



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3293

Introduced 2/24/2011, by Rep. Emily McAsey

SYNOPSIS AS INTRODUCED:

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

Amends the Criminal Code of 1961 and the Unified Code of Corrections. Provides for enhanced penalties for second and subsequent violations of the statutes concerning domestic battery and aggravated domestic battery.

LRB097 06379 RLC 50671 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Sections 12-3.2 and 12-3.3 as follows:

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

7 Sec. 12-3.2. Domestic Battery.

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

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

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

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

1 under this Code for first degree murder (Section 9-1), attempt
2 to commit first degree murder (Section 8-4), aggravated
3 domestic battery (Section 12-3.3), aggravated battery (Section
4 12-4), heinous battery (Section 12-4.1), aggravated battery
5 with a firearm (Section 12-4.2), aggravated battery of a child
6 (Section 12-4.3), aggravated battery of an unborn child
7 (Section 12-4.4), aggravated battery of a senior citizen
8 (Section 12-4.6), stalking (Section 12-7.3), aggravated
9 stalking (Section 12-7.4), criminal sexual assault (Section
10 12-13), aggravated criminal sexual assault (12-14), kidnapping
11 (Section 10-1), aggravated kidnapping (Section 10-2),
12 predatory criminal sexual assault of a child (Section 12-14.1),
13 aggravated criminal sexual abuse (Section 12-16), unlawful
14 restraint (Section 10-3), aggravated unlawful restraint
15 (Section 10-3.1), aggravated arson (Section 20-1.1), or
16 aggravated discharge of a firearm (Section 24-1.2), or any
17 prior conviction under the law of another jurisdiction for any
18 offense that is substantially similar to the offenses listed in
19 this Section, when any of these offenses have been committed
20 against a family or household member as defined in Section
21 112A-3 of the Code of Criminal Procedure of 1963. Domestic
22 battery is a Class 4 felony if the defendant has one prior
23 conviction under this Code for domestic battery (Section
24 12-3.2). Domestic battery is a Class 3 felony if the defendant
25 had 3 prior convictions under this Code for domestic battery
26 (Section 12-3.2). Domestic battery is a Class 2 felony for

1 which a sentence of probation or conditional discharge may not
2 be imposed if the defendant had 4 prior convictions under this
3 Code for domestic battery (Section 12-3.2). Domestic battery is
4 a Class 1 felony for which a sentence of probation or
5 conditional discharge may not be imposed if the defendant had 5
6 prior convictions under this Code for domestic battery (Section
7 12-3.2). Domestic battery is a Class X felony if the defendant
8 had 6 or more prior convictions under this Code for domestic
9 battery (Section 12-3.2). Except when a greater sentence is
10 required by this Section, in ~~in~~ addition to any other
11 sentencing alternatives, for any second or subsequent
12 conviction of violating this Section, the offender shall be
13 mandatorily sentenced to a minimum of 72 consecutive hours of
14 imprisonment. The imprisonment shall not be subject to
15 suspension, nor shall the person be eligible for probation in
16 order to reduce the sentence.

17 (c) Domestic battery committed in the presence of a child.
18 In addition to any other sentencing alternatives, a defendant
19 who commits, in the presence of a child, a felony domestic
20 battery (enhanced under subsection (b)), aggravated domestic
21 battery (Section 12-3.3), aggravated battery (Section 12-4),
22 unlawful restraint (Section 10-3), or aggravated unlawful
23 restraint (Section 10-3.1) against a family or household
24 member, as defined in Section 112A-3 of the Code of Criminal
25 Procedure of 1963, shall be required to serve a mandatory
26 minimum imprisonment of 10 days or perform 300 hours of

1 community service, or both. The defendant shall further be
2 liable for the cost of any counseling required for the child at
3 the discretion of the court in accordance with subsection (b)
4 of Section 5-5-6 of the Unified Code of Corrections. For
5 purposes of this Section, "child" means a person under 18 years
6 of age who is the defendant's or victim's child or step-child
7 or who is a minor child residing within or visiting the
8 household of the defendant or victim. For purposes of this
9 Section, "in the presence of a child" means in the physical
10 presence of a child or knowing or having reason to know that a
11 child is present and may see or hear an act constituting one of
12 the offenses listed in this subsection.

13 (d) Upon conviction of domestic battery, the court shall
14 advise the defendant orally or in writing, substantially as
15 follows: "An individual convicted of domestic battery may be
16 subject to federal criminal penalties for possessing,
17 transporting, shipping, or receiving any firearm or ammunition
18 in violation of the federal Gun Control Act of 1968 (18 U.S.C.
19 922(g) (8) and (9))." A notation shall be made in the court file
20 that the admonition was given.

21 (Source: P.A. 96-287, eff. 8-11-09.)

22 (720 ILCS 5/12-3.3)

23 Sec. 12-3.3. Aggravated domestic battery.

24 (a) A person who, in committing a domestic battery,
25 intentionally or knowingly causes great bodily harm, or

1 permanent disability or disfigurement commits aggravated
2 domestic battery.

3 (a-5) A person who, in committing a domestic battery,
4 strangles another individual commits aggravated domestic
5 battery. For the purposes of this subsection (a-5), "strangle"
6 means intentionally impeding the normal breathing or
7 circulation of the blood of an individual by applying pressure
8 on the throat or neck of that individual or by blocking the
9 nose or mouth of that individual.

10 (b) Sentence. Aggravated domestic battery is a Class 2
11 felony. Any order of probation or conditional discharge entered
12 following a conviction for an offense under this Section must
13 include, in addition to any other condition of probation or
14 conditional discharge, a condition that the offender serve a
15 mandatory term of imprisonment of not less than 60 consecutive
16 days. A person convicted of a second ~~or subsequent~~ violation of
17 this Section must be sentenced to a mandatory term of
18 imprisonment of not less than 3 years and not more than 7 years
19 or an extended term of imprisonment of not less than 7 years
20 and not more than 14 years. Aggravated domestic battery is a
21 Class 1 felony for a third violation of this Section for which
22 the person convicted must be sentenced to a mandatory term of
23 imprisonment of not less than 4 years and not more than 15
24 years. Aggravated domestic battery is a Class X felony for a
25 fourth or subsequent violation of this Section.

26 (c) Upon conviction of aggravated domestic battery, the

1 court shall advise the defendant orally or in writing,
2 substantially as follows: "An individual convicted of
3 aggravated domestic battery may be subject to federal criminal
4 penalties for possessing, transporting, shipping, or receiving
5 any firearm or ammunition in violation of the federal Gun
6 Control Act of 1968 (18 U.S.C. 922(g)(8) and (9))." A notation
7 shall be made in the court file that the admonition was given.
8 (Source: P.A. 96-287, eff. 8-11-09; 96-363, eff. 8-13-09;
9 96-1000, eff. 7-2-10.)

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

12 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

13 Sec. 5-5-3. Disposition.

14 (a) (Blank).

15 (b) (Blank).

16 (c) (1) (Blank).

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

24 (A) First degree murder where the death penalty is

1 not imposed.

2 (B) Attempted first degree murder.

3 (C) A Class X felony.

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

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

12 (F) A Class 2 or greater felony if the offender had
13 been convicted of a Class 2 or greater felony,
14 including any state or federal conviction for an
15 offense that contained, at the time it was committed,
16 the same elements as an offense now (the date of the
17 offense committed after the prior Class 2 or greater
18 felony) classified as a Class 2 or greater felony,
19 within 10 years of the date on which the offender
20 committed the offense for which he or she is being
21 sentenced, except as otherwise provided in Section
22 40-10 of the Alcoholism and Other Drug Abuse and
23 Dependency Act.

24 (F-5) A violation of Section 24-1, 24-1.1, or
25 24-1.6 of the Criminal Code of 1961 for which
26 imprisonment is prescribed in those Sections.

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

4 (H) Criminal sexual assault.

5 (I) Aggravated battery of a senior citizen.

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

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

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

18 (K) Vehicular hijacking.

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

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

26 (N) A Class 3 felony violation of paragraph (1) of

1 subsection (a) of Section 2 of the Firearm Owners
2 Identification Card Act.

3 (O) A violation of Section 12-6.1 of the Criminal
4 Code of 1961.

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

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

10 (R) A violation of Section 24-3A of the Criminal
11 Code of 1961.

12 (S) (Blank).

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

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

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

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

26 (X) A violation of subsection (a) of Section 31-1a

1 of the Criminal Code of 1961.

2 (Y) A conviction for unlawful possession of a
3 firearm by a street gang member when the firearm was
4 loaded or contained firearm ammunition.

5 (Z) A Class 1 felony committed while he or she was
6 serving a term of probation or conditional discharge
7 for a felony.

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

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

12 (CC) Knowingly selling, offering for sale, holding
13 for sale, or using 2,000 or more counterfeit items or
14 counterfeit items having a retail value in the
15 aggregate of \$500,000 or more.

16 (DD) A violation of Section 12-3.2 or 12-3.3 of the
17 Criminal Code of 1961 for which imprisonment is
18 prescribed in those Sections.

19 (3) (Blank).

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

24 (4.1) (Blank).

25 (4.2) Except as provided in paragraphs (4.3) and (4.8)
26 of this subsection (c), a minimum of 100 hours of community

1 service shall be imposed for a second violation of Section
2 6-303 of the Illinois Vehicle Code.

3 (4.3) A minimum term of imprisonment of 30 days or 300
4 hours of community service, as determined by the court,
5 shall be imposed for a second violation of subsection (c)
6 of Section 6-303 of the Illinois Vehicle Code.

7 (4.4) Except as provided in paragraphs (4.5), (4.6),
8 and (4.9) of this subsection (c), a minimum term of
9 imprisonment of 30 days or 300 hours of community service,
10 as determined by the court, shall be imposed for a third or
11 subsequent violation of Section 6-303 of the Illinois
12 Vehicle Code.

13 (4.5) A minimum term of imprisonment of 30 days shall
14 be imposed for a third violation of subsection (c) of
15 Section 6-303 of the Illinois Vehicle Code.

16 (4.6) Except as provided in paragraph (4.10) of this
17 subsection (c), a minimum term of imprisonment of 180 days
18 shall be imposed for a fourth or subsequent violation of
19 subsection (c) of Section 6-303 of the Illinois Vehicle
20 Code.

21 (4.7) A minimum term of imprisonment of not less than
22 30 consecutive days, or 300 hours of community service,
23 shall be imposed for a violation of subsection (a-5) of
24 Section 6-303 of the Illinois Vehicle Code, as provided in
25 subsection (b-5) of that Section.

26 (4.8) A mandatory prison sentence shall be imposed for

1 a second violation of subsection (a-5) of Section 6-303 of
2 the Illinois Vehicle Code, as provided in subsection (c-5)
3 of that Section. The person's driving privileges shall be
4 revoked for a period of not less than 5 years from the date
5 of his or her release from prison.

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

12 (4.10) A mandatory prison sentence for a Class 1 felony
13 shall be imposed, and the person shall be eligible for an
14 extended term sentence, for a fourth or subsequent
15 violation of subsection (a-5) of Section 6-303 of the
16 Illinois Vehicle Code, as provided in subsection (d-3.5) of
17 that Section. The person's driving privileges shall be
18 revoked for the remainder of his or her life.

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

21 (A) a period of conditional discharge;

22 (B) a fine;

23 (C) make restitution to the victim under Section
24 5-5-6 of this Code.

25 (5.1) In addition to any other penalties imposed, and
26 except as provided in paragraph (5.2) or (5.3), a person

1 convicted of violating subsection (c) of Section 11-907 of
2 the Illinois Vehicle Code shall have his or her driver's
3 license, permit, or privileges suspended for at least 90
4 days but not more than one year, if the violation resulted
5 in damage to the property of another person.

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

13 (5.3) In addition to any other penalties imposed, a
14 person convicted of violating subsection (c) of Section
15 11-907 of the Illinois Vehicle Code shall have his or her
16 driver's license, permit, or privileges suspended for 2
17 years, if the violation resulted in the death of another
18 person.

19 (5.4) In addition to any other penalties imposed, a
20 person convicted of violating Section 3-707 of the Illinois
21 Vehicle Code shall have his or her driver's license,
22 permit, or privileges suspended for 3 months and until he
23 or she has paid a reinstatement fee of \$100.

24 (5.5) In addition to any other penalties imposed, a
25 person convicted of violating Section 3-707 of the Illinois
26 Vehicle Code during a period in which his or her driver's

1 license, permit, or privileges were suspended for a
2 previous violation of that Section shall have his or her
3 driver's license, permit, or privileges suspended for an
4 additional 6 months after the expiration of the original
5 3-month suspension and until he or she has paid a
6 reinstatement fee of \$100.

7 (6) (Blank).

8 (7) (Blank).

9 (8) (Blank).

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

13 (10) (Blank).

14 (11) The court shall impose a minimum fine of \$1,000
15 for a first offense and \$2,000 for a second or subsequent
16 offense upon a person convicted of or placed on supervision
17 for battery when the individual harmed was a sports
18 official or coach at any level of competition and the act
19 causing harm to the sports official or coach occurred
20 within an athletic facility or within the immediate
21 vicinity of the athletic facility at which the sports
22 official or coach was an active participant of the athletic
23 contest held at the athletic facility. For the purposes of
24 this paragraph (11), "sports official" means a person at an
25 athletic contest who enforces the rules of the contest,
26 such as an umpire or referee; "athletic facility" means an

1 indoor or outdoor playing field or recreational area where
2 sports activities are conducted; and "coach" means a person
3 recognized as a coach by the sanctioning authority that
4 conducted the sporting event.

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

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

20 (d) In any case in which a sentence originally imposed is
21 vacated, the case shall be remanded to the trial court. The
22 trial court shall hold a hearing under Section 5-4-1 of the
23 Unified Code of Corrections which may include evidence of the
24 defendant's life, moral character and occupation during the
25 time since the original sentence was passed. The trial court
26 shall then impose sentence upon the defendant. The trial court

1 may impose any sentence which could have been imposed at the
2 original trial subject to Section 5-5-4 of the Unified Code of
3 Corrections. If a sentence is vacated on appeal or on
4 collateral attack due to the failure of the trier of fact at
5 trial to determine beyond a reasonable doubt the existence of a
6 fact (other than a prior conviction) necessary to increase the
7 punishment for the offense beyond the statutory maximum
8 otherwise applicable, either the defendant may be re-sentenced
9 to a term within the range otherwise provided or, if the State
10 files notice of its intention to again seek the extended
11 sentence, the defendant shall be afforded a new trial.

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

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

19 (A) the defendant is willing to undergo a court
20 approved counseling program for a minimum duration of 2
21 years; or

22 (B) the defendant is willing to participate in a
23 court approved plan including but not limited to the
24 defendant's:

25 (i) removal from the household;

26 (ii) restricted contact with the victim;

1 (iii) continued financial support of the
2 family;

3 (iv) restitution for harm done to the victim;
4 and

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

7 (2) the court orders the defendant to pay for the
8 victim's counseling services, to the extent that the court
9 finds, after considering the defendant's income and
10 assets, that the defendant is financially capable of paying
11 for such services, if the victim was under 18 years of age
12 at the time the offense was committed and requires
13 counseling as a result of the offense.

14 Probation may be revoked or modified pursuant to Section
15 5-6-4; except where the court determines at the hearing that
16 the defendant violated a condition of his or her probation
17 restricting contact with the victim or other family members or
18 commits another offense with the victim or other family
19 members, the court shall revoke the defendant's probation and
20 impose a term of imprisonment.

21 For the purposes of this Section, "family member" and
22 "victim" shall have the meanings ascribed to them in Section
23 12-12 of the Criminal Code of 1961.

24 (f) (Blank).

25 (g) Whenever a defendant is convicted of an offense under
26 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,

1 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
2 of the Criminal Code of 1961, the defendant shall undergo
3 medical testing to determine whether the defendant has any
4 sexually transmissible disease, including a test for infection
5 with human immunodeficiency virus (HIV) or any other identified
6 causative agent of acquired immunodeficiency syndrome (AIDS).
7 Any such medical test shall be performed only by appropriately
8 licensed medical practitioners and may include an analysis of
9 any bodily fluids as well as an examination of the defendant's
10 person. Except as otherwise provided by law, the results of
11 such test shall be kept strictly confidential by all medical
12 personnel involved in the testing and must be personally
13 delivered in a sealed envelope to the judge of the court in
14 which the conviction was entered for the judge's inspection in
15 camera. Acting in accordance with the best interests of the
16 victim and the public, the judge shall have the discretion to
17 determine to whom, if anyone, the results of the testing may be
18 revealed. The court shall notify the defendant of the test
19 results. The court shall also notify the victim if requested by
20 the victim, and if the victim is under the age of 15 and if
21 requested by the victim's parents or legal guardian, the court
22 shall notify the victim's parents or legal guardian of the test
23 results. The court shall provide information on the
24 availability of HIV testing and counseling at Department of
25 Public Health facilities to all parties to whom the results of
26 the testing are revealed and shall direct the State's Attorney

1 to provide the information to the victim when possible. A
2 State's Attorney may petition the court to obtain the results
3 of any HIV test administered under this Section, and the court
4 shall grant the disclosure if the State's Attorney shows it is
5 relevant in order to prosecute a charge of criminal
6 transmission of HIV under Section 12-16.2 of the Criminal Code
7 of 1961 against the defendant. The court shall order that the
8 cost of any such test shall be paid by the county and may be
9 taxed as costs against the convicted defendant.

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

20 (h) Whenever a defendant is convicted of an offense under
21 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
22 defendant shall undergo medical testing to determine whether
23 the defendant has been exposed to human immunodeficiency virus
24 (HIV) or any other identified causative agent of acquired
25 immunodeficiency syndrome (AIDS). Except as otherwise provided
26 by law, the results of such test shall be kept strictly

1 confidential by all medical personnel involved in the testing
2 and must be personally delivered in a sealed envelope to the
3 judge of the court in which the conviction was entered for the
4 judge's inspection in camera. Acting in accordance with the
5 best interests of the public, the judge shall have the
6 discretion to determine to whom, if anyone, the results of the
7 testing may be revealed. The court shall notify the defendant
8 of a positive test showing an infection with the human
9 immunodeficiency virus (HIV). The court shall provide
10 information on the availability of HIV testing and counseling
11 at Department of Public Health facilities to all parties to
12 whom the results of the testing are revealed and shall direct
13 the State's Attorney to provide the information to the victim
14 when possible. A State's Attorney may petition the court to
15 obtain the results of any HIV test administered under this
16 Section, and the court shall grant the disclosure if the
17 State's Attorney shows it is relevant in order to prosecute a
18 charge of criminal transmission of HIV under Section 12-16.2 of
19 the Criminal Code of 1961 against the defendant. The court
20 shall order that the cost of any such test shall be paid by the
21 county and may be taxed as costs against the convicted
22 defendant.

23 (i) All fines and penalties imposed under this Section for
24 any violation of Chapters 3, 4, 6, and 11 of the Illinois
25 Vehicle Code, or a similar provision of a local ordinance, and
26 any violation of the Child Passenger Protection Act, or a

1 similar provision of a local ordinance, shall be collected and
2 disbursed by the circuit clerk as provided under Section 27.5
3 of the Clerks of Courts Act.

4 (j) In cases when prosecution for any violation of Section
5 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
6 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
7 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
8 Code of 1961, any violation of the Illinois Controlled
9 Substances Act, any violation of the Cannabis Control Act, or
10 any violation of the Methamphetamine Control and Community
11 Protection Act results in conviction, a disposition of court
12 supervision, or an order of probation granted under Section 10
13 of the Cannabis Control Act, Section 410 of the Illinois
14 Controlled Substance Act, or Section 70 of the Methamphetamine
15 Control and Community Protection Act of a defendant, the court
16 shall determine whether the defendant is employed by a facility
17 or center as defined under the Child Care Act of 1969, a public
18 or private elementary or secondary school, or otherwise works
19 with children under 18 years of age on a daily basis. When a
20 defendant is so employed, the court shall order the Clerk of
21 the Court to send a copy of the judgment of conviction or order
22 of supervision or probation to the defendant's employer by
23 certified mail. If the employer of the defendant is a school,
24 the Clerk of the Court shall direct the mailing of a copy of
25 the judgment of conviction or order of supervision or probation
26 to the appropriate regional superintendent of schools. The

1 regional superintendent of schools shall notify the State Board
2 of Education of any notification under this subsection.

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

1 whose mandatory supervised release term has been revoked under
2 this subsection (j-5) as provided in Section 3-3-9. This
3 subsection (j-5) does not apply to a defendant who has a high
4 school diploma or has successfully passed the GED test. This
5 subsection (j-5) does not apply to a defendant who is
6 determined by the court to be developmentally disabled or
7 otherwise mentally incapable of completing the educational or
8 vocational program.

9 (k) (Blank).

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

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

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

24 Otherwise, the defendant shall be sentenced as
25 provided in this Chapter V.

26 (B) If the defendant has already been sentenced for a

1 felony or misdemeanor offense, or has been placed on
2 probation under Section 10 of the Cannabis Control Act,
3 Section 410 of the Illinois Controlled Substances Act, or
4 Section 70 of the Methamphetamine Control and Community
5 Protection Act, the court may, upon motion of the State's
6 Attorney to suspend the sentence imposed, commit the
7 defendant to the custody of the Attorney General of the
8 United States or his or her designated agent when:

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

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

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

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

1 meritorious service as provided under Section 3-6-6.

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

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

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

21 (Source: P.A. 95-188, eff. 8-16-07; 95-259, eff. 8-17-07;
22 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08;
23 95-876, eff. 8-21-08; 95-882, eff. 1-1-09; 95-1052, eff.
24 7-1-09; 96-348, eff. 8-12-09; 96-400, eff. 8-13-09; 96-829,
25 eff. 12-3-09; 96-1200, eff. 7-22-10.)