



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB3292

Introduced 2/19/2016, by Sen. Kwame Raoul

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-4.5-95

730 ILCS 5/5-5-3

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

Amends the Unified Code of Corrections. Provides that for a person to be adjudged a habitual criminal, the first offense must have been committed when the person was 21 years of age or older. Provides that when a defendant, over the age of 21 years, is convicted of a Class 1 or Class 2 forcible felony (rather than felony), after having twice been convicted in any state or federal court of an offense that contains the same elements as an offense now (the date the Class 1 or Class 2 forcible felony (rather than felony) was committed) classified in Illinois as a Class 2 or greater Class forcible felony (rather than felony) and those charges are separately brought and tried and arise out of different series of acts, that defendant shall be sentenced as a Class X offender. Provides that a period of probation, a term of periodic imprisonment or conditional discharge may be imposed for a person convicted of residential burglary. Provides that a period of probation, a term of periodic imprisonment or conditional discharge may not be imposed for controlled substance trafficking or delivery in certain specified places of more than 5 grams of a substance containing heroin, cocaine, fentanyl, or an analog thereof (rather than any manufacture, delivery, or possession with intent to manufacture or deliver these quantities of substances or 3 or more grams with respect to heroin or an analog thereof).

LRB099 20783 RLC 45462 b

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 Sections 5-4.5-95 and 5-5-3 as follows:

6 (730 ILCS 5/5-4.5-95)

7 Sec. 5-4.5-95. GENERAL RECIDIVISM PROVISIONS.

8 (a) HABITUAL CRIMINALS.

9 (1) Every person who has been twice convicted in any
10 state or federal court of an offense that contains the same
11 elements as an offense now (the date of the offense
12 committed after the 2 prior convictions) classified in
13 Illinois as a Class X felony, criminal sexual assault,
14 aggravated kidnapping, or first degree murder, and who is
15 thereafter convicted of a Class X felony, criminal sexual
16 assault, or first degree murder, committed after the 2
17 prior convictions, shall be adjudged an habitual criminal.

18 (2) The 2 prior convictions need not have been for the
19 same offense.

20 (3) Any convictions that result from or are connected
21 with the same transaction, or result from offenses
22 committed at the same time, shall be counted for the
23 purposes of this Section as one conviction.

1 (4) This Section does not apply unless each of the
2 following requirements are satisfied:

3 (A) The third offense was committed after July 3,
4 1980.

5 (B) The third offense was committed within 20 years
6 of the date that judgment was entered on the first
7 conviction; provided, however, that time spent in
8 custody shall not be counted.

9 (C) The third offense was committed after
10 conviction on the second offense.

11 (D) The second offense was committed after
12 conviction on the first offense.

13 (E) The first offense was committed when the person
14 was 21 years of age or older.

15 (5) Anyone who, having attained the age of 18 at the
16 time of the third offense, is adjudged an habitual criminal
17 shall be sentenced to a term of natural life imprisonment.

18 (6) A prior conviction shall not be alleged in the
19 indictment, and no evidence or other disclosure of that
20 conviction shall be presented to the court or the jury
21 during the trial of an offense set forth in this Section
22 unless otherwise permitted by the issues properly raised in
23 that trial. After a plea or verdict or finding of guilty
24 and before sentence is imposed, the prosecutor may file
25 with the court a verified written statement signed by the
26 State's Attorney concerning any former conviction of an

1 offense set forth in this Section rendered against the
2 defendant. The court shall then cause the defendant to be
3 brought before it; shall inform the defendant of the
4 allegations of the statement so filed, and of his or her
5 right to a hearing before the court on the issue of that
6 former conviction and of his or her right to counsel at
7 that hearing; and unless the defendant admits such
8 conviction, shall hear and determine the issue, and shall
9 make a written finding thereon. If a sentence has
10 previously been imposed, the court may vacate that sentence
11 and impose a new sentence in accordance with this Section.

12 (7) A duly authenticated copy of the record of any
13 alleged former conviction of an offense set forth in this
14 Section shall be prima facie evidence of that former
15 conviction; and a duly authenticated copy of the record of
16 the defendant's final release or discharge from probation
17 granted, or from sentence and parole supervision (if any)
18 imposed pursuant to that former conviction, shall be prima
19 facie evidence of that release or discharge.

20 (8) Any claim that a previous conviction offered by the
21 prosecution is not a former conviction of an offense set
22 forth in this Section because of the existence of any
23 exceptions described in this Section, is waived unless duly
24 raised at the hearing on that conviction, or unless the
25 prosecution's proof shows the existence of the exceptions
26 described in this Section.

1 (9) If the person so convicted shows to the
2 satisfaction of the court before whom that conviction was
3 had that he or she was released from imprisonment, upon
4 either of the sentences upon a pardon granted for the
5 reason that he or she was innocent, that conviction and
6 sentence shall not be considered under this Section.

7 (b) When a defendant, over the age of 21 years, is
8 convicted of a Class 1 or Class 2 forcible felony, after having
9 twice been convicted in any state or federal court of an
10 offense that contains the same elements as an offense now (the
11 date the Class 1 or Class 2 forcible felony was committed)
12 classified in Illinois as a Class 2 or greater Class forcible
13 felony and those charges are separately brought and tried and
14 arise out of different series of acts, that defendant shall be
15 sentenced as a Class X offender. This subsection does not apply
16 unless:

17 (1) the first forcible felony was committed after
18 February 1, 1978 (the effective date of Public Act
19 80-1099);

20 (2) the second forcible felony was committed after
21 conviction on the first; and

22 (3) the third forcible felony was committed after
23 conviction on the second.

24 A person sentenced as a Class X offender under this
25 subsection (b) is not eligible to apply for treatment as a
26 condition of probation as provided by Section 40-10 of the

1 Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS
2 301/40-10).

3 (Source: P.A. 99-69, eff. 1-1-16.)

4 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

5 Sec. 5-5-3. Disposition.

6 (a) (Blank).

7 (b) (Blank).

8 (c) (1) (Blank).

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

15 (A) First degree murder where the death penalty is not
16 imposed.

17 (B) Attempted first degree murder.

18 (C) A Class X felony.

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

24 (D-5) (Blank). ~~A violation of subdivision (c) (1) of~~
25 ~~Section 401 of the Illinois Controlled Substances Act which~~

1 ~~relates to 3 or more grams of a substance containing heroin~~
2 ~~or an analog thereof.~~

3 (E) A violation of Section 5.1 or 9 of the Cannabis
4 Control Act.

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

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

19 (G) (Blank). ~~Residential burglary, except as otherwise~~
20 ~~provided in Section 40-10 of the Alcoholism and Other Drug~~
21 ~~Abuse and Dependency Act.~~

22 (H) Criminal sexual assault.

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

26 (J) A forcible felony if the offense was related to the

1 activities of an organized gang.

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

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

12 (K) Vehicular hijacking.

13 (L) A second or subsequent conviction for the offense
14 of hate crime when the underlying offense upon which the
15 hate crime is based is felony aggravated assault or felony
16 mob action.

17 (M) A second or subsequent conviction for the offense
18 of institutional vandalism if the damage to the property
19 exceeds \$300.

20 (N) A Class 3 felony violation of paragraph (1) of
21 subsection (a) of Section 2 of the Firearm Owners
22 Identification Card Act.

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

25 (P) A violation of paragraph (1), (2), (3), (4), (5),
26 or (7) of subsection (a) of Section 11-20.1 of the Criminal

1 Code of 1961 or the Criminal Code of 2012.

2 (Q) A violation of subsection (b) or (b-5) of Section
3 20-1, Section 20-1.2, or Section 20-1.3 of the Criminal
4 Code of 1961 or the Criminal Code of 2012.

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

7 (S) (Blank).

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

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

17 (V) A violation of paragraph (4) of subsection (c) of
18 Section 11-20.1B or paragraph (4) of subsection (c) of
19 Section 11-20.3 of the Criminal Code of 1961, or paragraph
20 (6) of subsection (a) of Section 11-20.1 of the Criminal
21 Code of 2012 when the victim is under 13 years of age and
22 the defendant has previously been convicted under the laws
23 of this State or any other state of the offense of child
24 pornography, aggravated child pornography, aggravated
25 criminal sexual abuse, aggravated criminal sexual assault,
26 predatory criminal sexual assault of a child, or any of the

1 offenses formerly known as rape, deviate sexual assault,
2 indecent liberties with a child, or aggravated indecent
3 liberties with a child where the victim was under the age
4 of 18 years or an offense that is substantially equivalent
5 to those offenses.

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

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

10 (Y) A conviction for unlawful possession of a firearm
11 by a street gang member when the firearm was loaded or
12 contained firearm ammunition.

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

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

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

20 (CC) Knowingly selling, offering for sale, holding for
21 sale, or using 2,000 or more counterfeit items or
22 counterfeit items having a retail value in the aggregate of
23 \$500,000 or more.

24 (DD) A conviction for aggravated assault under
25 paragraph (6) of subsection (c) of Section 12-2 of the
26 Criminal Code of 1961 or the Criminal Code of 2012 if the

1 firearm is aimed toward the person against whom the firearm
2 is being used.

3 (3) (Blank).

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

8 (4.1) (Blank).

9 (4.2) Except as provided in paragraphs (4.3) and (4.8) of
10 this subsection (c), a minimum of 100 hours of community
11 service shall be imposed for a second violation of Section
12 6-303 of the Illinois Vehicle Code.

13 (4.3) A minimum term of imprisonment of 30 days or 300
14 hours of community service, as determined by the court, shall
15 be imposed for a second violation of subsection (c) of Section
16 6-303 of the Illinois Vehicle Code.

17 (4.4) Except as provided in paragraphs (4.5), (4.6), and
18 (4.9) of this subsection (c), a minimum term of imprisonment of
19 30 days or 300 hours of community service, as determined by the
20 court, shall be imposed for a third or subsequent violation of
21 Section 6-303 of the Illinois Vehicle Code.

22 (4.5) A minimum term of imprisonment of 30 days shall be
23 imposed for a third violation of subsection (c) of Section
24 6-303 of the Illinois Vehicle Code.

25 (4.6) Except as provided in paragraph (4.10) of this
26 subsection (c), a minimum term of imprisonment of 180 days

1 shall be imposed for a fourth or subsequent violation of
2 subsection (c) of Section 6-303 of the Illinois Vehicle Code.

3 (4.7) A minimum term of imprisonment of not less than 30
4 consecutive days, or 300 hours of community service, shall be
5 imposed for a violation of subsection (a-5) of Section 6-303 of
6 the Illinois Vehicle Code, as provided in subsection (b-5) of
7 that Section.

8 (4.8) A mandatory prison sentence shall be imposed for a
9 second violation of subsection (a-5) of Section 6-303 of the
10 Illinois Vehicle Code, as provided in subsection (c-5) of that
11 Section. The person's driving privileges shall be revoked for a
12 period of not less than 5 years from the date of his or her
13 release from prison.

14 (4.9) A mandatory prison sentence of not less than 4 and
15 not more than 15 years shall be imposed for a third violation
16 of subsection (a-5) of Section 6-303 of the Illinois Vehicle
17 Code, as provided in subsection (d-2.5) of that Section. The
18 person's driving privileges shall be revoked for the remainder
19 of his or her life.

20 (4.10) A mandatory prison sentence for a Class 1 felony
21 shall be imposed, and the person shall be eligible for an
22 extended term sentence, for a fourth or subsequent violation of
23 subsection (a-5) of Section 6-303 of the Illinois Vehicle Code,
24 as provided in subsection (d-3.5) of that Section. The person's
25 driving privileges shall be revoked for the remainder of his or
26 her life.

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

3 (A) a period of conditional discharge;

4 (B) a fine;

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

7 (5.1) In addition to any other penalties imposed, and
8 except as provided in paragraph (5.2) or (5.3), a person
9 convicted of violating subsection (c) of Section 11-907 of the
10 Illinois Vehicle Code shall have his or her driver's license,
11 permit, or privileges suspended for at least 90 days but not
12 more than one year, if the violation resulted in damage to the
13 property of another person.

14 (5.2) In addition to any other penalties imposed, and
15 except as provided in paragraph (5.3), a person convicted of
16 violating subsection (c) of Section 11-907 of the Illinois
17 Vehicle Code shall have his or her driver's license, permit, or
18 privileges suspended for at least 180 days but not more than 2
19 years, if the violation resulted in injury to another person.

20 (5.3) In addition to any other penalties imposed, a person
21 convicted of violating subsection (c) of Section 11-907 of the
22 Illinois Vehicle Code shall have his or her driver's license,
23 permit, or privileges suspended for 2 years, if the violation
24 resulted in the death of another person.

25 (5.4) In addition to any other penalties imposed, a person
26 convicted of violating Section 3-707 of the Illinois Vehicle

1 Code shall have his or her driver's license, permit, or
2 privileges suspended for 3 months and until he or she has paid
3 a reinstatement fee of \$100.

4 (5.5) In addition to any other penalties imposed, a person
5 convicted of violating Section 3-707 of the Illinois Vehicle
6 Code during a period in which his or her driver's license,
7 permit, or privileges were suspended for a previous violation
8 of that Section shall have his or her driver's license, permit,
9 or privileges suspended for an additional 6 months after the
10 expiration of the original 3-month suspension and until he or
11 she has paid a reinstatement fee of \$100.

12 (6) (Blank).

13 (7) (Blank).

14 (8) (Blank).

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

18 (10) (Blank).

19 (11) The court shall impose a minimum fine of \$1,000 for a
20 first offense and \$2,000 for a second or subsequent offense
21 upon a person convicted of or placed on supervision for battery
22 when the individual harmed was a sports official or coach at
23 any level of competition and the act causing harm to the sports
24 official or coach occurred within an athletic facility or
25 within the immediate vicinity of the athletic facility at which
26 the sports official or coach was an active participant of the

1 athletic contest held at the athletic facility. For the
2 purposes of this paragraph (11), "sports official" means a
3 person at an athletic contest who enforces the rules of the
4 contest, such as an umpire or referee; "athletic facility"
5 means an indoor or outdoor playing field or recreational area
6 where sports activities are conducted; and "coach" means a
7 person recognized as a coach by the sanctioning authority that
8 conducted the sporting event.

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

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

23 (d) In any case in which a sentence originally imposed is
24 vacated, the case shall be remanded to the trial court. The
25 trial court shall hold a hearing under Section 5-4-1 of the
26 Unified Code of Corrections which may include evidence of the

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

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

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

23 (A) the defendant is willing to undergo a court
24 approved counseling program for a minimum duration of 2
25 years; or

26 (B) the defendant is willing to participate in a

1 court approved plan including but not limited to the
2 defendant's:

- 3 (i) removal from the household;
4 (ii) restricted contact with the victim;
5 (iii) continued financial support of the
6 family;
7 (iv) restitution for harm done to the victim;
8 and
9 (v) compliance with any other measures that
10 the court may deem appropriate; and

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

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

25 For the purposes of this Section, "family member" and
26 "victim" shall have the meanings ascribed to them in Section

1 11-0.1 of the Criminal Code of 2012.

2 (f) (Blank).

3 (g) Whenever a defendant is convicted of an offense under
4 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,
5 11-14.3, 11-14.4 except for an offense that involves keeping a
6 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,
7 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,
8 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the
9 Criminal Code of 2012, the defendant shall undergo medical
10 testing to determine whether the defendant has any sexually
11 transmissible disease, including a test for infection with
12 human immunodeficiency virus (HIV) or any other identified
13 causative agent of acquired immunodeficiency syndrome (AIDS).
14 Any such medical test shall be performed only by appropriately
15 licensed medical practitioners and may include an analysis of
16 any bodily fluids as well as an examination of the defendant's
17 person. Except as otherwise provided by law, the results of
18 such test shall be kept strictly confidential by all medical
19 personnel involved in the testing and must be personally
20 delivered in a sealed envelope to the judge of the court in
21 which the conviction was entered for the judge's inspection in
22 camera. Acting in accordance with the best interests of the
23 victim and the public, the judge shall have the discretion to
24 determine to whom, if anyone, the results of the testing may be
25 revealed. The court shall notify the defendant of the test
26 results. The court shall also notify the victim if requested by

1 the victim, and if the victim is under the age of 15 and if
2 requested by the victim's parents or legal guardian, the court
3 shall notify the victim's parents or legal guardian of the test
4 results. The court shall provide information on the
5 availability of HIV testing and counseling at Department of
6 Public Health facilities to all parties to whom the results of
7 the testing are revealed and shall direct the State's Attorney
8 to provide the information to the victim when possible. A
9 State's Attorney may petition the court to obtain the results
10 of any HIV test administered under this Section, and the court
11 shall grant the disclosure if the State's Attorney shows it is
12 relevant in order to prosecute a charge of criminal
13 transmission of HIV under Section 12-5.01 or 12-16.2 of the
14 Criminal Code of 1961 or the Criminal Code of 2012 against the
15 defendant. The court shall order that the cost of any such test
16 shall be paid by the county and may be taxed as costs against
17 the convicted defendant.

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

1 taken to prevent transmission of the disease in the courtroom.

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

1 12-16.2 of the Criminal Code of 1961 or the Criminal Code of
2 2012 against the defendant. The court shall order that the cost
3 of any such test shall be paid by the county and may be taxed as
4 costs against the convicted defendant.

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

12 (j) In cases when prosecution for any violation of Section
13 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,
14 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,
15 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
16 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,
17 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal
18 Code of 2012, any violation of the Illinois Controlled
19 Substances Act, any violation of the Cannabis Control Act, or
20 any violation of the Methamphetamine Control and Community
21 Protection Act results in conviction, a disposition of court
22 supervision, or an order of probation granted under Section 10
23 of the Cannabis Control Act, Section 410 of the Illinois
24 Controlled Substances Act, or Section 70 of the Methamphetamine
25 Control and Community Protection Act of a defendant, the court
26 shall determine whether the defendant is employed by a facility

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

13 (j-5) A defendant at least 17 years of age who is convicted
14 of a felony and who has not been previously convicted of a
15 misdemeanor or felony and who is sentenced to a term of
16 imprisonment in the Illinois Department of Corrections shall as
17 a condition of his or her sentence be required by the court to
18 attend educational courses designed to prepare the defendant
19 for a high school diploma and to work toward a high school
20 diploma or to work toward passing high school equivalency
21 testing or to work toward completing a vocational training
22 program offered by the Department of Corrections. If a
23 defendant fails to complete the educational training required
24 by his or her sentence during the term of incarceration, the
25 Prisoner Review Board shall, as a condition of mandatory
26 supervised release, require the defendant, at his or her own

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

19 (k) (Blank).

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

1 agent to be deported when:

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

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

8 Otherwise, the defendant shall be sentenced as provided in
9 this Chapter V.

10 (B) If the defendant has already been sentenced for a
11 felony or misdemeanor offense, or has been placed on probation
12 under Section 10 of the Cannabis Control Act, Section 410 of
13 the Illinois Controlled Substances Act, or Section 70 of the
14 Methamphetamine Control and Community Protection Act, the
15 court may, upon motion of the State's Attorney to suspend the
16 sentence imposed, commit the defendant to the custody of the
17 Attorney General of the United States or his or her designated
18 agent 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 (C) This subsection (1) does not apply to offenders who are
26 subject to the provisions of paragraph (2) of subsection (a) of

1 Section 3-6-3.

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

12 (m) A person convicted of criminal defacement of property
13 under Section 21-1.3 of the Criminal Code of 1961 or the
14 Criminal Code of 2012, in which the property damage exceeds
15 \$300 and the property damaged is a school building, shall be
16 ordered to perform community service that may include cleanup,
17 removal, or painting over the defacement.

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

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

6 (Source: P.A. 98-718, eff. 1-1-15; 98-756, eff. 7-16-14;
7 99-143, eff. 7-27-15.)