



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3907

Introduced 2/26/2009, by Rep. Sandra M. Pihos, Mark H. Beaubien, Jr., Franco Coladipietro, Patricia R. Bellock, Michael W. Tryon, et al.

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3.5

730 ILCS 5/5-5-3

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

Amends the Criminal Code of 1961. Provides that the penalty for the unlawful purchase of a firearm that is used to commit an act of domestic violence as defined in Section 112A-3 of the Code of Criminal Procedure of 1963 is a Class 1 non-probationable felony. Amends the Unified Code of Corrections. Provides that a person who unlawfully purchases a firearm that is used to commit an act of domestic violence in violation of Section 24-3.5 of the Criminal Code of 1961 shall receive a sentence of not less than the minimum term of imprisonment set forth in the Code, but shall not receive a period of probation, a term of periodic imprisonment or conditional discharge.

LRB096 03147 RLC 13164 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning criminal law.

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

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

6 (720 ILCS 5/24-3.5)

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

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

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

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

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

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

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

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

17 (e) Sentence.

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

21 (A) is guilty of a Class 2 felony for purchasing or
22 attempting to purchase one firearm;

23 (B) is guilty of a Class 1 felony for purchasing or
24 attempting to purchase not less than 2 firearms and not
25 more than 5 firearms at the same time or within a one
26 year period;

1 (C) is guilty of a Class X felony for which the
2 offender shall be sentenced to a term of imprisonment
3 of not less than 9 years and not more than 40 years for
4 purchasing or attempting to purchase not less than 6
5 firearms at the same time or within a 2 year period.

6 (1.5) A person who commits the offense of unlawful
7 purchase of a firearm is guilty of a Class 1
8 non-probationable felony if any firearm that is purchased
9 is used to commit an act of domestic violence as defined in
10 Section 112A-3 of the Code of Criminal Procedure of 1963.

11 (2) In addition to any other penalty that may be
12 imposed for a violation of this Section, the court may
13 sentence a person convicted of a violation of subsection
14 (c) of this Section to a fine not to exceed \$250,000 for
15 each violation.

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

18 (Source: P.A. 95-882, eff. 1-1-09.)

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

21 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)
22 Sec. 5-5-3. Disposition.

23 (a) Except as provided in Section 11-501 of the Illinois
24 Vehicle Code, every person convicted of an offense shall be

1 sentenced as provided in this Section.

2 (b) The following options shall be appropriate
3 dispositions, alone or in combination, for all felonies and
4 misdemeanors other than those identified in subsection (c) of
5 this Section:

6 (1) A period of probation.

7 (2) A term of periodic imprisonment.

8 (3) A term of conditional discharge.

9 (4) A term of imprisonment.

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

14 (6) A fine.

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

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

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

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

26 (c) (1) When a defendant is found guilty of first degree

1 murder the State may either seek a sentence of imprisonment
2 under Section 5-8-1 of this Code, or where appropriate seek
3 a sentence of death under Section 9-1 of the Criminal Code
4 of 1961.

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

12 (A) First degree murder where the death penalty is
13 not imposed.

14 (B) Attempted first degree murder.

15 (C) A Class X felony.

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

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

24 (F) A Class 2 or greater felony if the offender had
25 been convicted of a Class 2 or greater felony within 10
26 years of the date on which the offender committed the

1 offense for which he or she is being sentenced, except
2 as otherwise provided in Section 40-10 of the
3 Alcoholism and Other Drug Abuse and Dependency Act.

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

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

10 (H) Criminal sexual assault.

11 (I) Aggravated battery of a senior citizen.

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

14 Before July 1, 1994, for the purposes of this
15 paragraph, "organized gang" means an association of 5
16 or more persons, with an established hierarchy, that
17 encourages members of the association to perpetrate
18 crimes or provides support to the members of the
19 association who do commit crimes.

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

24 (K) Vehicular hijacking.

25 (L) A second or subsequent conviction for the
26 offense of hate crime when the underlying offense upon

1 which the hate crime is based is felony aggravated
2 assault or felony mob action.

3 (M) A second or subsequent conviction for the
4 offense of institutional vandalism if the damage to the
5 property exceeds \$300.

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

9 (O) A violation of Section 12-6.1 of the Criminal
10 Code of 1961.

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

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

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

18 (S) (Blank).

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

21 (U) A second or subsequent violation of Section
22 6-303 of the Illinois Vehicle Code committed while his
23 or her driver's license, permit, or privilege was
24 revoked because of a violation of Section 9-3 of the
25 Criminal Code of 1961, relating to the offense of
26 reckless homicide, or a similar provision of a law of

1 another state.

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

4 (W) A violation of Section 24-3.5 of the Criminal
5 Code of 1961 if any firearm that is purchased is used
6 to commit an act of domestic violence as defined in
7 Section 112A-3 of the Code of Criminal Procedure of
8 1963.

9 (3) (Blank).

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

14 (4.1) (Blank).

15 (4.2) Except as provided in paragraphs (4.3) and (4.8)
16 of this subsection (c), a minimum of 100 hours of community
17 service shall be imposed for a second violation of Section
18 6-303 of the Illinois Vehicle Code.

19 (4.3) A minimum term of imprisonment of 30 days or 300
20 hours of community service, as determined by the court,
21 shall be imposed for a second violation of subsection (c)
22 of Section 6-303 of the Illinois Vehicle Code.

23 (4.4) Except as provided in paragraphs (4.5), (4.6),
24 and (4.9) of this subsection (c), a minimum term of
25 imprisonment of 30 days or 300 hours of community service,
26 as determined by the court, shall be imposed for a third or

1 subsequent violation of Section 6-303 of the Illinois
2 Vehicle Code.

3 (4.5) A minimum term of imprisonment of 30 days shall
4 be imposed for a third violation of subsection (c) of
5 Section 6-303 of the Illinois Vehicle Code.

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

11 (4.7) A minimum term of imprisonment of not less than
12 30 consecutive days, or 300 hours of community service,
13 shall be imposed for a violation of subsection (a-5) of
14 Section 6-303 of the Illinois Vehicle Code, as provided in
15 subsection (b-5) of that Section.

16 (4.8) A mandatory prison sentence shall be imposed for
17 a second violation of subsection (a-5) of Section 6-303 of
18 the Illinois Vehicle Code, as provided in subsection (c-5)
19 of that Section. The person's driving privileges shall be
20 revoked for a period of not less than 5 years from the date
21 of his or her release from prison.

22 (4.9) A mandatory prison sentence of not less than 4
23 and not more than 15 years shall be imposed for a third
24 violation of subsection (a-5) of Section 6-303 of the
25 Illinois Vehicle Code, as provided in subsection (d-2.5) of
26 that Section. The person's driving privileges shall be

1 revoked for the remainder of his or her life.

2 (4.10) A mandatory prison sentence for a Class 1 felony
3 shall be imposed, and the person shall be eligible for an
4 extended term sentence, for a fourth or subsequent
5 violation of subsection (a-5) of Section 6-303 of the
6 Illinois Vehicle Code, as provided in subsection (d-3.5) of
7 that Section. The person's driving privileges shall be
8 revoked for the remainder of his or her life.

9 (5) The court may sentence an offender convicted of a
10 business offense or a petty offense or a corporation or
11 unincorporated association convicted of any offense to:

12 (A) a period of conditional discharge;

13 (B) a fine;

14 (C) make restitution to the victim under Section
15 5-5-6 of this Code.

16 (5.1) In addition to any penalties imposed under
17 paragraph (5) of this subsection (c), and except as
18 provided in paragraph (5.2) or (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 90 days but
22 not more than one year, if the violation resulted in damage
23 to the property of another person.

24 (5.2) In addition to any penalties imposed under
25 paragraph (5) of this subsection (c), and except as
26 provided in paragraph (5.3), a person convicted of

1 violating subsection (c) of Section 11-907 of the Illinois
2 Vehicle Code shall have his or her driver's license,
3 permit, or privileges suspended for at least 180 days but
4 not more than 2 years, if the violation resulted in injury
5 to another person.

6 (5.3) In addition to any penalties imposed under
7 paragraph (5) of this subsection (c), a person convicted of
8 violating subsection (c) of Section 11-907 of the Illinois
9 Vehicle Code shall have his or her driver's license,
10 permit, or privileges suspended for 2 years, if the
11 violation resulted in the death of another person.

12 (5.4) In addition to any penalties imposed under
13 paragraph (5) of this subsection (c), a person convicted of
14 violating Section 3-707 of the Illinois Vehicle Code shall
15 have his or her driver's license, permit, or privileges
16 suspended for 3 months and until he or she has paid a
17 reinstatement fee of \$100.

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

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

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

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

25 (9) A defendant convicted of a second or subsequent
26 offense of ritualized abuse of a child may be sentenced to

1 a term of natural life imprisonment.

2 (10) (Blank).

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

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

25 (13) A person convicted of or placed on court
26 supervision for an assault or aggravated assault when the

1 victim and the offender are family or household members as
2 defined in Section 103 of the Illinois Domestic Violence
3 Act of 1986 or convicted of domestic battery or aggravated
4 domestic battery may be required to attend a Partner Abuse
5 Intervention Program under protocols set forth by the
6 Illinois Department of Human Services under such terms and
7 conditions imposed by the court. The costs of such classes
8 shall be paid by the offender.

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

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

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

8 (A) the defendant is willing to undergo a court
9 approved counseling program for a minimum duration of 2
10 years; or

11 (B) the defendant is willing to participate in a
12 court approved plan including but not limited to the
13 defendant's:

14 (i) removal from the household;

15 (ii) restricted contact with the victim;

16 (iii) continued financial support of the
17 family;

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

19 and

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

22 (2) the court orders the defendant to pay for the
23 victim's counseling services, to the extent that the court
24 finds, after considering the defendant's income and
25 assets, that the defendant is financially capable of paying
26 for such services, if the victim was under 18 years of age

1 at the time the offense was committed and requires
2 counseling as a result of the offense.

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

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

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

17 (g) Whenever a defendant is convicted of an offense under
18 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
19 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
20 of the Criminal Code of 1961, the defendant shall undergo
21 medical testing to determine whether the defendant has any
22 sexually transmissible disease, including a test for infection
23 with human immunodeficiency virus (HIV) or any other identified
24 causative agent of acquired immunodeficiency syndrome (AIDS).
25 Any such medical test shall be performed only by appropriately
26 licensed medical practitioners and may include an analysis of

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

1 taxed as costs against the convicted defendant.

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

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

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

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

22 (j) In cases when prosecution for any violation of Section
23 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
24 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
25 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
26 Code of 1961, any violation of the Illinois Controlled

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

21 (j-5) A defendant at least 17 years of age who is convicted
22 of a felony and who has not been previously convicted of a
23 misdemeanor or felony and who is sentenced to a term of
24 imprisonment in the Illinois Department of Corrections shall as
25 a condition of his or her sentence be required by the court to
26 attend educational courses designed to prepare the defendant

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

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

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

20 (B) If the defendant has already been sentenced for a
21 felony or misdemeanor offense, or has been placed on
22 probation under Section 10 of the Cannabis Control Act,
23 Section 410 of the Illinois Controlled Substances Act, or
24 Section 70 of the Methamphetamine Control and Community
25 Protection Act, the court may, upon motion of the State's
26 Attorney to suspend the sentence imposed, commit the

1 defendant to the custody of the Attorney General of the
2 United States or his or her designated agent when:

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

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

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

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

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

1 defacement.

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

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

15 (Source: P.A. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993,
16 eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07;
17 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff.
18 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff.
19 1-1-09.)