



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3929

Introduced 1/10/2012, by Rep. Keith Farnham

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 15630 JDS 60772 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 as
18 described in Section 12-4.6 or subdivision (a)(4) of
19 Section 12-3.05.

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

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

1 association who do commit crimes.

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

6 (K) Vehicular hijacking.

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

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

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

17 (O) A violation of Section 12-6.1 or 12-6.5 of the
18 Criminal Code of 1961.

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

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

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

26 (S) (Blank).

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

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

10 (V) A violation of paragraph (4) of subsection (c)
11 of Section 11-20.1B or paragraph (4) of subsection (c)
12 of Section 11-20.3 of the Criminal Code of 1961.

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

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

17 (Y) A conviction for unlawful possession of a
18 firearm by a street gang member when the firearm was
19 loaded or contained firearm ammunition.

20 (Z) A Class 1 felony committed while he or she was
21 serving a term of probation or conditional discharge
22 for a felony.

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

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

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

5 (DD) A conviction for aggravated assault under
6 paragraph (6) of subsection (c) of Section 12-2 of the
7 Criminal Code of 1961 if the firearm is aimed toward
8 the person against whom the firearm is being used.

9 (EE) A violation of Section 5-15, 5-30, 5-35, 5-40,
10 5-45, or 5-50 of the State Officials and Employees
11 Ethics Act.

12 (3) (Blank).

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

17 (4.1) (Blank).

18 (4.2) Except as provided in paragraphs (4.3) and (4.8)
19 of this subsection (c), a minimum of 100 hours of community
20 service shall be imposed for a second violation of Section
21 6-303 of the Illinois Vehicle Code.

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

26 (4.4) Except as provided in paragraphs (4.5), (4.6),

1 and (4.9) of this subsection (c), a minimum term of
2 imprisonment of 30 days or 300 hours of community service,
3 as determined by the court, shall be imposed for a third or
4 subsequent violation of Section 6-303 of the Illinois
5 Vehicle Code.

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

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

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

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

25 (4.9) A mandatory prison sentence of not less than 4
26 and not more than 15 years shall be imposed for a third

1 violation of subsection (a-5) of Section 6-303 of the
2 Illinois Vehicle Code, as provided in subsection (d-2.5) of
3 that Section. The person's driving privileges shall be
4 revoked for the remainder of his or her life.

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

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

14 (A) a period of conditional discharge;

15 (B) a fine;

16 (C) make restitution to the victim under Section
17 5-5-6 of this Code.

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

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

1 of violating subsection (c) of Section 11-907 of the
2 Illinois Vehicle Code shall have his or her driver's
3 license, permit, or privileges suspended for at least 180
4 days but not more than 2 years, if the violation resulted
5 in injury to another person.

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

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

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

26 (6) (Blank).

1 (7) (Blank).

2 (8) (Blank).

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

6 (10) (Blank).

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

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

1 received a disposition of court supervision for a violation
2 of that Section.

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

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

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

5 (e) In cases where prosecution for aggravated criminal
6 sexual abuse under Section 11-1.60 or 12-16 of the Criminal
7 Code of 1961 results in conviction of a defendant who was a
8 family member of the victim at the time of the commission of
9 the offense, the court shall consider the safety and welfare of
10 the victim and may impose a sentence of probation only where:

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

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

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

18 (i) removal from the household;

19 (ii) restricted contact with the victim;

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

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

23 and

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

26 (2) the court orders the defendant to pay for the

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

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

14 For the purposes of this Section, "family member" and
15 "victim" shall have the meanings ascribed to them in Section
16 11-0.1 of the Criminal Code of 1961.

17 (f) (Blank).

18 (g) Whenever a defendant is convicted of an offense under
19 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,
20 11-14.3, 11-14.4 except for an offense that involves keeping a
21 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,
22 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,
23 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, the
24 defendant shall undergo medical testing to determine whether
25 the defendant has any sexually transmissible disease,
26 including a test for infection with human immunodeficiency

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

1 order to prosecute a charge of criminal transmission of HIV
2 under Section 12-5.01 or 12-16.2 of the Criminal Code of 1961
3 against the defendant. The court shall order that the cost of
4 any such test shall be paid by the county and may be taxed as
5 costs against the convicted defendant.

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

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

1 best interests of the public, the judge shall have the
2 discretion to determine to whom, if anyone, the results of the
3 testing may be revealed. The court shall notify the defendant
4 of a positive test showing an infection with the human
5 immunodeficiency virus (HIV). The court shall provide
6 information on the availability of HIV testing and counseling
7 at Department of Public Health facilities to all parties to
8 whom the results of the testing are revealed and shall direct
9 the State's Attorney to provide the information to the victim
10 when possible. A State's Attorney may petition the court to
11 obtain the results of any HIV test administered under this
12 Section, and the court shall grant the disclosure if the
13 State's Attorney shows it is relevant in order to prosecute a
14 charge of criminal transmission of HIV under Section 12-5.01 or
15 12-16.2 of the Criminal Code of 1961 against the defendant. The
16 court shall order that the cost of any such test shall be paid
17 by the county and may be taxed as costs against the convicted
18 defendant.

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

26 (j) In cases when prosecution for any violation of Section

1 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,
2 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,
3 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
4 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,
5 12-15, or 12-16 of the Criminal Code of 1961, any violation of
6 the Illinois Controlled Substances Act, any violation of the
7 Cannabis Control Act, or any violation of the Methamphetamine
8 Control and Community Protection Act results in conviction, a
9 disposition of court supervision, or an order of probation
10 granted under Section 10 of the Cannabis Control Act, Section
11 410 of the Illinois Controlled Substance Act, or Section 70 of
12 the Methamphetamine Control and Community Protection Act of a
13 defendant, the court shall determine whether the defendant is
14 employed by a facility or center as defined under the Child
15 Care Act of 1969, a public or private elementary or secondary
16 school, or otherwise works with children under 18 years of age
17 on a daily basis. When a defendant is so employed, the court
18 shall order the Clerk of the Court to send a copy of the
19 judgment of conviction or order of supervision or probation to
20 the defendant's employer by certified mail. If the employer of
21 the defendant is a school, the Clerk of the Court shall direct
22 the mailing of a copy of the judgment of conviction or order of
23 supervision or probation to the appropriate regional
24 superintendent of schools. The regional superintendent of
25 schools shall notify the State Board of Education of any
26 notification under this subsection.

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

1 subsection (j-5) does not apply to a defendant who has a high
2 school diploma or has successfully passed the GED test. This
3 subsection (j-5) does not apply to a defendant who is
4 determined by the court to be developmentally disabled or
5 otherwise mentally incapable of completing the educational or
6 vocational program.

7 (k) (Blank).

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

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

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

22 Otherwise, the defendant shall be sentenced as
23 provided in this Chapter V.

24 (B) If the defendant has already been sentenced for a
25 felony or misdemeanor offense, or has been placed on
26 probation under Section 10 of the Cannabis Control Act,

1 Section 410 of the Illinois Controlled Substances Act, or
2 Section 70 of the Methamphetamine Control and Community
3 Protection Act, the court may, upon motion of the State's
4 Attorney to suspend the sentence imposed, commit the
5 defendant to the custody of the Attorney General of the
6 United States or his or her designated agent when:

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

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

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

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

26 (m) A person convicted of criminal defacement of property

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

6 (n) The court may sentence a person convicted of a
7 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or
8 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
9 of 1961 (i) to an impact incarceration program if the person is
10 otherwise eligible for that program under Section 5-8-1.1, (ii)
11 to community service, or (iii) if the person is an addict or
12 alcoholic, as defined in the Alcoholism and Other Drug Abuse
13 and Dependency Act, to a substance or alcohol abuse program
14 licensed under that Act.

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

20 (Source: P.A. 96-348, eff. 8-12-09; 96-400, eff. 8-13-09;
21 96-829, eff. 12-3-09; 96-1200, eff. 7-22-10; 96-1551, Article
22 1, Section 970, eff. 7-1-11; 96-1551, Article 2, Section 1065,
23 eff. 7-1-11; 96-1551, Article 10, Section 10-150, eff. 7-1-11;
24 97-159, eff. 7-21-11; revised 9-14-11.)