

HB0042



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0042

Introduced 1/14/2009, by Rep. Luis Arroyo

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-3

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

Amends the Unified Code of Corrections. Provides that the court may sentence a person convicted of or placed on supervision for an offense that is not a crime of violence to a term of military service in the Armed Forces of the United States instead of a term of imprisonment in a penal institution of this State if certain conditions are met.

LRB096 02987 RLC 13001 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 Unified Code of Corrections is amended by
5 changing Section 5-5-3 as follows:

6 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)
7 Sec. 5-5-3. Disposition.

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

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

15 (1) A period of probation.

16 (2) A term of periodic imprisonment.

17 (3) A term of conditional discharge.

18 (4) A term of imprisonment.

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22 (now repealed).

23 (6) A fine.

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

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

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

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

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

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

24 (A) First degree murder where the death penalty is
25 not imposed.

26 (B) Attempted first degree murder.

1 (C) A Class X felony.

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

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

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

16 (F-5) A violation of Section 24-1, 24-1.1, or
17 24-1.6 of the Criminal Code of 1961 for which
18 imprisonment is prescribed in those Sections.

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

22 (H) Criminal sexual assault.

23 (I) Aggravated battery of a senior citizen.

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

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

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

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

10 (K) Vehicular hijacking.

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

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

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

21 (O) A violation of Section 12-6.1 of the Criminal
22 Code of 1961.

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

26 (Q) A violation of Section 20-1.2 or 20-1.3 of the

1 Criminal Code of 1961.

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

4 (S) (Blank).

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

7 (U) A second or subsequent violation of Section
8 6-303 of the Illinois Vehicle Code committed while his
9 or her driver's license, permit, or privilege was
10 revoked because of a violation of Section 9-3 of the
11 Criminal Code of 1961, relating to the offense of
12 reckless homicide, or a similar provision of a law of
13 another state.

14 (V) A violation of paragraph (4) of subsection (c)
15 of Section 11-20.3 of the Criminal Code of 1961.

16 (W) A violation of Section 24-3.5 of the Criminal
17 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 (p) The court may sentence a person convicted of or placed
25 on supervision for an offense that is not a crime of violence
26 as defined in subsection (c) of Section 2 of the Crime Victims

1 Compensation Act to a term of military service in the Armed
2 Forces of the United States instead of a term of imprisonment
3 in a penal institution of this State if:

4 (1) the regulations of the Department of Defense or any
5 branch of the Armed Forces of the United States permit the
6 enlistment of such person;

7 (2) the person consents to such enlistment; and

8 (3) the person has not been previously convicted of or
9 placed on supervision for any offense, other than a petty
10 offense or business offense.

11 (Source: P.A. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993,
12 eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07;
13 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff.
14 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff.
15 1-1-09.)