



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB5229

by Rep. Elizabeth Hernandez

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-710

730 ILCS 5/5-5-3

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

Amends the Juvenile Court Act of 1987 and the Unified Code of Corrections. Provides that in addition to any term of imprisonment that may be imposed by the court, a gang member under 21 years of age who has been convicted of or placed on supervision for a gang-related offense and who has not previously been convicted of or placed on supervision for a gang-related offense shall, upon completion of any term of imprisonment, be required: (i) to perform community service, the type and number of hours of community service to be determined by the court; (ii) if the gang member does not have a high school diploma or a GED certificate, to attend and complete educational courses designed to prepare the gang member to pass the high school level Test of General Educational Development (GED), or if the gang member is enrolled in high school to complete high school and attain a high school diploma; and (iii) to comply with a curfew (A) between 10:00 p.m. on Friday and 6:00 a.m. on Saturday; (B) between 10:00 p.m. on Saturday and 6:00 a.m. on Sunday; and (C) between 9:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.

LRB095 18128 RLC 44211 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by  
5 changing Section 5-710 as follows:

6 (705 ILCS 405/5-710)

7 (Text of Section after amendment by P.A. 95-337 and 95-642)

8 Sec. 5-710. Kinds of sentencing orders.

9 (1) The following kinds of sentencing orders may be made in  
10 respect of wards of the court:

11 (a) Except as provided in Sections 5-805, 5-810, 5-815,  
12 a minor who is found guilty under Section 5-620 may be:

13 (i) put on probation or conditional discharge and  
14 released to his or her parents, guardian or legal  
15 custodian, provided, however, that any such minor who  
16 is not committed to the Department of Juvenile Justice  
17 under this subsection and who is found to be a  
18 delinquent for an offense which is first degree murder,  
19 a Class X felony, or a forcible felony shall be placed  
20 on probation;

21 (ii) placed in accordance with Section 5-740, with  
22 or without also being put on probation or conditional  
23 discharge;

1 (iii) required to undergo a substance abuse  
2 assessment conducted by a licensed provider and  
3 participate in the indicated clinical level of care;

4 (iv) placed in the guardianship of the Department  
5 of Children and Family Services, but only if the  
6 delinquent minor is under 15 years of age or, pursuant  
7 to Article II of this Act, a minor for whom an  
8 independent basis of abuse, neglect, or dependency  
9 exists. An independent basis exists when the  
10 allegations or adjudication of abuse, neglect, or  
11 dependency do not arise from the same facts, incident,  
12 or circumstances which give rise to a charge or  
13 adjudication of delinquency;

14 (v) placed in detention for a period not to exceed  
15 30 days, either as the exclusive order of disposition  
16 or, where appropriate, in conjunction with any other  
17 order of disposition issued under this paragraph,  
18 provided that any such detention shall be in a juvenile  
19 detention home and the minor so detained shall be 10  
20 years of age or older. However, the 30-day limitation  
21 may be extended by further order of the court for a  
22 minor under age 15 committed to the Department of  
23 Children and Family Services if the court finds that  
24 the minor is a danger to himself or others. The minor  
25 shall be given credit on the sentencing order of  
26 detention for time spent in detention under Sections

1 5-501, 5-601, 5-710, or 5-720 of this Article as a  
2 result of the offense for which the sentencing order  
3 was imposed. The court may grant credit on a sentencing  
4 order of detention entered under a violation of  
5 probation or violation of conditional discharge under  
6 Section 5-720 of this Article for time spent in  
7 detention before the filing of the petition alleging  
8 the violation. A minor shall not be deprived of credit  
9 for time spent in detention before the filing of a  
10 violation of probation or conditional discharge  
11 alleging the same or related act or acts;

12 (vi) ordered partially or completely emancipated  
13 in accordance with the provisions of the Emancipation  
14 of Minors Act;

15 (vii) subject to having his or her driver's license  
16 or driving privileges suspended for such time as  
17 determined by the court but only until he or she  
18 attains 18 years of age;

19 (viii) put on probation or conditional discharge  
20 and placed in detention under Section 3-6039 of the  
21 Counties Code for a period not to exceed the period of  
22 incarceration permitted by law for adults found guilty  
23 of the same offense or offenses for which the minor was  
24 adjudicated delinquent, and in any event no longer than  
25 upon attainment of age 21; this subdivision (viii)  
26 notwithstanding any contrary provision of the law; or

1           (ix) ordered to undergo a medical or other  
2           procedure to have a tattoo symbolizing allegiance to a  
3           street gang removed from his or her body.

4           (b) A minor found to be guilty may be committed to the  
5           Department of Juvenile Justice under Section 5-750 if the  
6           minor is 13 years of age or older, provided that the  
7           commitment to the Department of Juvenile Justice shall be  
8           made only if a term of incarceration is permitted by law  
9           for adults found guilty of the offense for which the minor  
10          was adjudicated delinquent. The time during which a minor  
11          is in custody before being released upon the request of a  
12          parent, guardian or legal custodian shall be considered as  
13          time spent in detention.

14          (c) When a minor is found to be guilty for an offense  
15          which is a violation of the Illinois Controlled Substances  
16          Act, the Cannabis Control Act, or the Methamphetamine  
17          Control and Community Protection Act and made a ward of the  
18          court, the court may enter a disposition order requiring  
19          the minor to undergo assessment, counseling or treatment in  
20          a substance abuse program approved by the Department of  
21          Human Services.

22          (2) Any sentencing order other than commitment to the  
23          Department of Juvenile Justice may provide for protective  
24          supervision under Section 5-725 and may include an order of  
25          protection under Section 5-730.

26          (3) Unless the sentencing order expressly so provides, it

1 does not operate to close proceedings on the pending petition,  
2 but is subject to modification until final closing and  
3 discharge of the proceedings under Section 5-750.

4 (4) In addition to any other sentence, the court may order  
5 any minor found to be delinquent to make restitution, in  
6 monetary or non-monetary form, under the terms and conditions  
7 of Section 5-5-6 of the Unified Code of Corrections, except  
8 that the "presentencing hearing" referred to in that Section  
9 shall be the sentencing hearing for purposes of this Section.  
10 The parent, guardian or legal custodian of the minor may be  
11 ordered by the court to pay some or all of the restitution on  
12 the minor's behalf, pursuant to the Parental Responsibility  
13 Law. The State's Attorney is authorized to act on behalf of any  
14 victim in seeking restitution in proceedings under this  
15 Section, up to the maximum amount allowed in Section 5 of the  
16 Parental Responsibility Law.

17 (5) Any sentencing order where the minor is committed or  
18 placed in accordance with Section 5-740 shall provide for the  
19 parents or guardian of the estate of the minor to pay to the  
20 legal custodian or guardian of the person of the minor such  
21 sums as are determined by the custodian or guardian of the  
22 person of the minor as necessary for the minor's needs. The  
23 payments may not exceed the maximum amounts provided for by  
24 Section 9.1 of the Children and Family Services Act.

25 (6) Whenever the sentencing order requires the minor to  
26 attend school or participate in a program of training, the

1 truant officer or designated school official shall regularly  
2 report to the court if the minor is a chronic or habitual  
3 truant under Section 26-2a of the School Code.

4 (7) In no event shall a guilty minor be committed to the  
5 Department of Juvenile Justice for a period of time in excess  
6 of that period for which an adult could be committed for the  
7 same act.

8 (8) A minor found to be guilty for reasons that include a  
9 violation of Section 21-1.3 of the Criminal Code of 1961 shall  
10 be ordered to perform community service for not less than 30  
11 and not more than 120 hours, if community service is available  
12 in the jurisdiction. The community service shall include, but  
13 need not be limited to, the cleanup and repair of the damage  
14 that was caused by the violation or similar damage to property  
15 located in the municipality or county in which the violation  
16 occurred. The order may be in addition to any other order  
17 authorized by this Section.

18 (8.5) A minor found to be guilty for reasons that include a  
19 violation of Section 3.02 or Section 3.03 of the Humane Care  
20 for Animals Act or paragraph (d) of subsection (1) of Section  
21 21-1 of the Criminal Code of 1961 shall be ordered to undergo  
22 medical or psychiatric treatment rendered by a psychiatrist or  
23 psychological treatment rendered by a clinical psychologist.  
24 The order may be in addition to any other order authorized by  
25 this Section.

26 (9) In addition to any other sentencing order, the court

1 shall order any minor found to be guilty for an act which would  
2 constitute, predatory criminal sexual assault of a child,  
3 aggravated criminal sexual assault, criminal sexual assault,  
4 aggravated criminal sexual abuse, or criminal sexual abuse if  
5 committed by an adult to undergo medical testing to determine  
6 whether the defendant has any sexually transmissible disease  
7 including a test for infection with human immunodeficiency  
8 virus (HIV) or any other identified causative agency of  
9 acquired immunodeficiency syndrome (AIDS). Any medical test  
10 shall be performed only by appropriately licensed medical  
11 practitioners and may include an analysis of any bodily fluids  
12 as well as an examination of the minor's person. Except as  
13 otherwise provided by law, the results of the test shall be  
14 kept strictly confidential by all medical personnel involved in  
15 the testing and must be personally delivered in a sealed  
16 envelope to the judge of the court in which the sentencing  
17 order was entered for the judge's inspection in camera. Acting  
18 in accordance with the best interests of the victim and the  
19 public, the judge shall have the discretion to determine to  
20 whom the results of the testing may be revealed. The court  
21 shall notify the minor of the results of the test for infection  
22 with the human immunodeficiency virus (HIV). The court shall  
23 also notify the victim if requested by the victim, and if the  
24 victim is under the age of 15 and if requested by the victim's  
25 parents or legal guardian, the court shall notify the victim's  
26 parents or the legal guardian, of the results of the test for



1 infection with the human immunodeficiency virus (HIV). The  
2 court shall provide information on the availability of HIV  
3 testing and counseling at the Department of Public Health  
4 facilities to all parties to whom the results of the testing  
5 are revealed. The court shall order that the cost of any test  
6 shall be paid by the county and may be taxed as costs against  
7 the minor.

8 (10) When a court finds a minor to be guilty the court  
9 shall, before entering a sentencing order under this Section,  
10 make a finding whether the offense committed either: (a) was  
11 related to or in furtherance of the criminal activities of an  
12 organized gang or was motivated by the minor's membership in or  
13 allegiance to an organized gang, or (b) involved a violation of  
14 subsection (a) of Section 12-7.1 of the Criminal Code of 1961,  
15 a violation of any Section of Article 24 of the Criminal Code  
16 of 1961, or a violation of any statute that involved the  
17 wrongful use of a firearm. If the court determines the question  
18 in the affirmative, and the court does not commit the minor to  
19 the Department of Juvenile Justice, the court shall order the  
20 minor to perform community service for not less than 30 hours  
21 nor more than 120 hours, provided that community service is  
22 available in the jurisdiction and is funded and approved by the  
23 county board of the county where the offense was committed. The  
24 community service shall include, but need not be limited to,  
25 the cleanup and repair of any damage caused by a violation of  
26 Section 21-1.3 of the Criminal Code of 1961 and similar damage

1 to property located in the municipality or county in which the  
2 violation occurred. When possible and reasonable, the  
3 community service shall be performed in the minor's  
4 neighborhood. This order shall be in addition to any other  
5 order authorized by this Section except for an order to place  
6 the minor in the custody of the Department of Juvenile Justice.  
7 For the purposes of this Section, "organized gang" has the  
8 meaning ascribed to it in Section 10 of the Illinois Streetgang  
9 Terrorism Omnibus Prevention Act.

10 (11) If the court determines that the offense was committed  
11 in furtherance of the criminal activities of an organized gang,  
12 as provided in subsection (10), and that the offense involved  
13 the operation or use of a motor vehicle or the use of a  
14 driver's license or permit, the court shall notify the  
15 Secretary of State of that determination and of the period for  
16 which the minor shall be denied driving privileges. If, at the  
17 time of the determination, the minor does not hold a driver's  
18 license or permit, the court shall provide that the minor shall  
19 not be issued a driver's license or permit until his or her  
20 18th birthday. If the minor holds a driver's license or permit  
21 at the time of the determination, the court shall provide that  
22 the minor's driver's license or permit shall be revoked until  
23 his or her 21st birthday, or until a later date or occurrence  
24 determined by the court. If the minor holds a driver's license  
25 at the time of the determination, the court may direct the  
26 Secretary of State to issue the minor a judicial driving

1 permit, also known as a JDP. The JDP shall be subject to the  
2 same terms as a JDP issued under Section 6-206.1 of the  
3 Illinois Vehicle Code, except that the court may direct that  
4 the JDP be effective immediately.

5 (12) In addition to any term of incarceration that may be  
6 imposed by the court, a gang member who is a minor who has been  
7 found guilty of or continued under supervision for a  
8 gang-related offense and who has not previously been found  
9 guilty of or continued under supervision for a gang-related  
10 offense shall, upon completion of any term of incarceration, be  
11 required: (i) to perform community service, the type and number  
12 of hours of community service to be determined by the court;  
13 (ii) if the gang member does not have a high school diploma or  
14 a GED certificate, to attend and complete educational courses  
15 designed to prepare the gang member to pass the high school  
16 level Test of General Educational Development (GED), or if the  
17 gang member is enrolled in high school to complete high school  
18 and attain a high school diploma; and (iii) to comply with a  
19 curfew (A) between 10:00 p.m. on Friday and 6:00 a.m. on  
20 Saturday; (B) between 10:00 p.m. on Saturday and 6:00 a.m. on  
21 Sunday; and (C) between 9:00 p.m. on Sunday to Thursday,  
22 inclusive, and 6:00 a.m. on the following day. The court shall  
23 inform the local law enforcement agency of the jurisdiction  
24 where the gang member resides after completion of any term of  
25 imprisonment of the curfew imposed on the gang member and shall  
26 order that the law enforcement agency conduct random monitoring

1 of the gang member to ensure compliance with the curfew  
2 requirements. For the purposes of this paragraph (12), "gang  
3 member" and "gang-related" have the meanings ascribed to them  
4 in Section 10 of the Illinois Streetgang Terrorism Omnibus  
5 Prevention Act.

6 (Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06;  
7 95-337, eff. 6-1-08; 95-642, eff. 6-1-08; revised 11-19-07.)

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

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

11 (Text of Section after amendment by P.A. 95-579)

12 Sec. 5-5-3. Disposition.

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

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

20 (1) A period of probation.

21 (2) A term of periodic imprisonment.

22 (3) A term of conditional discharge.

23 (4) A term of imprisonment.

24 (5) An order directing the offender to clean up and

1 repair the damage, if the offender was convicted under  
2 paragraph (h) of Section 21-1 of the Criminal Code of 1961  
3 (now repealed).

4 (6) A fine.

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

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

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

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

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

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

1 such term of imprisonment:

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

4 (B) Attempted first degree murder.

5 (C) A Class X felony.

6 (D) A violation of Section 401.1 or 407 of the  
7 Illinois Controlled Substances Act, or a violation of  
8 subdivision (c) (1), (c) (1.5), or (c) (2) of Section 401  
9 of that Act which relates to more than 5 grams of a  
10 substance containing heroin, cocaine, fentanyl, or an  
11 analog thereof.

12 (E) A violation of Section 5.1 or 9 of the Cannabis  
13 Control Act.

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

20 (F-5) A violation of Section 24-1, 24-1.1, or  
21 24-1.6 of the Criminal Code of 1961 for which  
22 imprisonment is prescribed in those Sections.

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

26 (H) Criminal sexual assault.

1 (I) Aggravated battery of a senior citizen.

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

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

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

14 (K) Vehicular hijacking.

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

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

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

25 (O) A violation of Section 12-6.1 of the Criminal  
26 Code of 1961.

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

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

6 (R) A violation of Section 24-3A of the Criminal  
7 Code of 1961.

8 (S) (Blank).

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

11 (U) A second or subsequent violation of Section  
12 6-303 of the Illinois Vehicle Code committed while his  
13 or her driver's license, permit, or privilege was  
14 revoked because of a violation of Section 9-3 of the  
15 Criminal Code of 1961, relating to the offense of  
16 reckless homicide, or a similar provision of a law of  
17 another state.

18 (V) ~~(U)~~ A violation of paragraph (4) of subsection  
19 (c) of Section 11-20.3 of the Criminal Code of 1961.

20 (3) (Blank).

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

25 (4.1) (Blank).

26 (4.2) Except as provided in paragraphs (4.3) and (4.8)



1 of this subsection (c), a minimum of 100 hours of community  
2 service shall be imposed for a second violation of Section  
3 6-303 of the Illinois Vehicle Code.

4 (4.3) A minimum term of imprisonment of 30 days or 300  
5 hours of community service, as determined by the court,  
6 shall be imposed for a second violation of subsection (c)  
7 of Section 6-303 of the Illinois Vehicle Code.

8 (4.4) Except as provided in paragraphs (4.5), (4.6),  
9 and (4.9) of this subsection (c), a minimum term of  
10 imprisonment of 30 days or 300 hours of community service,  
11 as determined by the court, shall be imposed for a third or  
12 subsequent violation of Section 6-303 of the Illinois  
13 Vehicle Code.

14 (4.5) A minimum term of imprisonment of 30 days shall  
15 be imposed for a third violation of subsection (c) of  
16 Section 6-303 of the Illinois Vehicle Code.

17 (4.6) Except as provided in paragraph (4.10) of this  
18 subsection (c), a minimum term of imprisonment of 180 days  
19 shall be imposed for a fourth or subsequent violation of  
20 subsection (c) of Section 6-303 of the Illinois Vehicle  
21 Code.

22 (4.7) A minimum term of imprisonment of not less than  
23 30 consecutive days, or 300 hours of community service,  
24 shall be imposed for a violation of subsection (a-5) of  
25 Section 6-303 of the Illinois Vehicle Code, as provided in  
26 subsection (b-5) of that Section.

1           (4.8) A mandatory prison sentence shall be imposed for  
2 a second violation of subsection (a-5) of Section 6-303 of  
3 the Illinois Vehicle Code, as provided in subsection (c-5)  
4 of that Section. The person's driving privileges shall be  
5 revoked for a period of not less than 5 years from the date  
6 of his or her release from prison.

7           (4.9) A mandatory prison sentence of not less than 4  
8 and not more than 15 years shall be imposed for a third  
9 violation of subsection (a-5) of Section 6-303 of the  
10 Illinois Vehicle Code, as provided in subsection (d-2.5) of  
11 that Section. The person's driving privileges shall be  
12 revoked for the remainder of his or her life.

13           (4.10) A mandatory prison sentence for a Class 1 felony  
14 shall be imposed, and the person shall be eligible for an  
15 extended term sentence, for a fourth or subsequent  
16 violation of subsection (a-5) of Section 6-303 of the  
17 Illinois Vehicle Code, as provided in subsection (d-3.5) of  
18 that Section. The person's driving privileges shall be  
19 revoked for the remainder of his or her life.

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

23                   (A) a period of conditional discharge;

24                   (B) a fine;

25                   (C) make restitution to the victim under Section  
26           5-5-6 of this Code.

1           (5.1) In addition to any penalties imposed under  
2 paragraph (5) of this subsection (c), and except as  
3 provided in paragraph (5.2) or (5.3), a person convicted of  
4 violating subsection (c) of Section 11-907 of the Illinois  
5 Vehicle Code shall have his or her driver's license,  
6 permit, or privileges suspended for at least 90 days but  
7 not more than one year, if the violation resulted in damage  
8 to the property of another person.

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

17           (5.3) In addition to any penalties imposed under  
18 paragraph (5) of this subsection (c), a person convicted of  
19 violating subsection (c) of Section 11-907 of the Illinois  
20 Vehicle Code shall have his or her driver's license,  
21 permit, or privileges suspended for 2 years, if the  
22 violation resulted in the death of another person.

23           (5.4) In addition to any penalties imposed under  
24 paragraph (5) of this subsection (c), a person convicted of  
25 violating Section 3-707 of the Illinois Vehicle Code shall  
26 have his or her driver's license, permit, or privileges

1           suspended for 3 months and until he or she has paid a  
2           reinstatement fee of \$100.

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

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

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

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

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

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

13 (10) (Blank).

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

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

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

10 (13) A person convicted of or placed on court  
11 supervision for an assault or aggravated assault when the  
12 victim and the offender are family or household members as  
13 defined in Section 103 of the Illinois Domestic Violence  
14 Act of 1986 or convicted of domestic battery or aggravated  
15 domestic battery may be required to attend a Partner Abuse  
16 Intervention Program under protocols set forth by the  
17 Illinois Department of Human Services under such terms and  
18 conditions imposed by the court. The costs of such classes  
19 shall be paid by the offender.

20 (14) In addition to any term of imprisonment that may  
21 be imposed by the court, a gang member under 21 years of  
22 age who has been convicted of or placed on supervision for  
23 a gang-related offense and who has not previously been  
24 convicted of or placed on supervision for a gang-related  
25 offense shall, upon completion of any term of imprisonment,  
26 be required: (i) to perform community service, the type and

1 number of hours of community service to be determined by  
2 the court; (ii) if the gang member does not have a high  
3 school diploma or a GED certificate, to attend and complete  
4 educational courses designed to prepare the gang member to  
5 pass the high school level Test of General Educational  
6 Development (GED), or if the gang member is enrolled in  
7 high school to complete high school and attain a high  
8 school diploma; and (iii) to comply with a curfew (A)  
9 between 10:00 p.m. on Friday and 6:00 a.m. on Saturday; (B)  
10 between 10:00 p.m. on Saturday and 6:00 a.m. on Sunday; and  
11 (C) between 9:00 p.m. on Sunday to Thursday, inclusive, and  
12 6:00 a.m. on the following day. The court shall inform the  
13 local law enforcement agency of the jurisdiction where the  
14 gang member resides after completion of any term of  
15 imprisonment of the curfew imposed on the gang member and  
16 shall order that the law enforcement agency conduct random  
17 monitoring of the gang member to ensure compliance with the  
18 curfew requirements. For the purposes of this paragraph  
19 (14), "gang member" and "gang-related" have the meanings  
20 ascribed to them in Section 10 of the Illinois Streetgang  
21 Terrorism Omnibus Prevention Act.

22 (d) In any case in which a sentence originally imposed is  
23 vacated, the case shall be remanded to the trial court. The  
24 trial court shall hold a hearing under Section 5-4-1 of the  
25 Unified Code of Corrections which may include evidence of the  
26 defendant's life, moral character and occupation during the

1 time since the original sentence was passed. The trial court  
2 shall then impose sentence upon the defendant. The trial court  
3 may impose any sentence which could have been imposed at the  
4 original trial subject to Section 5-5-4 of the Unified Code of  
5 Corrections. If a sentence is vacated on appeal or on  
6 collateral attack due to the failure of the trier of fact at  
7 trial to determine beyond a reasonable doubt the existence of a  
8 fact (other than a prior conviction) necessary to increase the  
9 punishment for the offense beyond the statutory maximum  
10 otherwise applicable, either the defendant may be re-sentenced  
11 to a term within the range otherwise provided or, if the State  
12 files notice of its intention to again seek the extended  
13 sentence, the defendant shall be afforded a new trial.

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

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

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

24 (B) the defendant is willing to participate in a  
25 court approved plan including but not limited to the  
26 defendant's:



- 1 (i) removal from the household;  
2 (ii) restricted contact with the victim;  
3 (iii) continued financial support of the  
4 family;  
5 (iv) restitution for harm done to the victim;  
6 and  
7 (v) compliance with any other measures that  
8 the court may deem appropriate; and

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

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

23 For the purposes of this Section, "family member" and  
24 "victim" shall have the meanings ascribed to them in Section  
25 12-12 of the Criminal Code of 1961.

26 (f) This Article shall not deprive a court in other

1 proceedings to order a forfeiture of property, to suspend or  
2 cancel a license, to remove a person from office, or to impose  
3 any other civil penalty.

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

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

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

25 (h) Whenever a defendant is convicted of an offense under  
26 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the

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

1 defendant.

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

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

1 of supervision or probation to the defendant's employer by  
2 certified mail. If the employer of the defendant is a school,  
3 the Clerk of the Court shall direct the mailing of a copy of  
4 the judgment of conviction or order of supervision or probation  
5 to the appropriate regional superintendent of schools. The  
6 regional superintendent of schools shall notify the State Board  
7 of Education of any notification under this subsection.

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

1 penal institution while serving a mandatory supervised release  
2 term; however, the inability of the defendant after making a  
3 good faith effort to obtain financial aid or pay for the  
4 educational training shall not be deemed a wilful failure to  
5 comply. The Prisoner Review Board shall recommit the defendant  
6 whose mandatory supervised release term has been revoked under  
7 this subsection (j-5) as provided in Section 3-3-9. This  
8 subsection (j-5) does not apply to a defendant who has a high  
9 school diploma or has successfully passed the GED test. This  
10 subsection (j-5) does not apply to a defendant who is  
11 determined by the court to be developmentally disabled or  
12 otherwise mentally incapable of completing the educational or  
13 vocational program.

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

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

25 (1) a final order of deportation has been issued  
26 against the defendant pursuant to proceedings under

1 the Immigration and Nationality Act, and

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

5 Otherwise, the defendant shall be sentenced as  
6 provided in this Chapter V.

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

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

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

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

25 (D) Upon motion of the State's Attorney, if a defendant  
26 sentenced under this Section returns to the jurisdiction of



1 the United States, the defendant shall be recommitted to  
2 the custody of the county from which he or she was  
3 sentenced. Thereafter, the defendant shall be brought  
4 before the sentencing court, which may impose any sentence  
5 that was available under Section 5-5-3 at the time of  
6 initial sentencing. In addition, the defendant shall not be  
7 eligible for additional good conduct credit for  
8 meritorious service as provided under Section 3-6-6.

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

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

23 (o) Whenever a person is convicted of a sex offense as  
24 defined in Section 2 of the Sex Offender Registration Act, the  
25 defendant's driver's license or permit shall be subject to  
26 renewal on an annual basis in accordance with the provisions of

1 license renewal established by the Secretary of State.  
2 (Source: P.A. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993,  
3 eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07;  
4 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff.  
5 1-1-08; 95-579, eff. 6-1-08; revised 11-19-07.)