



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB6327**

by Rep. Dennis M. Reboletti - Elizabeth Coulson - Bob Biggins  
- Ronald A. Wait - Patricia R. Bellock, et al.

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3.5

730 ILCS 5/5-5-3

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

Amends the Criminal Code of 1961. Provides that a person who commits the offense of unlawful purchase of a firearm is guilty of a Class 1 non-probationable felony if any firearm that is purchased is used to commit an act of domestic violence. Amends the Unified Code of Corrections. Provides that a person who commits such offense is ineligible for period of probation, a term of periodic imprisonment or conditional discharge.

LRB095 20595 RLC 48622 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 24-3.5 as follows:

6 (720 ILCS 5/24-3.5)

7 Sec. 24-3.5. Unlawful purchase of a firearm.

8 (a) For purposes of this Section, "firearms transaction  
9 record form" means a form:

10 (1) executed by a transferee of a firearm stating: (i)  
11 the transferee's name and address (including county or  
12 similar political subdivision); (ii) whether the  
13 transferee is a citizen of the United States; (iii) the  
14 transferee's State of residence; and (iv) the date and  
15 place of birth, height, weight, and race of the transferee;  
16 and

17 (2) on which the transferee certifies that he or she is  
18 not prohibited by federal law from transporting or shipping  
19 a firearm in interstate or foreign commerce or receiving a  
20 firearm that has been shipped or transported in interstate  
21 or foreign commerce or possessing a firearm in or affecting  
22 commerce.

23 (b) A person commits the offense of unlawful purchase of a

1 firearm who knowingly purchases or attempts to purchase a  
2 firearm with the intent to deliver that firearm to another  
3 person who is prohibited by federal or State law from  
4 possessing a firearm.

5 (c) A person commits the offense of unlawful purchase of a  
6 firearm when he or she, in purchasing or attempting to purchase  
7 a firearm, intentionally provides false or misleading  
8 information on a United States Department of the Treasury,  
9 Bureau of Alcohol, Tobacco and Firearms firearms transaction  
10 record form.

11 (d) Exemption. It is not a violation of subsection (b) of  
12 this Section for a person to make a gift or loan of a firearm to  
13 a person who is not prohibited by federal or State law from  
14 possessing a firearm if the transfer of the firearm is made in  
15 accordance with Section 3 of the Firearm Owners Identification  
16 Card Act.

17 (e) Sentence.

18 (1) Except as otherwise provided in paragraph (1.5) of  
19 this subsection (e), a ~~A~~ person who commits the offense of  
20 unlawful purchase of a firearm:

21 (A) is guilty of a Class 4 felony for purchasing or  
22 attempting to purchase one firearm;

23 (B) is guilty of a Class 3 felony for purchasing or  
24 attempting to purchase not less than 2 firearms and not  
25 more than 5 firearms at the same time or within a one  
26 year period;

1 (C) is guilty of a Class 2 felony for purchasing or  
2 attempting to purchase not less than 6 firearms and not  
3 more than 10 firearms at the same time or within a 2  
4 year period;

5 (D) is guilty of a Class 1 felony for purchasing or  
6 attempting to purchase not less than 11 firearms and  
7 not more than 20 firearms at the same time or within a  
8 3 year period;

9 (E) is guilty of a Class X felony for which the  
10 person shall be sentenced to a term of imprisonment of  
11 not less than 6 years and not more than 30 years for  
12 purchasing or attempting to purchase not less than 21  
13 firearms and not more than 30 firearms at the same time  
14 or within a 4 year period;

15 (F) is guilty of a Class X felony for which the  
16 person shall be sentenced to a term of imprisonment of  
17 not less than 6 years and not more than 40 years for  
18 purchasing or attempting to purchase not less than 31  
19 firearms and not more than 40 firearms at the same time  
20 or within a 5 year period;

21 (G) is guilty of a Class X felony for which the  
22 person shall be sentenced to a term of imprisonment of  
23 not less than 6 years and not more than 50 years for  
24 purchasing or attempting to purchase more than 40  
25 firearms at the same time or within a 6 year period.

26 (1.5) A person who commits the offense of unlawful

1       purchase of a firearm is guilty of a Class 1  
2       non-probationable felony if any firearm that is purchased  
3       is used to commit an act of domestic violence as defined in  
4       Section 112A-3 of the Code of Criminal Procedure of 1963.

5           (2) In addition to any other penalty that may be  
6       imposed for a violation of this Section, the court may  
7       sentence a person convicted of a violation of subsection  
8       (c) of this Section to a fine not to exceed \$250,000 for  
9       each violation.

10          (f) A prosecution for unlawful purchase of a firearm may be  
11       commenced within 6 years after the commission of the offense.

12       (Source: P.A. 93-451, eff. 8-7-03; 93-906, eff. 8-11-04.)

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

15           (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

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

17           Sec. 5-5-3. Disposition.

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

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

- 1 (1) A period of probation.
- 2 (2) A term of periodic imprisonment.
- 3 (3) A term of conditional discharge.
- 4 (4) A term of imprisonment.
- 5 (5) An order directing the offender to clean up and  
6 repair the damage, if the offender was convicted under  
7 paragraph (h) of Section 21-1 of the Criminal Code of 1961  
8 (now repealed).
- 9 (6) A fine.
- 10 (7) An order directing the offender to make restitution  
11 to the victim under Section 5-5-6 of this Code.
- 12 (8) A sentence of participation in a county impact  
13 incarceration program under Section 5-8-1.2 of this Code.
- 14 (9) A term of imprisonment in combination with a term  
15 of probation when the offender has been admitted into a  
16 drug court program under Section 20 of the Drug Court  
17 Treatment Act.
- 18 Neither a fine nor restitution shall be the sole  
19 disposition for a felony and either or both may be imposed only  
20 in conjunction with another disposition.
- 21 (c) (1) When a defendant is found guilty of first degree  
22 murder the State may either seek a sentence of imprisonment  
23 under Section 5-8-1 of this Code, or where appropriate seek  
24 a sentence of death under Section 9-1 of the Criminal Code  
25 of 1961.
- 26 (2) A period of probation, a term of periodic

1 imprisonment or conditional discharge shall not be imposed  
2 for the following offenses. The court shall sentence the  
3 offender to not less than the minimum term of imprisonment  
4 set forth in this Code for the following offenses, and may  
5 order a fine or restitution or both in conjunction with  
6 such term of imprisonment:

7 (A) First degree murder where the death penalty is  
8 not imposed.

9 (B) Attempted first degree murder.

10 (C) A Class X felony.

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

17 (E) A violation of Section 5.1 or 9 of the Cannabis  
18 Control Act.

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

25 (F-5) A violation of Section 24-1, 24-1.1, or  
26 24-1.6 of the Criminal Code of 1961 for which

1 imprisonment is prescribed in those Sections.

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

5 (H) Criminal sexual assault.

6 (I) Aggravated battery of a senior citizen.

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

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

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

19 (K) Vehicular hijacking.

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

24 (M) A second or subsequent conviction for the  
25 offense of institutional vandalism if the damage to the  
26 property exceeds \$300.



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

4 (O) A violation of Section 12-6.1 of the Criminal  
5 Code of 1961.

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

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

11 (R) A violation of Section 24-3A of the Criminal  
12 Code of 1961.

13 (S) (Blank).

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

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

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

25 (W) A violation of Section 24-3.5 of the Criminal  
26 Code of 1961 if any firearm that is purchased is used

1           to commit an act of domestic violence as defined in  
2           Section 112A-3 of the Code of Criminal Procedure of  
3           1963.

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 (1), 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.  
13 1-1-08; 95-579, eff. 6-1-08; revised 11-19-07.)