



## 98TH GENERAL ASSEMBLY

### State of Illinois

#### 2013 and 2014

##### HB3217

by Rep. Jim Durkin

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-1.1	from Ch. 38, par. 24-1.1
720 ILCS 5/24-1.6	
720 ILCS 5/24-1.8	
730 ILCS 5/3-6-3	from Ch. 38, par. 1003-6-3
730 ILCS 5/5-5-3	from Ch. 38, par. 1005-5-3

Amends the Criminal Code of 2012. Enhances the penalties for certain violations of the statutes concerning unlawful use or possession of weapons by felons, aggravated unlawful use of a weapon, and unlawful possession of a firearm by a street gang member. Amends the Unified Code of Corrections. Provides that a prisoner serving a sentence for unlawful use or possession of a weapon by felons, aggravated discharge of a firearm, being an armed habitual criminal, defacing identification marks of firearms, unlawful possession of a firearm by a street gang member, or certain unlawful sale or delivery of firearms violations shall receive no more than 4.5 days of sentence credit for each month of his or her sentence of imprisonment. Effective immediately.

LRB098 10929 RLC 41484 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 2012 is amended by changing  
5 Sections 24-1.1, 24-1.6, and 24-1.8 as follows:

6 (720 ILCS 5/24-1.1) (from Ch. 38, par. 24-1.1)

7 Sec. 24-1.1. Unlawful Use or Possession of Weapons by  
8 Felons or Persons in the Custody of the Department of  
9 Corrections Facilities.

10 (a) It is unlawful for a person to knowingly possess on or  
11 about his person or on his land or in his own abode or fixed  
12 place of business any weapon prohibited under Section 24-1 of  
13 this Act or any firearm or any firearm ammunition if the person  
14 has been convicted of a felony under the laws of this State or  
15 any other jurisdiction. This Section shall not apply if the  
16 person has been granted relief by the Director of the  
17 Department of State Police under Section 10 of the Firearm  
18 Owners Identification Card Act.

19 (b) It is unlawful for any person confined in a penal  
20 institution, which is a facility of the Illinois Department of  
21 Corrections, to possess any weapon prohibited under Section  
22 24-1 of this Code or any firearm or firearm ammunition,  
23 regardless of the intent with which he possesses it.

1 (c) It shall be an affirmative defense to a violation of  
2 subsection (b), that such possession was specifically  
3 authorized by rule, regulation, or directive of the Illinois  
4 Department of Corrections or order issued pursuant thereto.

5 (d) The defense of necessity is not available to a person  
6 who is charged with a violation of subsection (b) of this  
7 Section.

8 (e) Sentence. Violation of this Section by a person not  
9 confined in a penal institution shall be a Class 3 felony for  
10 which the person shall be sentenced to no less than 4 ~~2~~ years  
11 and no more than 10 years and any second or subsequent  
12 violation shall be a Class 2 felony for which the person shall  
13 be sentenced to a term of imprisonment of not less than 5 ~~3~~  
14 years and not more than 14 years. Violation of this Section by  
15 a person not confined in a penal institution who has been  
16 convicted of a forcible felony, a felony violation of Article  
17 24 of this Code or of the Firearm Owners Identification Card  
18 Act, stalking or aggravated stalking, or a Class 2 or greater  
19 felony under the Illinois Controlled Substances Act, the  
20 Cannabis Control Act, or the Methamphetamine Control and  
21 Community Protection Act is a Class 2 felony for which the  
22 person shall be sentenced to not less than 3 years and not more  
23 than 14 years. Violation of this Section by a person who is on  
24 parole or mandatory supervised release is a Class 2 felony for  
25 which the person shall be sentenced to not less than 5 ~~3~~ years  
26 and not more than 14 years. Violation of this Section by a

1 person not confined in a penal institution is a Class X felony  
2 when the firearm possessed is a machine gun. Any person who  
3 violates this Section while confined in a penal institution,  
4 which is a facility of the Illinois Department of Corrections,  
5 is guilty of a Class 1 felony, if he possesses any weapon  
6 prohibited under Section 24-1 of this Code regardless of the  
7 intent with which he possesses it, a Class X felony if he  
8 possesses any firearm, firearm ammunition or explosive, and a  
9 Class X felony for which the offender shall be sentenced to not  
10 less than 12 years and not more than 50 years when the firearm  
11 possessed is a machine gun. A violation of this Section while  
12 wearing or in possession of body armor as defined in Section  
13 33F-1 is a Class X felony punishable by a term of imprisonment  
14 of not less than 10 years and not more than 40 years. The  
15 possession of each firearm or firearm ammunition in violation  
16 of this Section constitutes a single and separate violation.

17 (Source: P.A. 97-237, eff. 1-1-12.)

18 (720 ILCS 5/24-1.6)

19 Sec. 24-1.6. Aggravated unlawful use of a weapon.

20 (a) A person commits the offense of aggravated unlawful use  
21 of a weapon when he or she knowingly:

22 (1) Carries on or about his or her person or in any  
23 vehicle or concealed on or about his or her person except  
24 when on his or her land or in his or her abode, legal  
25 dwelling, or fixed place of business, or on the land or in

1 the legal dwelling of another person as an invitee with  
2 that person's permission, any pistol, revolver, stun gun or  
3 taser or other firearm; or

4 (2) Carries or possesses on or about his or her person,  
5 upon any public street, alley, or other public lands within  
6 the corporate limits of a city, village or incorporated  
7 town, except when an invitee thereon or therein, for the  
8 purpose of the display of such weapon or the lawful  
9 commerce in weapons, or except when on his or her own land  
10 or in his or her own abode, legal dwelling, or fixed place  
11 of business, or on the land or in the legal dwelling of  
12 another person as an invitee with that person's permission,  
13 any pistol, revolver, stun gun or taser or other firearm;  
14 and

15 (3) One of the following factors is present:

16 (A) the firearm possessed was uncased, loaded and  
17 immediately accessible at the time of the offense; or

18 (B) the firearm possessed was uncased, unloaded  
19 and the ammunition for the weapon was immediately  
20 accessible at the time of the offense; or

21 (C) the person possessing the firearm has not been  
22 issued a currently valid Firearm Owner's  
23 Identification Card; or

24 (D) the person possessing the weapon was  
25 previously adjudicated a delinquent minor under the  
26 Juvenile Court Act of 1987 for an act that if committed

1 by an adult would be a felony; or

2 (E) the person possessing the weapon was engaged in  
3 a misdemeanor violation of the Cannabis Control Act, in  
4 a misdemeanor violation of the Illinois Controlled  
5 Substances Act, or in a misdemeanor violation of the  
6 Methamphetamine Control and Community Protection Act;  
7 or

8 (F) (blank); or

9 (G) the person possessing the weapon had a order of  
10 protection issued against him or her within the  
11 previous 2 years; or

12 (H) the person possessing the weapon was engaged in  
13 the commission or attempted commission of a  
14 misdemeanor involving the use or threat of violence  
15 against the person or property of another; or

16 (I) the person possessing the weapon was under 21  
17 years of age and in possession of a handgun as defined  
18 in Section 24-3, unless the person under 21 is engaged  
19 in lawful activities under the Wildlife Code or  
20 described in subsection 24-2(b)(1), (b)(3), or  
21 24-2(f).

22 (b) "Stun gun or taser" as used in this Section has the  
23 same definition given to it in Section 24-1 of this Code.

24 (c) This Section does not apply to or affect the  
25 transportation or possession of weapons that:

26 (i) are broken down in a non-functioning state; or

1           (ii) are not immediately accessible; or  
2           (iii) are unloaded and enclosed in a case, firearm  
3 carrying box, shipping box, or other container by a  
4 person who has been issued a currently valid Firearm  
5 Owner's Identification Card.

6           (d) Sentence.

7           (1) Aggravated unlawful use of a weapon is a Class 4  
8 felony; a second or subsequent offense is a Class 2 felony  
9 for which the person shall be sentenced to a term of  
10 imprisonment of not less than 5 ~~3~~ years and not more than  
11 10 ~~7~~ years.

12           (2) Except as otherwise provided in paragraphs (3) and  
13 (4) of this subsection (d), a first offense of aggravated  
14 unlawful use of a weapon committed with a firearm by a  
15 person 18 years of age or older where the factors listed in  
16 both items (A) and (C) of paragraph (3) of subsection (a)  
17 are present is a Class 4 felony, for which the person shall  
18 be sentenced to a term of imprisonment of not less than one  
19 year and not more than 3 years.

20           (3) Aggravated unlawful use of a weapon by a person who  
21 has been previously convicted of a felony in this State or  
22 another jurisdiction is a Class 2 felony for which the  
23 person shall be sentenced to a term of imprisonment of not  
24 less than 3 years and not more than 7 years.

25           (4) Aggravated unlawful use of a weapon while wearing  
26 or in possession of body armor as defined in Section 33F-1

1 by a person who has not been issued a valid Firearms  
2 Owner's Identification Card in accordance with Section 5 of  
3 the Firearm Owners Identification Card Act is a Class X  
4 felony.

5 (e) The possession of each firearm in violation of this  
6 Section constitutes a single and separate violation.

7 (Source: P.A. 95-331, eff. 8-21-07; 96-742, eff. 8-25-09;  
8 96-829, eff. 12-3-09; 96-1107, eff. 1-1-11.)

9 (720 ILCS 5/24-1.8)

10 Sec. 24-1.8. Unlawful possession of a firearm by a street  
11 gang member.

12 (a) A person commits unlawful possession of a firearm by a  
13 street gang member when he or she knowingly:

14 (1) possesses, carries, or conceals on or about his or  
15 her person a firearm and firearm ammunition while on any  
16 street, road, alley, gangway, sidewalk, or any other lands,  
17 except when inside his or her own abode or inside his or  
18 her fixed place of business, and has not been issued a  
19 currently valid Firearm Owner's Identification Card and is  
20 a member of a street gang; or

21 (2) possesses or carries in any vehicle a firearm and  
22 firearm ammunition which are both immediately accessible  
23 at the time of the offense while on any street, road,  
24 alley, or any other lands, except when inside his or her  
25 own abode or garage, and has not been issued a currently



1 valid Firearm Owner's Identification Card and is a member  
2 of a street gang.

3 (b) Unlawful possession of a firearm by a street gang  
4 member is a Class 2 felony for which the person, if sentenced  
5 to a term of imprisonment, shall be sentenced to no less than 4  
6 ~~3~~ years and no more than 10 years. A period of probation, a  
7 term of periodic imprisonment or conditional discharge shall  
8 not be imposed for the offense of unlawful possession of a  
9 firearm by a street gang member when the firearm was loaded or  
10 contained firearm ammunition and the court shall sentence the  
11 offender to not less than the minimum term of imprisonment  
12 authorized for the Class 2 felony.

13 (c) For purposes of this Section:

14 "Street gang" or "gang" has the meaning ascribed to it  
15 in Section 10 of the Illinois Streetgang Terrorism Omnibus  
16 Prevention Act.

17 "Street gang member" or "gang member" has the meaning  
18 ascribed to it in Section 10 of the Illinois Streetgang  
19 Terrorism Omnibus Prevention Act.

20 (Source: P.A. 96-829, eff. 12-3-09.)

21 Section 10. The Unified Code of Corrections is amended by  
22 changing Sections 3-6-3 and 5-5-3 as follows:

23 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

24 Sec. 3-6-3. Rules and Regulations for Sentence Credit.

1           (a) (1) The Department of Corrections shall prescribe  
2 rules and regulations for awarding and revoking sentence  
3 credit for persons committed to the Department which shall  
4 be subject to review by the Prisoner Review Board.

5           (1.5) As otherwise provided by law, sentence credit may  
6 be awarded for the following:

7           (A) successful completion of programming while in  
8 custody of the Department or while in custody prior to  
9 sentencing;

10           (B) compliance with the rules and regulations of  
11 the Department; or

12           (C) service to the institution, service to a  
13 community, or service to the State.

14           (2) The rules and regulations on sentence credit shall  
15 provide, with respect to offenses listed in clause (i),  
16 (ii), or (iii) of this paragraph (2) committed on or after  
17 June 19, 1998 or with respect to the offense listed in  
18 clause (iv) of this paragraph (2) committed on or after  
19 June 23, 2005 (the effective date of Public Act 94-71) or  
20 with respect to offense listed in clause (vi) committed on  
21 or after June 1, 2008 (the effective date of Public Act  
22 95-625) or with respect to the offense of being an armed  
23 habitual criminal committed on or after August 2, 2005 (the  
24 effective date of Public Act 94-398) or with respect to the  
25 offenses listed in clause (v) of this paragraph (2)  
26 committed on or after August 13, 2007 (the effective date

1 of Public Act 95-134) or with respect to the offense of  
2 aggravated domestic battery committed on or after July 23,  
3 2010 (the effective date of Public Act 96-1224) or with  
4 respect to the offense of attempt to commit terrorism  
5 committed on or after January 1, 2013 (the effective date  
6 of Public Act 97-990) or with respect to offenses listed in  
7 clause (viii) committed on or after the effective date of  
8 this amendatory Act of the 98th General Assembly, the  
9 following:

10 (i) that a prisoner who is serving a term of  
11 imprisonment for first degree murder or for the offense  
12 of terrorism shall receive no sentence credit and shall  
13 serve the entire sentence imposed by the court;

14 (ii) that a prisoner serving a sentence for attempt  
15 to commit terrorism, attempt to commit first degree  
16 murder, solicitation of murder, solicitation of murder  
17 for hire, intentional homicide of an unborn child,  
18 predatory criminal sexual assault of a child,  
19 aggravated criminal sexual assault, criminal sexual  
20 assault, aggravated kidnapping, aggravated battery  
21 with a firearm as described in Section 12-4.2 or  
22 subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of  
23 Section 12-3.05, heinous battery as described in  
24 Section 12-4.1 or subdivision (a)(2) of Section  
25 12-3.05, being an armed habitual criminal, aggravated  
26 battery of a senior citizen as described in Section

1 12-4.6 or subdivision (a)(4) of Section 12-3.05, or  
2 aggravated battery of a child as described in Section  
3 12-4.3 or subdivision (b)(1) of Section 12-3.05 shall  
4 receive no more than 4.5 days of sentence credit for  
5 each month of his or her sentence of imprisonment;

6 (iii) that a prisoner serving a sentence for home  
7 invasion, armed robbery, aggravated vehicular  
8 hijacking, aggravated discharge of a firearm, or armed  
9 violence with a category I weapon or category II  
10 weapon, when the court has made and entered a finding,  
11 pursuant to subsection (c-1) of Section 5-4-1 of this  
12 Code, that the conduct leading to conviction for the  
13 enumerated offense resulted in great bodily harm to a  
14 victim, shall receive no more than 4.5 days of sentence  
15 credit for each month of his or her sentence of  
16 imprisonment;

17 (iv) that a prisoner serving a sentence for  
18 aggravated discharge of a firearm, whether or not the  
19 conduct leading to conviction for the offense resulted  
20 in great bodily harm to the victim, shall receive no  
21 more than 4.5 days of sentence credit for each month of  
22 his or her sentence of imprisonment;

23 (v) that a person serving a sentence for  
24 gunrunning, narcotics racketeering, controlled  
25 substance trafficking, methamphetamine trafficking,  
26 drug-induced homicide, aggravated

1 methamphetamine-related child endangerment, money  
2 laundering pursuant to clause (c) (4) or (5) of Section  
3 29B-1 of the Criminal Code of 1961 or the Criminal Code  
4 of 2012, or a Class X felony conviction for delivery of  
5 a controlled substance, possession of a controlled  
6 substance with intent to manufacture or deliver,  
7 calculated criminal drug conspiracy, criminal drug  
8 conspiracy, street gang criminal drug conspiracy,  
9 participation in methamphetamine manufacturing,  
10 aggravated participation in methamphetamine  
11 manufacturing, delivery of methamphetamine, possession  
12 with intent to deliver methamphetamine, aggravated  
13 delivery of methamphetamine, aggravated possession  
14 with intent to deliver methamphetamine,  
15 methamphetamine conspiracy when the substance  
16 containing the controlled substance or methamphetamine  
17 is 100 grams or more shall receive no more than 7.5  
18 days sentence credit for each month of his or her  
19 sentence of imprisonment;

20 (vi) that a prisoner serving a sentence for a  
21 second or subsequent offense of luring a minor shall  
22 receive no more than 4.5 days of sentence credit for  
23 each month of his or her sentence of imprisonment; ~~and~~

24 (vii) that a prisoner serving a sentence for  
25 aggravated domestic battery shall receive no more than  
26 4.5 days of sentence credit for each month of his or

1 her sentence of imprisonment; and

2 (viii) that a prisoner serving a sentence for a  
3 violation of Section 24-1.1, 24-1.2, 24-1.7, or  
4 24-1.8, or 24-5 or subsection 24-3 (d), 24-3 (i), or  
5 24-3 (l) of the Criminal Code of 2012 shall receive no  
6 more than 4.5 days of sentence credit for each month of  
7 his or her sentence of imprisonment.

8 (2.1) For all offenses, other than those enumerated in  
9 subdivision (a)(2)(i), (ii), or (iii) committed on or after  
10 June 19, 1998 or subdivision (a)(2)(iv) committed on or  
11 after June 23, 2005 (the effective date of Public Act  
12 94-71) or subdivision (a)(2)(v) committed on or after  
13 August 13, 2007 (the effective date of Public Act 95-134)  
14 or subdivision (a)(2)(vi) committed on or after June 1,  
15 2008 (the effective date of Public Act 95-625) or  
16 subdivision (a)(2)(vii) committed on or after July 23, 2010  
17 (the effective date of Public Act 96-1224), and other than  
18 the offense of aggravated driving under the influence of  
19 alcohol, other drug or drugs, or intoxicating compound or  
20 compounds, or any combination thereof as defined in  
21 subparagraph (F) of paragraph (1) of subsection (d) of  
22 Section 11-501 of the Illinois Vehicle Code, and other than  
23 the offense of aggravated driving under the influence of  
24 alcohol, other drug or drugs, or intoxicating compound or  
25 compounds, or any combination thereof as defined in  
26 subparagraph (C) of paragraph (1) of subsection (d) of

1 Section 11-501 of the Illinois Vehicle Code committed on or  
2 after January 1, 2011 (the effective date of Public Act  
3 96-1230), the rules and regulations shall provide that a  
4 prisoner who is serving a term of imprisonment shall  
5 receive one day of sentence credit for each day of his or  
6 her sentence of imprisonment or recommitment under Section  
7 3-3-9. Each day of sentence credit shall reduce by one day  
8 the prisoner's period of imprisonment or recommitment  
9 under Section 3-3-9.

10 (2.2) A prisoner serving a term of natural life  
11 imprisonment or a prisoner who has been sentenced to death  
12 shall receive no sentence credit.

13 (2.3) The rules and regulations on sentence credit  
14 shall provide that a prisoner who is serving a sentence for  
15 aggravated driving under the influence of alcohol, other  
16 drug or drugs, or intoxicating compound or compounds, or  
17 any combination thereof as defined in subparagraph (F) of  
18 paragraph (1) of subsection (d) of Section 11-501 of the  
19 Illinois Vehicle Code, shall receive no more than 4.5 days  
20 of sentence credit for each month of his or her sentence of  
21 imprisonment.

22 (2.4) The rules and regulations on sentence credit  
23 shall provide with respect to the offenses of aggravated  
24 battery with a machine gun or a firearm equipped with any  
25 device or attachment designed or used for silencing the  
26 report of a firearm or aggravated discharge of a machine

1 gun or a firearm equipped with any device or attachment  
2 designed or used for silencing the report of a firearm,  
3 committed on or after July 15, 1999 (the effective date of  
4 Public Act 91-121), that a prisoner serving a sentence for  
5 any of these offenses shall receive no more than 4.5 days  
6 of sentence credit for each month of his or her sentence of  
7 imprisonment.

8 (2.5) The rules and regulations on sentence credit  
9 shall provide that a prisoner who is serving a sentence for  
10 aggravated arson committed on or after July 27, 2001 (the  
11 effective date of Public Act 92-176) shall receive no more  
12 than 4.5 days of sentence credit for each month of his or  
13 her sentence of imprisonment.

14 (2.6) The rules and regulations on sentence credit  
15 shall provide that a prisoner who is serving a sentence for  
16 aggravated driving under the influence of alcohol, other  
17 drug or drugs, or intoxicating compound or compounds or any  
18 combination thereof as defined in subparagraph (C) of  
19 paragraph (1) of subsection (d) of Section 11-501 of the  
20 Illinois Vehicle Code committed on or after January 1, 2011  
21 (the effective date of Public Act 96-1230) shall receive no  
22 more than 4.5 days of sentence credit for each month of his  
23 or her sentence of imprisonment.

24 (3) The rules and regulations shall also provide that  
25 the Director may award up to 180 days additional sentence  
26 credit for good conduct in specific instances as the



1 Director deems proper. The good conduct may include, but is  
2 not limited to, compliance with the rules and regulations  
3 of the Department, service to the Department, service to a  
4 community, or service to the State. However, the Director  
5 shall not award more than 90 days of sentence credit for  
6 good conduct to any prisoner who is serving a sentence for  
7 conviction of first degree murder, reckless homicide while  
8 under the influence of alcohol or any other drug, or  
9 aggravated driving under the influence of alcohol, other  
10 drug or drugs, or intoxicating compound or compounds, or  
11 any combination thereof as defined in subparagraph (F) of  
12 paragraph (1) of subsection (d) of Section 11-501 of the  
13 Illinois Vehicle Code, aggravated kidnapping, kidnapping,  
14 predatory criminal sexual assault of a child, aggravated  
15 criminal sexual assault, criminal sexual assault, deviate  
16 sexual assault, aggravated criminal sexual abuse,  
17 aggravated indecent liberties with a child, indecent  
18 liberties with a child, child pornography, heinous battery  
19 as described in Section 12-4.1 or subdivision (a)(2) of  
20 Section 12-3.05, aggravated battery of a spouse,  
21 aggravated battery of a spouse with a firearm, stalking,  
22 aggravated stalking, aggravated battery of a child as  
23 described in Section 12-4.3 or subdivision (b)(1) of  
24 Section 12-3.05, endangering the life or health of a child,  
25 or cruelty to a child. Notwithstanding the foregoing,  
26 sentence credit for good conduct shall not be awarded on a

1 sentence of imprisonment imposed for conviction of: (i) one  
2 of the offenses enumerated in subdivision (a)(2)(i), (ii),  
3 or (iii) when the offense is committed on or after June 19,  
4 1998 or subdivision (a)(2)(iv) when the offense is  
5 committed on or after June 23, 2005 (the effective date of  
6 Public Act 94-71) or subdivision (a)(2)(v) when the offense  
7 is committed on or after August 13, 2007 (the effective  
8 date of Public Act 95-134) or subdivision (a)(2)(vi) when  
9 the offense is committed on or after June 1, 2008 (the  
10 effective date of Public Act 95-625) or subdivision  
11 (a)(2)(vii) when the offense is committed on or after July  
12 23, 2010 (the effective date of Public Act 96-1224), (ii)  
13 aggravated driving under the influence of alcohol, other  
14 drug or drugs, or intoxicating compound or compounds, or  
15 any combination thereof as defined in subparagraph (F) of  
16 paragraph (1) of subsection (d) of Section 11-501 of the  
17 Illinois Vehicle Code, (iii) one of the offenses enumerated  
18 in subdivision (a)(2.4) when the offense is committed on or  
19 after July 15, 1999 (the effective date of Public Act  
20 91-121), (iv) aggravated arson when the offense is  
21 committed on or after July 27, 2001 (the effective date of  
22 Public Act 92-176), (v) offenses that may subject the  
23 offender to commitment under the Sexually Violent Persons  
24 Commitment Act, or (vi) aggravated driving under the  
25 influence of alcohol, other drug or drugs, or intoxicating  
26 compound or compounds or any combination thereof as defined

1 in subparagraph (C) of paragraph (1) of subsection (d) of  
2 Section 11-501 of the Illinois Vehicle Code committed on or  
3 after January 1, 2011 (the effective date of Public Act  
4 96-1230).

5 Eligible inmates for an award of sentence credit under this  
6 paragraph (3) may be selected to receive the credit at the  
7 Director's or his or her designee's sole discretion.  
8 Consideration may be based on, but not limited to, any  
9 available risk assessment analysis on the inmate, any history  
10 of conviction for violent crimes as defined by the Rights of  
11 Crime Victims and Witnesses Act, facts and circumstances of the  
12 inmate's holding offense or offenses, and the potential for  
13 rehabilitation.

14 The Director shall not award sentence credit under this  
15 paragraph (3) to an inmate unless the inmate has served a  
16 minimum of 60 days of the sentence; except nothing in this  
17 paragraph shall be construed to permit the Director to extend  
18 an inmate's sentence beyond that which was imposed by the  
19 court. Prior to awarding credit under this paragraph (3), the  
20 Director shall make a written determination that the inmate:

21 (A) is eligible for the sentence credit;

22 (B) has served a minimum of 60 days, or as close to  
23 60 days as the sentence will allow; and

24 (C) has met the eligibility criteria established  
25 by rule.

26 The Director shall determine the form and content of

1 the written determination required in this subsection.

2 (3.5) The Department shall provide annual written  
3 reports to the Governor and the General Assembly on the  
4 award of sentence credit for good conduct, with the first  
5 report due January 1, 2014. The Department must publish  
6 both reports on its website within 48 hours of transmitting  
7 the reports to the Governor and the General Assembly. The  
8 reports must include:

9 (A) the number of inmates awarded sentence credit  
10 for good conduct;

11 (B) the average amount of sentence credit for good  
12 conduct awarded;

13 (C) the holding offenses of inmates awarded  
14 sentence credit for good conduct; and

15 (D) the number of sentence credit for good conduct  
16 revocations.

17 (4) The rules and regulations shall also provide that  
18 the sentence credit accumulated and retained under  
19 paragraph (2.1) of subsection (a) of this Section by any  
20 inmate during specific periods of time in which such inmate  
21 is engaged full-time in substance abuse programs,  
22 correctional industry assignments, educational programs,  
23 behavior modification programs, life skills courses, or  
24 re-entry planning provided by the Department under this  
25 paragraph (4) and satisfactorily completes the assigned  
26 program as determined by the standards of the Department,

1 shall be multiplied by a factor of 1.25 for program  
2 participation before August 11, 1993 and 1.50 for program  
3 participation on or after that date. The rules and  
4 regulations shall also provide that sentence credit,  
5 subject to the same offense limits and multiplier provided  
6 in this paragraph, may be provided to an inmate who was  
7 held in pre-trial detention prior to his or her current  
8 commitment to the Department of Corrections and  
9 successfully completed a full-time, 60-day or longer  
10 substance abuse program, educational program, behavior  
11 modification program, life skills course, or re-entry  
12 planning provided by the county department of corrections  
13 or county jail. Calculation of this county program credit  
14 shall be done at sentencing as provided in Section  
15 5-4.5-100 of this Code and shall be included in the  
16 sentencing order. However, no inmate shall be eligible for  
17 the additional sentence credit under this paragraph (4) or  
18 (4.1) of this subsection (a) while assigned to a boot camp  
19 or electronic detention, or if convicted of an offense  
20 enumerated in subdivision (a)(2)(i), (ii), or (iii) of this  
21 Section that is committed on or after June 19, 1998 or  
22 subdivision (a)(2)(iv) of this Section that is committed on  
23 or after June 23, 2005 (the effective date of Public Act  
24 94-71) or subdivision (a)(2)(v) of this Section that is  
25 committed on or after August 13, 2007 (the effective date  
26 of Public Act 95-134) or subdivision (a)(2)(vi) when the

1 offense is committed on or after June 1, 2008 (the  
2 effective date of Public Act 95-625) or subdivision  
3 (a)(2)(vii) when the offense is committed on or after July  
4 23, 2010 (the effective date of Public Act 96-1224), or if  
5 convicted of aggravated driving under the influence of  
6 alcohol, other drug or drugs, or intoxicating compound or  
7 compounds or any combination thereof as defined in  
8 subparagraph (F) of paragraph (1) of subsection (d) of  
9 Section 11-501 of the Illinois Vehicle Code, or if  
10 convicted of aggravated driving under the influence of  
11 alcohol, other drug or drugs, or intoxicating compound or  
12 compounds or any combination thereof as defined in  
13 subparagraph (C) of paragraph (1) of subsection (d) of  
14 Section 11-501 of the Illinois Vehicle Code committed on or  
15 after January 1, 2011 (the effective date of Public Act  
16 96-1230), or if convicted of an offense enumerated in  
17 paragraph (a)(2.4) of this Section that is committed on or  
18 after July 15, 1999 (the effective date of Public Act  
19 91-121), or first degree murder, a Class X felony, criminal  
20 sexual assault, felony criminal sexual abuse, aggravated  
21 criminal sexual abuse, aggravated battery with a firearm as  
22 described in Section 12-4.2 or subdivision (e)(1), (e)(2),  
23 (e)(3), or (e)(4) of Section 12-3.05, or any predecessor or  
24 successor offenses with the same or substantially the same  
25 elements, or any inchoate offenses relating to the  
26 foregoing offenses. No inmate shall be eligible for the

1 additional good conduct credit under this paragraph (4) who  
2 (i) has previously received increased good conduct credit  
3 under this paragraph (4) and has subsequently been  
4 convicted of a felony, or (ii) has previously served more  
5 than one prior sentence of imprisonment for a felony in an  
6 adult correctional facility.

7 Educational, vocational, substance abuse, behavior  
8 modification programs, life skills courses, re-entry  
9 planning, and correctional industry programs under which  
10 sentence credit may be increased under this paragraph (4)  
11 and paragraph (4.1) of this subsection (a) shall be  
12 evaluated by the Department on the basis of documented  
13 standards. The Department shall report the results of these  
14 evaluations to the Governor and the General Assembly by  
15 September 30th of each year. The reports shall include data  
16 relating to the recidivism rate among program  
17 participants.

18 Availability of these programs shall be subject to the  
19 limits of fiscal resources appropriated by the General  
20 Assembly for these purposes. Eligible inmates who are  
21 denied immediate admission shall be placed on a waiting  
22 list under criteria established by the Department. The  
23 inability of any inmate to become engaged in any such  
24 programs by reason of insufficient program resources or for  
25 any other reason established under the rules and  
26 regulations of the Department shall not be deemed a cause

1 of action under which the Department or any employee or  
2 agent of the Department shall be liable for damages to the  
3 inmate.

4 (4.1) The rules and regulations shall also provide that  
5 an additional 60 days of sentence credit shall be awarded  
6 to any prisoner who passes the high school level Test of  
7 General Educational Development (GED) while the prisoner  
8 is committed to the Department of Corrections. The sentence  
9 credit awarded under this paragraph (4.1) shall be in  
10 addition to, and shall not affect, the award of sentence  
11 credit under any other paragraph of this Section, but shall  
12 also be pursuant to the guidelines and restrictions set  
13 forth in paragraph (4) of subsection (a) of this Section.  
14 The sentence credit provided for in this paragraph shall be  
15 available only to those prisoners who have not previously  
16 earned a high school diploma or a GED. If, after an award  
17 of the GED sentence credit has been made and the Department  
18 determines that the prisoner was not eligible, then the  
19 award shall be revoked. The Department may also award 60  
20 days of sentence credit to any committed person who passed  
21 the high school level Test of General Educational  
22 Development (GED) while he or she was held in pre-trial  
23 detention prior to the current commitment to the Department  
24 of Corrections.

25 (4.5) The rules and regulations on sentence credit  
26 shall also provide that when the court's sentencing order



1 recommends a prisoner for substance abuse treatment and the  
2 crime was committed on or after September 1, 2003 (the  
3 effective date of Public Act 93-354), the prisoner shall  
4 receive no sentence credit awarded under clause (3) of this  
5 subsection (a) unless he or she participates in and  
6 completes a substance abuse treatment program. The  
7 Director may waive the requirement to participate in or  
8 complete a substance abuse treatment program and award the  
9 sentence credit in specific instances if the prisoner is  
10 not a good candidate for a substance abuse treatment  
11 program for medical, programming, or operational reasons.  
12 Availability of substance abuse treatment shall be subject  
13 to the limits of fiscal resources appropriated by the  
14 General Assembly for these purposes. If treatment is not  
15 available and the requirement to participate and complete  
16 the treatment has not been waived by the Director, the  
17 prisoner shall be placed on a waiting list under criteria  
18 established by the Department. The Director may allow a  
19 prisoner placed on a waiting list to participate in and  
20 complete a substance abuse education class or attend  
21 substance abuse self-help meetings in lieu of a substance  
22 abuse treatment program. A prisoner on a waiting list who  
23 is not placed in a substance abuse program prior to release  
24 may be eligible for a waiver and receive sentence credit  
25 under clause (3) of this subsection (a) at the discretion  
26 of the Director.

1           (4.6) The rules and regulations on sentence credit  
2 shall also provide that a prisoner who has been convicted  
3 of a sex offense as defined in Section 2 of the Sex  
4 Offender Registration Act shall receive no sentence credit  
5 unless he or she either has successfully completed or is  
6 participating in sex offender treatment as defined by the  
7 Sex Offender Management Board. However, prisoners who are  
8 waiting to receive treatment, but who are unable to do so  
9 due solely to the lack of resources on the part of the  
10 Department, may, at the Director's sole discretion, be  
11 awarded sentence credit at a rate as the Director shall  
12 determine.

13           (5) Whenever the Department is to release any inmate  
14 earlier than it otherwise would because of a grant of  
15 sentence credit for good conduct under paragraph (3) of  
16 subsection (a) of this Section given at any time during the  
17 term, the Department shall give reasonable notice of the  
18 impending release not less than 14 days prior to the date  
19 of the release to the State's Attorney of the county where  
20 the prosecution of the inmate took place, and if  
21 applicable, the State's Attorney of the county into which  
22 the inmate will be released. The Department must also make  
23 identification information and a recent photo of the inmate  
24 being released accessible on the Internet by means of a  
25 hyperlink labeled "Community Notification of Inmate Early  
26 Release" on the Department's World Wide Web homepage. The

1 identification information shall include the inmate's:  
2 name, any known alias, date of birth, physical  
3 characteristics, residence address, commitment offense and  
4 county where conviction was imposed. The identification  
5 information shall be placed on the website within 3 days of  
6 the inmate's release and the information may not be removed  
7 until either: completion of the first year of mandatory  
8 supervised release or return of the inmate to custody of  
9 the Department.

10 (b) Whenever a person is or has been committed under  
11 several convictions, with separate sentences, the sentences  
12 shall be construed under Section 5-8-4 in granting and  
13 forfeiting of sentence credit.

14 (c) The Department shall prescribe rules and regulations  
15 for revoking sentence credit, including revoking sentence  
16 credit awarded for good conduct under paragraph (3) of  
17 subsection (a) of this Section. The Department shall prescribe  
18 rules and regulations for suspending or reducing the rate of  
19 accumulation of sentence credit for specific rule violations,  
20 during imprisonment. These rules and regulations shall provide  
21 that no inmate may be penalized more than one year of sentence  
22 credit for any one infraction.

23 When the Department seeks to revoke, suspend or reduce the  
24 rate of accumulation of any sentence credits for an alleged  
25 infraction of its rules, it shall bring charges therefor  
26 against the prisoner sought to be so deprived of sentence

1 credits before the Prisoner Review Board as provided in  
2 subparagraph (a)(4) of Section 3-3-2 of this Code, if the  
3 amount of credit at issue exceeds 30 days or when during any 12  
4 month period, the cumulative amount of credit revoked exceeds  
5 30 days except where the infraction is committed or discovered  
6 within 60 days of scheduled release. In those cases, the  
7 Department of Corrections may revoke up to 30 days of sentence  
8 credit. The Board may subsequently approve the revocation of  
9 additional sentence credit, if the Department seeks to revoke  
10 sentence credit in excess of 30 days. However, the Board shall  
11 not be empowered to review the Department's decision with  
12 respect to the loss of 30 days of sentence credit within any  
13 calendar year for any prisoner or to increase any penalty  
14 beyond the length requested by the Department.

15 The Director of the Department of Corrections, in  
16 appropriate cases, may restore up to 30 days of sentence  
17 credits which have been revoked, suspended or reduced. Any  
18 restoration of sentence credits in excess of 30 days shall be  
19 subject to review by the Prisoner Review Board. However, the  
20 Board may not restore sentence credit in excess of the amount  
21 requested by the Director.

22 Nothing contained in this Section shall prohibit the  
23 Prisoner Review Board from ordering, pursuant to Section  
24 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the  
25 sentence imposed by the court that was not served due to the  
26 accumulation of sentence credit.

1 (d) If a lawsuit is filed by a prisoner in an Illinois or  
2 federal court against the State, the Department of Corrections,  
3 or the Prisoner Review Board, or against any of their officers  
4 or employees, and the court makes a specific finding that a  
5 pleading, motion, or other paper filed by the prisoner is  
6 frivolous, the Department of Corrections shall conduct a  
7 hearing to revoke up to 180 days of sentence credit by bringing  
8 charges against the prisoner sought to be deprived of the  
9 sentence credits before the Prisoner Review Board as provided  
10 in subparagraph (a)(8) of Section 3-3-2 of this Code. If the  
11 prisoner has not accumulated 180 days of sentence credit at the  
12 time of the finding, then the Prisoner Review Board may revoke  
13 all sentence credit accumulated by the prisoner.

14 For purposes of this subsection (d):

15 (1) "Frivolous" means that a pleading, motion, or other  
16 filing which purports to be a legal document filed by a  
17 prisoner in his or her lawsuit meets any or all of the  
18 following criteria:

19 (A) it lacks an arguable basis either in law or in  
20 fact;

21 (B) it is being presented for any improper purpose,  
22 such as to harass or to cause unnecessary delay or  
23 needless increase in the cost of litigation;

24 (C) the claims, defenses, and other legal  
25 contentions therein are not warranted by existing law  
26 or by a nonfrivolous argument for the extension,

1 modification, or reversal of existing law or the  
2 establishment of new law;

3 (D) the allegations and other factual contentions  
4 do not have evidentiary support or, if specifically so  
5 identified, are not likely to have evidentiary support  
6 after a reasonable opportunity for further  
7 investigation or discovery; or

8 (E) the denials of factual contentions are not  
9 warranted on the evidence, or if specifically so  
10 identified, are not reasonably based on a lack of  
11 information or belief.

12 (2) "Lawsuit" means a motion pursuant to Section 116-3  
13 of the Code of Criminal Procedure of 1963, a habeas corpus  
14 action under Article X of the Code of Civil Procedure or  
15 under federal law (28 U.S.C. 2254), a petition for claim  
16 under the Court of Claims Act, an action under the federal  
17 Civil Rights Act (42 U.S.C. 1983), or a second or  
18 subsequent petition for post-conviction relief under  
19 Article 122 of the Code of Criminal Procedure of 1963  
20 whether filed with or without leave of court or a second or  
21 subsequent petition for relief from judgment under Section  
22 2-1401 of the Code of Civil Procedure.

23 (e) Nothing in Public Act 90-592 or 90-593 affects the  
24 validity of Public Act 89-404.

25 (f) Whenever the Department is to release any inmate who  
26 has been convicted of a violation of an order of protection

1 under Section 12-3.4 or 12-30 of the Criminal Code of 1961 or  
2 the Criminal Code of 2012, earlier than it otherwise would  
3 because of a grant of sentence credit, the Department, as a  
4 condition of release, shall require that the person, upon  
5 release, be placed under electronic surveillance as provided in  
6 Section 5-8A-7 of this Code.

7 (Source: P.A. 96-860, eff. 1-15-10; 96-1110, eff. 7-19-10;  
8 96-1128, eff. 1-1-11; 96-1200, eff. 7-22-10; 96-1224, eff.  
9 7-23-10; 96-1230, eff. 1-1-11; 96-1551, eff. 7-1-11; 97-333,  
10 eff. 8-12-11; 97-697, eff. 6-22-12; 97-990, eff. 1-1-13;  
11 97-1150, eff. 1-25-13.)

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  
25 not imposed.

1 (B) Attempted first degree murder.

2 (C) A Class X felony.

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

8 (D-5) A violation of subdivision (c)(1) of Section  
9 401 of the Illinois Controlled Substances Act which  
10 relates to 3 or more grams of a substance containing  
11 heroin or an analog thereof.

12 (E) A violation of Section 5.1 or 9 of the Cannabis  
13 Control Act.

14 (F) A Class 2 or greater felony if the offender had  
15 been convicted of a Class 2 or greater felony,  
16 including any state or federal conviction for an  
17 offense that contained, at the time it was committed,  
18 the same elements as an offense now (the date of the  
19 offense committed after the prior Class 2 or greater  
20 felony) classified as a Class 2 or greater felony,  
21 within 10 years of the date on which the offender  
22 committed the offense for which he or she is being  
23 sentenced, except as otherwise provided in Section  
24 40-10 of the Alcoholism and Other Drug Abuse and  
25 Dependency Act.

26 (F-5) A violation of Section 24-1, 24-1.1, ~~or~~



1           24-1.6, or 24-1.8 of the Criminal Code of 1961 or the  
2           Criminal Code of 2012 for which imprisonment is  
3           prescribed in those Sections.

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

7           (H) Criminal sexual assault.

8           (I) Aggravated battery of a senior citizen as  
9           described in Section 12-4.6 or subdivision (a)(4) of  
10          Section 12-3.05 of the Criminal Code of 1961 or the  
11          Criminal Code of 2012.

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

14          Before July 1, 1994, for the purposes of this  
15          paragraph, "organized gang" means an association of 5  
16          or more persons, with an established hierarchy, that  
17          encourages members of the association to perpetrate  
18          crimes or provides support to the members of the  
19          association who do commit crimes.

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

24          (K) Vehicular hijacking.

25          (L) A second or subsequent conviction for the  
26          offense of hate crime when the underlying offense upon

1           which the hate crime is based is felony aggravated  
2           assault or felony mob action.

3           (M) A second or subsequent conviction for the  
4           offense of institutional vandalism if the damage to the  
5           property exceeds \$300.

6           (N) A Class 3 felony violation of paragraph (1) of  
7           subsection (a) of Section 2 of the Firearm Owners  
8           Identification Card Act.

9           (O) A violation of Section 12-6.1 or 12-6.5 of the  
10          Criminal Code of 1961 or the Criminal Code of 2012.

11          (P) A violation of paragraph (1), (2), (3), (4),  
12          (5), or (7) of subsection (a) of Section 11-20.1 of the  
13          Criminal Code of 1961 or the Criminal Code of 2012.

14          (Q) A violation of subsection (b) or (b-5) of  
15          Section 20-1, Section 20-1.2, or Section 20-1.3 of the  
16          Criminal Code of 1961 or the Criminal Code of 2012.

17          (R) A violation of Section 24-3A of the Criminal  
18          Code of 1961 or the Criminal Code of 2012.

19          (S) (Blank).

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

22          (U) A second or subsequent violation of Section  
23          6-303 of the Illinois Vehicle Code committed while his  
24          or her driver's license, permit, or privilege was  
25          revoked because of a violation of Section 9-3 of the  
26          Criminal Code of 1961 or the Criminal Code of 2012,

1 relating to the offense of reckless homicide, or a  
2 similar provision of a law of another state.

3 (V) A violation of paragraph (4) of subsection (c)  
4 of Section 11-20.1B or paragraph (4) of subsection (c)  
5 of Section 11-20.3 of the Criminal Code of 1961, or  
6 paragraph (6) of subsection (a) of Section 11-20.1 of  
7 the Criminal Code of 2012 when the victim is under 13  
8 years of age and the defendant has previously been  
9 convicted under the laws of this State or any other  
10 state of the offense of child pornography, aggravated  
11 child pornography, aggravated criminal sexual abuse,  
12 aggravated criminal sexual assault, predatory criminal  
13 sexual assault of a child, or any of the offenses  
14 formerly known as rape, deviate sexual assault,  
15 indecent liberties with a child, or aggravated  
16 indecent liberties with a child where the victim was  
17 under the age of 18 years or an offense that is  
18 substantially equivalent to those offenses.

19 (W) A violation of Section 24-3.5 of the Criminal  
20 Code of 1961 or the Criminal Code of 2012.

21 (X) A violation of subsection (a) of Section 31-1a  
22 of the Criminal Code of 1961 or the Criminal Code of  
23 2012.

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

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

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

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

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

12          (DD) A conviction for aggravated assault under  
13          paragraph (6) of subsection (c) of Section 12-2 of the  
14          Criminal Code of 1961 or the Criminal Code of 2012 if  
15          the firearm is aimed toward the person against whom the  
16          firearm is being used.

17          (3) (Blank).

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

22          (4.1) (Blank).

23          (4.2) Except as provided in paragraphs (4.3) and (4.8)  
24          of this subsection (c), a minimum of 100 hours of community  
25          service shall be imposed for a second violation of Section  
26          6-303 of the Illinois Vehicle Code.

1           (4.3) A minimum term of imprisonment of 30 days or 300  
2 hours of community service, as determined by the court,  
3 shall be imposed for a second violation of subsection (c)  
4 of Section 6-303 of the Illinois Vehicle Code.

5           (4.4) Except as provided in paragraphs (4.5), (4.6),  
6 and (4.9) of this subsection (c), a minimum term of  
7 imprisonment of 30 days or 300 hours of community service,  
8 as determined by the court, shall be imposed for a third or  
9 subsequent violation of Section 6-303 of the Illinois  
10 Vehicle Code.

11           (4.5) A minimum term of imprisonment of 30 days shall  
12 be imposed for a third violation of subsection (c) of  
13 Section 6-303 of the Illinois Vehicle Code.

14           (4.6) Except as provided in paragraph (4.10) of this  
15 subsection (c), a minimum term of imprisonment of 180 days  
16 shall be imposed for a fourth or subsequent violation of  
17 subsection (c) of Section 6-303 of the Illinois Vehicle  
18 Code.

19           (4.7) A minimum term of imprisonment of not less than  
20 30 consecutive days, or 300 hours of community service,  
21 shall be imposed for a violation of subsection (a-5) of  
22 Section 6-303 of the Illinois Vehicle Code, as provided in  
23 subsection (b-5) of that Section.

24           (4.8) A mandatory prison sentence shall be imposed for  
25 a second violation of subsection (a-5) of Section 6-303 of  
26 the Illinois Vehicle Code, as provided in subsection (c-5)

1 of that Section. The person's driving privileges shall be  
2 revoked for a period of not less than 5 years from the date  
3 of his or her release from prison.

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

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

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

19 (A) a period of conditional discharge;

20 (B) a fine;

21 (C) make restitution to the victim under Section  
22 5-5-6 of this Code.

23 (5.1) In addition to any other penalties imposed, and  
24 except as provided in paragraph (5.2) or (5.3), a person  
25 convicted of violating subsection (c) of Section 11-907 of  
26 the Illinois Vehicle Code shall have his or her driver's

1 license, permit, or privileges suspended for at least 90  
2 days but not more than one year, if the violation resulted  
3 in damage to the property of another person.

4 (5.2) In addition to any other penalties imposed, and  
5 except as provided in paragraph (5.3), a person convicted  
6 of violating subsection (c) of Section 11-907 of the  
7 Illinois Vehicle Code shall have his or her driver's  
8 license, permit, or privileges suspended for at least 180  
9 days but not more than 2 years, if the violation resulted  
10 in injury to another person.

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

17 (5.4) In addition to any other penalties imposed, a  
18 person convicted of violating Section 3-707 of the Illinois  
19 Vehicle Code shall have his or her driver's license,  
20 permit, or privileges suspended for 3 months and until he  
21 or she has paid a reinstatement fee of \$100.

22 (5.5) In addition to any other penalties imposed, a  
23 person convicted of violating Section 3-707 of the Illinois  
24 Vehicle Code during a period in which his or her driver's  
25 license, permit, or privileges were suspended for a  
26 previous violation of that Section shall have his or her

1 driver's license, permit, or privileges suspended for an  
2 additional 6 months after the expiration of the original  
3 3-month suspension and until he or she has paid a  
4 reinstatement fee of \$100.

5 (6) (Blank).

6 (7) (Blank).

7 (8) (Blank).

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

11 (10) (Blank).

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



1 recognized as a coach by the sanctioning authority that  
2 conducted the sporting event.

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

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

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

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

10 (e) In cases where prosecution for aggravated criminal  
11 sexual abuse under Section 11-1.60 or 12-16 of the Criminal  
12 Code of 1961 or the Criminal Code of 2012 results in conviction  
13 of a defendant who was a family member of the victim at the  
14 time of the commission of the offense, the court shall consider  
15 the safety and welfare of the victim and may impose a sentence  
16 of probation only where:

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

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

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

24 (i) removal from the household;

25 (ii) restricted contact with the victim;

26 (iii) continued financial support of the

1 family;  
2 (iv) restitution for harm done to the victim;  
3 and  
4 (v) compliance with any other measures that  
5 the court may deem appropriate; and

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

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

20 For the purposes of this Section, "family member" and  
21 "victim" shall have the meanings ascribed to them in Section  
22 11-0.1 of the Criminal Code of 2012.

23 (f) (Blank).

24 (g) Whenever a defendant is convicted of an offense under  
25 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,  
26 11-14.3, 11-14.4 except for an offense that involves keeping a

1 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,  
2 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,  
3 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the  
4 Criminal Code of 2012, the defendant shall undergo medical  
5 testing to determine whether the defendant has any sexually  
6 transmissible disease, including a test for infection with  
7 human immunodeficiency virus (HIV) or any other identified  
8 causative agent of acquired immunodeficiency syndrome (AIDS).  
9 Any such medical test shall be performed only by appropriately  
10 licensed medical practitioners and may include an analysis of  
11 any bodily fluids as well as an examination of the defendant's  
12 person. Except as otherwise provided by law, the results of  
13 such test shall be kept strictly confidential by all medical  
14 personnel involved in the testing and must be personally  
15 delivered in a sealed envelope to the judge of the court in  
16 which the conviction was entered for the judge's inspection in  
17 camera. Acting in accordance with the best interests of the  
18 victim and the public, the judge shall have the discretion to  
19 determine to whom, if anyone, the results of the testing may be  
20 revealed. The court shall notify the defendant of the test  
21 results. The court shall also notify the victim if requested by  
22 the victim, and if the victim is under the age of 15 and if  
23 requested by the victim's parents or legal guardian, the court  
24 shall notify the victim's parents or legal guardian of the test  
25 results. The court shall provide information on the  
26 availability of HIV testing and counseling at Department of

1 Public Health facilities to all parties to whom the results of  
2 the testing are revealed and shall direct the State's Attorney  
3 to provide the information to the victim when possible. A  
4 State's Attorney may petition the court to obtain the results  
5 of any HIV test administered under this Section, and the court  
6 shall grant the disclosure if the State's Attorney shows it is  
7 relevant in order to prosecute a charge of criminal  
8 transmission of HIV under Section 12-5.01 or 12-16.2 of the  
9 Criminal Code of 1961 or the Criminal Code of 2012 against the  
10 defendant. The court shall order that the cost of any such test  
11 shall be paid by the county and may be taxed as costs against  
12 the convicted defendant.

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

23 (h) Whenever a defendant is convicted of an offense under  
24 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the  
25 defendant shall undergo medical testing to determine whether  
26 the defendant has been exposed to human immunodeficiency virus

1 (HIV) or any other identified causative agent of acquired  
2 immunodeficiency syndrome (AIDS). Except as otherwise provided  
3 by law, the results of such test shall be kept strictly  
4 confidential by all medical personnel involved in the testing  
5 and must be personally delivered in a sealed envelope to the  
6 judge of the court in which the conviction was entered for the  
7 judge's inspection in camera. Acting in accordance with the  
8 best interests of the public, the judge shall have the  
9 discretion to determine to whom, if anyone, the results of the  
10 testing may be revealed. The court shall notify the defendant  
11 of a positive test showing an infection with the human  
12 immunodeficiency virus (HIV). The court shall provide  
13 information on the availability of HIV testing and counseling  
14 at Department of Public Health facilities to all parties to  
15 whom the results of the testing are revealed and shall direct  
16 the State's Attorney to provide the information to the victim  
17 when possible. A State's Attorney may petition the court to  
18 obtain the results of any HIV test administered under this  
19 Section, and the court shall grant the disclosure if the  
20 State's Attorney shows it is relevant in order to prosecute a  
21 charge of criminal transmission of HIV under Section 12-5.01 or  
22 12-16.2 of the Criminal Code of 1961 or the Criminal Code of  
23 2012 against the defendant. The court shall order that the cost  
24 of any such test shall be paid by the county and may be taxed as  
25 costs against the convicted defendant.

26 (i) All fines and penalties imposed under this Section for

1 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
2 Vehicle Code, or a similar provision of a local ordinance, and  
3 any violation of the Child Passenger Protection Act, or a  
4 similar provision of a local ordinance, shall be collected and  
5 disbursed by the circuit clerk as provided under Section 27.5  
6 of the Clerks of Courts Act.

7 (j) In cases when prosecution for any violation of Section  
8 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,  
9 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,  
10 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
11 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,  
12 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal  
13 Code of 2012, any violation of the Illinois Controlled  
14 Substances Act, any violation of the Cannabis Control Act, or  
15 any violation of the Methamphetamine Control and Community  
16 Protection Act results in conviction, a disposition of court  
17 supervision, or an order of probation granted under Section 10  
18 of the Cannabis Control Act, Section 410 of the Illinois  
19 Controlled Substance Act, or Section 70 of the Methamphetamine  
20 Control and Community Protection Act of a defendant, the court  
21 shall determine whether the defendant is employed by a facility  
22 or center as defined under the Child Care Act of 1969, a public  
23 or private elementary or secondary school, or otherwise works  
24 with children under 18 years of age on a daily basis. When a  
25 defendant is so employed, the court shall order the Clerk of  
26 the Court to send a copy of the judgment of conviction or order

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

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



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

14 (k) (Blank).

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

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

26 (2) the deportation of the defendant would not

1 deprecate the seriousness of the defendant's conduct  
2 and would not be inconsistent with the ends of justice.  
3 Otherwise, the defendant shall be sentenced as  
4 provided in this Chapter V.

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

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

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

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

23 (D) Upon motion of the State's Attorney, if a defendant  
24 sentenced under this Section returns to the jurisdiction of  
25 the United States, the defendant shall be recommitted to  
26 the custody of the county from which he or she was

1 sentenced. Thereafter, the defendant shall be brought  
2 before the sentencing court, which may impose any sentence  
3 that was available under Section 5-5-3 at the time of  
4 initial sentencing. In addition, the defendant shall not be  
5 eligible for additional sentence credit for good conduct as  
6 provided under Section 3-6-3.

7 (m) A person convicted of criminal defacement of property  
8 under Section 21-1.3 of the Criminal Code of 1961 or the  
9 Criminal Code of 2012, in which the property damage exceeds  
10 \$300 and the property damaged is a school building, shall be  
11 ordered to perform community service that may include cleanup,  
12 removal, or painting over the defacement.

13 (n) The court may sentence a person convicted of a  
14 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or  
15 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code  
16 of 1961 or the Criminal Code of 2012 (i) to an impact  
17 incarceration program if the person is otherwise eligible for  
18 that program under Section 5-8-1.1, (ii) to community service,  
19 or (iii) if the person is an addict or alcoholic, as defined in  
20 the Alcoholism and Other Drug Abuse and Dependency Act, to a  
21 substance or alcohol abuse program licensed under that Act.

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

1 (Source: P.A. 96-348, eff. 8-12-09; 96-400, eff. 8-13-09;  
2 96-829, eff. 12-3-09; 96-1200, eff. 7-22-10; 96-1551, Article  
3 1, Section 970, eff. 7-1-11; 96-1551, Article 2, Section 1065,  
4 eff. 7-1-11; 96-1551, Article 10, Section 10-150, eff. 7-1-11;  
5 97-159, eff. 7-21-11; 97-697, eff. 6-22-12; 97-917, eff.  
6 8-9-12; 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1150,  
7 eff. 1-25-13.)

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law.