



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB2046

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 3 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.

LRB097 05041 RLC 45081 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 3 ~~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 3 ~~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 (Z) A Class 1 felony committed while he or she was

1 serving a term of probation or conditional discharge
2 for a felony.

3 (AA) Theft of property exceeding \$500,000 and not
4 exceeding \$1,000,000 in value.

5 (BB) Laundering of criminally derived property of
6 a value exceeding \$500,000.

7 (CC) Knowingly selling, offering for sale, holding
8 for sale, or using 2,000 or more counterfeit items or
9 counterfeit items having a retail value in the
10 aggregate of \$500,000 or more.

11 (3) (Blank).

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

16 (4.1) (Blank).

17 (4.2) Except as provided in paragraphs (4.3) and (4.8)
18 of this subsection (c), a minimum of 100 hours of community
19 service shall be imposed for a second violation of Section
20 6-303 of the Illinois Vehicle Code.

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

25 (4.4) Except as provided in paragraphs (4.5), (4.6),
26 and (4.9) of this subsection (c), a minimum term of

1 imprisonment of 30 days or 300 hours of community service,
2 as determined by the court, shall be imposed for a third or
3 subsequent violation of Section 6-303 of the Illinois
4 Vehicle Code.

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

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

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

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

24 (4.9) A mandatory prison sentence of not less than 4
25 and not more than 15 years shall be imposed for a third
26 violation of subsection (a-5) of Section 6-303 of the

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

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

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

13 (A) a period of conditional discharge;

14 (B) a fine;

15 (C) make restitution to the victim under Section
16 5-5-6 of this Code.

17 (5.1) In addition to any other penalties imposed, and
18 except as provided in paragraph (5.2) or (5.3), a person
19 convicted of violating subsection (c) of Section 11-907 of
20 the Illinois Vehicle Code shall have his or her driver's
21 license, permit, or privileges suspended for at least 90
22 days but not more than one year, if the violation resulted
23 in damage to the property of another person.

24 (5.2) In addition to any other penalties imposed, and
25 except as provided in paragraph (5.3), a person convicted
26 of violating subsection (c) of Section 11-907 of the

1 Illinois Vehicle Code shall have his or her driver's
2 license, permit, or privileges suspended for at least 180
3 days but not more than 2 years, if the violation resulted
4 in injury to another person.

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

11 (5.4) In addition to any other penalties imposed, a
12 person convicted of violating Section 3-707 of the Illinois
13 Vehicle Code shall have his or her driver's license,
14 permit, or privileges suspended for 3 months and until he
15 or she has paid a reinstatement fee of \$100.

16 (5.5) In addition to any other penalties imposed, a
17 person convicted of violating Section 3-707 of the Illinois
18 Vehicle Code during a period in which his or her driver's
19 license, permit, or privileges were suspended for a
20 previous violation of that Section shall have his or her
21 driver's license, permit, or privileges suspended for an
22 additional 6 months after the expiration of the original
23 3-month suspension and until he or she has paid a
24 reinstatement fee of \$100.

25 (6) (Blank).

26 (7) (Blank).

1 (8) (Blank).

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

5 (10) (Blank).

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

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

1 of that Section.

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

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

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

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

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

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

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

17 (i) removal from the household;

18 (ii) restricted contact with the victim;

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

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

22 and

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

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

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

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

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

16 (f) (Blank).

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

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

1 taxed as costs against the convicted defendant.

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

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

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

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

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

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

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

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

1 (k) (Blank).

2 (1) (A) Except as provided in paragraph (C) of subsection
3 (1), whenever a defendant, who is an alien as defined by
4 the Immigration and Nationality Act, is convicted of any
5 felony or misdemeanor offense, the court after sentencing
6 the defendant may, upon motion of the State's Attorney,
7 hold sentence in abeyance and remand the defendant to the
8 custody of the Attorney General of the United States or his
9 or her designated agent to be deported when:

10 (1) a final order of deportation has been issued
11 against the defendant pursuant to proceedings under
12 the Immigration and Nationality Act, and

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

16 Otherwise, the defendant shall be sentenced as
17 provided in this Chapter V.

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

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

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

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

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

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

26 (n) The court may sentence a person convicted of a

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

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

13 (Source: P.A. 95-188, eff. 8-16-07; 95-259, eff. 8-17-07;
14 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08;
15 95-876, eff. 8-21-08; 95-882, eff. 1-1-09; 95-1052, eff.
16 7-1-09; 96-348, eff. 8-12-09; 96-400, eff. 8-13-09; 96-829,
17 eff. 12-3-09; 96-1200, eff. 7-22-10.)