



Sen. Kirk W. Dillard

Filed: 5/1/2007

09500HB0722sam002

LRB095 07087 DRH 35469 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.)

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.

2 (3) (Blank).

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

7 (4.1) (Blank).

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

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

16 (4.4) Except as provided in paragraphs ~~paragraph~~
17 (4.5), ~~and paragraph~~ (4.6), and (4.9) of this subsection
18 (c), a minimum term of imprisonment of 30 days or 300 hours
19 of community service, as determined by the court, shall be
20 imposed for a third or subsequent violation of Section
21 6-303 of the Illinois Vehicle Code.

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

25 (4.6) Except as provided in paragraph (4.10) of this
26 subsection (c), a ~~A~~ minimum term of imprisonment of 180

1 days shall be imposed for a fourth or subsequent violation
2 of subsection (c) of Section 6-303 of the Illinois Vehicle
3 Code.

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

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

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

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

1 revoked for the remainder of his or her life.

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

5 (A) a period of conditional discharge;

6 (B) a fine;

7 (C) make restitution to the victim under Section
8 5-5-6 of this Code.

9 (5.1) In addition to any penalties imposed under
10 paragraph (5) of this subsection (c), and except as
11 provided in paragraph (5.2) or (5.3), 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 at least 90 days but
15 not more than one year, if the violation resulted in damage
16 to the property of another person.

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

25 (5.3) In addition to any penalties imposed under
26 paragraph (5) of this subsection (c), a person convicted of

1 violating subsection (c) of Section 11-907 of the Illinois
2 Vehicle Code shall have his or her driver's license,
3 permit, or privileges suspended for 2 years, if the
4 violation resulted in the death of another person.

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

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

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

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

1 imprisonment.

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

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

21 (10) (Blank).

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

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

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

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

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

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

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

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

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

23 (i) removal from the household;

24 (ii) restricted contact with the victim;

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

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

2 and

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

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

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

19 For the purposes of this Section, "family member" and
20 "victim" shall have the meanings ascribed to them in Section
21 12-12 of the Criminal Code of 1961.

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

26 (g) Whenever a defendant is convicted of an offense under

1 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
2 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
3 of the Criminal Code of 1961, the defendant shall undergo
4 medical testing to determine whether the defendant has any
5 sexually transmissible disease, including a test for infection
6 with human immunodeficiency virus (HIV) or any other identified
7 causative agent of acquired immunodeficiency syndrome (AIDS).
8 Any such medical test shall be performed only by appropriately
9 licensed medical practitioners and may include an analysis of
10 any bodily fluids as well as an examination of the defendant's
11 person. Except as otherwise provided by law, the results of
12 such test shall be kept strictly confidential by all medical
13 personnel involved in the testing and must be personally
14 delivered in a sealed envelope to the judge of the court in
15 which the conviction was entered for the judge's inspection in
16 camera. Acting in accordance with the best interests of the
17 victim and the public, the judge shall have the discretion to
18 determine to whom, if anyone, the results of the testing may be
19 revealed. The court shall notify the defendant of the test
20 results. The court shall also notify the victim if requested by
21 the victim, and if the victim is under the age of 15 and if
22 requested by the victim's parents or legal guardian, the court
23 shall notify the victim's parents or legal guardian of the test
24 results. The court shall provide information on the
25 availability of HIV testing and counseling at Department of
26 Public Health facilities to all parties to whom the results of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Otherwise, the defendant shall be sentenced as
2 provided in this Chapter V.

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

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

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

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

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

1 that was available under Section 5-5-3 at the time of
2 initial sentencing. In addition, the defendant shall not be
3 eligible for additional good conduct credit for
4 meritorious service as provided under Section 3-6-6.

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

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

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

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

1 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,
2 eff. 9-11-05; 94-993, eff. 1-1-07; 94-1035, eff. 7-1-07;
3 revised 8-28-06.)

4 (730 ILCS 5/5-6-1) (from Ch. 38, par. 1005-6-1)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (2) assigned supervision for a violation of Section
13 11-501 of the Illinois Vehicle Code or a similar provision
14 of a local ordinance or any similar law or ordinance of
15 another state; or

16 (3) pleaded guilty to or stipulated to the facts
17 supporting a charge or a finding of guilty to a violation
18 of Section 11-503 of the Illinois Vehicle Code or a similar
19 provision of a local ordinance or any similar law or
20 ordinance of another state, and the plea or stipulation was
21 the result of a plea agreement.

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

25 (e) The provisions of paragraph (c) shall not apply to a
26 defendant charged with violating Section 16A-3 of the Criminal

1 Code of 1961 if said defendant has within the last 5 years
2 been:

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

5 (2) assigned supervision for a violation of Section
6 16A-3 of the Criminal Code of 1961.

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

10 (f) The provisions of paragraph (c) shall not apply to a
11 defendant charged with violating Sections 15-111, 15-112,
12 15-301, paragraph (b) of Section 6-104, Section 11-605, or
13 Section 11-1414 of the Illinois Vehicle Code or a similar
14 provision of a local ordinance.

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

21 (1) convicted for a violation of Section 3-707, 3-708,
22 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar
23 provision of a local ordinance; or

24 (2) assigned supervision for a violation of Section
25 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle
26 Code or a similar provision of a local ordinance.

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

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

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

20 (2) if the defendant has previously been sentenced
21 under the provisions of paragraph (c) on or after January
22 1, 1998 for any serious traffic offense as defined in
23 Section 1-187.001 of the Illinois Vehicle Code.

24 (i) The provisions of paragraph (c) shall not apply to a
25 defendant charged with violating Section 3-707 of the Illinois
26 Vehicle Code or a similar provision of a local ordinance if the

1 defendant has been assigned supervision for a violation of
2 Section 3-707 of the Illinois Vehicle Code or a similar
3 provision of a local ordinance.

4 (j) The provisions of paragraph (c) shall not apply to a
5 defendant charged with violating Section 6-303 of the Illinois
6 Vehicle Code or a similar provision of a local ordinance when
7 the revocation or suspension was for a violation of Section
8 11-501 or a similar provision of a local ordinance or a
9 violation of Section 11-501.1 or paragraph (b) of Section
10 11-401 of the Illinois Vehicle Code, ~~or a violation of Section~~
11 ~~9-3 of the Criminal Code of 1961~~ if the defendant has within
12 the last 10 years been:

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

16 (2) assigned supervision for a violation of Section
17 6-303 of the Illinois Vehicle Code or a similar provision
18 of a local ordinance.

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

1 (1) A defendant charged with violating any provision of the
2 Illinois Vehicle Code who, after a court appearance in the same
3 matter, receives a disposition of supervision under subsection
4 (c) shall pay an additional fee of \$20, to be collected as
5 provided in Sections 27.5 and 27.6 of the Clerks of Courts Act.
6 In addition to the \$20 fee, the person shall also pay a fee of
7 \$5, which, if not waived by the court, shall be collected as
8 provided in Sections 27.5 and 27.6 of the Clerks of Courts Act.
9 The \$20 fee shall be disbursed as provided in Section 16-104c
10 of the Illinois Vehicle Code. If the \$5 fee is collected, \$4.50
11 of the fee shall be deposited into the Circuit Court Clerk
12 Operation and Administrative Fund created by the Clerk of the
13 Circuit Court and 50 cents of the fee shall be deposited into
14 the Prisoner Review Board Vehicle and Equipment Fund in the
15 State treasury.

16 (Source: P.A. 93-388, eff. 7-25-03; 93-1014, eff. 1-1-05;
17 94-169, eff. 1-1-06; 94-330, eff. 1-1-06; 94-375, eff. 1-1-06;
18 94-1009, eff. 1-1-07.)".