (c) of this Section or as a result of a summary suspension as
18 provided in paragraph (4) of subsection (c) of this Section.

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

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

22 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

23 Sec. 5-5-3. Disposition.

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

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

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

7 (1) A period of probation.

8 (2) A term of periodic imprisonment.

9 (3) A term of conditional discharge.

10 (4) A term of imprisonment.

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

15 (6) A fine.

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

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

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

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

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

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

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

15 (B) Attempted first degree murder.

16 (C) A Class X felony.

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

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

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

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

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

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

10 (H) Criminal sexual assault.

11 (I) Aggravated battery of a senior citizen.

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

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

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

24 (K) Vehicular hijacking.

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

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

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

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

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

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

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

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

18 (S) (Blank).

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

21 (U) A second or subsequent violation of Section
22 6-303 of the Illinois Vehicle Code committed while his
23 or her driver's license, permit, or privilege was
24 revoked because of a violation of Section 9-3 of the
25 Criminal Code of 1961, relating to the offense of
26 reckless homicide, or a similar provision of a law of

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

13 (3) (Blank).

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

18 (4.1) (Blank).

19 (4.2) Except as provided in paragraphs ~~paragraph~~ (4.3)
20 and (4.8) of this subsection (c), a minimum of 100 hours of
21 community service shall be imposed for a second violation
22 of Section 6-303 of the Illinois Vehicle Code.

23 (4.3) A minimum term of imprisonment of 30 days or 300
24 hours of community service, as determined by the court,
25 shall be imposed for a second violation of subsection (c)
26 of Section 6-303 of the Illinois Vehicle Code.

1 (4.4) Except as provided in paragraphs ~~paragraph~~
2 (4.5), ~~and paragraph~~ (4.6), and (4.9) of this subsection
3 (c), a minimum term of imprisonment of 30 days or 300 hours
4 of community service, as determined by the court, shall be
5 imposed for a third or subsequent violation of Section
6 6-303 of the Illinois Vehicle Code.

7 (4.5) A minimum term of imprisonment of 30 days shall
8 be imposed for a third violation of subsection (c) of
9 Section 6-303 of the Illinois Vehicle Code.

10 (4.6) Except as provided in paragraph (4.10) of this
11 subsection (c), a ~~A~~ minimum term of imprisonment of 180
12 days shall be imposed for a fourth or subsequent violation
13 of subsection (c) of Section 6-303 of the Illinois Vehicle
14 Code.

15 (4.7) A minimum term of imprisonment of not less than
16 30 consecutive days, or 300 hours of community service,
17 shall be imposed for a violation of subsection (a-5) of
18 Section 6-303 of the Illinois Vehicle Code, as provided in
19 subsection (b-5) of that Section.

20 (4.8) A mandatory prison sentence shall be imposed for
21 a second violation of subsection (a-5) of Section 6-303 of
22 the Illinois Vehicle Code, as provided in subsection (c-5)
23 of that Section. The person's driving privileges shall be
24 revoked for a period of not less than 5 years from the date
25 of his or her release from prison.

26 (4.9) A mandatory prison sentence of not less than 4

1 and not more than 15 years shall be imposed for a third
2 violation of subsection (a-5) of Section 6-303 of the
3 Illinois Vehicle Code, as provided in subsection (d-2.5) of
4 that Section. The person's driving privileges shall be
5 revoked for the remainder of his or her life.

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

13 (5) The court may sentence an offender convicted of a
14 business offense or a petty offense or a corporation or
15 unincorporated association convicted of any offense to:

16 (A) a period of conditional discharge;

17 (B) a fine;

18 (C) make restitution to the victim under Section
19 5-5-6 of this Code.

20 (5.1) In addition to any penalties imposed under
21 paragraph (5) of this subsection (c), and except as
22 provided in paragraph (5.2) or (5.3), a person convicted of
23 violating subsection (c) of Section 11-907 of the Illinois
24 Vehicle Code shall have his or her driver's license,
25 permit, or privileges suspended for at least 90 days but
26 not more than one year, if the violation resulted in damage

1 to the property of another person.

2 (5.2) In addition to any penalties imposed under
3 paragraph (5) of this subsection (c), and except as
4 provided in paragraph (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 180 days but
8 not more than 2 years, if the violation resulted in injury
9 to another person.

10 (5.3) In addition to any penalties imposed under
11 paragraph (5) of this subsection (c), a person convicted of
12 violating subsection (c) of Section 11-907 of the Illinois
13 Vehicle Code shall have his or her driver's license,
14 permit, or privileges suspended for 2 years, if the
15 violation resulted in the death of another person.

16 (5.4) In addition to any penalties imposed under
17 paragraph (5) of this subsection (c), a person convicted of
18 violating Section 3-707 of the Illinois Vehicle Code shall
19 have his or her driver's license, permit, or privileges
20 suspended for 3 months and until he or she has paid a
21 reinstatement fee of \$100.

22 (5.5) In addition to any penalties imposed under
23 paragraph (5) of this subsection (c), a person convicted of
24 violating Section 3-707 of the Illinois Vehicle Code during
25 a period in which his or her driver's license, permit, or
26 privileges were suspended for a previous violation of that

1 Section shall have his or her driver's license, permit, or
2 privileges suspended for an additional 6 months after the
3 expiration of the original 3-month suspension and until he
4 or she has paid a reinstatement fee of \$100.

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

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

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

1 condition of probation as provided by Section 40-10 of the
2 Alcoholism and Other Drug Abuse and Dependency Act.

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

6 (10) (Blank).

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

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

1 received a disposition of court supervision for a violation
2 of that Section.

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

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

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

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

5 (B) the defendant is willing to participate in a
6 court approved plan including but not limited to the
7 defendant's:

8 (i) removal from the household;

9 (ii) restricted contact with the victim;

10 (iii) continued financial support of the
11 family;

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

13 and

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

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

23 Probation may be revoked or modified pursuant to Section
24 5-6-4; except where the court determines at the hearing that
25 the defendant violated a condition of his or her probation
26 restricting contact with the victim or other family members or

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

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

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

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

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

22 (g-5) When an inmate is tested for an airborne communicable
23 disease, as determined by the Illinois Department of Public
24 Health including but not limited to tuberculosis, the results
25 of the test shall be personally delivered by the warden or his
26 or her designee in a sealed envelope to the judge of the court

1 in which the inmate must appear for the judge's inspection in
2 camera if requested by the judge. Acting in accordance with the
3 best interests of those in the courtroom, the judge shall have
4 the discretion to determine what if any precautions need to be
5 taken to prevent transmission of the disease in the courtroom.

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

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

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

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

1 Control and Community Protection Act of a defendant, the court
2 shall determine whether the defendant is employed by a facility
3 or center as defined under the Child Care Act of 1969, a public
4 or private elementary or secondary school, or otherwise works
5 with children under 18 years of age on a daily basis. When a
6 defendant is so employed, the court shall order the Clerk of
7 the Court to send a copy of the judgment of conviction or order
8 of supervision or probation to the defendant's employer by
9 certified mail. If the employer of the defendant is a school,
10 the Clerk of the Court shall direct the mailing of a copy of
11 the judgment of conviction or order of supervision or probation
12 to the appropriate regional superintendent of schools. The
13 regional superintendent of schools shall notify the State Board
14 of Education of any notification under this subsection.

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

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

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

24 (l) (A) Except as provided in paragraph (C) of subsection
25 (l), whenever a defendant, who is an alien as defined by
26 the Immigration and Nationality Act, is convicted of any

1 felony or misdemeanor offense, the court after sentencing
2 the defendant may, upon motion of the State's Attorney,
3 hold sentence in abeyance and remand the defendant to the
4 custody of the Attorney General of the United States or his
5 or her designated agent to be deported when:

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

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

12 Otherwise, the defendant shall be sentenced as
13 provided in this Chapter V.

14 (B) If the defendant has already been sentenced for a
15 felony or misdemeanor offense, or has been placed on
16 probation under Section 10 of the Cannabis Control Act,
17 Section 410 of the Illinois Controlled Substances Act, or
18 Section 70 of the Methamphetamine Control and Community
19 Protection Act, the court may, upon motion of the State's
20 Attorney to suspend the sentence imposed, commit the
21 defendant to the custody of the Attorney General of the
22 United States or his or her designated agent when:

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

26 (2) the deportation of the defendant would not

1 deprecate the seriousness of the defendant's conduct
2 and would not be inconsistent with the ends of justice.

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

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

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

22 (n) The court may sentence a person convicted of a
23 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
24 Code of 1961 (i) to an impact incarceration program if the
25 person is otherwise eligible for that program under Section
26 5-8-1.1, (ii) to community service, or (iii) if the person is

1 an addict or alcoholic, as defined in the Alcoholism and Other
2 Drug Abuse and Dependency Act, to a substance or alcohol abuse
3 program licensed under that Act.

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

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

15 (730 ILCS 5/5-6-1) (from Ch. 38, par. 1005-6-1)

16 Sec. 5-6-1. Sentences of Probation and of Conditional
17 Discharge and Disposition of Supervision. The General Assembly
18 finds that in order to protect the public, the criminal justice
19 system must compel compliance with the conditions of probation
20 by responding to violations with swift, certain and fair
21 punishments and intermediate sanctions. The Chief Judge of each
22 circuit shall adopt a system of structured, intermediate
23 sanctions for violations of the terms and conditions of a
24 sentence of probation, conditional discharge or disposition of
25 supervision.

1 (a) Except where specifically prohibited by other
2 provisions of this Code, the court shall impose a sentence of
3 probation or conditional discharge upon an offender unless,
4 having regard to the nature and circumstance of the offense,
5 and to the history, character and condition of the offender,
6 the court is of the opinion that:

7 (1) his imprisonment or periodic imprisonment is
8 necessary for the protection of the public; or

9 (2) probation or conditional discharge would deprecate
10 the seriousness of the offender's conduct and would be
11 inconsistent with the ends of justice; or

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

17 The court shall impose as a condition of a sentence of
18 probation, conditional discharge, or supervision, that the
19 probation agency may invoke any sanction from the list of
20 intermediate sanctions adopted by the chief judge of the
21 circuit court for violations of the terms and conditions of the
22 sentence of probation, conditional discharge, or supervision,
23 subject to the provisions of Section 5-6-4 of this Act.

24 (b) The court may impose a sentence of conditional
25 discharge for an offense if the court is of the opinion that
26 neither a sentence of imprisonment nor of periodic imprisonment

1 nor of probation supervision is appropriate.

2 (b-1) Subsections (a) and (b) of this Section do not apply
3 to a defendant charged with a misdemeanor or felony under the
4 Illinois Vehicle Code or reckless homicide under Section 9-3 of
5 the Criminal Code of 1961 if the defendant within the past 12
6 months has been convicted of or pleaded guilty to a misdemeanor
7 or felony under the Illinois Vehicle Code or reckless homicide
8 under Section 9-3 of the Criminal Code of 1961.

9 (c) The court may, upon a plea of guilty or a stipulation
10 by the defendant of the facts supporting the charge or a
11 finding of guilt, defer further proceedings and the imposition
12 of a sentence, and enter an order for supervision of the
13 defendant, if the defendant is not charged with: (i) a Class A
14 misdemeanor, as defined by the following provisions of the
15 Criminal Code of 1961: Sections 11-9.1; 12-3.2; 12-15; 26-5;
16 31-1; 31-6; 31-7; subsections (b) and (c) of Section 21-1;
17 paragraph (1) through (5), (8), (10), and (11) of subsection
18 (a) of Section 24-1; (ii) a Class A misdemeanor violation of
19 Section 3.01, 3.03-1, or 4.01 of the Humane Care for Animals
20 Act; or (iii) felony. If the defendant is not barred from
21 receiving an order for supervision as provided in this
22 subsection, the court may enter an order for supervision after
23 considering the circumstances of the offense, and the history,
24 character and condition of the offender, if the court is of the
25 opinion that:

26 (1) the offender is not likely to commit further

1 crimes;

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

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

7 (c-5) Subsections (a), (b), and (c) of this Section do not
8 apply to a defendant charged with a second or subsequent
9 violation of Section 6-303 of the Illinois Vehicle Code
10 committed while his or her driver's license, permit or
11 privileges were revoked because of a violation of Section 9-3
12 of the Criminal Code of 1961, relating to the offense of
13 reckless homicide, or a similar provision of a law of another
14 state, or because of the offense of aggravated driving under
15 the influence of alcohol, other drug or drugs, intoxicating
16 compound or compounds, or any combination thereof, based on
17 involvement in a motor vehicle accident that caused great
18 bodily harm or permanent disability or disfigurement or death
19 to another, when the violation was a proximate cause of the
20 injuries or death, as provided in subdivision (d)(1)(C) or
21 (d)(1)(F) of Section 11-501 of the Illinois Vehicle Code or a
22 similar provision of a local ordinance or a similar provision
23 of a law of another State.

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

1 the defendant has previously been:

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

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

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

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

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

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

25 (2) assigned supervision for a violation of Section
26 16A-3 of the Criminal Code of 1961.

1 The court shall consider the statement of the prosecuting
2 authority with regard to the standards set forth in this
3 Section.

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

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

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

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

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

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

1 Illinois Vehicle Code:

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

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

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

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

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

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

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

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

21 (l) A defendant charged with violating any provision of the
22 Illinois Vehicle Code who, after a court appearance in the same
23 matter, receives a disposition of supervision under subsection
24 (c) shall pay an additional fee of \$20, to be collected as
25 provided in Sections 27.5 and 27.6 of the Clerks of Courts Act.
26 In addition to the \$20 fee, the person shall also pay a fee of

1 \$5, which, if not waived by the court, shall be collected as
2 provided in Sections 27.5 and 27.6 of the Clerks of Courts Act.
3 The \$20 fee shall be disbursed as provided in Section 16-104c
4 of the Illinois Vehicle Code. If the \$5 fee is collected, \$4.50
5 of the fee shall be deposited into the Circuit Court Clerk
6 Operation and Administrative Fund created by the Clerk of the
7 Circuit Court and 50 cents of the fee shall be deposited into
8 the Prisoner Review Board Vehicle and Equipment Fund in the
9 State treasury.

10 (Source: P.A. 93-388, eff. 7-25-03; 93-1014, eff. 1-1-05;
11 94-169, eff. 1-1-06; 94-330, eff. 1-1-06; 94-375, eff. 1-1-06;
12 94-1009, eff. 1-1-07.)".