



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5019

Introduced 1/21/2010, by Rep. Dennis M. Reboletti

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-3	from Ch. 38, par. 1003-6-3
730 ILCS 5/5-4-1	from Ch. 38, par. 1005-4-1
730 ILCS 5/5-5-3	from Ch. 38, par. 1005-5-3

Amends the Unified Code of Corrections. Eliminates the authority of the Director of Corrections to award up to 180 days of additional good conduct credit for meritorious service in specific instances as the Director deems proper. Effective immediately.

LRB096 17401 RLC 32754 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Unified Code of Corrections is amended by
5 changing Sections 3-6-3, 5-4-1, and 5-5-3 as follows:

6 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

7 Sec. 3-6-3. Rules and Regulations for Early Release.

8 (a) (1) The Department of Corrections shall prescribe
9 rules and regulations for the early release on account of
10 good conduct of persons committed to the Department which
11 shall be subject to review by the Prisoner Review Board.

12 (2) The rules and regulations on early release shall
13 provide, with respect to offenses listed in clause (i),
14 (ii), or (iii) of this paragraph (2) committed on or after
15 June 19, 1998 or with respect to the offense listed in
16 clause (iv) of this paragraph (2) committed on or after
17 June 23, 2005 (the effective date of Public Act 94-71) or
18 with respect to offense listed in clause (vi) committed on
19 or after June 1, 2008 (the effective date of Public Act
20 95-625) or with respect to the offense of being an armed
21 habitual criminal committed on or after August 2, 2005 (the
22 effective date of Public Act 94-398) or with respect to the
23 offenses listed in clause (v) of this paragraph (2)

1 committed on or after August 13, 2007 (the effective date
2 of Public Act 95-134), the following:

3 (i) that a prisoner who is serving a term of
4 imprisonment for first degree murder or for the offense
5 of terrorism shall receive no good conduct credit and
6 shall serve the entire sentence imposed by the court;

7 (ii) that a prisoner serving a sentence for attempt
8 to commit first degree murder, solicitation of murder,
9 solicitation of murder for hire, intentional homicide
10 of an unborn child, predatory criminal sexual assault
11 of a child, aggravated criminal sexual assault,
12 criminal sexual assault, aggravated kidnapping,
13 aggravated battery with a firearm, heinous battery,
14 being an armed habitual criminal, aggravated battery
15 of a senior citizen, or aggravated battery of a child
16 shall receive no more than 4.5 days of good conduct
17 credit for each month of his or her sentence of
18 imprisonment;

19 (iii) that a prisoner serving a sentence for home
20 invasion, armed robbery, aggravated vehicular
21 hijacking, aggravated discharge of a firearm, or armed
22 violence with a category I weapon or category II
23 weapon, when the court has made and entered a finding,
24 pursuant to subsection (c-1) of Section 5-4-1 of this
25 Code, that the conduct leading to conviction for the
26 enumerated offense resulted in great bodily harm to a

1 victim, shall receive no more than 4.5 days of good
2 conduct credit for each month of his or her sentence of
3 imprisonment;

4 (iv) that a prisoner serving a sentence for
5 aggravated discharge of a firearm, whether or not the
6 conduct leading to conviction for the offense resulted
7 in great bodily harm to the victim, shall receive no
8 more than 4.5 days of good conduct credit for each
9 month of his or her sentence of imprisonment;

10 (v) that a person serving a sentence for
11 gunrunning, narcotics racketeering, controlled
12 substance trafficking, methamphetamine trafficking,
13 drug-induced homicide, aggravated
14 methamphetamine-related child endangerment, money
15 laundering pursuant to clause (c) (4) or (5) of Section
16 29B-1 of the Criminal Code of 1961, or a Class X felony
17 conviction for delivery of a controlled substance,
18 possession of a controlled substance with intent to
19 manufacture or deliver, calculated criminal drug
20 conspiracy, criminal drug conspiracy, street gang
21 criminal drug conspiracy, participation in
22 methamphetamine manufacturing, aggravated
23 participation in methamphetamine manufacturing,
24 delivery of methamphetamine, possession with intent to
25 deliver methamphetamine, aggravated delivery of
26 methamphetamine, aggravated possession with intent to

1 deliver methamphetamine, methamphetamine conspiracy
2 when the substance containing the controlled substance
3 or methamphetamine is 100 grams or more shall receive
4 no more than 7.5 days good conduct credit for each
5 month of his or her sentence of imprisonment; and

6 (vi) that a prisoner serving a sentence for a
7 second or subsequent offense of luring a minor shall
8 receive no more than 4.5 days of good conduct credit
9 for each month of his or her sentence of imprisonment.

10 (2.1) For all offenses, other than those enumerated in
11 subdivision (a)(2)(i), (ii), or (iii) committed on or after
12 June 19, 1998 or subdivision (a)(2)(iv) committed on or
13 after June 23, 2005 (the effective date of Public Act
14 94-71) or subdivision (a)(2)(v) committed on or after
15 August 13, 2007 (the effective date of Public Act 95-134)
16 or subdivision (a)(2)(vi) committed on or after June 1,
17 2008 (the effective date of Public Act 95-625), and other
18 than the offense of reckless homicide as defined in
19 subsection (e) of Section 9-3 of the Criminal Code of 1961
20 committed on or after January 1, 1999, or aggravated
21 driving under the influence of alcohol, other drug or
22 drugs, or intoxicating compound or compounds, or any
23 combination thereof as defined in subparagraph (F) of
24 paragraph (1) of subsection (d) of Section 11-501 of the
25 Illinois Vehicle Code, the rules and regulations shall
26 provide that a prisoner who is serving a term of

1 imprisonment shall receive one day of good conduct credit
2 for each day of his or her sentence of imprisonment or
3 recommitment under Section 3-3-9. Each day of good conduct
4 credit shall reduce by one day the prisoner's period of
5 imprisonment or recommitment under Section 3-3-9.

6 (2.2) A prisoner serving a term of natural life
7 imprisonment or a prisoner who has been sentenced to death
8 shall receive no good conduct credit.

9 (2.3) The rules and regulations on early release shall
10 provide that a prisoner who is serving a sentence for
11 reckless homicide as defined in subsection (e) of Section
12 9-3 of the Criminal Code of 1961 committed on or after
13 January 1, 1999, or aggravated driving under the influence
14 of alcohol, other drug or drugs, or intoxicating compound
15 or compounds, or any combination thereof as defined in
16 subparagraph (F) of paragraph (1) of subsection (d) of
17 Section 11-501 of the Illinois Vehicle Code, shall receive
18 no more than 4.5 days of good conduct credit for each month
19 of his or her sentence of imprisonment.

20 (2.4) The rules and regulations on early release shall
21 provide with respect to the offenses of aggravated battery
22 with a machine gun or a firearm equipped with any device or
23 attachment designed or used for silencing the report of a
24 firearm or aggravated discharge of a machine gun or a
25 firearm equipped with any device or attachment designed or
26 used for silencing the report of a firearm, committed on or

1 after July 15, 1999 (the effective date of Public Act
2 91-121), that a prisoner serving a sentence for any of
3 these offenses shall receive no more than 4.5 days of good
4 conduct credit for each month of his or her sentence of
5 imprisonment.

6 (2.5) The rules and regulations on early release shall
7 provide that a prisoner who is serving a sentence for
8 aggravated arson committed on or after July 27, 2001 (the
9 effective date of Public Act 92-176) shall receive no more
10 than 4.5 days of good conduct credit for each month of his
11 or her sentence of imprisonment.

12 (3) On or after the effective date of this amendatory
13 Act of the 96th General Assembly, the Director shall not
14 award additional good conduct credit for meritorious
15 service in specific instances. Nothing in this amendatory
16 Act of the 96th General Assembly shall invalidate such
17 award of additional good conduct credit for meritorious
18 service lawfully made before the effective date of this
19 amendatory Act of the 96th General Assembly; nor shall the
20 Department or Director or any employee of the Department be
21 criminally or civilly liable for such award, except in
22 cases of willful and wanton negligence. ~~The rules and~~
23 ~~regulations shall also provide that the Director may award~~
24 ~~up to 180 days additional good conduct credit for~~
25 ~~meritorious service in specific instances as the Director~~
26 ~~deems proper; except that no more than 90 days of good~~

1 ~~conduct credit for meritorious service shall be awarded to~~
2 ~~any prisoner who is serving a sentence for conviction of~~
3 ~~first degree murder, reckless homicide while under the~~
4 ~~influence of alcohol or any other drug, or aggravated~~
5 ~~driving under the influence of alcohol, other drug or~~
6 ~~drugs, or intoxicating compound or compounds, or any~~
7 ~~combination thereof as defined in subparagraph (F) of~~
8 ~~paragraph (1) of subsection (d) of Section 11-501 of the~~
9 ~~Illinois Vehicle Code, aggravated kidnapping, kidnapping,~~
10 ~~predatory criminal sexual assault of a child, aggravated~~
11 ~~criminal sexual assault, criminal sexual assault, deviate~~
12 ~~sexual assault, aggravated criminal sexual abuse,~~
13 ~~aggravated indecent liberties with a child, indecent~~
14 ~~liberties with a child, child pornography, heinous~~
15 ~~battery, aggravated battery of a spouse, aggravated~~
16 ~~battery of a spouse with a firearm, stalking, aggravated~~
17 ~~stalking, aggravated battery of a child, endangering the~~
18 ~~life or health of a child, or cruelty to a child.~~
19 ~~Notwithstanding the foregoing, good conduct credit for~~
20 ~~meritorious service shall not be awarded on a sentence of~~
21 ~~imprisonment imposed for conviction of: (i) one of the~~
22 ~~offenses enumerated in subdivision (a)(2)(i), (ii), or~~
23 ~~(iii) when the offense is committed on or after June 19,~~
24 ~~1998 or subdivision (a)(2)(iv) when the offense is~~
25 ~~committed on or after June 23, 2005 (the effective date of~~
26 ~~Public Act 94-71) or subdivision (a)(2)(v) when the offense~~

1 ~~is committed on or after August 13, 2007 (the effective~~
2 ~~date of Public Act 95-134) or subdivision (a)(2)(vi) when~~
3 ~~the offense is committed on or after June 1, 2008 (the~~
4 ~~effective date of Public Act 95-625), (ii) reckless~~
5 ~~homicide as defined in subsection (c) of Section 9-3 of the~~
6 ~~Criminal Code of 1961 when the offense is committed on or~~
7 ~~after January 1, 1999, or aggravated driving under the~~
8 ~~influence of alcohol, other drug or drugs, or intoxicating~~
9 ~~compound or compounds, or any combination thereof as~~
10 ~~defined in subparagraph (F) of paragraph (1) of subsection~~
11 ~~(d) of Section 11-501 of the Illinois Vehicle Code, (iii)~~
12 ~~one of the offenses enumerated in subdivision (a)(2.4) when~~
13 ~~the offense is committed on or after July 15, 1999 (the~~
14 ~~effective date of Public Act 91-121), or (iv) aggravated~~
15 ~~arson when the offense is committed on or after July 27,~~
16 ~~2001 (the effective date of Public Act 92-176).~~

17 (4) The rules and regulations shall also provide that
18 the good conduct credit accumulated and retained under
19 paragraph (2.1) of subsection (a) of this Section by any
20 inmate during specific periods of time in which such inmate
21 is engaged full-time in substance abuse programs,
22 correctional industry assignments, or educational programs
23 provided by the Department under this paragraph (4) and
24 satisfactorily completes the assigned program as
25 determined by the standards of the Department, shall be
26 multiplied by a factor of 1.25 for program participation

1 before August 11, 1993 and 1.50 for program participation
2 on or after that date. However, no inmate shall be eligible
3 for the additional good conduct credit under this paragraph
4 (4) or (4.1) of this subsection (a) while assigned to a
5 boot camp or electronic detention, or if convicted of an
6 offense enumerated in subdivision (a)(2)(i), (ii), or
7 (iii) of this Section that is committed on or after June
8 19, 1998 or subdivision (a)(2)(iv) of this Section that is
9 committed on or after June 23, 2005 (the effective date of
10 Public Act 94-71) or subdivision (a)(2)(v) of this Section
11 that is committed on or after August 13, 2007 (the
12 effective date of Public Act 95-134) or subdivision
13 (a)(2)(vi) when the offense is committed on or after June
14 1, 2008 (the effective date of Public Act 95-625), or if
15 convicted of reckless homicide as defined in subsection (e)
16 of Section 9-3 of the Criminal Code of 1961 if the offense
17 is committed on or after January 1, 1999, or aggravated
18 driving under the influence of alcohol, other drug or
19 drugs, or intoxicating compound or compounds, or any
20 combination thereof as defined in subparagraph (F) of
21 paragraph (1) of subsection (d) of Section 11-501 of the
22 Illinois Vehicle Code, or if convicted of an offense
23 enumerated in paragraph (a)(2.4) of this Section that is
24 committed on or after July 15, 1999 (the effective date of
25 Public Act 91-121), or first degree murder, a Class X
26 felony, criminal sexual assault, felony criminal sexual

1 abuse, aggravated criminal sexual abuse, aggravated
2 battery with a firearm, or any predecessor or successor
3 offenses with the same or substantially the same elements,
4 or any inchoate offenses relating to the foregoing
5 offenses. No inmate shall be eligible for the additional
6 good conduct credit under this paragraph (4) who (i) has
7 previously received increased good conduct credit under
8 this paragraph (4) and has subsequently been convicted of a
9 felony, or (ii) has previously served more than one prior
10 sentence of imprisonment for a felony in an adult
11 correctional facility.

12 Educational, vocational, substance abuse and
13 correctional industry programs under which good conduct
14 credit may be increased under this paragraph (4) and
15 paragraph (4.1) of this subsection (a) shall be evaluated
16 by the Department on the basis of documented standards. The
17 Department shall report the results of these evaluations to
18 the Governor and the General Assembly by September 30th of
19 each year. The reports shall include data relating to the
20 recidivism rate among program participants.

21 Availability of these programs shall be subject to the
22 limits of fiscal resources appropriated by the General
23 Assembly for these purposes. Eligible inmates who are
24 denied immediate admission shall be placed on a waiting
25 list under criteria established by the Department. The
26 inability of any inmate to become engaged in any such

1 programs by reason of insufficient program resources or for
2 any other reason established under the rules and
3 regulations of the Department shall not be deemed a cause
4 of action under which the Department or any employee or
5 agent of the Department shall be liable for damages to the
6 inmate.

7 (4.1) The rules and regulations shall also provide that
8 an additional 60 days of good conduct credit shall be
9 awarded to any prisoner who passes the high school level
10 Test of General Educational Development (GED) while the
11 prisoner is incarcerated. The good conduct credit awarded
12 under this paragraph (4.1) shall be in addition to, and
13 shall not affect, the award of good conduct under any other
14 paragraph of this Section, but shall also be pursuant to
15 the guidelines and restrictions set forth in paragraph (4)
16 of subsection (a) of this Section. The good conduct credit
17 provided for in this paragraph shall be available only to
18 those prisoners who have not previously earned a high
19 school diploma or a GED. If, after an award of the GED good
20 conduct credit has been made and the Department determines
21 that the prisoner was not eligible, then the award shall be
22 revoked.

23 ~~(4.5) The rules and regulations on early release shall~~
24 ~~also provide that when the court's sentencing order~~
25 ~~recommends a prisoner for substance abuse treatment and the~~
26 ~~crime was committed on or after September 1, 2003 (the~~

~~effective date of Public Act 93-354), the prisoner shall receive no good conduct credit awarded under clause (3) of this subsection (a) unless he or she participates in and completes a substance abuse treatment program. The Director may waive the requirement to participate in or complete a substance abuse treatment program and award the good conduct credit in specific instances if the prisoner is not a good candidate for a substance abuse treatment program for medical, programming, or operational reasons.~~

Availability of substance abuse treatment shall be subject to the limits of fiscal resources appropriated by the General Assembly for these purposes. If treatment is not available and the requirement to participate and complete the treatment has not been waived by the Director, the prisoner shall be placed on a waiting list under criteria established by the Department. The Director may allow a prisoner placed on a waiting list to participate in and complete a substance abuse education class or attend substance abuse self-help meetings in lieu of a substance abuse treatment program. ~~A prisoner on a waiting list who is not placed in a substance abuse program prior to release may be eligible for a waiver and receive good conduct credit under clause (3) of this subsection (a) at the discretion of the Director.~~

(4.6) The rules and regulations on early release shall also provide that a prisoner who has been convicted of a

1 sex offense as defined in Section 2 of the Sex Offender
2 Registration Act shall receive no good conduct credit
3 unless he or she either has successfully completed or is
4 participating in sex offender treatment as defined by the
5 Sex Offender Management Board. However, prisoners who are
6 waiting to receive such treatment, but who are unable to do
7 so due solely to the lack of resources on the part of the
8 Department, may, at the Director's sole discretion, be
9 awarded good conduct credit at such rate as the Director
10 shall determine.

11 (5) (Blank) ~~Whenever the Department is to release any~~
12 ~~inmate earlier than it otherwise would because of a grant~~
13 ~~of good conduct credit for meritorious service given at any~~
14 ~~time during the term, the Department shall give reasonable~~
15 ~~advance notice of the impending release to the State's~~
16 ~~Attorney of the county where the prosecution of the inmate~~
17 ~~took place.~~

18 (b) Whenever a person is or has been committed under
19 several convictions, with separate sentences, the sentences
20 shall be construed under Section 5-8-4 in granting and
21 forfeiting of good time.

22 (c) The Department shall prescribe rules and regulations
23 for revoking good conduct credit, or suspending or reducing the
24 rate of accumulation of good conduct credit for specific rule
25 violations, during imprisonment. These rules and regulations
26 shall provide that no inmate may be penalized more than one

1 year of good conduct credit for any one infraction.

2 When the Department seeks to revoke, suspend or reduce the
3 rate of accumulation of any good conduct credits for an alleged
4 infraction of its rules, it shall bring charges therefor
5 against the prisoner sought to be so deprived of good conduct
6 credits before the Prisoner Review Board as provided in
7 subparagraph (a)(4) of Section 3-3-2 of this Code, if the
8 amount of credit at issue exceeds 30 days or when during any 12
9 month period, the cumulative amount of credit revoked exceeds
10 30 days except where the infraction is committed or discovered
11 within 60 days of scheduled release. In those cases, the
12 Department of Corrections may revoke up to 30 days of good
13 conduct credit. The Board may subsequently approve the
14 revocation of additional good conduct credit, if the Department
15 seeks to revoke good conduct credit in excess of 30 days.
16 However, the Board shall not be empowered to review the
17 Department's decision with respect to the loss of 30 days of
18 good conduct credit within any calendar year for any prisoner
19 or to increase any penalty beyond the length requested by the
20 Department.

21 The Director of the Department of Corrections, in
22 appropriate cases, may restore up to 30 days good conduct
23 credits which have been revoked, suspended or reduced. Any
24 restoration of good conduct credits in excess of 30 days shall
25 be subject to review by the Prisoner Review Board. However, the
26 Board may not restore good conduct credit in excess of the

1 amount requested by the Director.

2 Nothing contained in this Section shall prohibit the
3 Prisoner Review Board from ordering, pursuant to Section
4 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
5 sentence imposed by the court that was not served due to the
6 accumulation of good conduct credit.

7 (d) If a lawsuit is filed by a prisoner in an Illinois or
8 federal court against the State, the Department of Corrections,
9 or the Prisoner Review Board, or against any of their officers
10 or employees, and the court makes a specific finding that a
11 pleading, motion, or other paper filed by the prisoner is
12 frivolous, the Department of Corrections shall conduct a
13 hearing to revoke up to 180 days of good conduct credit by
14 bringing charges against the prisoner sought to be deprived of
15 the good conduct credits before the Prisoner Review Board as
16 provided in subparagraph (a)(8) of Section 3-3-2 of this Code.
17 If the prisoner has not accumulated 180 days of good conduct
18 credit at the time of the finding, then the Prisoner Review
19 Board may revoke all good conduct credit accumulated by the
20 prisoner.

21 For purposes of this subsection (d):

22 (1) "Frivolous" means that a pleading, motion, or other
23 filing which purports to be a legal document filed by a
24 prisoner in his or her lawsuit meets any or all of the
25 following criteria:

26 (A) it lacks an arguable basis either in law or in

1 fact;

2 (B) it is being presented for any improper purpose,
3 such as to harass or to cause unnecessary delay or
4 needless increase in the cost of litigation;

5 (C) the claims, defenses, and other legal
6 contentions therein are not warranted by existing law
7 or by a nonfrivolous argument for the extension,
8 modification, or reversal of existing law or the
9 establishment of new law;

10 (D) the allegations and other factual contentions
11 do not have evidentiary support or, if specifically so
12 identified, are not likely to have evidentiary support
13 after a reasonable opportunity for further
14 investigation or discovery; or

15 (E) the denials of factual contentions are not
16 warranted on the evidence, or if specifically so
17 identified, are not reasonably based on a lack of
18 information or belief.

19 (2) "Lawsuit" means a motion pursuant to Section 116-3
20 of the Code of Criminal Procedure of 1963, a habeas corpus
21 action under Article X of the Code of Civil Procedure or
22 under federal law (28 U.S.C. 2254), a petition for claim
23 under the Court of Claims Act, an action under the federal
24 Civil Rights Act (42 U.S.C. 1983), or a second or
25 subsequent petition for post-conviction relief under
26 Article 122 of the Code of Criminal Procedure of 1963

1 whether filed with or without leave of court or a second or
2 subsequent petition for relief from judgment under Section
3 2-1401 of the Code of Civil Procedure.

4 (e) Nothing in Public Act 90-592 or 90-593 affects the
5 validity of Public Act 89-404.

6 (f) Whenever the Department is to release any inmate who
7 has been convicted of a violation of an order of protection
8 under Section 12-30 of the Criminal Code of 1961, earlier than
9 it otherwise would because of a grant of good conduct credit,
10 the Department, as a condition of such early release, shall
11 require that the person, upon release, be placed under
12 electronic surveillance as provided in Section 5-8A-7 of this
13 Code.

14 (Source: P.A. 94-71, eff. 6-23-05; 94-128, eff. 7-7-05; 94-156,
15 eff. 7-8-05; 94-398, eff. 8-2-05; 94-491, eff. 8-8-05; 94-744,
16 eff. 5-8-06; 95-134, eff. 8-13-07; 95-585, eff. 6-1-08; 95-625,
17 eff. 6-1-08; 95-640, eff. 6-1-08; 95-773, eff. 1-1-09; 95-876,
18 eff. 8-21-08.)

19 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

20 Sec. 5-4-1. Sentencing Hearing.

21 (a) Except when the death penalty is sought under hearing
22 procedures otherwise specified, after a determination of
23 guilt, a hearing shall be held to impose the sentence. However,
24 prior to the imposition of sentence on an individual being
25 sentenced for an offense based upon a charge for a violation of

1 Section 11-501 of the Illinois Vehicle Code or a similar
2 provision of a local ordinance, the individual must undergo a
3 professional evaluation to determine if an alcohol or other
4 drug abuse problem exists and the extent of such a problem.
5 Programs conducting these evaluations shall be licensed by the
6 Department of Human Services. However, if the individual is not
7 a resident of Illinois, the court may, in its discretion,
8 accept an evaluation from a program in the state of such
9 individual's residence. The court may in its sentencing order
10 approve an eligible defendant for placement in a Department of
11 Corrections impact incarceration program as provided in
12 Section 5-8-1.1 or 5-8-1.3. The court may in its sentencing
13 order recommend a defendant for placement in a Department of
14 Corrections substance abuse treatment program as provided in
15 paragraph (a) of subsection (1) of Section 3-2-2 conditioned
16 upon the defendant being accepted in a program by the
17 Department of Corrections. At the hearing the court shall:

18 (1) consider the evidence, if any, received upon the
19 trial;

20 (2) consider any presentence reports;

21 (3) consider the financial impact of incarceration
22 based on the financial impact statement filed with the
23 clerk of the court by the Department of Corrections;

24 (4) consider evidence and information offered by the
25 parties in aggravation and mitigation;

26 (4.5) consider substance abuse treatment, eligibility

1 screening, and an assessment, if any, of the defendant by
2 an agent designated by the State of Illinois to provide
3 assessment services for the Illinois courts;

4 (5) hear arguments as to sentencing alternatives;

5 (6) afford the defendant the opportunity to make a
6 statement in his own behalf;

7 (7) afford the victim of a violent crime or a violation
8 of Section 11-501 of the Illinois Vehicle Code, or a
9 similar provision of a local ordinance, or a qualified
10 individual affected by: (i) a violation of Section 405,
11 405.1, 405.2, or 407 of the Illinois Controlled Substances
12 Act or a violation of Section 55 or Section 65 of the
13 Methamphetamine Control and Community Protection Act, or
14 (ii) a Class 4 felony violation of Section 11-14, 11-15,
15 11-17, 11-18, 11-18.1, or 11-19 of the Criminal Code of
16 1961, committed by the defendant the opportunity to make a
17 statement concerning the impact on the victim and to offer
18 evidence in aggravation or mitigation; provided that the
19 statement and evidence offered in aggravation or
20 mitigation must first be prepared in writing in conjunction
21 with the State's Attorney before it may be presented orally
22 at the hearing. Any sworn testimony offered by the victim
23 is subject to the defendant's right to cross-examine. All
24 statements and evidence offered under this paragraph (7)
25 shall become part of the record of the court. For the
26 purpose of this paragraph (7), "qualified individual"

1 means any person who (i) lived or worked within the
2 territorial jurisdiction where the offense took place when
3 the offense took place; and (ii) is familiar with various
4 public places within the territorial jurisdiction where
5 the offense took place when the offense took place. For the
6 purposes of this paragraph (7), "qualified individual"
7 includes any peace officer, or any member of any duly
8 organized State, county, or municipal peace unit assigned
9 to the territorial jurisdiction where the offense took
10 place when the offense took place;

11 (8) in cases of reckless homicide afford the victim's
12 spouse, guardians, parents or other immediate family
13 members an opportunity to make oral statements; and

14 (9) in cases involving a felony sex offense as defined
15 under the Sex Offender Management Board Act, consider the
16 results of the sex offender evaluation conducted pursuant
17 to Section 5-3-2 of this Act.

18 (b) All sentences shall be imposed by the judge based upon
19 his independent assessment of the elements specified above and
20 any agreement as to sentence reached by the parties. The judge
21 who presided at the trial or the judge who accepted the plea of
22 guilty shall impose the sentence unless he is no longer sitting
23 as a judge in that court. Where the judge does not impose
24 sentence at the same time on all defendants who are convicted
25 as a result of being involved in the same offense, the
26 defendant or the State's Attorney may advise the sentencing

1 court of the disposition of any other defendants who have been
2 sentenced.

3 (c) In imposing a sentence for a violent crime or for an
4 offense of operating or being in physical control of a vehicle
5 while under the influence of alcohol, any other drug or any
6 combination thereof, or a similar provision of a local
7 ordinance, when such offense resulted in the personal injury to
8 someone other than the defendant, the trial judge shall specify
9 on the record the particular evidence, information, factors in
10 mitigation and aggravation or other reasons that led to his
11 sentencing determination. The full verbatim record of the
12 sentencing hearing shall be filed with the clerk of the court
13 and shall be a public record.

14 (c-1) In imposing a sentence for the offense of aggravated
15 kidnapping for ransom, home invasion, armed robbery,
16 aggravated vehicular hijacking, aggravated discharge of a
17 firearm, or armed violence with a category I weapon or category
18 II weapon, the trial judge shall make a finding as to whether
19 the conduct leading to conviction for the offense resulted in
20 great bodily harm to a victim, and shall enter that finding and
21 the basis for that finding in the record.

22 (c-2) If the defendant is sentenced to prison, other than
23 when a sentence of natural life imprisonment or a sentence of
24 death is imposed, at the time the sentence is imposed the judge
25 shall state on the record in open court the approximate period
26 of time the defendant will serve in custody according to the

1 then current statutory rules and regulations for early release
2 found in Section 3-6-3 and other related provisions of this
3 Code. This statement is intended solely to inform the public,
4 has no legal effect on the defendant's actual release, and may
5 not be relied on by the defendant on appeal.

6 The judge's statement, to be given after pronouncing the
7 sentence, ~~other than when the sentence is imposed for one of~~
8 ~~the offenses enumerated in paragraph (a) (3) of Section 3-6-3,~~
9 shall include the following:

10 "The purpose of this statement is to inform the public of
11 the actual period of time this defendant is likely to spend in
12 prison as a result of this sentence. The actual period of
13 prison time served is determined by the statutes of Illinois as
14 applied to this sentence by the Illinois Department of
15 Corrections and the Illinois Prisoner Review Board. In this
16 case, assuming the defendant receives all of his or her good
17 conduct credit, the period of estimated actual custody is ...
18 years and ... months, ~~less up to 180 days additional good~~
19 ~~conduct credit for meritorious service.~~ If the defendant,
20 because of his or her own misconduct or failure to comply with
21 the institutional regulations, does not receive those credits,
22 the actual time served in prison will be longer. The defendant
23 may also receive an additional one-half day good conduct credit
24 for each day of participation in vocational, industry,
25 substance abuse, and educational programs as provided for by
26 Illinois statute."

1 ~~When the sentence is imposed for one of the offenses~~
2 ~~enumerated in paragraph (a) (3) of Section 3-6-3, other than~~
3 ~~when the sentence is imposed for one of the offenses enumerated~~
4 ~~in paragraph (a) (2) of Section 3-6-3 committed on or after June~~
5 ~~19, 1998, and other than when the sentence is imposed for~~
6 ~~reckless homicide as defined in subsection (e) of Section 9-3~~
7 ~~of the Criminal Code of 1961 if the offense was committed on or~~
8 ~~after January 1, 1999, and other than when the sentence is~~
9 ~~imposed for aggravated arson if the offense was committed on or~~
10 ~~after July 27, 2001 (the effective date of Public Act 92-176),~~
11 ~~the judge's statement, to be given after pronouncing the~~
12 ~~sentence, shall include the following:~~

13 ~~"The purpose of this statement is to inform the public of~~
14 ~~the actual period of time this defendant is likely to spend in~~
15 ~~prison as a result of this sentence. The actual period of~~
16 ~~prison time served is determined by the statutes of Illinois as~~
17 ~~applied to this sentence by the Illinois Department of~~
18 ~~Corrections and the Illinois Prisoner Review Board. In this~~
19 ~~case, assuming the defendant receives all of his or her good~~
20 ~~conduct credit, the period of estimated actual custody is ...~~
21 ~~years and ... months, less up to 90 days additional good~~
22 ~~conduct credit for meritorious service. If the defendant,~~
23 ~~because of his or her own misconduct or failure to comply with~~
24 ~~the institutional regulations, does not receive those credits,~~
25 ~~the actual time served in prison will be longer. The defendant~~
26 ~~may also receive an additional one half day good conduct credit~~

1 ~~for each day of participation in vocational, industry,~~
2 ~~substance abuse, and educational programs as provided for by~~
3 ~~Illinois statute."~~

4 When the sentence is imposed for one of the offenses
5 enumerated in paragraph (a)(2) of Section 3-6-3, other than
6 first degree murder, and the offense was committed on or after
7 June 19, 1998, and when the sentence is imposed for reckless
8 homicide as defined in subsection (e) of Section 9-3 of the
9 Criminal Code of 1961 if the offense was committed on or after
10 January 1, 1999, and when the sentence is imposed for
11 aggravated driving under the influence of alcohol, other drug
12 or drugs, or intoxicating compound or compounds, or any
13 combination thereof as defined in subparagraph (F) of paragraph
14 (1) of subsection (d) of Section 11-501 of the Illinois Vehicle
15 Code, and when the sentence is imposed for aggravated arson if
16 the offense was committed on or after July 27, 2001 (the
17 effective date of Public Act 92-176), the judge's statement, to
18 be given after pronouncing the sentence, shall include the
19 following:

20 "The purpose of this statement is to inform the public of
21 the actual period of time this defendant is likely to spend in
22 prison as a result of this sentence. The actual period of
23 prison time served is determined by the statutes of Illinois as
24 applied to this sentence by the Illinois Department of
25 Corrections and the Illinois Prisoner Review Board. In this
26 case, the defendant is entitled to no more than 4 1/2 days of

1 good conduct credit for each month of his or her sentence of
2 imprisonment. Therefore, this defendant will serve at least 85%
3 of his or her sentence. Assuming the defendant receives 4 1/2
4 days credit for each month of his or her sentence, the period
5 of estimated actual custody is ... years and ... months. If the
6 defendant, because of his or her own misconduct or failure to
7 comply with the institutional regulations receives lesser
8 credit, the actual time served in prison will be longer."

9 When a sentence of imprisonment is imposed for first degree
10 murder and the offense was committed on or after June 19, 1998,
11 the judge's statement, to be given after pronouncing the
12 sentence, shall include the following:

13 "The purpose of this statement is to inform the public of
14 the actual period of time this defendant is likely to spend in
15 prison as a result of this sentence. The actual period of
16 prison time served is determined by the statutes of Illinois as
17 applied to this sentence by the Illinois Department of
18 Corrections and the Illinois Prisoner Review Board. In this
19 case, the defendant is not entitled to good conduct credit.
20 Therefore, this defendant will serve 100% of his or her
21 sentence."

22 When the sentencing order recommends placement in a
23 substance abuse program for any offense that results in
24 incarceration in a Department of Corrections facility and the
25 crime was committed on or after September 1, 2003 (the
26 effective date of Public Act 93-354), the judge's statement, in

1 addition to any other judge's statement required under this
2 Section, to be given after pronouncing the sentence, shall
3 include the following:

4 "The purpose of this statement is to inform the public of
5 the actual period of time this defendant is likely to spend in
6 prison as a result of this sentence. The actual period of
7 prison time served is determined by the statutes of Illinois as
8 applied to this sentence by the Illinois Department of
9 Corrections and the Illinois Prisoner Review Board. ~~In this~~
10 ~~case, the defendant shall receive no good conduct credit under~~
11 ~~clause (3) of subsection (a) of Section 3-6-3 until he or she~~
12 ~~participates in and completes a substance abuse treatment~~
13 ~~program or receives a waiver from the Director of Corrections~~
14 ~~pursuant to clause (4.5) of subsection (a) of Section 3-6-3."~~

15 (c-4) Before the sentencing hearing and as part of the
16 presentence investigation under Section 5-3-1, the court shall
17 inquire of the defendant whether the defendant is currently
18 serving in or is a veteran of the Armed Forces of the United
19 States. If the defendant is currently serving in the Armed
20 Forces of the United States or is a veteran of the Armed Forces
21 of the United States and has been diagnosed as having a mental
22 illness by a qualified psychiatrist or clinical psychologist or
23 physician, the court may:

24 (1) order that the officer preparing the presentence
25 report consult with the United States Department of
26 Veterans Affairs, Illinois Department of Veterans'

1 Affairs, or another agency or person with suitable
2 knowledge or experience for the purpose of providing the
3 court with information regarding treatment options
4 available to the defendant, including federal, State, and
5 local programming; and

6 (2) consider the treatment recommendations of any
7 diagnosing or treating mental health professionals
8 together with the treatment options available to the
9 defendant in imposing sentence.

10 For the purposes of this subsection (c-4), "qualified
11 psychiatrist" means a reputable physician licensed in Illinois
12 to practice medicine in all its branches, who has specialized
13 in the diagnosis and treatment of mental and nervous disorders
14 for a period of not less than 5 years.

15 (d) When the defendant is committed to the Department of
16 Corrections, the State's Attorney shall and counsel for the
17 defendant may file a statement with the clerk of the court to
18 be transmitted to the department, agency or institution to
19 which the defendant is committed to furnish such department,
20 agency or institution with the facts and circumstances of the
21 offense for which the person was committed together with all
22 other factual information accessible to them in regard to the
23 person prior to his commitment relative to his habits,
24 associates, disposition and reputation and any other facts and
25 circumstances which may aid such department, agency or
26 institution during its custody of such person. The clerk shall

1 within 10 days after receiving any such statements transmit a
2 copy to such department, agency or institution and a copy to
3 the other party, provided, however, that this shall not be
4 cause for delay in conveying the person to the department,
5 agency or institution to which he has been committed.

6 (e) The clerk of the court shall transmit to the
7 department, agency or institution, if any, to which the
8 defendant is committed, the following:

9 (1) the sentence imposed;

10 (2) any statement by the court of the basis for
11 imposing the sentence;

12 (3) any presentence reports;

13 (3.5) any sex offender evaluations;

14 (3.6) any substance abuse treatment eligibility
15 screening and assessment of the defendant by an agent
16 designated by the State of Illinois to provide assessment
17 services for the Illinois courts;

18 (4) the number of days, if any, which the defendant has
19 been in custody and for which he is entitled to credit
20 against the sentence, which information shall be provided
21 to the clerk by the sheriff;

22 (4.1) any finding of great bodily harm made by the
23 court with respect to an offense enumerated in subsection
24 (c-1);

25 (5) all statements filed under subsection (d) of this
26 Section;

1 (6) any medical or mental health records or summaries
2 of the defendant;

3 (7) the municipality where the arrest of the offender
4 or the commission of the offense has occurred, where such
5 municipality has a population of more than 25,000 persons;

6 (8) all statements made and evidence offered under
7 paragraph (7) of subsection (a) of this Section; and

8 (9) all additional matters which the court directs the
9 clerk to transmit.

10 (Source: P.A. 95-331, eff. 8-21-07; 96-86, eff. 1-1-10.)

11 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

12 Sec. 5-5-3. Disposition.

13 (a) (Blank).

14 (b) (Blank).

15 (c) (1) (Blank).

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

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

25 (B) Attempted first degree murder.

1 (C) A Class X felony.

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

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

10 (F) A Class 2 or greater felony if the offender had
11 been convicted of a Class 2 or greater felony,
12 including any state or federal conviction for an
13 offense that contained, at the time it was committed,
14 the same elements as an offense now (the date of the
15 offense committed after the prior Class 2 or greater
16 felony) classified as a Class 2 or greater felony,
17 within 10 years of the date on which the offender
18 committed the offense for which he or she is being
19 sentenced, except as otherwise provided in Section
20 40-10 of the Alcoholism and Other Drug Abuse and
21 Dependency Act.

22 (F-5) A violation of Section 24-1, 24-1.1, or
23 24-1.6 of the Criminal Code of 1961 for which
24 imprisonment is prescribed in those Sections.

25 (G) Residential burglary, except as otherwise
26 provided in Section 40-10 of the Alcoholism and Other

1 Drug Abuse and Dependency Act.

2 (H) Criminal sexual assault.

3 (I) Aggravated battery of a senior citizen.

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

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

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

16 (K) Vehicular hijacking.

17 (L) A second or subsequent conviction for the
18 offense of hate crime when the underlying offense upon
19 which the hate crime is based is felony aggravated
20 assault or felony mob action.

21 (M) A second or subsequent conviction for the
22 offense of institutional vandalism if the damage to the
23 property exceeds \$300.

24 (N) A Class 3 felony violation of paragraph (1) of
25 subsection (a) of Section 2 of the Firearm Owners
26 Identification Card Act.

1 (O) A violation of Section 12-6.1 of the Criminal
2 Code of 1961.

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

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

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

10 (S) (Blank).

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

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

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

22 (W) A violation of Section 24-3.5 of the Criminal
23 Code of 1961.

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

26 (Y) A conviction for unlawful possession of a

1 firearm by a street gang member when the firearm was
2 loaded or contained firearm ammunition.

3 (3) (Blank).

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

8 (4.1) (Blank).

9 (4.2) Except as provided in paragraphs (4.3) and (4.8)
10 of this subsection (c), a minimum of 100 hours of community
11 service shall be imposed for a second violation of Section
12 6-303 of the Illinois Vehicle Code.

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

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

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

26 (4.6) Except as provided in paragraph (4.10) of this

1 subsection (c), a minimum term of imprisonment of 180 days
2 shall be imposed for a fourth or subsequent violation of
3 subsection (c) of Section 6-303 of the Illinois Vehicle
4 Code.

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

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

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

22 (4.10) A mandatory prison sentence for a Class 1 felony
23 shall be imposed, and the person shall be eligible for an
24 extended term sentence, for a fourth or subsequent
25 violation of subsection (a-5) of Section 6-303 of the
26 Illinois Vehicle Code, as provided in subsection (d-3.5) of

1 that Section. The person's driving privileges shall be
2 revoked for the remainder of his or her life.

3 (5) The court may sentence a corporation or
4 unincorporated association convicted of any offense to:

5 (A) a period of conditional discharge;

6 (B) a fine;

7 (C) make restitution to the victim under Section
8 5-5-6 of this Code.

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

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

23 (5.3) In addition to any other penalties imposed, a
24 person convicted of violating subsection (c) of Section
25 11-907 of the Illinois Vehicle Code shall have his or her
26 driver's license, permit, or privileges suspended for 2

1 years, if the violation resulted in the death of another
2 person.

3 (5.4) In addition to any other penalties imposed, a
4 person convicted of violating Section 3-707 of the Illinois
5 Vehicle Code shall have his or her driver's license,
6 permit, or privileges suspended for 3 months and until he
7 or she has paid a reinstatement fee of \$100.

8 (5.5) In addition to any other penalties imposed, a
9 person convicted of violating Section 3-707 of the Illinois
10 Vehicle Code during a period in which his or her driver's
11 license, permit, or privileges were suspended for a
12 previous violation of that Section shall have his or her
13 driver's license, permit, or privileges suspended for an
14 additional 6 months after the expiration of the original
15 3-month suspension and until he or she has paid a
16 reinstatement fee of \$100.

17 (6) (Blank).

18 (7) (Blank).

19 (8) (Blank).

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

23 (10) (Blank).

24 (11) The court shall impose a minimum fine of \$1,000
25 for a first offense and \$2,000 for a second or subsequent
26 offense upon a person convicted of or placed on supervision

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

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

20 (13) A person convicted of or placed on court
21 supervision for an assault or aggravated assault when the
22 victim and the offender are family or household members as
23 defined in Section 103 of the Illinois Domestic Violence
24 Act of 1986 or convicted of domestic battery or aggravated
25 domestic battery may be required to attend a Partner Abuse
26 Intervention Program under protocols set forth by the

1 Illinois Department of Human Services under such terms and
2 conditions imposed by the court. The costs of such classes
3 shall be paid by the offender.

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

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

1 may impose a sentence of probation only where:

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

3 (A) the defendant is willing to undergo a court
4 approved counseling program for a minimum duration of 2
5 years; or

6 (B) the defendant is willing to participate in a
7 court approved plan including but not limited to the
8 defendant's:

9 (i) removal from the household;

10 (ii) restricted contact with the victim;

11 (iii) continued financial support of the
12 family;

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

14 and

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

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

24 Probation may be revoked or modified pursuant to Section
25 5-6-4; except where the court determines at the hearing that
26 the defendant violated a condition of his or her probation

1 restricting contact with the victim or other family members or
2 commits another offense with the victim or other family
3 members, the court shall revoke the defendant's probation and
4 impose a term of imprisonment.

5 For the purposes of this Section, "family member" and
6 "victim" shall have the meanings ascribed to them in Section
7 12-12 of the Criminal Code of 1961.

8 (f) (Blank).

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) (Blank).

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

1 or her designated agent to be deported when:

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

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

8 Otherwise, the defendant shall be sentenced as
9 provided in this Chapter V.

10 (B) If the defendant has already been sentenced for a
11 felony or misdemeanor offense, or has been placed on
12 probation under Section 10 of the Cannabis Control Act,
13 Section 410 of the Illinois Controlled Substances Act, or
14 Section 70 of the Methamphetamine Control and Community
15 Protection Act, the court may, upon motion of the State's
16 Attorney to suspend the sentence imposed, commit the
17 defendant to the custody of the Attorney General of the
18 United States or his or her designated agent when:

19 (1) a final order of deportation has been issued
20 against the defendant pursuant to proceedings under
21 the Immigration and Nationality Act, and

22 (2) the deportation of the defendant would not
23 deprecate the seriousness of the defendant's conduct
24 and would not be inconsistent with the ends of justice.

25 (C) This subsection (1) does not apply to offenders who
26 are subject to the provisions of paragraph (2) of

1 subsection (a) of Section 3-6-3.

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

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

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

26 (o) Whenever a person is convicted of a sex offense as

1 defined in Section 2 of the Sex Offender Registration Act, the
2 defendant's driver's license or permit shall be subject to
3 renewal on an annual basis in accordance with the provisions of
4 license renewal established by the Secretary of State.

5 (Source: P.A. 95-188, eff. 8-16-07; 95-259, eff. 8-17-07;
6 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08;
7 95-876, eff. 8-21-08; 95-882, eff. 1-1-09; 95-1052, eff.
8 7-1-09; 96-348, eff. 8-12-09; 96-400, eff. 8-13-09; 96-829,
9 eff. 12-3-09.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.