



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2669

Introduced 2/20/2009, by Rep. Donald L. Moffitt

SYNOPSIS AS INTRODUCED:

New Act
730 ILCS 5/5-5-3

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

Creates the Emergency Services Response Reimbursement for Criminal Convictions Act. Provides that a person convicted of arson, aggravated arson, residential arson, or place of worship arson, in addition to any other sentence imposed, shall be ordered by the court to reimburse the local emergency response department for the costs of responding to the fire that the offender was convicted of setting. Provides that each emergency response department responding to the fire described shall be eligible for reimbursement. Provides that reimbursement shall be based upon the actual cost to the department of the resources used, including but not limited to personnel and equipment, but shall be deemed to be not less than \$1,000 nor more than \$10,000 per department. Amends the Unified Code of Corrections to make conforming changes. Effective immediately.

LRB096 08264 RLC 18371 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning emergency services.

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

4 Section 1. Short title. This Act may be cited as the
5 Emergency Services Response Reimbursement for Criminal
6 Convictions Act.

7 Section 5. Definition. For the purposes of this Act,
8 "emergency response" means any incident requiring a response by
9 a police officer, an ambulance, a firefighter carried on the
10 rolls of a regularly constituted fire department or fire
11 protection district, or a firefighter of a volunteer fire
12 department.

13 Section 10. Arson offenses; offender to reimburse local
14 emergency response department. A person convicted of arson,
15 aggravated arson, residential arson, or place of worship arson,
16 in addition to any other sentence imposed, shall be ordered by
17 the court to reimburse the local emergency response department
18 for the costs of responding to the fire that the offender was
19 convicted of setting.

20 Section 15. Departments eligible for reimbursement; amount
21 of reimbursement. Each emergency response department

1 responding to the fire resulting from an offense described in
2 Section 10 shall be eligible for reimbursement. Reimbursement
3 shall be based upon the actual cost to the department of the
4 resources used, including but not limited to personnel and
5 equipment, but shall be deemed to be not less than \$1,000 nor
6 more than \$10,000 per department.

7 Section 105. The Unified Code of Corrections is amended by
8 changing Section 5-5-3 as follows:

9 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

10 Sec. 5-5-3. Disposition.

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

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

18 (1) A period of probation.

19 (2) A term of periodic imprisonment.

20 (3) A term of conditional discharge.

21 (4) A term of imprisonment.

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

1 (now repealed).

2 (6) A fine.

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

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

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

11 (10) If the defendant is convicted of arson, aggravated
12 arson, residential arson, or place of worship arson, an
13 order directing the offender to reimburse the local
14 emergency response department for the costs of responding
15 to the fire that the offender was convicted of setting in
16 accordance with the Emergency Services Response
17 Reimbursement for Criminal Convictions 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) A violation of paragraph (4) of subsection (c)
24 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.

1 (3) (Blank).

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

6 (4.1) (Blank).

7 (4.2) Except as provided in paragraphs (4.3) and (4.8)
8 of this subsection (c), a minimum of 100 hours of community
9 service shall be imposed for a second violation of Section
10 6-303 of the Illinois Vehicle Code.

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

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

21 (4.5) A minimum term of imprisonment of 30 days shall
22 be imposed for a third violation of subsection (c) of
23 Section 6-303 of the Illinois Vehicle Code.

24 (4.6) Except as provided in paragraph (4.10) of this
25 subsection (c), a minimum term of imprisonment of 180 days
26 shall be imposed for a fourth or subsequent violation of

1 subsection (c) of Section 6-303 of the Illinois Vehicle
2 Code.

3 (4.7) A minimum term of imprisonment of not less than
4 30 consecutive days, or 300 hours of community service,
5 shall be imposed for a violation of subsection (a-5) of
6 Section 6-303 of the Illinois Vehicle Code, as provided in
7 subsection (b-5) of that Section.

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

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

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

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

4 (A) a period of conditional discharge;

5 (B) a fine;

6 (C) make restitution to the victim under Section
7 5-5-6 of this Code.

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

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

24 (5.3) In addition to any penalties imposed under
25 paragraph (5) of this subsection (c), a person convicted of
26 violating subsection (c) of Section 11-907 of the Illinois

1 Vehicle Code shall have his or her driver's license,
2 permit, or privileges suspended for 2 years, if the
3 violation resulted in the death of another person.

4 (5.4) 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 shall
7 have his or her driver's license, permit, or privileges
8 suspended for 3 months and until he or she has paid a
9 reinstatement fee of \$100.

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

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

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

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

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

20 (10) (Blank).

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

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

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

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

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

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

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

26 (A) the defendant is willing to undergo a court

1 approved counseling program for a minimum duration of 2
2 years; or

3 (B) the defendant is willing to participate in a
4 court approved plan including but not limited to the
5 defendant's:

6 (i) removal from the household;

7 (ii) restricted contact with the victim;

8 (iii) continued financial support of the
9 family;

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

11 and

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

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

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

1 impose a term of imprisonment.

2 For the purposes of this Section, "family member" and
3 "victim" shall have the meanings ascribed to them in Section
4 12-12 of the Criminal Code of 1961.

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

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

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

20 (g-5) When an inmate is tested for an airborne communicable
21 disease, as determined by the Illinois Department of Public
22 Health including but not limited to tuberculosis, the results
23 of the test shall be personally delivered by the warden or his
24 or her designee in a sealed envelope to the judge of the court
25 in which the inmate must appear for the judge's inspection in
26 camera if requested by the judge. Acting in accordance with the

1 best interests of those in the courtroom, the judge shall have
2 the discretion to determine what if any precautions need to be
3 taken to prevent transmission of the disease in the courtroom.

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

1 State's Attorney shows it is relevant in order to prosecute a
2 charge of criminal transmission of HIV under Section 12-16.2 of
3 the Criminal Code of 1961 against the defendant. The court
4 shall order that the cost of any such test shall be paid by the
5 county and may be taxed as costs against the convicted
6 defendant.

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

14 (j) In cases when prosecution for any violation of Section
15 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
16 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
17 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
18 Code of 1961, any violation of the Illinois Controlled
19 Substances Act, any violation of the Cannabis Control Act, or
20 any violation of the Methamphetamine Control and Community
21 Protection Act results in conviction, a disposition of court
22 supervision, or an order of probation granted under Section 10
23 of the Cannabis Control Act, Section 410 of the Illinois
24 Controlled Substance Act, or Section 70 of the Methamphetamine
25 Control and Community Protection Act of a defendant, the court
26 shall determine whether the defendant is employed by a facility

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

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

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

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

22 (l) (A) Except as provided in paragraph (C) of subsection
23 (l), whenever a defendant, who is an alien as defined by
24 the Immigration and Nationality Act, is convicted of any
25 felony or misdemeanor offense, the court after sentencing
26 the defendant may, upon motion of the State's Attorney,

1 hold sentence in abeyance and remand the defendant to the
2 custody of the Attorney General of the United States or his
3 or her designated agent to be deported when:

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

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

10 Otherwise, the defendant shall be sentenced as
11 provided in this Chapter V.

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

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

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

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

1 program licensed under that Act.

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

7 (Source: P.A. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993,
8 eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07;
9 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff.
10 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff.
11 1-1-09.)

12 Section 999. Effective date. This Act takes effect upon
13 becoming law.