



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3418

Introduced 2/24/2011, by Rep. Keith Farnham - Michelle Mussman

SYNOPSIS AS INTRODUCED:

5 ILCS 430/50-5
730 ILCS 5/5-5-3

from Ch. 38, par. 1005-5-3

Amends the State Officials and Employees Ethics Act. Increases criminal penalties and fines for specified violations of the Act. Amends the Unified Code of Corrections. Provides that certain violations of the State Officials and Employees Ethics Act are non-probationable offenses.

LRB097 10832 JDS 51311 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning government.

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

4 Section 5. The State Officials and Employees Ethics Act is
5 amended by changing Section 50-5 as follows:

6 (5 ILCS 430/50-5)

7 Sec. 50-5. Penalties.

8 (a) A person is guilty of a Class A misdemeanor if that
9 person intentionally violates any provision of Section 5-20 or
10 5-55 ~~5-15, 5-30, 5-40, or 5-45~~ or Article 15. A person who
11 intentionally violates any provision of Section 5-35 or 5-50 is
12 guilty of a non-probationable Class A misdemeanor. A person who
13 intentionally violates any provision of Section 5-15, 5-30,
14 5-40, or 5-45 is guilty of a non-probationable Class 4 felony.

15 (a-1) An ethics commission may levy an administrative fine
16 for a violation of Section 5-45 of this Act of up to 3 times the
17 total annual compensation that would have been obtained in
18 violation of Section 5-45.

19 (b) (Blank). ~~A person who intentionally violates any~~
20 ~~provision of Section 5-20, 5-35, 5-50, or 5-55 is guilty of a~~
21 ~~business offense subject to a fine of at least \$1,001 and up to~~
22 ~~\$5,000.~~

23 (c) A person who intentionally violates any provision of

1 Article 10 or Section 5-10 is guilty of a business offense and
2 subject to a fine of at least \$5,000 ~~\$1,001~~ and up to \$10,000
3 ~~\$5,000~~.

4 (d) Any person who intentionally makes a false report
5 alleging a violation of any provision of this Act to an ethics
6 commission, an inspector general, the State Police, a State's
7 Attorney, the Attorney General, or any other law enforcement
8 official is guilty of a Class A misdemeanor.

9 (e) An ethics commission may levy an administrative fine of
10 up to \$5,000 against any person who violates this Act, who
11 intentionally obstructs or interferes with an investigation
12 conducted under this Act by an inspector general, or who
13 intentionally makes a false, frivolous, or bad faith
14 allegation.

15 (f) In addition to any other penalty that may apply,
16 whether criminal or civil, a State employee who intentionally
17 violates any provision of Section 5-5, 5-15, 5-20, 5-30, 5-35,
18 5-45, or 5-50, Article 10, Article 15, or Section 20-90 or
19 25-90 is subject to discipline or discharge by the appropriate
20 ultimate jurisdictional authority.

21 (Source: P.A. 96-555, eff. 8-18-09.)

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

24 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

1 Sec. 5-5-3. Disposition.

2 (a) (Blank).

3 (b) (Blank).

4 (c) (1) (Blank).

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

12 (A) First degree murder where the death penalty is
13 not imposed.

14 (B) Attempted first degree murder.

15 (C) A Class X felony.

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

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

24 (F) A Class 2 or greater felony if the offender had
25 been convicted of a Class 2 or greater felony,
26 including any state or federal conviction for an

1 offense that contained, at the time it was committed,
2 the same elements as an offense now (the date of the
3 offense committed after the prior Class 2 or greater
4 felony) classified as a Class 2 or greater felony,
5 within 10 years of the date on which the offender
6 committed the offense for which he or she is being
7 sentenced, except as otherwise provided in Section
8 40-10 of the Alcoholism and Other Drug Abuse and
9 Dependency Act.

10 (F-5) A violation of Section 24-1, 24-1.1, or
11 24-1.6 of the Criminal Code of 1961 for which
12 imprisonment is prescribed in those Sections.

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

16 (H) Criminal sexual assault.

17 (I) Aggravated battery of a senior citizen.

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

20 Before July 1, 1994, for the purposes of this
21 paragraph, "organized gang" means an association of 5
22 or more persons, with an established hierarchy, that
23 encourages members of the association to perpetrate
24 crimes or provides support to the members of the
25 association who do commit crimes.

26 Beginning July 1, 1994, for the purposes of this

1 paragraph, "organized gang" has the meaning ascribed
2 to it in Section 10 of the Illinois Streetgang
3 Terrorism Omnibus Prevention Act.

4 (K) Vehicular hijacking.

5 (L) A second or subsequent conviction for the
6 offense of hate crime when the underlying offense upon
7 which the hate crime is based is felony aggravated
8 assault or felony mob action.

9 (M) A second or subsequent conviction for the
10 offense of institutional vandalism if the damage to the
11 property exceeds \$300.

12 (N) A Class 3 felony violation of paragraph (1) of
13 subsection (a) of Section 2 of the Firearm Owners
14 Identification Card Act.

15 (O) A violation of Section 12-6.1 of the Criminal
16 Code of 1961.

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

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

22 (R) A violation of Section 24-3A of the Criminal
23 Code of 1961.

24 (S) (Blank).

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

1 (U) A second or subsequent violation of Section
2 6-303 of the Illinois Vehicle Code committed while his
3 or her driver's license, permit, or privilege was
4 revoked because of a violation of Section 9-3 of the
5 Criminal Code of 1961, relating to the offense of
6 reckless homicide, or a similar provision of a law of
7 another state.

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

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

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

14 (Y) A conviction for unlawful possession of a
15 firearm by a street gang member when the firearm was
16 loaded or contained firearm ammunition.

17 (Z) A Class 1 felony committed while he or she was
18 serving a term of probation or conditional discharge
19 for a felony.

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

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

24 (CC) Knowingly selling, offering for sale, holding
25 for sale, or using 2,000 or more counterfeit items or
26 counterfeit items having a retail value in the

1 aggregate of \$500,000 or more.

2 (DD) A violation of Section 5-15, 5-30, 5-35, 5-40,
3 5-45, or 5-50 of the State Officials and Employees
4 Ethics Act.

5 (3) (Blank).

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

10 (4.1) (Blank).

11 (4.2) Except as provided in paragraphs (4.3) and (4.8)
12 of this subsection (c), a minimum of 100 hours of community
13 service shall be imposed for a second violation of Section
14 6-303 of the Illinois Vehicle Code.

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

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

25 (4.5) A minimum term of imprisonment of 30 days shall
26 be imposed for a third violation of subsection (c) of

1 Section 6-303 of the Illinois Vehicle Code.

2 (4.6) Except as provided in paragraph (4.10) of this
3 subsection (c), a minimum term of imprisonment of 180 days
4 shall be imposed for a fourth or subsequent violation of
5 subsection (c) of Section 6-303 of the Illinois Vehicle
6 Code.

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

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

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

24 (4.10) A mandatory prison sentence for a Class 1 felony
25 shall be imposed, and the person shall be eligible for an
26 extended term sentence, for a fourth or subsequent

1 violation of subsection (a-5) of Section 6-303 of the
2 Illinois Vehicle Code, as provided in subsection (d-3.5) of
3 that Section. The person's driving privileges shall be
4 revoked for the remainder of his or her life.

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

7 (A) a period of conditional discharge;

8 (B) a fine;

9 (C) make restitution to the victim under Section
10 5-5-6 of this Code.

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

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

25 (5.3) In addition to any other penalties imposed, a
26 person convicted of violating subsection (c) of Section

1 11-907 of the Illinois Vehicle Code shall have his or her
2 driver's license, permit, or privileges suspended for 2
3 years, if the violation resulted in the death of another
4 person.

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

10 (5.5) In addition to any other penalties imposed, a
11 person convicted of violating Section 3-707 of the Illinois
12 Vehicle Code during a period in which his or her driver's
13 license, permit, or privileges were suspended for a
14 previous violation of that Section shall have his or her
15 driver's license, permit, or privileges suspended for an
16 additional 6 months after the expiration of the original
17 3-month suspension and until he or she has paid a
18 reinstatement fee of \$100.

19 (6) (Blank).

20 (7) (Blank).

21 (8) (Blank).

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

25 (10) (Blank).

26 (11) The court shall impose a minimum fine of \$1,000

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

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

22 (13) A person convicted of or placed on court
23 supervision for an assault or aggravated assault when the
24 victim and the offender are family or household members as
25 defined in Section 103 of the Illinois Domestic Violence
26 Act of 1986 or convicted of domestic battery or aggravated

1 domestic battery may be required to attend a Partner Abuse
2 Intervention Program under protocols set forth by the
3 Illinois Department of Human Services under such terms and
4 conditions imposed by the court. The costs of such classes
5 shall be paid by the offender.

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

24 (e) In cases where prosecution for aggravated criminal
25 sexual abuse under Section 12-16 of the Criminal Code of 1961
26 results in conviction of a defendant who was a family member of

1 the victim at the time of the commission of the offense, the
2 court shall consider the safety and welfare of the victim and
3 may impose a sentence of probation only where:

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

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

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

11 (i) removal from the household;

12 (ii) restricted contact with the victim;

13 (iii) continued financial support of the
14 family;

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

16 and

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

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

26 Probation may be revoked or modified pursuant to Section

1 5-6-4; except where the court determines at the hearing that
2 the defendant violated a condition of his or her probation
3 restricting contact with the victim or other family members or
4 commits another offense with the victim or other family
5 members, the court shall revoke the defendant's probation and
6 impose a term of imprisonment.

7 For the purposes of this Section, "family member" and
8 "victim" shall have the meanings ascribed to them in Section
9 12-12 of the Criminal Code of 1961.

10 (f) (Blank).

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

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

22 (g-5) When an inmate is tested for an airborne communicable
23 disease, as determined by the Illinois Department of Public
24 Health including but not limited to tuberculosis, the results
25 of the test shall be personally delivered by the warden or his
26 or her designee in a sealed envelope to the judge of the court

1 in which the inmate must appear for the judge's inspection in
2 camera if requested by the judge. Acting in accordance with the
3 best interests of those in the courtroom, the judge shall have
4 the discretion to determine what if any precautions need to be
5 taken to prevent transmission of the disease in the courtroom.

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

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

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

16 (j) In cases when prosecution for any violation of Section
17 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
18 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
19 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
20 Code of 1961, any violation of the Illinois Controlled
21 Substances Act, any violation of the Cannabis Control Act, or
22 any violation of the Methamphetamine Control and Community
23 Protection Act results in conviction, a disposition of court
24 supervision, or an order of probation granted under Section 10
25 of the Cannabis Control Act, Section 410 of the Illinois
26 Controlled Substance Act, or Section 70 of the Methamphetamine

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

15 (j-5) A defendant at least 17 years of age who is convicted
16 of a felony and who has not been previously convicted of a
17 misdemeanor or felony and who is sentenced to a term of
18 imprisonment in the Illinois Department of Corrections shall as
19 a condition of his or her sentence be required by the court to
20 attend educational courses designed to prepare the defendant
21 for a high school diploma and to work toward a high school
22 diploma or to work toward passing the high school level Test of
23 General Educational Development (GED) or to work toward
24 completing a vocational training program offered by the
25 Department of Corrections. If a defendant fails to complete the
26 educational training required by his or her sentence during the

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

21 (k) (Blank).

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

1 hold sentence in abeyance and remand the defendant to the
2 custody of the Attorney General of the United States or his
3 or her designated agent to be deported when:

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

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

10 Otherwise, the defendant shall be sentenced as
11 provided in this Chapter V.

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

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

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

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

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

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

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

1 program licensed under that Act.

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

7 (Source: P.A. 95-188, eff. 8-16-07; 95-259, eff. 8-17-07;
8 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08;
9 95-876, eff. 8-21-08; 95-882, eff. 1-1-09; 95-1052, eff.
10 7-1-09; 96-348, eff. 8-12-09; 96-400, eff. 8-13-09; 96-829,
11 eff. 12-3-09; 96-1200, eff. 7-22-10.)