



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB5653

by Rep. Jim Sacia

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/31-1a  
(730 ILCS 5/5-5-3

from Ch. 38, par. 31-1a  
from Ch. 38, par. 1005-5-3

Amends the Criminal Code of 1961 and the Unified Code of Corrections. Provides that disarming a peace officer or correctional institution employee is a non-probationable Class 1 felony. Provides that an attempt to disarm a peace officer or correction institution employee is a Class 2 felony. Effective immediately.

LRB095 16509 RLC 42537 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 Section 31-1a as follows:

6 (720 ILCS 5/31-1a) (from Ch. 38, par. 31-1a)

7 Sec. 31-1a. Disarming a peace officer or correctional  
8 institution employee.

9 (a) Disarming a peace officer or correctional institution  
10 employee. A person who, without the consent of a peace officer  
11 or correctional institution employee as defined in subsection  
12 (b) of Section 31-1, takes ~~or attempts to take~~ a weapon from a  
13 person known to him or her to be a peace officer or  
14 correctional institution employee, while the peace officer or  
15 correctional institution employee is engaged in the  
16 performance of his or her official duties or from an area  
17 within the peace officer's or correctional institution  
18 employee's immediate presence is guilty of a Class 1 ~~2~~ felony.

19 (b) A person who, without the consent of a peace officer or  
20 correctional institution employee as defined in subsection (b)  
21 of Section 31-1, attempts to take a weapon from a person known  
22 to him or her to be a peace officer or correctional institution  
23 employee, while the peace officer or correctional institution

1 employee is engaged in the performance of his or her official  
2 duties or from an area within the peace officer's or  
3 correctional institution employee's immediate presence is  
4 guilty of a Class 2 felony.

5 (Source: P.A. 93-207, eff. 1-1-04.)

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

8 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

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

10 Sec. 5-5-3. Disposition.

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

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

18 (1) A period of probation.

19 (2) A term of periodic imprisonment.

20 (3) A term of conditional discharge.

21 (4) A term of imprisonment.

22 (5) An order directing the offender to clean up and  
23 repair the damage, if the offender was convicted under  
24 paragraph (h) of Section 21-1 of the Criminal Code of 1961

1 (now repealed).

2 (6) A fine.

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

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

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

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

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

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

26 (A) First degree murder where the death penalty is

1 not imposed.

2 (B) Attempted first degree murder.

3 (C) A Class X felony.

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

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

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

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

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

24 (H) Criminal sexual assault.

25 (I) Aggravated battery of a senior citizen.

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

1 the activities of an organized gang.

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

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

12 (K) Vehicular hijacking.

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

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

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

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

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

1 Criminal Code of 1961.

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

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

6 (S) (Blank).

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

9 (U) A second or subsequent violation of Section  
10 6-303 of the Illinois Vehicle Code committed while his  
11 or her driver's license, permit, or privilege was  
12 revoked because of a violation of Section 9-3 of the  
13 Criminal Code of 1961, relating to the offense of  
14 reckless homicide, or a similar provision of a law of  
15 another state.

16 (W) A violation of subsection (a) of Section 31-1a  
17 of the Criminal Code of 1961.

18 (3) (Blank).

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

23 (4.1) (Blank).

24 (4.2) Except as provided in paragraphs (4.3) and (4.8)  
25 of this subsection (c), a minimum of 100 hours of community  
26 service shall be imposed for a second violation of Section

1           6-303 of the Illinois Vehicle Code.

2           (4.3) A minimum term of imprisonment of 30 days or 300  
3 hours of community service, as determined by the court,  
4 shall be imposed for a second violation of subsection (c)  
5 of Section 6-303 of the Illinois Vehicle Code.

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

12           (4.5) A minimum term of imprisonment of 30 days shall  
13 be imposed for a third violation of subsection (c) of  
14 Section 6-303 of the Illinois Vehicle Code.

15           (4.6) Except as provided in paragraph (4.10) of this  
16 subsection (c), a minimum term of imprisonment of 180 days  
17 shall be imposed for a fourth or subsequent violation of  
18 subsection (c) of Section 6-303 of the Illinois Vehicle  
19 Code.

20           (4.7) A minimum term of imprisonment of not less than  
21 30 consecutive days, or 300 hours of community service,  
22 shall be imposed for a violation of subsection (a-5) of  
23 Section 6-303 of the Illinois Vehicle Code, as provided in  
24 subsection (b-5) of that Section.

25           (4.8) A mandatory prison sentence shall be imposed for  
26 a second violation of subsection (a-5) of Section 6-303 of



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

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

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

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

21 (A) a period of conditional discharge;

22 (B) a fine;

23 (C) make restitution to the victim under Section  
24 5-5-6 of this Code.

25 (5.1) In addition to any penalties imposed under  
26 paragraph (5) of this subsection (c), and except as

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

7 (5.2) In addition to any penalties imposed under  
8 paragraph (5) of this subsection (c), and except as  
9 provided in paragraph (5.3), a person convicted of  
10 violating subsection (c) of Section 11-907 of the Illinois  
11 Vehicle Code shall have his or her driver's license,  
12 permit, or privileges suspended for at least 180 days but  
13 not more than 2 years, if the violation resulted in injury  
14 to another person.

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

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

1           (5.5) 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 during  
4 a period in which his or her driver's license, permit, or  
5 privileges were suspended for a previous violation of that  
6 Section shall have his or her driver's license, permit, or  
7 privileges suspended for an additional 6 months after the  
8 expiration of the original 3-month suspension and until he  
9 or she has paid a reinstatement fee of \$100.

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

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

18           (8) When a defendant, over the age of 21 years, is  
19 convicted of a Class 1 or Class 2 felony, after having  
20 twice been convicted in any state or federal court of an  
21 offense that contains the same elements as an offense now  
22 classified in Illinois as a Class 2 or greater Class felony  
23 and such charges are separately brought and tried and arise  
24 out of different series of acts, such defendant shall be  
25 sentenced as a Class X offender. This paragraph shall not  
26 apply unless (1) the first felony was committed after the

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

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

11 (10) (Blank).

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

1 recognized as a coach by the sanctioning authority that  
2 conducted the sporting event.

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

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

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

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

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

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

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

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

23 (i) removal from the household;

24 (ii) restricted contact with the victim;

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

1 (iv) restitution for harm done to the victim;  
2 and  
3 (v) compliance with any other measures that  
4 the court may deem appropriate; and

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24          (Source: P.A. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993,  
25          eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07;  
26          95-259, eff 8-17-07; 95-331, eff. 8-21-07; 95-377, eff. 1-1-08;

1 revised 11-19-07.)

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

3 Sec. 5-5-3. Disposition.

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

7 (b) The following options shall be appropriate  
8 dispositions, alone or in combination, for all felonies and  
9 misdemeanors other than those identified in subsection (c) of  
10 this Section:

11 (1) A period of probation.

12 (2) A term of periodic imprisonment.

13 (3) A term of conditional discharge.

14 (4) A term of imprisonment.

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

19 (6) A fine.

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

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

24 (9) A term of imprisonment in combination with a term  
25 of probation when the offender has been admitted into a



1 drug court program under Section 20 of the Drug Court  
2 Treatment Act.

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

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

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

18 (A) First degree murder where the death penalty is  
19 not imposed.

20 (B) Attempted first degree murder.

21 (C) A Class X felony.

22 (D) A violation of Section 401.1 or 407 of the  
23 Illinois Controlled Substances Act, or a violation of  
24 subdivision (c) (1), (c) (1.5), or (c) (2) of Section 401  
25 of that Act which relates to more than 5 grams of a  
26 substance containing heroin, cocaine, fentanyl, or an

1 analog thereof.

2 (E) A violation of Section 5.1 or 9 of the Cannabis  
3 Control Act.

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

10 (F-5) A violation of Section 24-1, 24-1.1, or  
11 24-1.6 of the Criminal Code of 1961 for which  
12 imprisonment is prescribed in those Sections.

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

16 (H) Criminal sexual assault.

17 (I) Aggravated battery of a senior citizen.

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

20 Before July 1, 1994, for the purposes of this  
21 paragraph, "organized gang" means an association of 5  
22 or more persons, with an established hierarchy, that  
23 encourages members of the association to perpetrate  
24 crimes or provides support to the members of the  
25 association who do commit crimes.

26 Beginning July 1, 1994, for the purposes of this

1 paragraph, "organized gang" has the meaning ascribed  
2 to it in Section 10 of the Illinois Streetgang  
3 Terrorism Omnibus Prevention Act.

4 (K) Vehicular hijacking.

5 (L) A second or subsequent conviction for the  
6 offense of hate crime when the underlying offense upon  
7 which the hate crime is based is felony aggravated  
8 assault or felony mob action.

9 (M) A second or subsequent conviction for the  
10 offense of institutional vandalism if the damage to the  
11 property exceeds \$300.

12 (N) A Class 3 felony violation of paragraph (1) of  
13 subsection (a) of Section 2 of the Firearm Owners  
14 Identification Card Act.

15 (O) A violation of Section 12-6.1 of the Criminal  
16 Code of 1961.

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

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

22 (R) A violation of Section 24-3A of the Criminal  
23 Code of 1961.

24 (S) (Blank).

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

1           (U) A second or subsequent violation of Section  
2           6-303 of the Illinois Vehicle Code committed while his  
3           or her driver's license, permit, or privilege was  
4           revoked because of a violation of Section 9-3 of the  
5           Criminal Code of 1961, relating to the offense of  
6           reckless homicide, or a similar provision of a law of  
7           another state.

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

10           (W) A violation of subsection (a) of Section 31-1a  
11           of the Criminal Code of 1961.

12           (3) (Blank).

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

17           (4.1) (Blank).

18           (4.2) Except as provided in paragraphs (4.3) and (4.8)  
19           of this subsection (c), a minimum of 100 hours of community  
20           service shall be imposed for a second violation of Section  
21           6-303 of the Illinois Vehicle Code.

22           (4.3) A minimum term of imprisonment of 30 days or 300  
23           hours of community service, as determined by the court,  
24           shall be imposed for a second violation of subsection (c)  
25           of Section 6-303 of the Illinois Vehicle Code.

26           (4.4) Except as provided in paragraphs (4.5), (4.6),

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

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

9 (4.6) Except as provided in paragraph (4.10) of this  
10 subsection (c), a minimum term of imprisonment of 180 days  
11 shall be imposed for a fourth or subsequent violation of  
12 subsection (c) of Section 6-303 of the Illinois Vehicle  
13 Code.

14 (4.7) A minimum term of imprisonment of not less than  
15 30 consecutive days, or 300 hours of community service,  
16 shall be imposed for a violation of subsection (a-5) of  
17 Section 6-303 of the Illinois Vehicle Code, as provided in  
18 subsection (b-5) of that Section.

19 (4.8) A mandatory prison sentence shall be imposed for  
20 a second violation of subsection (a-5) of Section 6-303 of  
21 the Illinois Vehicle Code, as provided in subsection (c-5)  
22 of that Section. The person's driving privileges shall be  
23 revoked for a period of not less than 5 years from the date  
24 of his or her release from prison.

25 (4.9) A mandatory prison sentence of not less than 4  
26 and not more than 15 years shall be imposed for a third

1 violation of subsection (a-5) of Section 6-303 of the  
2 Illinois Vehicle Code, as provided in subsection (d-2.5) of  
3 that Section. The person's driving privileges shall be  
4 revoked for the remainder of his or her life.

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

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

15 (A) a period of conditional discharge;

16 (B) a fine;

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

19 (5.1) In addition to any penalties imposed under  
20 paragraph (5) of this subsection (c), and except as  
21 provided in paragraph (5.2) or (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 90 days but  
25 not more than one year, if the violation resulted in damage  
26 to the property of another person.

1           (5.2) In addition to any penalties imposed under  
2 paragraph (5) of this subsection (c), and except as  
3 provided in paragraph (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 180 days but  
7 not more than 2 years, if the violation resulted in injury  
8 to another person.

9           (5.3) In addition to any penalties imposed under  
10 paragraph (5) of this subsection (c), a person convicted of  
11 violating subsection (c) of Section 11-907 of the Illinois  
12 Vehicle Code shall have his or her driver's license,  
13 permit, or privileges suspended for 2 years, if the  
14 violation resulted in the death of another person.

15           (5.4) In addition to any penalties imposed under  
16 paragraph (5) of this subsection (c), a person convicted of  
17 violating Section 3-707 of the Illinois Vehicle Code shall  
18 have his or her driver's license, permit, or privileges  
19 suspended for 3 months and until he or she has paid a  
20 reinstatement fee of \$100.

21           (5.5) In addition to any penalties imposed under  
22 paragraph (5) of this subsection (c), a person convicted of  
23 violating Section 3-707 of the Illinois Vehicle Code during  
24 a period in which his or her driver's license, permit, or  
25 privileges were suspended for a previous violation of that  
26 Section shall have his or her driver's license, permit, or

1 privileges suspended for an additional 6 months after the  
2 expiration of the original 3-month suspension and until he  
3 or she has paid a reinstatement fee of \$100.

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

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

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



1 Alcoholism and Other Drug Abuse and Dependency Act.

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

5 (10) (Blank).

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

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

1 of that Section.

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

12 (d) In any case in which a sentence originally imposed is  
13 vacated, the case shall be remanded to the trial court. The  
14 trial court shall hold a hearing under Section 5-4-1 of the  
15 Unified Code of Corrections which may include evidence of the  
16 defendant's life, moral character and occupation during the  
17 time since the original sentence was passed. The trial court  
18 shall then impose sentence upon the defendant. The trial court  
19 may impose any sentence which could have been imposed at the  
20 original trial subject to Section 5-5-4 of the Unified Code of  
21 Corrections. If a sentence is vacated on appeal or on  
22 collateral attack due to the failure of the trier of fact at  
23 trial to determine beyond a reasonable doubt the existence of a  
24 fact (other than a prior conviction) necessary to increase the  
25 punishment for the offense beyond the statutory maximum  
26 otherwise applicable, either the defendant may be re-sentenced

1 to a term within the range otherwise provided or, if the State  
2 files notice of its intention to again seek the extended  
3 sentence, the defendant shall be afforded a new trial.

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

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

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

14 (B) the defendant is willing to participate in a  
15 court approved plan including but not limited to the  
16 defendant's:

17 (i) removal from the household;

18 (ii) restricted contact with the victim;

19 (iii) continued financial support of the  
20 family;

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

22 and

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

25 (2) the court orders the defendant to pay for the  
26 victim's counseling services, to the extent that the court

1 finds, after considering the defendant's income and  
2 assets, that the defendant is financially capable of paying  
3 for such services, if the victim was under 18 years of age  
4 at the time the offense was committed and requires  
5 counseling as a result of the offense.

6 Probation may be revoked or modified pursuant to Section  
7 5-6-4; except where the court determines at the hearing that  
8 the defendant violated a condition of his or her probation  
9 restricting contact with the victim or other family members or  
10 commits another offense with the victim or other family  
11 members, the court shall revoke the defendant's probation and  
12 impose a term of imprisonment.

13 For the purposes of this Section, "family member" and  
14 "victim" shall have the meanings ascribed to them in Section  
15 12-12 of the Criminal Code of 1961.

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

20 (g) Whenever a defendant is convicted of an offense under  
21 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,  
22 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16  
23 of the Criminal Code of 1961, the defendant shall undergo  
24 medical testing to determine whether the defendant has any  
25 sexually transmissible disease, including a test for infection  
26 with human immunodeficiency virus (HIV) or any other identified

1 causative agent of acquired immunodeficiency syndrome (AIDS).  
2 Any such medical test shall be performed only by appropriately  
3 licensed medical practitioners and may include an analysis of  
4 any bodily fluids as well as an examination of the defendant's  
5 person. Except as otherwise provided by law, the results of  
6 such test shall be kept strictly confidential by all medical  
7 personnel involved in the testing and must be personally  
8 delivered in a sealed envelope to the judge of the court in  
9 which the conviction was entered for the judge's inspection in  
10 camera. Acting in accordance with the best interests of the  
11 victim and the public, the judge shall have the discretion to  
12 determine to whom, if anyone, the results of the testing may be  
13 revealed. The court shall notify the defendant of the test  
14 results. The court shall also notify the victim if requested by  
15 the victim, and if the victim is under the age of 15 and if  
16 requested by the victim's parents or legal guardian, the court  
17 shall notify the victim's parents or legal guardian of the test  
18 results. The court shall provide information on the  
19 availability of HIV testing and counseling at Department of  
20 Public Health facilities to all parties to whom the results of  
21 the testing are revealed and shall direct the State's Attorney  
22 to provide the information to the victim when possible. A  
23 State's Attorney may petition the court to obtain the results  
24 of any HIV test administered under this Section, and the court  
25 shall grant the disclosure if the State's Attorney shows it is  
26 relevant in order to prosecute a charge of criminal

1 transmission of HIV under Section 12-16.2 of the Criminal Code  
2 of 1961 against the defendant. The court shall order that the  
3 cost of any such test shall be paid by the county and may be  
4 taxed as costs against the convicted defendant.

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

15 (h) Whenever a defendant is convicted of an offense under  
16 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the  
17 defendant shall undergo medical testing to determine whether  
18 the defendant has been exposed to human immunodeficiency virus  
19 (HIV) or any other identified causative agent of acquired  
20 immunodeficiency syndrome (AIDS). Except as otherwise provided  
21 by law, the results of such test shall be kept strictly  
22 confidential by all medical personnel involved in the testing  
23 and must be personally delivered in a sealed envelope to the  
24 judge of the court in which the conviction was entered for the  
25 judge's inspection in camera. Acting in accordance with the  
26 best interests of the public, the judge shall have the

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

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

25 (j) In cases when prosecution for any violation of Section  
26 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,

1 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
2 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal  
3 Code of 1961, any violation of the Illinois Controlled  
4 Substances Act, any violation of the Cannabis Control Act, or  
5 any violation of the Methamphetamine Control and Community  
6 Protection Act results in conviction, a disposition of court  
7 supervision, or an order of probation granted under Section 10  
8 of the Cannabis Control Act, Section 410 of the Illinois  
9 Controlled Substance Act, or Section 70 of the Methamphetamine  
10 Control and Community Protection Act of a defendant, the court  
11 shall determine whether the defendant is employed by a facility  
12 or center as defined under the Child Care Act of 1969, a public  
13 or private elementary or secondary school, or otherwise works  
14 with children under 18 years of age on a daily basis. When a  
15 defendant is so employed, the court shall order the Clerk of  
16 the Court to send a copy of the judgment of conviction or order  
17 of supervision or probation to the defendant's employer by  
18 certified mail. If the employer of the defendant is a school,  
19 the Clerk of the Court shall direct the mailing of a copy of  
20 the judgment of conviction or order of supervision or probation  
21 to the appropriate regional superintendent of schools. The  
22 regional superintendent of schools shall notify the State Board  
23 of Education of any notification under this subsection.

24 (j-5) A defendant at least 17 years of age who is convicted  
25 of a felony and who has not been previously convicted of a  
26 misdemeanor or felony and who is sentenced to a term of



1 imprisonment in the Illinois Department of Corrections shall as  
2 a condition of his or her sentence be required by the court to  
3 attend educational courses designed to prepare the defendant  
4 for a high school diploma and to work toward a high school  
5 diploma or to work toward passing the high school level Test of  
6 General Educational Development (GED) or to work toward  
7 completing a vocational training program offered by the  
8 Department of Corrections. If a defendant fails to complete the  
9 educational training required by his or her sentence during the  
10 term of incarceration, the Prisoner Review Board shall, as a  
11 condition of mandatory supervised release, require the  
12 defendant, at his or her own expense, to pursue a course of  
13 study toward a high school diploma or passage of the GED test.  
14 The Prisoner Review Board shall revoke the mandatory supervised  
15 release of a defendant who wilfully fails to comply with this  
16 subsection (j-5) upon his or her release from confinement in a  
17 penal institution while serving a mandatory supervised release  
18 term; however, the inability of the defendant after making a  
19 good faith effort to obtain financial aid or pay for the  
20 educational training shall not be deemed a wilful failure to  
21 comply. The Prisoner Review Board shall recommit the defendant  
22 whose mandatory supervised release term has been revoked under  
23 this subsection (j-5) as provided in Section 3-3-9. This  
24 subsection (j-5) does not apply to a defendant who has a high  
25 school diploma or has successfully passed the GED test. This  
26 subsection (j-5) does not apply to a defendant who is

1 determined by the court to be developmentally disabled or  
2 otherwise mentally incapable of completing the educational or  
3 vocational program.

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

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

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

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

21 Otherwise, the defendant shall be sentenced as  
22 provided in this Chapter V.

23 (B) If the defendant has already been sentenced for a  
24 felony or misdemeanor offense, or has been placed on  
25 probation under Section 10 of the Cannabis Control Act,  
26 Section 410 of the Illinois Controlled Substances Act, or

1 Section 70 of the Methamphetamine Control and Community  
2 Protection Act, the court may, upon motion of the State's  
3 Attorney to suspend the sentence imposed, commit the  
4 defendant to the custody of the Attorney General of the  
5 United States or his or her designated agent when:

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

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

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

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

25 (m) A person convicted of criminal defacement of property  
26 under Section 21-1.3 of the Criminal Code of 1961, in which the

1 property damage exceeds \$300 and the property damaged is a  
2 school building, shall be ordered to perform community service  
3 that may include cleanup, removal, or painting over the  
4 defacement.

5 (n) The court may sentence a person convicted of a  
6 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal  
7 Code of 1961 (i) to an impact incarceration program if the  
8 person is otherwise eligible for that program under Section  
9 5-8-1.1, (ii) to community service, or (iii) if the person is  
10 an addict or alcoholic, as defined in the Alcoholism and Other  
11 Drug Abuse and Dependency Act, to a substance or alcohol abuse  
12 program licensed under that Act.

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

18 (Source: P.A. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993,  
19 eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07;  
20 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff.  
21 1-1-08; 95-579, eff. 6-1-08; revised 11-19-07.)

22 Section 95. No acceleration or delay. Where this Act makes  
23 changes in a statute that is represented in this Act by text  
24 that is not yet or no longer in effect (for example, a Section  
25 represented by multiple versions), the use of that text does

1 not accelerate or delay the taking effect of (i) the changes  
2 made by this Act or (ii) provisions derived from any other  
3 Public Act.

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.