



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0189

by Rep. Scott Drury

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-3

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

Amends the Unified Code of Corrections. Provides that a period of probation, a term of periodic imprisonment, or conditional discharge may not be imposed if the defendant is convicted of a Class 3 felony or higher violation of an offense involving the corruption of a public official when the offense consists of theft, fraud, extortion or a violation of the Official Misconduct or Public Contracts Article of the Criminal Code of 2012 and either: (1) the defendant was an elected official at the time of the offense, or (2) the offense involved more than \$10,000 in money or property, based on either the value of any payments or the value of the item that was the object of the offense. Provides that this provision does not apply if the prosecutor certifies to the court at the time of sentencing that the defendant has provided substantial assistance in the case or another prosecution of substantial public importance.

LRB099 02699 RLC 22706 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 Unified Code of Corrections is amended by
5 changing Section 5-5-3 as follows:

6 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

7 Sec. 5-5-3. Disposition.

8 (a) (Blank).

9 (b) (Blank).

10 (c) (1) (Blank).

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

17 (A) First degree murder where the death penalty is not
18 imposed.

19 (B) Attempted first degree murder.

20 (C) A Class X felony.

21 (D) A violation of Section 401.1 or 407 of the Illinois
22 Controlled Substances Act, or a violation of subdivision
23 (c) (1.5) or (c) (2) of Section 401 of that Act which relates

1 to more than 5 grams of a substance containing cocaine,
2 fentanyl, or an analog thereof.

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

7 (E) A violation of Section 5.1 or 9 of the Cannabis
8 Control Act.

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

20 (F-5) A violation of Section 24-1, 24-1.1, or 24-1.6 of
21 the Criminal Code of 1961 or the Criminal Code of 2012 for
22 which imprisonment is prescribed in those Sections.

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

26 (H) Criminal sexual assault.

1 (I) Aggravated battery of a senior citizen as described
2 in Section 12-4.6 or subdivision (a)(4) of Section 12-3.05
3 of the Criminal Code of 1961 or the Criminal Code of 2012.

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

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

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

16 (K) Vehicular hijacking.

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

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

24 (N) A Class 3 felony violation of paragraph (1) of
25 subsection (a) of Section 2 of the Firearm Owners
26 Identification Card Act.

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

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

6 (Q) A violation of subsection (b) or (b-5) of Section
7 20-1, Section 20-1.2, or Section 20-1.3 of the Criminal
8 Code of 1961 or the Criminal Code of 2012.

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

11 (S) (Blank).

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

14 (U) A second or subsequent violation of Section 6-303
15 of the Illinois Vehicle Code committed while his or her
16 driver's license, permit, or privilege was revoked because
17 of a violation of Section 9-3 of the Criminal Code of 1961
18 or the Criminal Code of 2012, relating to the offense of
19 reckless homicide, or a similar provision of a law of
20 another state.

21 (V) A violation of paragraph (4) of subsection (c) of
22 Section 11-20.1B or paragraph (4) of subsection (c) of
23 Section 11-20.3 of the Criminal Code of 1961, or paragraph
24 (6) of subsection (a) of Section 11-20.1 of the Criminal
25 Code of 2012 when the victim is under 13 years of age and
26 the defendant has previously been convicted under the laws

1 of this State or any other state of the offense of child
2 pornography, aggravated child pornography, aggravated
3 criminal sexual abuse, aggravated criminal sexual assault,
4 predatory criminal sexual assault of a child, or any of the
5 offenses formerly known as rape, deviate sexual assault,
6 indecent liberties with a child, or aggravated indecent
7 liberties with a child where the victim was under the age
8 of 18 years or an offense that is substantially equivalent
9 to those offenses.

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

12 (X) A violation of subsection (a) of Section 31-1a of
13 the Criminal Code of 1961 or the Criminal Code of 2012.

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

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

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

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

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

1 \$500,000 or more.

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

7 (EE) A Class 3 felony or higher violation of an offense
8 involving the corruption of a public official when the
9 offense consists of theft, fraud, extortion or a violation
10 of Article 33 or 33E of the Criminal Code of 2012 and
11 either: (1) the defendant was an elected official at the
12 time of the offense, or (2) the offense involved more than
13 \$10,000 in money or property, based on either the value of
14 any payments or the value of the item that was the object
15 of the offense. However, if the prosecutor certifies to the
16 court at the time of sentencing that the defendant has
17 provided substantial assistance in the case or another
18 prosecution of substantial public importance, this
19 paragraph (EE) does not apply.

20 (3) (Blank).

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

25 (4.1) (Blank).

26 (4.2) Except as provided in paragraphs (4.3) and (4.8) of

1 this subsection (c), a minimum of 100 hours of community
2 service shall be imposed for a second violation of Section
3 6-303 of the Illinois Vehicle Code.

4 (4.3) A minimum term of imprisonment of 30 days or 300
5 hours of community service, as determined by the court, shall
6 be imposed for a second violation of subsection (c) of Section
7 6-303 of the Illinois Vehicle Code.

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

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

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

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

25 (4.8) A mandatory prison sentence shall be imposed for a
26 second violation of subsection (a-5) of Section 6-303 of the

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

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

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

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

20 (A) a period of conditional discharge;

21 (B) a fine;

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

24 (5.1) In addition to any other penalties imposed, and
25 except as provided in paragraph (5.2) or (5.3), a person
26 convicted of violating subsection (c) of Section 11-907 of the

1 Illinois Vehicle Code shall have his or her driver's license,
2 permit, or privileges suspended for at least 90 days but not
3 more than one year, if the violation resulted in damage to the
4 property of another person.

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

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

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

21 (5.5) In addition to any other penalties imposed, a person
22 convicted of violating Section 3-707 of the Illinois Vehicle
23 Code during a period in which his or her driver's license,
24 permit, or privileges were suspended for a previous violation
25 of that Section shall have his or her driver's license, permit,
26 or privileges suspended for an additional 6 months after the

1 expiration of the original 3-month suspension and until he or
2 she has paid a reinstatement fee of \$100.

3 (6) (Blank).

4 (7) (Blank).

5 (8) (Blank).

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

9 (10) (Blank).

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

26 (12) A person may not receive a disposition of court

1 supervision for a violation of Section 5-16 of the Boat
2 Registration and Safety Act if that person has previously
3 received a disposition of court supervision for a violation of
4 that Section.

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

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

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

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

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

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

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

20 (i) removal from the household;

21 (ii) restricted contact with the victim;

22 (iii) continued financial support of the
23 family;

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

25 and

26 (v) compliance with any other measures that

1 the court may deem appropriate; and

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

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

16 For the purposes of this Section, "family member" and
17 "victim" shall have the meanings ascribed to them in Section
18 11-0.1 of the Criminal Code of 2012.

19 (f) (Blank).

20 (g) Whenever a defendant is convicted of an offense under
21 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,
22 11-14.3, 11-14.4 except for an offense that involves keeping a
23 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,
24 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,
25 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the
26 Criminal Code of 2012, the defendant shall undergo medical

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

1 of any HIV test administered under this Section, and the court
2 shall grant the disclosure if the State's Attorney shows it is
3 relevant in order to prosecute a charge of criminal
4 transmission of HIV under Section 12-5.01 or 12-16.2 of the
5 Criminal Code of 1961 or the Criminal Code of 2012 against the
6 defendant. The court shall order that the cost of any such test
7 shall be paid by the county and may be taxed as costs against
8 the convicted defendant.

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

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

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

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

1 disbursed by the circuit clerk as provided under Section 27.5
2 of the Clerks of Courts Act.

3 (j) In cases when prosecution for any violation of Section
4 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,
5 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,
6 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
7 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,
8 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal
9 Code of 2012, any violation of the Illinois Controlled
10 Substances Act, any violation of the Cannabis Control Act, or
11 any violation of the Methamphetamine Control and Community
12 Protection Act results in conviction, a disposition of court
13 supervision, or an order of probation granted under Section 10
14 of the Cannabis Control Act, Section 410 of the Illinois
15 Controlled Substances Act, or Section 70 of the Methamphetamine
16 Control and Community Protection Act of a defendant, the court
17 shall determine whether the defendant is employed by a facility
18 or center as defined under the Child Care Act of 1969, a public
19 or private elementary or secondary school, or otherwise works
20 with children under 18 years of age on a daily basis. When a
21 defendant is so employed, the court shall order the Clerk of
22 the Court to send a copy of the judgment of conviction or order
23 of supervision or probation to the defendant's employer by
24 certified mail. If the employer of the defendant is a school,
25 the Clerk of the Court shall direct the mailing of a copy of
26 the judgment of conviction or order of supervision or probation

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

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

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

10 (k) (Blank).

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

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

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

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

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

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

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

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

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

1 for additional sentence credit for good conduct as provided
2 under Section 3-6-3.

3 (m) A person convicted of criminal defacement of property
4 under Section 21-1.3 of the Criminal Code of 1961 or the
5 Criminal Code of 2012, in which the property damage exceeds
6 \$300 and the property damaged is a school building, shall be
7 ordered to perform community service that may include cleanup,
8 removal, or painting over the defacement.

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

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

23 (Source: P.A. 97-159, eff. 7-21-11; 97-697, eff. 6-22-12;
24 97-917, eff. 8-9-12; 97-1108, eff. 1-1-13; 97-1109, eff.
25 1-1-13; 97-1150, eff. 1-25-13; 98-718, eff. 1-1-15; 98-756,
26 eff. 7-16-14.)