



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3909

Introduced 2/26/2009, by Rep. Harry R. Ramey, Jr., Mark H. Beaubien, Jr., Mike Fortner, Michael G. Connelly, Patricia R. Bellock, et al.

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.2	from Ch. 38, par. 12-3.2
720 ILCS 5/12-3.3	
730 ILCS 5/5-5-3	from Ch. 38, par. 1005-5-3

Amends the Criminal Code of 1961 and the Unified Code of Corrections. Provides that a person convicted of a second or subsequent offense of domestic battery is ineligible for probation, periodic imprisonment, or conditional discharge and must serve a minimum term of imprisonment of one year. Provides that a person convicted of a second or subsequent offense of aggravated domestic battery is ineligible for probation, periodic imprisonment, or conditional discharge and must serve a minimum term of imprisonment of at least 3 years or a mandatory extended term of imprisonment of at least 7 years.

LRB096 03150 RLC 13167 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 Sections 12-3.2 and 12-3.3 as follows:

6 (720 ILCS 5/12-3.2) (from Ch. 38, par. 12-3.2)

7 Sec. 12-3.2. Domestic Battery.

8 (a) A person commits domestic battery if he intentionally
9 or knowingly without legal justification by any means:

10 (1) Causes bodily harm to any family or household
11 member as defined in subsection (3) of Section 112A-3 of
12 the Code of Criminal Procedure of 1963, as amended;

13 (2) Makes physical contact of an insulting or provoking
14 nature with any family or household member as defined in
15 subsection (3) of Section 112A-3 of the Code of Criminal
16 Procedure of 1963, as amended.

17 (b) Sentence. Domestic battery is a Class A misdemeanor.
18 Domestic battery is a Class 4 felony if the defendant has any
19 prior conviction under this Code for domestic battery (Section
20 12-3.2) or violation of an order of protection (Section 12-30),
21 or any prior conviction under the law of another jurisdiction
22 for an offense which is substantially similar. Domestic battery
23 is a Class 4 felony if the defendant has any prior conviction

1 under this Code for first degree murder (Section 9-1), attempt
2 to commit first degree murder (Section 8-4), aggravated
3 domestic battery (Section 12-3.3), aggravated battery (Section
4 12-4), heinous battery (Section 12-4.1), aggravated battery
5 with a firearm (Section 12-4.2), aggravated battery of a child
6 (Section 12-4.3), aggravated battery of an unborn child
7 (Section 12-4.4), aggravated battery of a senior citizen
8 (Section 12-4.6), stalking (Section 12-7.3), aggravated
9 stalking (Section 12-7.4), criminal sexual assault (Section
10 12-13), aggravated criminal sexual assault (12-14), kidnapping
11 (Section 10-1), aggravated kidnapping (Section 10-2),
12 predatory criminal sexual assault of a child (Section 12-14.1),
13 aggravated criminal sexual abuse (Section 12-16), unlawful
14 restraint (Section 10-3), aggravated unlawful restraint
15 (Section 10-3.1), aggravated arson (Section 20-1.1), or
16 aggravated discharge of a firearm (Section 24-1.2), or any
17 prior conviction under the law of another jurisdiction for any
18 offense that is substantially similar to the offenses listed in
19 this Section, when any of these offenses have been committed
20 against a family or household member as defined in Section
21 112A-3 of the Code of Criminal Procedure of 1963. In addition
22 to any other sentencing alternatives, for any second or
23 subsequent conviction of violating this Section, the offender
24 shall be mandatorily sentenced to a minimum of one year ~~72~~
25 ~~consecutive hours~~ of imprisonment. The imprisonment shall not
26 be subject to suspension, nor shall the person be eligible for

1 probation in order to reduce the sentence.

2 (c) Domestic battery committed in the presence of a child.

3 In addition to any other sentencing alternatives, a defendant
4 who commits, in the presence of a child, a felony domestic
5 battery (enhanced under subsection (b)), aggravated domestic
6 battery (Section 12-3.3), aggravated battery (Section 12-4),
7 unlawful restraint (Section 10-3), or aggravated unlawful
8 restraint (Section 10-3.1) against a family or household
9 member, as defined in Section 112A-3 of the Code of Criminal
10 Procedure of 1963, shall be required to serve a mandatory
11 minimum imprisonment of 10 days or perform 300 hours of
12 community service, or both. The defendant shall further be
13 liable for the cost of any counseling required for the child at
14 the discretion of the court in accordance with subsection (b)
15 of Section 5-5-6 of the Unified Code of Corrections. For
16 purposes of this Section, "child" means a person under 18 years
17 of age who is the defendant's or victim's child or step-child
18 or who is a minor child residing within or visiting the
19 household of the defendant or victim. For purposes of this
20 Section, "in the presence of a child" means in the physical
21 presence of a child or knowing or having reason to know that a
22 child is present and may see or hear an act constituting one of
23 the offenses listed in this subsection.

24 (Source: P.A. 93-336, eff. 1-1-04; 93-809, eff. 1-1-05; 94-148,
25 eff. 1-1-06.)

1 (720 ILCS 5/12-3.3)

2 Sec. 12-3.3. Aggravated domestic battery.

3 (a) A person who, in committing a domestic battery,
4 intentionally or knowingly causes great bodily harm, or
5 permanent disability or disfigurement commits aggravated
6 domestic battery.

7 (b) Sentence. Aggravated domestic battery is a Class 2
8 felony. Any order of probation or conditional discharge entered
9 following a conviction for an offense under this Section must
10 include, in addition to any other condition of probation or
11 conditional discharge, a condition that the offender serve a
12 mandatory term of imprisonment of not less than 60 consecutive
13 days. A person convicted of a second or subsequent violation of
14 this Section must be sentenced to a mandatory term of
15 imprisonment of not less than 3 years and not more than 7 years
16 or a mandatory ~~an~~ extended term of imprisonment of not less
17 than 7 years and not more than 14 years.

18 (Source: P.A. 91-445, eff. 1-1-00.)

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.

6 (X) A second or subsequent conviction for domestic
7 battery under Section 12-3.2 of the Criminal Code of
8 1961.

9 (Y) A second or subsequent conviction for
10 aggravated domestic battery under Section 12-3.3 of
11 the Criminal Code of 1961.

12 (3) (Blank).

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

17 (4.1) (Blank).

18 (4.2) Except as provided in paragraphs (4.3) and (4.8)
19 of this subsection (c), a minimum of 100 hours of community
20 service shall be imposed for a second violation of Section
21 6-303 of the Illinois Vehicle Code.

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

26 (4.4) Except as provided in paragraphs (4.5), (4.6),

1 and (4.9) of this subsection (c), a minimum term of
2 imprisonment of 30 days or 300 hours of community service,
3 as determined by the court, shall be imposed for a third or
4 subsequent violation of Section 6-303 of the Illinois
5 Vehicle Code.

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

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

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

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

25 (4.9) A mandatory prison sentence of not less than 4
26 and not more than 15 years shall be imposed for a third

1 violation of subsection (a-5) of Section 6-303 of the
2 Illinois Vehicle Code, as provided in subsection (d-2.5) of
3 that Section. The person's driving privileges shall be
4 revoked for the remainder of his or her life.

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

12 (5) The court may sentence an offender convicted of a
13 business offense or a petty offense or a corporation or
14 unincorporated association convicted of any offense to:

15 (A) a period of conditional discharge;

16 (B) a fine;

17 (C) make restitution to the victim under Section
18 5-5-6 of this Code.

19 (5.1) In addition to any penalties imposed under
20 paragraph (5) of this subsection (c), and except as
21 provided in paragraph (5.2) or (5.3), a person convicted of
22 violating subsection (c) of Section 11-907 of the Illinois
23 Vehicle Code shall have his or her driver's license,
24 permit, or privileges suspended for at least 90 days but
25 not more than one year, if the violation resulted in damage
26 to the property of another person.

1 (5.2) In addition to any penalties imposed under
2 paragraph (5) of this subsection (c), and except as
3 provided in paragraph (5.3), a person convicted of
4 violating subsection (c) of Section 11-907 of the Illinois
5 Vehicle Code shall have his or her driver's license,
6 permit, or privileges suspended for at least 180 days but
7 not more than 2 years, if the violation resulted in injury
8 to another person.

9 (5.3) In addition to any penalties imposed under
10 paragraph (5) of this subsection (c), 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 2 years, if the
14 violation resulted in the death of another person.

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

21 (5.5) In addition to any penalties imposed under
22 paragraph (5) of this subsection (c), a person convicted of
23 violating Section 3-707 of the Illinois Vehicle Code during
24 a period in which his or her driver's license, permit, or
25 privileges were suspended for a previous violation of that
26 Section shall have his or her driver's license, permit, or

1 privileges suspended for an additional 6 months after the
2 expiration of the original 3-month suspension and until he
3 or she has paid a reinstatement fee of \$100.

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

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

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

1 Alcoholism and Other Drug Abuse and Dependency Act.

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

5 (10) (Blank).

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

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

1 of that Section.

2 (13) A person convicted of or placed on court
3 supervision for an assault or aggravated assault when the
4 victim and the offender are family or household members as
5 defined in Section 103 of the Illinois Domestic Violence
6 Act of 1986 or convicted of domestic battery or aggravated
7 domestic battery may be required to attend a Partner Abuse
8 Intervention Program under protocols set forth by the
9 Illinois Department of Human Services under such terms and
10 conditions imposed by the court. The costs of such classes
11 shall be paid by the offender.

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

1 to a term within the range otherwise provided or, if the State
2 files notice of its intention to again seek the extended
3 sentence, the defendant shall be afforded a new trial.

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

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

11 (A) the defendant is willing to undergo a court
12 approved counseling program for a minimum duration of 2
13 years; or

14 (B) the defendant is willing to participate in a
15 court approved plan including but not limited to the
16 defendant's:

17 (i) removal from the household;

18 (ii) restricted contact with the victim;

19 (iii) continued financial support of the
20 family;

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

22 and

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

25 (2) the court orders the defendant to pay for the
26 victim's counseling services, to the extent that the court

1 finds, after considering the defendant's income and
2 assets, that the defendant is financially capable of paying
3 for such services, if the victim was under 18 years of age
4 at the time the offense was committed and requires
5 counseling as a result of the offense.

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

13 For the purposes of this Section, "family member" and
14 "victim" shall have the meanings ascribed to them in Section
15 12-12 of the Criminal Code of 1961.

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

20 (g) Whenever a defendant is convicted of an offense under
21 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
22 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
23 of the Criminal Code of 1961, the defendant shall undergo
24 medical testing to determine whether the defendant has any
25 sexually transmissible disease, including a test for infection
26 with human immunodeficiency virus (HIV) or any other identified

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

1 transmission of HIV under Section 12-16.2 of the Criminal Code
2 of 1961 against the defendant. The court shall order that the
3 cost of any such test shall be paid by the county and may be
4 taxed as costs against the convicted defendant.

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

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

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

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

25 (j) In cases when prosecution for any violation of Section
26 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,

1 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
2 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
3 Code of 1961, any violation of the Illinois Controlled
4 Substances Act, any violation of the Cannabis Control Act, or
5 any violation of the Methamphetamine Control and Community
6 Protection Act results in conviction, a disposition of court
7 supervision, or an order of probation granted under Section 10
8 of the Cannabis Control Act, Section 410 of the Illinois
9 Controlled Substance Act, or Section 70 of the Methamphetamine
10 Control and Community Protection Act of a defendant, the court
11 shall determine whether the defendant is employed by a facility
12 or center as defined under the Child Care Act of 1969, a public
13 or private elementary or secondary school, or otherwise works
14 with children under 18 years of age on a daily basis. When a
15 defendant is so employed, the court shall order the Clerk of
16 the Court to send a copy of the judgment of conviction or order
17 of supervision or probation to the defendant's employer by
18 certified mail. If the employer of the defendant is a school,
19 the Clerk of the Court shall direct the mailing of a copy of
20 the judgment of conviction or order of supervision or probation
21 to the appropriate regional superintendent of schools. The
22 regional superintendent of schools shall notify the State Board
23 of Education of any notification under this subsection.

24 (j-5) A defendant at least 17 years of age who is convicted
25 of a felony and who has not been previously convicted of a
26 misdemeanor or felony and who is sentenced to a term of

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

1 determined by the court to be developmentally disabled or
2 otherwise mentally incapable of completing the educational or
3 vocational program.

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

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

23 (B) If the defendant has already been sentenced for a
24 felony or misdemeanor offense, or has been placed on
25 probation under Section 10 of the Cannabis Control Act,
26 Section 410 of the Illinois Controlled Substances Act, or

1 Section 70 of the Methamphetamine Control and Community
2 Protection Act, the court may, upon motion of the State's
3 Attorney to suspend the sentence imposed, commit the
4 defendant to the custody of the Attorney General of the
5 United States or his or her designated agent when:

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

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

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

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

25 (m) A person convicted of criminal defacement of property
26 under Section 21-1.3 of the Criminal Code of 1961, in which the

1 property damage exceeds \$300 and the property damaged is a
2 school building, shall be ordered to perform community service
3 that may include cleanup, removal, or painting over the
4 defacement.

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

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

18 (Source: P.A. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993,
19 eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07;
20 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff.
21 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff.
22 1-1-09.)