



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5230

by Rep. Elizabeth Hernandez

SYNOPSIS AS INTRODUCED:

720 ILCS 5/31-6	from Ch. 38, par. 31-6
720 ILCS 5/31-7	from Ch. 38, par. 31-7
730 ILCS 5/5-5-3	from Ch. 38, par. 1005-5-3

Amends the Criminal Code of 1961 and the Unified Code of Corrections. Provides that the statutes concerning escape and aiding escape apply to a person adjudicated a delinquent minor for the commission of a felony or misdemeanor offense under the Juvenile Court Act of 1987 and to a person aiding the escape of a person adjudicated a delinquent minor for the commission of a felony or misdemeanor offense under the Juvenile Court Act of 1987. Provides that aiding an escape while armed with a dangerous weapon is a Class 1 non-probationable felony (rather than a Class 2 felony). Effective immediately.

LRB095 15623 RLC 41624 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

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 Criminal Code of 1961 is amended by changing
5 Sections 31-6 and 31-7 as follows:

6 (720 ILCS 5/31-6) (from Ch. 38, par. 31-6)

7 Sec. 31-6. Escape; failure to report to a penal institution
8 or to report for periodic imprisonment.

9 (a) A person convicted of a felony, adjudicated a
10 delinquent minor for the commission of a felony offense under
11 the Juvenile Court Act of 1987, or charged with the commission
12 of a felony who intentionally escapes from any penal
13 institution or from the custody of an employee of that
14 institution commits a Class 2 felony; however, a person
15 convicted of a felony or adjudicated a delinquent minor for the
16 commission of a felony offense under the Juvenile Court Act of
17 1987 who knowingly fails to report to a penal institution or to
18 report for periodic imprisonment at any time or knowingly fails
19 to return from furlough or from work and day release or who
20 knowingly fails to abide by the terms of home confinement is
21 guilty of a Class 3 felony.

22 (b) A person convicted of a misdemeanor, adjudicated a
23 delinquent minor for the commission of a misdemeanor offense

1 under the Juvenile Court Act of 1987, or charged with the
2 commission of a misdemeanor who intentionally escapes from any
3 penal institution or from the custody of an employee of that
4 institution commits a Class A misdemeanor; however, a person
5 convicted of a misdemeanor or adjudicated a delinquent minor
6 for the commission of a misdemeanor offense under the Juvenile
7 Court Act of 1987 who knowingly fails to report to a penal
8 institution or to report for periodic imprisonment at any time
9 or knowingly fails to return from furlough or from work and day
10 release or who knowingly fails to abide by the terms of home
11 confinement is guilty of a Class B misdemeanor.

12 (b-1) A person committed to the Department of Human
13 Services under the provisions of the Sexually Violent Persons
14 Commitment Act or in detention with the Department of Human
15 Services awaiting such a commitment who intentionally escapes
16 from any secure residential facility or from the custody of an
17 employee of that facility commits a Class 2 felony.

18 (c) A person in the lawful custody of a peace officer for
19 the alleged commission of a felony offense and who
20 intentionally escapes from custody commits a Class 2 felony;
21 however, a person in the lawful custody of a peace officer for
22 the alleged commission of a misdemeanor offense who
23 intentionally escapes from custody commits a Class A
24 misdemeanor.

25 (c-5) A person in the lawful custody of a peace officer for
26 an alleged violation of a term or condition of probation,

1 conditional discharge, parole, or mandatory supervised release
2 for a felony who intentionally escapes from custody is guilty
3 of a Class 2 felony.

4 (c-6) A person in the lawful custody of a peace officer for
5 an alleged violation of a term or condition of supervision,
6 probation, or conditional discharge for a misdemeanor who
7 intentionally escapes from custody is guilty of a Class A
8 misdemeanor.

9 (d) A person who violates this Section while armed with a
10 dangerous weapon commits a Class 1 felony.

11 (Source: P.A. 89-647, eff. 1-1-97; 89-656, eff. 1-1-97; 89-689,
12 eff. 12-31-96; 90-14, eff. 7-1-97; 90-793, eff. 8-14-98.)

13 (720 ILCS 5/31-7) (from Ch. 38, par. 31-7)
14 Sec. 31-7. Aiding escape.

15 (a) Whoever, with intent to aid any prisoner in escaping
16 from any penal institution, conveys into the institution or
17 transfers to the prisoner anything for use in escaping commits
18 a Class A misdemeanor.

19 (b) Whoever knowingly aids a person convicted of a felony,
20 adjudicated a delinquent minor for the commission of a felony
21 offense under the Juvenile Court Act of 1987, or charged with
22 the commission of a felony in escaping from any penal
23 institution or from the custody of any employee of that
24 institution commits a Class 2 felony; however, whoever
25 knowingly aids a person convicted of a felony, adjudicated a

1 delinquent minor for the commission of a felony offense under
2 the Juvenile Court Act of 1987, or charged with the commission
3 of a felony in failing to return from furlough or from work and
4 day release is guilty of a Class 3 felony.

5 (c) Whoever knowingly aids a person convicted of a
6 misdemeanor, adjudicated a delinquent minor for the commission
7 of a misdemeanor offense under the Juvenile Court Act of 1987,
8 or charged with the commission of a misdemeanor in escaping
9 from any penal institution or from the custody of an employee
10 of that institution commits a Class A misdemeanor; however,
11 whoever knowingly aids a person convicted of a misdemeanor,
12 adjudicated a delinquent minor for the commission of a
13 misdemeanor offense under the Juvenile Court Act of 1987, or
14 charged with the commission of a misdemeanor in failing to
15 return from furlough or from work and day release is guilty of
16 a Class B misdemeanor.

17 (d) Whoever knowingly aids a person in escaping from any
18 public institution, other than a penal institution, in which he
19 is lawfully detained, or from the custody of an employee of
20 that institution, commits a Class A misdemeanor.

21 (e) Whoever knowingly aids a person in the lawful custody
22 of a peace officer for the alleged commission of a felony
23 offense in escaping from custody commits a Class 2 felony;
24 however, whoever knowingly aids a person in the lawful custody
25 of a peace officer for the alleged commission of a misdemeanor
26 offense in escaping from custody commits a Class A misdemeanor.

1 (f) An officer or employee of any penal institution who
2 recklessly permits any prisoner in his custody to escape
3 commits a Class A misdemeanor.

4 (f-5) With respect to a person in the lawful custody of a
5 peace officer for an alleged violation of a term or condition
6 of probation, conditional discharge, parole, or mandatory
7 supervised release for a felony, whoever intentionally aids
8 that person to escape from that custody is guilty of a Class 2
9 felony.

10 (f-6) With respect to a person who is in the lawful custody
11 of a peace officer for an alleged violation of a term or
12 condition of supervision, probation, or conditional discharge
13 for a misdemeanor, whoever intentionally aids that person to
14 escape from that custody is guilty of a Class A misdemeanor.

15 (g) A person who violates this Section while armed with a
16 dangerous weapon commits a Class 1 non-probationable ~~2~~ felony.
17 (Source: P.A. 89-656, eff. 1-1-97; 89-689, eff. 12-31-96.)

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

20 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

21 (Text of Section before amendment by P.A. 95-579)

22 Sec. 5-5-3. Disposition.

23 (a) Except as provided in Section 11-501 of the Illinois
24 Vehicle Code, every person convicted of an offense shall be

1 sentenced as provided in this Section.

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

6 (1) A period of probation.

7 (2) A term of periodic imprisonment.

8 (3) A term of conditional discharge.

9 (4) A term of imprisonment.

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

14 (6) A fine.

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

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

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

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

26 (c) (1) When a defendant is found guilty of first degree

1 murder the State may either seek a sentence of imprisonment
2 under Section 5-8-1 of this Code, or where appropriate seek
3 a sentence of death under Section 9-1 of the Criminal Code
4 of 1961.

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

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

14 (B) Attempted first degree murder.

15 (C) A Class X felony.

16 (D) A violation of Section 401.1 or 407 of the
17 Illinois Controlled Substances Act, or a violation of
18 subdivision (c)(1), (c)(1.5), or (c)(2) of Section 401
19 of that Act which relates to more than 5 grams of a
20 substance containing heroin, cocaine, fentanyl, or an
21 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 (W) A violation of Section 31-7 of the Criminal
3 Code of 1961 while armed with a dangerous weapon.

4 (3) (Blank).

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

9 (4.1) (Blank).

10 (4.2) Except as provided in paragraphs (4.3) and (4.8)
11 of this subsection (c), a minimum of 100 hours of community
12 service shall be imposed for a second violation of Section
13 6-303 of the Illinois Vehicle Code.

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

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

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

1 (4.6) Except as provided in paragraph (4.10) of this
2 subsection (c), a minimum term of imprisonment of 180 days
3 shall be imposed for a fourth or subsequent violation of
4 subsection (c) of Section 6-303 of the Illinois Vehicle
5 Code.

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

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

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

23 (4.10) A mandatory prison sentence for a Class 1 felony
24 shall be imposed, and the person shall be eligible for an
25 extended term sentence, for a fourth or subsequent
26 violation of subsection (a-5) of Section 6-303 of the

1 Illinois Vehicle Code, as provided in subsection (d-3.5) of
2 that Section. The person's driving privileges shall be
3 revoked for the remainder of his or her life.

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

7 (A) a period of conditional discharge;

8 (B) a fine;

9 (C) make restitution to the victim under Section
10 5-5-6 of this Code.

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

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

1 (5.3) In addition to any penalties imposed under
2 paragraph (5) of this subsection (c), a person convicted of
3 violating subsection (c) of Section 11-907 of the Illinois
4 Vehicle Code shall have his or her driver's license,
5 permit, or privileges suspended for 2 years, if the
6 violation resulted in the death of another person.

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

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

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

26 (7) When a defendant is adjudged a habitual criminal

1 under Article 33B of the Criminal Code of 1961, the court
2 shall sentence the defendant to a term of natural life
3 imprisonment.

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

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

23 (10) (Blank).

24 (11) The court shall impose a minimum fine of \$1,000
25 for a first offense and \$2,000 for a second or subsequent
26 offense upon a person convicted of or placed on supervision

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

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

20 (13) A person convicted of or placed on court
21 supervision for an assault or aggravated assault when the
22 victim and the offender are family or household members as
23 defined in Section 103 of the Illinois Domestic Violence
24 Act of 1986 or convicted of domestic battery or aggravated
25 domestic battery may be required to attend a Partner Abuse
26 Intervention Program under protocols set forth by the

1 Illinois Department of Human Services under such terms and
2 conditions imposed by the court. The costs of such classes
3 shall be paid by the offender.

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

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

1 may impose a sentence of probation only where:

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

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

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

9 (i) removal from the household;

10 (ii) restricted contact with the victim;

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

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

14 and

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

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

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

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

5 For the purposes of this Section, "family member" and
6 "victim" shall have the meanings ascribed to them in Section
7 12-12 of the Criminal Code of 1961.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (l) (A) Except as provided in paragraph (C) of subsection

26 (l), whenever a defendant, who is an alien as defined by

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

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

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

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

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

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

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

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

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

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

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

1 5-8-1.1, (ii) to community service, or (iii) if the person is
2 an addict or alcoholic, as defined in the Alcoholism and Other
3 Drug Abuse and Dependency Act, to a substance or alcohol abuse
4 program licensed under that Act.

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

10 (Source: P.A. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993,
11 eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07;
12 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff. 1-1-08;
13 revised 11-19-07.)

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

15 Sec. 5-5-3. Disposition.

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

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

23 (1) A period of probation.

24 (2) A term of periodic imprisonment.

25 (3) A term of conditional discharge.

1 (4) A term of imprisonment.

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

6 (6) A fine.

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

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

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

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

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

23 (2) A period of probation, a term of periodic
24 imprisonment or conditional discharge shall not be imposed
25 for the following offenses. The court shall sentence the
26 offender to not less than the minimum term of imprisonment

1 set forth in this Code for the following offenses, and may
2 order a fine or restitution or both in conjunction with
3 such term of imprisonment:

4 (A) First degree murder where the death penalty is
5 not imposed.

6 (B) Attempted first degree murder.

7 (C) A Class X felony.

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

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

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

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

25 (G) Residential burglary, except as otherwise
26 provided in Section 40-10 of the Alcoholism and Other

1 Drug Abuse and Dependency Act.

2 (H) Criminal sexual assault.

3 (I) Aggravated battery of a senior citizen.

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

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

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

16 (K) Vehicular hijacking.

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

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

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

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

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

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

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

10 (S) (Blank).

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

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

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

22 (W) A violation of Section 31-7 of the Criminal
23 Code of 1961 while armed with a dangerous weapon.

24 (3) (Blank).

25 (4) A minimum term of imprisonment of not less than 10
26 consecutive days or 30 days of community service shall be

1 imposed for a violation of paragraph (c) of Section 6-303
2 of the Illinois Vehicle Code.

3 (4.1) (Blank).

4 (4.2) Except as provided in paragraphs (4.3) and (4.8)
5 of this subsection (c), a minimum of 100 hours of community
6 service shall be imposed for a second violation of Section
7 6-303 of the Illinois Vehicle Code.

8 (4.3) A minimum term of imprisonment of 30 days or 300
9 hours of community service, as determined by the court,
10 shall be imposed for a second violation of subsection (c)
11 of Section 6-303 of the Illinois Vehicle Code.

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

18 (4.5) A minimum term of imprisonment of 30 days shall
19 be imposed for a third violation of subsection (c) of
20 Section 6-303 of the Illinois Vehicle Code.

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

26 (4.7) A minimum term of imprisonment of not less than

1 30 consecutive days, or 300 hours of community service,
2 shall be imposed for a violation of subsection (a-5) of
3 Section 6-303 of the Illinois Vehicle Code, as provided in
4 subsection (b-5) of that Section.

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

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

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

24 (5) The court may sentence an offender convicted of a
25 business offense or a petty offense or a corporation or
26 unincorporated association convicted of any offense to:

- 1 (A) a period of conditional discharge;
- 2 (B) a fine;
- 3 (C) make restitution to the victim under Section
4 5-5-6 of this Code.

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

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

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

1 (5.4) In addition to any penalties imposed under
2 paragraph (5) of this subsection (c), a person convicted of
3 violating Section 3-707 of the Illinois Vehicle Code shall
4 have his or her driver's license, permit, or privileges
5 suspended for 3 months and until he or she has paid a
6 reinstatement fee of \$100.

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

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

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

24 (8) When a defendant, over the age of 21 years, is
25 convicted of a Class 1 or Class 2 felony, after having
26 twice been convicted in any state or federal court of an

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

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

17 (10) (Blank).

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

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

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

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

24 (d) In any case in which a sentence originally imposed is
25 vacated, the case shall be remanded to the trial court. The
26 trial court shall hold a hearing under Section 5-4-1 of the

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

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

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

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

26 (B) the defendant is willing to participate in a

1 court approved plan including but not limited to the
2 defendant's:

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

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

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

25 For the purposes of this Section, "family member" and
26 "victim" shall have the meanings ascribed to them in Section

1 12-12 of the Criminal Code of 1961.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 Otherwise, the defendant shall be sentenced as
8 provided in this Chapter V.

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

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

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

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

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

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

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

25 (o) Whenever a person is convicted of a sex offense as
26 defined in Section 2 of the Sex Offender Registration Act, the

1 defendant's driver's license or permit shall be subject to
2 renewal on an annual basis in accordance with the provisions of
3 license renewal established by the Secretary of State.

4 (Source: P.A. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993,
5 eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07;
6 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff.
7 1-1-08; 95-579, eff. 6-1-08; revised 11-19-07.)

8 Section 95. No acceleration or delay. Where this Act makes
9 changes in a statute that is represented in this Act by text
10 that is not yet or no longer in effect (for example, a Section
11 represented by multiple versions), the use of that text does
12 not accelerate or delay the taking effect of (i) the changes
13 made by this Act or (ii) provisions derived from any other
14 Public Act.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.