



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0584

Introduced 2/6/2009, 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.

LRB096 05671 RLC 15737 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 Sec. 5-5-3. Disposition.

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

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

17 (1) A period of probation.

18 (2) A term of periodic imprisonment.

19 (3) A term of conditional discharge.

20 (4) A term of imprisonment.

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24 (now repealed).

1 (6) A fine.

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

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

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

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

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

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

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

1 (B) Attempted first degree murder.

2 (C) A Class X felony.

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

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

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

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

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

23 (H) Criminal sexual assault.

24 (I) Aggravated battery of a senior citizen.

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

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

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

11 (K) Vehicular hijacking.

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

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

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

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

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

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

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

5 (S) (Blank).

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

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

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

17 (W) A violation of Section 24-3.5 of the Criminal
18 Code of 1961.

19 (X) A violation of subsection (a) of Section 31-1a
20 of the Criminal Code of 1961.

21 (3) (Blank).

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

26 (4.1) (Blank).

1 (4.2) Except as provided in paragraphs (4.3) and (4.8)
2 of this subsection (c), a minimum of 100 hours of community
3 service shall be imposed for a second violation of Section
4 6-303 of the Illinois Vehicle Code.

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

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

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

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

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

1 subsection (b-5) of that Section.

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

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

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

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

24 (A) a period of conditional discharge;

25 (B) a fine;

26 (C) make restitution to the victim under Section

1 5-5-6 of this Code.

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

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

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

24 (5.4) In addition to any penalties imposed under
25 paragraph (5) of this subsection (c), a person convicted of
26 violating Section 3-707 of the Illinois Vehicle Code shall

1 have his or her driver's license, permit, or privileges
2 suspended for 3 months and until he or she has paid a
3 reinstatement fee of \$100.

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

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

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

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

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

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

14 (10) (Blank).

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

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

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

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

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

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

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

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

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

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

26 (i) removal from the household;

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

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

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

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

25 (f) This Article shall not deprive a court in other
26 proceedings to order a forfeiture of property, to suspend or

1 cancel a license, to remove a person from office, or to impose
2 any other civil penalty.

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

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

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

24 (h) Whenever a defendant is convicted of an offense under
25 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
26 defendant shall undergo medical testing to determine whether

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

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

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

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

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

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

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

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

6 (B) If the defendant has already been sentenced for a
7 felony or misdemeanor offense, or has been placed on
8 probation under Section 10 of the Cannabis Control Act,
9 Section 410 of the Illinois Controlled Substances Act, or
10 Section 70 of the Methamphetamine Control and Community
11 Protection Act, the court may, upon motion of the State's
12 Attorney to suspend the sentence imposed, commit the
13 defendant to the custody of the Attorney General of the
14 United States or his or her designated agent 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 (C) This subsection (1) does not apply to offenders who
22 are subject to the provisions of paragraph (2) of
23 subsection (a) of Section 3-6-3.

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

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

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

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

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

1 (Source: P.A. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993,
2 eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07;
3 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff.
4 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff.
5 1-1-09.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.