



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

**HB5148**

Introduced 1/29/2010, by Rep. Dennis M. Reboletti

#### SYNOPSIS AS INTRODUCED:

720 ILCS 570/401  
730 ILCS 5/5-5-3

from Ch. 56 1/2, par. 1401  
from Ch. 38, par. 1005-5-3

Amends the Illinois Controlled Substances Act. Provides that the knowing manufacture or delivery of, or possession with intent to manufacture or deliver, heroin is a Class X felony with respect to 5 grams (rather than 15 grams) or more of heroin. Amends the Unified Code of Corrections. Provides that the offense is non-probationable if the amount of the heroin is 3 (rather than over 5) grams or more.

LRB096 18651 RLC 35120 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 Illinois Controlled Substances Act is  
5 amended by changing Section 401 as follows:

6 (720 ILCS 570/401) (from Ch. 56 1/2, par. 1401)

7 Sec. 401. Except as authorized by this Act, it is unlawful  
8 for any person knowingly to manufacture or deliver, or possess  
9 with intent to manufacture or deliver, a controlled substance  
10 other than methamphetamine, a counterfeit substance, or a  
11 controlled substance analog. A violation of this Act with  
12 respect to each of the controlled substances listed herein  
13 constitutes a single and separate violation of this Act. For  
14 purposes of this Section, "controlled substance analog" or  
15 "analog" means a substance which is intended for human  
16 consumption, other than a controlled substance, that has a  
17 chemical structure substantially similar to that of a  
18 controlled substance in Schedule I or II, or that was  
19 specifically designed to produce an effect substantially  
20 similar to that of a controlled substance in Schedule I or II.  
21 Examples of chemical classes in which controlled substance  
22 analogs are found include, but are not limited to, the  
23 following: phenethylamines, N-substituted piperidines,

1 morphinans, ecgonines, quinazolinones, substituted indoles,  
2 and arylcycloalkylamines. For purposes of this Act, a  
3 controlled substance analog shall be treated in the same manner  
4 as the controlled substance to which it is substantially  
5 similar.

6 (a) Any person who violates this Section with respect to  
7 the following amounts of controlled or counterfeit substances  
8 or controlled substance analogs, notwithstanding any of the  
9 provisions of subsections (c), (d), (e), (f), (g) or (h) to the  
10 contrary, is guilty of a Class X felony and shall be sentenced  
11 to a term of imprisonment as provided in this subsection (a)  
12 and fined as provided in subsection (b):

13 (1) (A) not less than 6 years and not more than 30  
14 years with respect to 5 ~~15~~ grams or more but less than  
15 100 grams of a substance containing heroin, or an  
16 analog thereof;

17 (B) not less than 9 years and not more than 40  
18 years with respect to 100 grams or more but less than  
19 400 grams of a substance containing heroin, or an  
20 analog thereof;

21 (C) not less than 12 years and not more than 50  
22 years with respect to 400 grams or more but less than  
23 900 grams of a substance containing heroin, or an  
24 analog thereof;

25 (D) not less than 15 years and not more than 60  
26 years with respect to 900 grams or more of any

1 substance containing heroin, or an analog thereof;

2 (1.5) (A) not less than 6 years and not more than 30  
3 years with respect to 15 grams or more but less than  
4 100 grams of a substance containing fentanyl, or an  
5 analog thereof;

6 (B) not less than 9 years and not more than 40  
7 years with respect to 100 grams or more but less than  
8 400 grams of a substance containing fentanyl, or an  
9 analog thereof;

10 (C) not less than 12 years and not more than 50  
11 years with respect to 400 grams or more but less than  
12 900 grams of a substance containing fentanyl, or an  
13 analog thereof;

14 (D) not less than 15 years and not more than 60  
15 years with respect to 900 grams or more of a substance  
16 containing fentanyl, or an analog thereof;

17 (2) (A) not less than 6 years and not more than 30  
18 years with respect to 15 grams or more but less than  
19 100 grams of a substance containing cocaine, or an  
20 analog thereof;

21 (B) not less than 9 years and not more than 40  
22 years with respect to 100 grams or more but less than  
23 400 grams of a substance containing cocaine, or an  
24 analog thereof;

25 (C) not less than 12 years and not more than 50  
26 years with respect to 400 grams or more but less than

1 900 grams of a substance containing cocaine, or an  
2 analog thereof;

3 (D) not less than 15 years and not more than 60  
4 years with respect to 900 grams or more of any  
5 substance containing cocaine, or an analog thereof;

6 (3) (A) not less than 6 years and not more than 30  
7 years with respect to 15 grams or more but less than  
8 100 grams of a substance containing morphine, or an  
9 analog thereof;

10 (B) not less than 9 years and not more than 40  
11 years with respect to 100 grams or more but less than  
12 400 grams of a substance containing morphine, or an  
13 analog thereof;

14 (C) not less than 12 years and not more than 50  
15 years with respect to 400 grams or more but less than  
16 900 grams of a substance containing morphine, or an  
17 analog thereof;

18 (D) not less than 15 years and not more than 60  
19 years with respect to 900 grams or more of a substance  
20 containing morphine, or an analog thereof;

21 (4) 200 grams or more of any substance containing  
22 peyote, or an analog thereof;

23 (5) 200 grams or more of any substance containing a  
24 derivative of barbituric acid or any of the salts of a  
25 derivative of barbituric acid, or an analog thereof;

26 (6) 200 grams or more of any substance containing

1           amphetamine or any salt of an optical isomer of  
2           amphetamine, or an analog thereof;

3           (6.5) (blank);

4           (6.6) (blank);

5           (7) (A) not less than 6 years and not more than 30  
6           years with respect to: (i) 15 grams or more but less  
7           than 100 grams of a substance containing lysergic acid  
8           diethylamide (LSD), or an analog thereof, or (ii) 15 or  
9           more objects or 15 or more segregated parts of an  
10          object or objects but less than 200 objects or 200  
11          segregated parts of an object or objects containing in  
12          them or having upon them any amounts of any substance  
13          containing lysergic acid diethylamide (LSD), or an  
14          analog thereof;

15          (B) not less than 9 years and not more than 40  
16          years with respect to: (i) 100 grams or more but less  
17          than 400 grams of a substance containing lysergic acid  
18          diethylamide (LSD), or an analog thereof, or (ii) 200  
19          or more objects or 200 or more segregated parts of an  
20          object or objects but less than 600 objects or less  
21          than 600 segregated parts of an object or objects  
22          containing in them or having upon them any amount of  
23          any substance containing lysergic acid diethylamide  
24          (LSD), or an analog thereof;

25          (C) not less than 12 years and not more than 50  
26          years with respect to: (i) 400 grams or more but less

1 than 900 grams of a substance containing lysergic acid  
2 diethylamide (LSD), or an analog thereof, or (ii) 600  
3 or more objects or 600 or more segregated parts of an  
4 object or objects but less than 1500 objects or 1500  
5 segregated parts of an object or objects containing in  
6 them or having upon them any amount of any substance  
7 containing lysergic acid diethylamide (LSD), or an  
8 analog thereof;

9 (D) not less than 15 years and not more than 60  
10 years with respect to: (i) 900 grams or more of any  
11 substance containing lysergic acid diethylamide (LSD),  
12 or an analog thereof, or (ii) 1500 or more objects or  
13 1500 or more segregated parts of an object or objects  
14 containing in them or having upon them any amount of a  
15 substance containing lysergic acid diethylamide (LSD),  
16 or an analog thereof;

17 (7.5) (A) not less than 6 years and not more than 30  
18 years with respect to: (i) 15 grams or more but less  
19 than 100 grams of a substance listed in paragraph (1),  
20 (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),  
21 (21), (25), or (26) of subsection (d) of Section 204,  
22 or an analog or derivative thereof, or (ii) 15 or more  
23 pills, tablets, caplets, capsules, or objects but less  
24 than 200 pills, tablets, caplets, capsules, or objects  
25 containing in them or having upon them any amounts of  
26 any substance listed in paragraph (1), (2), (2.1),

1 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or  
2 (26) of subsection (d) of Section 204, or an analog or  
3 derivative thereof;

4 (B) not less than 9 years and not more than 40  
5 years with respect to: (i) 100 grams or more but less  
6 than 400 grams of a substance listed in paragraph (1),  
7 (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),  
8 (21), (25), or (26) of subsection (d) of Section 204,  
9 or an analog or derivative thereof, or (ii) 200 or more  
10 pills, tablets, caplets, capsules, or objects but less  
11 than 600 pills, tablets, caplets, capsules, or objects  
12 containing in them or having upon them any amount of  
13 any substance listed in paragraph (1), (2), (2.1),  
14 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or  
15 (26) of subsection (d) of Section 204, or an analog or  
16 derivative thereof;

17 (C) not less than 12 years and not more than 50  
18 years with respect to: (i) 400 grams or more but less  
19 than 900 grams of a substance listed in paragraph (1),  
20 (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),  
21 (21), (25), or (26) of subsection (d) of Section 204,  
22 or an analog or derivative thereof, or (ii) 600 or more  
23 pills, tablets, caplets, capsules, or objects but less  
24 than 1,500 pills, tablets, caplets, capsules, or  
25 objects containing in them or having upon them any  
26 amount of any substance listed in paragraph (1), (2),



1 (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21),  
2 (25), or (26) of subsection (d) of Section 204, or an  
3 analog or derivative thereof;

4 (D) not less than 15 years and not more than 60  
5 years with respect to: (i) 900 grams or more of any  
6 substance listed in paragraph (1), (2), (2.1), (2.2),  
7 (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of  
8 subsection (d) of Section 204, or an analog or  
9 derivative thereof, or (ii) 1,500 or more pills,  
10 tablets, caplets, capsules, or objects containing in  
11 them or having upon them any amount of a substance  
12 listed in paragraph (1), (2), (2.1), (2.2), (3),  
13 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
14 subsection (d) of Section 204, or an analog or  
15 derivative thereof;

16 (8) 30 grams or more of any substance containing  
17 pentazocine or any of the salts, isomers and salts of  
18 isomers of pentazocine, or an analog thereof;

19 (9) 30 grams or more of any substance containing  
20 methaqualone or any of the salts, isomers and salts of  
21 isomers of methaqualone, or an analog thereof;

22 (10) 30 grams or more of any substance containing  
23 phencyclidine or any of the salts, isomers and salts of  
24 isomers of phencyclidine (PCP), or an analog thereof;

25 (10.5) 30 grams or more of any substance containing  
26 ketamine or any of the salts, isomers and salts of isomers

1 of ketamine, or an analog thereof;

2 (11) 200 grams or more of any substance containing any  
3 other controlled substance classified in Schedules I or II,  
4 or an analog thereof, which is not otherwise included in  
5 this subsection.

6 (b) Any person sentenced with respect to violations of  
7 paragraph (1), (2), (3), (7), or (7.5) of subsection (a)  
8 involving 100 grams or more of the controlled substance named  
9 therein, may in addition to the penalties provided therein, be  
10 fined an amount not more than \$500,000 or the full street value  
11 of the controlled or counterfeit substance or controlled  
12 substance analog, whichever is greater. The term "street value"  
13 shall have the meaning ascribed in Section 110-5 of the Code of  
14 Criminal Procedure of 1963. Any person sentenced with respect  
15 to any other provision of subsection (a), may in addition to  
16 the penalties provided therein, be fined an amount not to  
17 exceed \$500,000.

18 (b-1) Excluding violations of this Act when the controlled  
19 substance is fentanyl, any person sentenced to a term of  
20 imprisonment with respect to violations of Section 401, 401.1,  
21 405, 405.1, 405.2, or 407, when the substance containing the  
22 controlled substance contains any amount of fentanyl, 3 years  
23 shall be added to the term of imprisonment imposed by the  
24 court, and the maximum sentence for the offense shall be  
25 increased by 3 years.

26 (c) Any person who violates this Section with regard to the

1 following amounts of controlled or counterfeit substances or  
2 controlled substance analogs, notwithstanding any of the  
3 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)  
4 to the contrary, is guilty of a Class 1 felony. The fine for  
5 violation of this subsection (c) shall not be more than  
6 \$250,000:

7 (1) 1 gram or more but less than 5 ~~15~~ grams of any  
8 substance containing heroin, or an analog thereof;

9 (1.5) 1 gram or more but less than 15 grams of any  
10 substance containing fentanyl, or an analog thereof;

11 (2) 1 gram or more but less than 15 grams of any  
12 substance containing cocaine, or an analog thereof;

13 (3) 10 grams or more but less than 15 grams of any  
14 substance containing morphine, or an analog thereof;

15 (4) 50 grams or more but less than 200 grams of any  
16 substance containing peyote, or an analog thereof;

17 (5) 50 grams or more but less than 200 grams of any  
18 substance containing a derivative of barbituric acid or any  
19 of the salts of a derivative of barbituric acid, or an  
20 analog thereof;

21 (6) 50 grams or more but less than 200 grams of any  
22 substance containing amphetamine or any salt of an optical  
23 isomer of amphetamine, or an analog thereof;

24 (6.5) (blank);

25 (7) (i) 5 grams or more but less than 15 grams of any  
26 substance containing lysergic acid diethylamide (LSD), or

1 an analog thereof, or (ii) more than 10 objects or more  
2 than 10 segregated parts of an object or objects but less  
3 than 15 objects or less than 15 segregated parts of an  
4 object containing in them or having upon them any amount of  
5 any substance containing lysergic acid diethylamide (LSD),  
6 or an analog thereof;

7 (7.5) (i) 5 grams or more but less than 15 grams of any  
8 substance listed in paragraph (1), (2), (2.1), (2.2), (3),  
9 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
10 subsection (d) of Section 204, or an analog or derivative  
11 thereof, or (ii) more than 10 pills, tablets, caplets,  
12 capsules, or objects but less than 15 pills, tablets,  
13 caplets, capsules, or objects containing in them or having  
14 upon them any amount of any substance listed in paragraph  
15 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),  
16 (21), (25), or (26) of subsection (d) of Section 204, or an  
17 analog or derivative thereof;

18 (8) 10 grams or more but less than 30 grams of any  
19 substance containing pentazocine or any of the salts,  
20 isomers and salts of isomers of pentazocine, or an analog  
21 thereof;

22 (9) 10 grams or more but less than 30 grams of any  
23 substance containing methaqualone or any of the salts,  
24 isomers and salts of isomers of methaqualone, or an analog  
25 thereof;

26 (10) 10 grams or more but less than 30 grams of any

1 substance containing phencyclidine or any of the salts,  
2 isomers and salts of isomers of phencyclidine (PCP), or an  
3 analog thereof;

4 (10.5) 10 grams or more but less than 30 grams of any  
5 substance containing ketamine or any of the salts, isomers  
6 and salts of isomers of ketamine, or an analog thereof;

7 (11) 50 grams or more but less than 200 grams of any  
8 substance containing a substance classified in Schedules I  
9 or II, or an analog thereof, which is not otherwise  
10 included in this subsection.

11 (c-5) (Blank).

12 (d) Any person who violates this Section with regard to any  
13 other amount of a controlled or counterfeit substance  
14 classified in Schedules I or II, or an analog thereof, which is  
15 (i) a narcotic drug, (ii) lysergic acid diethylamide (LSD) or  
16 an analog thereof, (iii) any substance containing amphetamine  
17 or fentanyl or any salt or optical isomer of amphetamine or  
18 fentanyl, or an analog thereof, or (iv) any substance  
19 containing N-Benzylpiperazine (BZP) or any salt or optical  
20 isomer of N-Benzylpiperazine (BZP), or an analog thereof, is  
21 guilty of a Class 2 felony. The fine for violation of this  
22 subsection (d) shall not be more than \$200,000.

23 (d-5) (Blank).

24 (e) Any person who violates this Section with regard to any  
25 other amount of a controlled substance other than  
26 methamphetamine or counterfeit substance classified in

1 Schedule I or II, or an analog thereof, which substance is not  
2 included under subsection (d) of this Section, is guilty of a  
3 Class 3 felony. The fine for violation of this subsection (e)  
4 shall not be more than \$150,000.

5 (f) Any person who violates this Section with regard to any  
6 other amount of a controlled or counterfeit substance  
7 classified in Schedule III is guilty of a Class 3 felony. The  
8 fine for violation of this subsection (f) shall not be more  
9 than \$125,000.

10 (g) Any person who violates this Section with regard to any  
11 other amount of a controlled or counterfeit substance  
12 classified in Schedule IV is guilty of a Class 3 felony. The  
13 fine for violation of this subsection (g) shall not be more  
14 than \$100,000.

15 (h) Any person who violates this Section with regard to any  
16 other amount of a controlled or counterfeit substance  
17 classified in Schedule V is guilty of a Class 3 felony. The  
18 fine for violation of this subsection (h) shall not be more  
19 than \$75,000.

20 (i) This Section does not apply to the manufacture,  
21 possession or distribution of a substance in conformance with  
22 the provisions of an approved new drug application or an  
23 exemption for investigational use within the meaning of Section  
24 505 of the Federal Food, Drug and Cosmetic Act.

25 (j) (Blank).

26 (Source: P.A. 95-259, eff. 8-17-07; 96-347, eff. 1-1-10.)

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

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

4 Sec. 5-5-3. Disposition.

5 (a) (Blank).

6 (b) (Blank).

7 (c) (1) (Blank).

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

15 (A) First degree murder where the death penalty is  
16 not imposed.

17 (B) Attempted first degree murder.

18 (C) A Class X felony.

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

1           (D-5) A violation of subdivision (c)(1) of Section  
2           401 of the Illinois Controlled Substances Act which  
3           relates to 3 or more grams of a substance containing  
4           heroin or an analog thereof.

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

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

19          (F-5) A violation of Section 24-1, 24-1.1, or  
20          24-1.6 of the Criminal Code of 1961 for which  
21          imprisonment is prescribed in those Sections.

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

25          (H) Criminal sexual assault.

26          (I) Aggravated battery of a senior citizen.



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

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

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

13           (K) Vehicular hijacking.

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

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

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

24           (O) A violation of Section 12-6.1 of the Criminal  
25 Code of 1961.

26           (P) A violation of paragraph (1), (2), (3), (4),

1 (5), or (7) of subsection (a) of Section 11-20.1 of the  
2 Criminal Code of 1961.

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

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

7 (S) (Blank).

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

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

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

19 (W) A violation of Section 24-3.5 of the Criminal  
20 Code of 1961.

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

23 (Y) A conviction for unlawful possession of a  
24 firearm by a street gang member when the firearm was  
25 loaded or contained firearm ammunition.

26 (3) (Blank).

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

5           (4.1) (Blank).

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

10          (4.3) A minimum term of imprisonment of 30 days or 300  
11 hours of community service, as determined by the court,  
12 shall be imposed for a second violation of subsection (c)  
13 of Section 6-303 of the Illinois Vehicle Code.

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

20          (4.5) A minimum term of imprisonment of 30 days shall  
21 be imposed for a third violation of subsection (c) of  
22 Section 6-303 of the Illinois Vehicle Code.

23          (4.6) Except as provided in paragraph (4.10) of this  
24 subsection (c), a minimum term of imprisonment of 180 days  
25 shall be imposed for a fourth or subsequent violation of  
26 subsection (c) of Section 6-303 of the Illinois Vehicle

1 Code.

2 (4.7) A minimum term of imprisonment of not less than  
3 30 consecutive days, or 300 hours of community service,  
4 shall be imposed for a violation of subsection (a-5) of  
5 Section 6-303 of the Illinois Vehicle Code, as provided in  
6 subsection (b-5) of that Section.

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

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

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

26 (5) The court may sentence a corporation or

1 unincorporated association convicted of any offense to:

2 (A) a period of conditional discharge;

3 (B) a fine;

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

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

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

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

26 (5.4) In addition to any other penalties imposed, a

1 person convicted of violating Section 3-707 of the Illinois  
2 Vehicle Code shall have his or her driver's license,  
3 permit, or privileges suspended for 3 months and until he  
4 or she has paid a reinstatement fee of \$100.

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

14 (6) (Blank).

15 (7) (Blank).

16 (8) (Blank).

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

20 (10) (Blank).

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

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

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

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

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

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

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

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



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

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

6 (i) removal from the household;

7 (ii) restricted contact with the victim;

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

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

11 and

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

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

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

1 impose a term of imprisonment.

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

5 (f) (Blank).

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

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

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

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

1 shall order that the cost of any such test shall be paid by the  
2 county and may be taxed as costs against the convicted  
3 defendant.

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

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

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

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

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

16 (k) (Blank).

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

25 (1) a final order of deportation has been issued  
26 against the defendant pursuant to proceedings under

1 the Immigration and Nationality Act, and

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

5 Otherwise, the defendant shall be sentenced as  
6 provided in this Chapter V.

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

16 (1) a final order of deportation has been issued  
17 against the defendant pursuant to proceedings under  
18 the Immigration and Nationality Act, and

19 (2) the deportation of the defendant would not  
20 deprecate the seriousness of the defendant's conduct  
21 and would not be inconsistent with the ends of justice.

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

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



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

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

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

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

1 license renewal established by the Secretary of State.  
2 (Source: P.A. 95-188, eff. 8-16-07; 95-259, eff. 8-17-07;  
3 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08;  
4 95-876, eff. 8-21-08; 95-882, eff. 1-1-09; 95-1052, eff.  
5 7-1-09; 96-348, eff. 8-12-09; 96-400, eff. 8-13-09; 96-829,  
6 eff. 12-3-09.)