

1 AN ACT in relation to vehicles.

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

4 Section 5. The Illinois Vehicle Code is amended by
5 changing Sections 6-206 and 11-907 as follows:

6 (625 ILCS 5/6-206) (from Ch. 95 1/2, par. 6-206)

7 Sec. 6-206. Discretionary authority to suspend or revoke
8 license or permit; Right to a hearing.

9 (a) The Secretary of State is authorized to suspend or
10 revoke the driving privileges of any person without
11 preliminary hearing upon a showing of the person's records or
12 other sufficient evidence that the person:

13 1. Has committed an offense for which mandatory
14 revocation of a driver's license or permit is required
15 upon conviction;

16 2. Has been convicted of not less than 3 offenses
17 against traffic regulations governing the movement of
18 vehicles committed within any 12 month period. No
19 revocation or suspension shall be entered more than 6
20 months after the date of last conviction;

21 3. Has been repeatedly involved as a driver in
22 motor vehicle collisions or has been repeatedly convicted
23 of offenses against laws and ordinances regulating the
24 movement of traffic, to a degree that indicates lack of
25 ability to exercise ordinary and reasonable care in the
26 safe operation of a motor vehicle or disrespect for the
27 traffic laws and the safety of other persons upon the
28 highway;

29 4. Has by the unlawful operation of a motor vehicle
30 caused or contributed to an accident resulting in death
31 or injury requiring immediate professional treatment in a

1 medical facility or doctor's office to any person, except
2 that any suspension or revocation imposed by the
3 Secretary of State under the provisions of this
4 subsection shall start no later than 6 months after being
5 convicted of violating a law or ordinance regulating the
6 movement of traffic, which violation is related to the
7 accident, or shall start not more than one year after the
8 date of the accident, whichever date occurs later;

9 5. Has permitted an unlawful or fraudulent use of a
10 driver's license, identification card, or permit;

11 6. Has been lawfully convicted of an offense or
12 offenses in another state, including the authorization
13 contained in Section 6-203.1, which if committed within
14 this State would be grounds for suspension or revocation;

15 7. Has refused or failed to submit to an
16 examination provided for by Section 6-207 or has failed
17 to pass the examination;

18 8. Is ineligible for a driver's license or permit
19 under the provisions of Section 6-103;

20 9. Has made a false statement or knowingly
21 concealed a material fact or has used false information
22 or identification in any application for a license,
23 identification card, or permit;

24 10. Has possessed, displayed, or attempted to
25 fraudulently use any license, identification card, or
26 permit not issued to the person;

27 11. Has operated a motor vehicle upon a highway of
28 this State when the person's driving privilege or
29 privilege to obtain a driver's license or permit was
30 revoked or suspended unless the operation was authorized
31 by a judicial driving permit, probationary license to
32 drive, or a restricted driving permit issued under this
33 Code;

34 12. Has submitted to any portion of the application

1 process for another person or has obtained the services
2 of another person to submit to any portion of the
3 application process for the purpose of obtaining a
4 license, identification card, or permit for some other
5 person;

6 13. Has operated a motor vehicle upon a highway of
7 this State when the person's driver's license or permit
8 was invalid under the provisions of Sections 6-107.1 and
9 6-110;

10 14. Has committed a violation of Section 6-301,
11 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or
12 14B of the Illinois Identification Card Act;

13 15. Has been convicted of violating Section 21-2 of
14 the Criminal Code of 1961 relating to criminal trespass
15 to vehicles in which case, the suspension shall be for
16 one year;

17 16. Has been convicted of violating Section 11-204
18 of this Code relating to fleeing from a police officer;

19 17. Has refused to submit to a test, or tests, as
20 required under Section 11-501.1 of this Code and the
21 person has not sought a hearing as provided for in
22 Section 11-501.1;

23 18. Has, since issuance of a driver's license or
24 permit, been adjudged to be afflicted with or suffering
25 from any mental disability or disease;

26 19. Has committed a violation of paragraph (a) or
27 (b) of Section 6-101 relating to driving without a
28 driver's license;

29 20. Has been convicted of violating Section 6-104
30 relating to classification of driver's license;

31 21. Has been convicted of violating Section 11-402
32 of this Code relating to leaving the scene of an accident
33 resulting in damage to a vehicle in excess of \$1,000, in
34 which case the suspension shall be for one year;

1 22. Has used a motor vehicle in violating paragraph
2 (3), (4), (7), or (9) of subsection (a) of Section 24-1
3 of the Criminal Code of 1961 relating to unlawful use of
4 weapons, in which case the suspension shall be for one
5 year;

6 23. Has, as a driver, been convicted of committing
7 a violation of paragraph (a) of Section 11-502 of this
8 Code for a second or subsequent time within one year of a
9 similar violation;

10 24. Has been convicted by a court-martial or
11 punished by non-judicial punishment by military
12 authorities of the United States at a military
13 installation in Illinois of or for a traffic related
14 offense that is the same as or similar to an offense
15 specified under Section 6-205 or 6-206 of this Code;

16 25. Has permitted any form of identification to be
17 used by another in the application process in order to
18 obtain or attempt to obtain a license, identification
19 card, or permit;

20 26. Has altered or attempted to alter a license or
21 has possessed an altered license, identification card, or
22 permit;

23 27. Has violated Section 6-16 of the Liquor Control
24 Act of 1934;

25 28. Has been convicted of the illegal possession,
26 while operating or in actual physical control, as a
27 driver, of a motor vehicle, of any controlled substance
28 prohibited under the Illinois Controlled Substances Act
29 or any cannabis prohibited under the provisions of the
30 Cannabis Control Act, in which case the person's driving
31 privileges shall be suspended for one year, and any
32 driver who is convicted of a second or subsequent
33 offense, within 5 years of a previous conviction, for the
34 illegal possession, while operating or in actual physical

1 control, as a driver, of a motor vehicle, of any
2 controlled substance prohibited under the provisions of
3 the Illinois Controlled Substances Act or any cannabis
4 prohibited under the Cannabis Control Act shall be
5 suspended for 5 years. Any defendant found guilty of this
6 offense while operating a motor vehicle, shall have an
7 entry made in the court record by the presiding judge
8 that this offense did occur while the defendant was
9 operating a motor vehicle and order the clerk of the
10 court to report the violation to the Secretary of State;

11 29. Has been convicted of the following offenses
12 that were committed while the person was operating or in
13 actual physical control, as a driver, of a motor vehicle:
14 criminal sexual assault, predatory criminal sexual
15 assault of a child, aggravated criminal sexual assault,
16 criminal sexual abuse, aggravated criminal sexual abuse,
17 juvenile pimping, soliciting for a juvenile prostitute
18 and the manufacture, sale or delivery of controlled
19 substances or instruments used for illegal drug use or
20 abuse in which case the driver's driving privileges shall
21 be suspended for one year;

22 30. Has been convicted a second or subsequent time
23 for any combination of the offenses named in paragraph 29
24 of this subsection, in which case the person's driving
25 privileges shall be suspended for 5 years;

26 31. Has refused to submit to a test as required by
27 Section 11-501.6 or has submitted to a test resulting in
28 an alcohol concentration of 0.08 or more or any amount of
29 a drug, substance, or compound resulting from the
30 unlawful use or consumption of cannabis as listed in the
31 Cannabis Control Act or a controlled substance as listed
32 in the Illinois Controlled Substances Act in which case
33 the penalty shall be as prescribed in Section 6-208.1;

34 32. Has been convicted of Section 24-1.2 of the

1 Criminal Code of 1961 relating to the aggravated
2 discharge of a firearm if the offender was located in a
3 motor vehicle at the time the firearm was discharged, in
4 which case the suspension shall be for 3 years;

5 33. Has as a driver, who was less than 21 years of
6 age on the date of the offense, been convicted a first
7 time of a violation of paragraph (a) of Section 11-502 of
8 this Code or a similar provision of a local ordinance;

9 34. Has committed a violation of Section 11-1301.5
10 of this Code;

11 35. Has committed a violation of Section 11-1301.6
12 of this Code; or

13 36. Is under the age of 21 years at the time of
14 arrest and has been convicted of not less than 2
15 offenses against traffic regulations governing the
16 movement of vehicles committed within any 24 month
17 period. No revocation or suspension shall be entered
18 more than 6 months after the date of last conviction;
19 or-

20 37. Has committed a violation of subsection (c) of
21 Section 11-907 of this Code.

22 For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26,
23 and 27 of this subsection, license means any driver's
24 license, any traffic ticket issued when the person's driver's
25 license is deposited in lieu of bail, a suspension notice
26 issued by the Secretary of State, a duplicate or corrected
27 driver's license, a probationary driver's license or a
28 temporary driver's license.

29 (b) If any conviction forming the basis of a suspension
30 or revocation authorized under this Section is appealed, the
31 Secretary of State may rescind or withhold the entry of the
32 order of suspension or revocation, as the case may be,
33 provided that a certified copy of a stay order of a court is
34 filed with the Secretary of State. If the conviction is

1 affirmed on appeal, the date of the conviction shall relate
2 back to the time the original judgment of conviction was
3 entered and the 6 month limitation prescribed shall not
4 apply.

5 (c) 1. Upon suspending or revoking the driver's license
6 or permit of any person as authorized in this Section,
7 the Secretary of State shall immediately notify the
8 person in writing of the revocation or suspension. The
9 notice to be deposited in the United States mail, postage
10 prepaid, to the last known address of the person.

11 2. If the Secretary of State suspends the driver's
12 license of a person under subsection 2 of paragraph (a)
13 of this Section, a person's privilege to operate a
14 vehicle as an occupation shall not be suspended, provided
15 an affidavit is properly completed, the appropriate fee
16 received, and a permit issued prior to the effective date
17 of the suspension, unless 5 offenses were committed, at
18 least 2 of which occurred while operating a commercial
19 vehicle in connection with the driver's regular
20 occupation. All other driving privileges shall be
21 suspended by the Secretary of State. Any driver prior to
22 operating a vehicle for occupational purposes only must
23 submit the affidavit on forms to be provided by the
24 Secretary of State setting forth the facts of the
25 person's occupation. The affidavit shall also state the
26 number of offenses committed while operating a vehicle in
27 connection with the driver's regular occupation. The
28 affidavit shall be accompanied by the driver's license.
29 Upon receipt of a properly completed affidavit, the
30 Secretary of State shall issue the driver a permit to
31 operate a vehicle in connection with the driver's regular
32 occupation only. Unless the permit is issued by the
33 Secretary of State prior to the date of suspension, the
34 privilege to drive any motor vehicle shall be suspended

1 as set forth in the notice that was mailed under this
2 Section. If an affidavit is received subsequent to the
3 effective date of this suspension, a permit may be issued
4 for the remainder of the suspension period.

5 The provisions of this subparagraph shall not apply
6 to any driver required to obtain a commercial driver's
7 license under Section 6-507 during the period of a
8 disqualification of commercial driving privileges under
9 Section 6-514.

10 Any person who falsely states any fact in the
11 affidavit required herein shall be guilty of perjury
12 under Section 6-302 and upon conviction thereof shall
13 have all driving privileges revoked without further
14 rights.

15 3. At the conclusion of a hearing under Section
16 2-118 of this Code, the Secretary of State shall either
17 rescind or continue an order of revocation or shall
18 substitute an order of suspension; or, good cause
19 appearing therefor, rescind, continue, change, or extend
20 the order of suspension. If the Secretary of State does
21 not rescind the order, the Secretary may upon
22 application, to relieve undue hardship, issue a
23 restricted driving permit granting the privilege of
24 driving a motor vehicle between the petitioner's
25 residence and petitioner's place of employment or within
26 the scope of his employment related duties, or to allow
27 transportation for the petitioner, or a household member
28 of the petitioner's family, to receive necessary medical
29 care and if the professional evaluation indicates,
30 provide transportation for alcohol remedial or
31 rehabilitative activity, or for the petitioner to attend
32 classes, as a student, in an accredited educational
33 institution; if the petitioner is able to demonstrate
34 that no alternative means of transportation is reasonably

1 available and the petitioner will not endanger the public
2 safety or welfare. In each case the Secretary may issue a
3 restricted driving permit for a period deemed
4 appropriate, except that all permits shall expire within
5 one year from the date of issuance. A restricted driving
6 permit issued under this Section shall be subject to
7 cancellation, revocation, and suspension by the Secretary
8 of State in like manner and for like cause as a driver's
9 license issued under this Code may be cancelled, revoked,
10 or suspended; except that a conviction upon one or more
11 offenses against laws or ordinances regulating the
12 movement of traffic shall be deemed sufficient cause for
13 the revocation, suspension, or cancellation of a
14 restricted driving permit. The Secretary of State may, as
15 a condition to the issuance of a restricted driving
16 permit, require the applicant to participate in a
17 designated driver remedial or rehabilitative program. The
18 Secretary of State is authorized to cancel a restricted
19 driving permit if the permit holder does not successfully
20 complete the program.

21 (c-5) The Secretary of State may, as a condition of the
22 reissuance of a driver's license or permit to an applicant
23 under the age of 18 years whose driver's license or permit
24 has been suspended pursuant to any of the provisions of this
25 Section, require the applicant to participate in a driver
26 remedial education course and be retested under Section 6-109
27 of this Code.

28 (d) This Section is subject to the provisions of the
29 Drivers License Compact.

30 (e) The Secretary of State shall not issue a restricted
31 driving permit to a person under the age of 16 years whose
32 driving privileges have been suspended or revoked under any
33 provisions of this Code.

34 (Source: P.A. 89-283, eff. 1-1-96; 89-428, eff. 12-13-95;

1 89-462, eff. 5-29-96; 90-43, eff. 7-2-97; 90-106, eff.
2 1-1-98; 90-369, eff. 1-1-98; 90-655, eff. 7-30-98.)

3 (625 ILCS 5/11-907) (from Ch. 95 1/2, par. 11-907)
4 Sec. 11-907. Operation of vehicles and streetcars on
5 approach of authorized emergency vehicles.

6 (a) Upon the immediate approach of an authorized
7 emergency vehicle making use of audible and visual signals
8 meeting the requirements of this Code or a police vehicle
9 properly and lawfully making use of an audible or visual
10 signal,

11 (1) the driver of every other vehicle shall yield
12 the right-of-way and shall immediately drive to a
13 position parallel to, and as close as possible to, the
14 right-hand edge or curb of the highway clear of any
15 intersection and shall, if necessary to permit the safe
16 passage of the emergency vehicle, stop and remain in such
17 position until the authorized emergency vehicle has
18 passed, unless otherwise directed by a police officer and

19 (2) the operator of every streetcar shall
20 immediately stop such car clear of any intersection and
21 keep it in such position until the authorized emergency
22 vehicle has passed, unless otherwise directed by a police
23 officer.

24 (b) This Section shall not operate to relieve the driver
25 of an authorized emergency vehicle from the duty to drive
26 with due regard for the safety of all persons using the
27 highway.

28 (c) Upon approaching a stationary authorized emergency
29 vehicle, when the authorized emergency vehicle is giving a
30 signal by displaying alternately flashing red, red and white,
31 blue, or red and blue lights, a person who drives an
32 approaching vehicle shall:

33 (1) proceeding with due caution, yield the

1 right-of-way by making a lane change into a lane not
2 adjacent to that of the authorized emergency vehicle, if
3 possible with due regard to safety and traffic
4 conditions, if on a highway having at least 4 lanes with
5 not less than 2 lanes proceeding in the same direction as
6 the approaching vehicle; or

7 (2) proceeding with due caution, reduce the speed
8 of the vehicle, maintaining a safe speed for road
9 conditions, if changing lanes would be impossible or
10 unsafe.

11 (d) If a violation of subsection (c) of this Section
12 results in damage to the property of another person, in
13 addition to any other penalty imposed, the person's driving
14 privileges shall be suspended for a fixed period of not less
15 than 90 days and not more than one year.

16 (e) If a violation of subsection (c) of this Section
17 results in injury to another person, in addition to any other
18 penalty imposed, the person's driving privileges shall be
19 suspended for a fixed period of not less than 180 days and
20 not more than 2 years.

21 (f) If a violation of subsection (c) of this Section
22 results in the death of another person, in addition to any
23 other penalty imposed, the person's driving privileges shall
24 be suspended for 2 years.

25 (g) The Secretary of State shall, upon receiving a
26 record of a judgment entered against a person under
27 subsection (d), (e), or (f) of this Section:

28 (1) suspend the person's driving privileges for the
29 mandatory period; or

30 (2) extend the period of an existing suspension by
31 the appropriate mandatory period.

32 (Source: P.A. 83-781.)

33 Section 10. The Unified Code of Corrections is amended

1 by changing Section 5-5-3 as follows:

2 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

3 Sec. 5-5-3. Disposition.

4 (a) Every person convicted of an offense shall be
5 sentenced as provided in this Section.

6 (b) The following options shall be appropriate
7 dispositions, alone or in combination, for all felonies and
8 misdemeanors other than those identified in subsection (c) of
9 this Section:

10 (1) A period of probation.

11 (2) A term of periodic imprisonment.

12 (3) A term of conditional discharge.

13 (4) A term of imprisonment.

14 (5) An order directing the offender to clean up and
15 repair the damage, if the offender was convicted under
16 paragraph (h) of Section 21-1 of the Criminal Code of
17 1961.

18 (6) A fine.

19 (7) An order directing the offender to make
20 restitution to the victim under Section 5-5-6 of this
21 Code.

22 (8) A sentence of participation in a county impact
23 incarceration program under Section 5-8-1.2 of this Code.

24 Whenever an individual is sentenced for an offense based
25 upon an arrest for a violation of Section 11-501 of the
26 Illinois Vehicle Code, or a similar provision of a local
27 ordinance, and the professional evaluation recommends
28 remedial or rehabilitative treatment or education, neither
29 the treatment nor the education shall be the sole disposition
30 and either or both may be imposed only in conjunction with
31 another disposition. The court shall monitor compliance with
32 any remedial education or treatment recommendations contained
33 in the professional evaluation. Programs conducting alcohol

1 or other drug evaluation or remedial education must be
2 licensed by the Department of Human Services. However, if
3 the individual is not a resident of Illinois, the court may
4 accept an alcohol or other drug evaluation or remedial
5 education program in the state of such individual's
6 residence. Programs providing treatment must be licensed
7 under existing applicable alcoholism and drug treatment
8 licensure standards.

9 In addition to any other fine or penalty required by law,
10 any individual convicted of a violation of Section 11-501 of
11 the Illinois Vehicle Code or a similar provision of local
12 ordinance, whose operation of a motor vehicle while in
13 violation of Section 11-501 or such ordinance proximately
14 caused an incident resulting in an appropriate emergency
15 response, shall be required to make restitution to a public
16 agency for the costs of that emergency response. Such
17 restitution shall not exceed \$500 per public agency for each
18 such emergency response. For the purpose of this paragraph,
19 emergency response shall mean any incident requiring a
20 response by: a police officer as defined under Section 1-162
21 of the Illinois Vehicle Code; a fireman carried on the rolls
22 of a regularly constituted fire department; and an ambulance
23 as defined under Section 4.05 of the Emergency Medical
24 Services (EMS) Systems Act.

25 Neither a fine nor restitution shall be the sole
26 disposition for a felony and either or both may be imposed
27 only in conjunction with another disposition.

28 (c) (1) When a defendant is found guilty of first degree
29 murder the State may either seek a sentence of
30 imprisonment under Section 5-8-1 of this Code, or where
31 appropriate seek a sentence of death under Section 9-1 of
32 the Criminal Code of 1961.

33 (2) A period of probation, a term of periodic
34 imprisonment or conditional discharge shall not be

1 imposed for the following offenses. The court shall
2 sentence the offender to not less than the minimum term
3 of imprisonment set forth in this Code for the following
4 offenses, and may order a fine or restitution or both in
5 conjunction with such term of imprisonment:

6 (A) First degree murder where the death
7 penalty is not imposed.

8 (B) Attempted first degree murder.

9 (C) A Class X felony.

10 (D) A violation of Section 401.1 or 407 of the
11 Illinois Controlled Substances Act, or a violation
12 of subdivision (c)(2) of Section 401 of that Act
13 which relates to more than 5 grams of a substance
14 containing cocaine or an analog thereof.

15 (E) A violation of Section 5.1 or 9 of the
16 Cannabis Control Act.

17 (F) A Class 2 or greater felony if the
18 offender had been convicted of a Class 2 or greater
19 felony within 10 years of the date on which the
20 offender committed the offense for which he or she
21 is being sentenced, except as otherwise provided in
22 Section 40-10 of the Alcoholism and Other Drug Abuse
23 and Dependency Act.

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

27 (H) Criminal sexual assault, except as
28 otherwise provided in subsection (e) of this
29 Section.

30 (I) Aggravated battery of a senior citizen.

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

33 Before July 1, 1994, for the purposes of this
34 paragraph, "organized gang" means an association of

1 5 or more persons, with an established hierarchy,
2 that encourages members of the association to
3 perpetrate crimes or provides support to the members
4 of the association who do commit crimes.

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

9 (K) Vehicular hijacking.

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

14 (M) A second or subsequent conviction for the
15 offense of institutional vandalism if the damage to
16 the property exceeds \$300.

17 (N) A Class 3 felony violation of paragraph
18 (1) of subsection (a) of Section 2 of the Firearm
19 Owners Identification Card Act.

20 (O) A violation of Section 12-6.1 of the
21 Criminal Code of 1961.

22 (P) A violation of paragraph (1), (2), (3),
23 (4), (5), or (7) of subsection (a) of Section
24 11-20.1 of the Criminal Code of 1961.

25 (Q) A violation of Section 20-1.2 of the
26 Criminal Code of 1961.

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

29 (3) A minimum term of imprisonment of not less than
30 48 consecutive hours or 100 hours of community service as
31 may be determined by the court shall be imposed for a
32 second or subsequent violation committed within 5 years
33 of a previous violation of Section 11-501 of the Illinois
34 Vehicle Code or a similar provision of a local ordinance.

1 (4) A minimum term of imprisonment of not less than
2 7 consecutive days or 30 days of community service shall
3 be imposed for a violation of paragraph (c) of Section
4 6-303 of the Illinois Vehicle Code.

5 (4.1) A minimum term of 30 consecutive days of
6 imprisonment, 40 days of 24 hour periodic imprisonment or
7 720 hours of community service, as may be determined by
8 the court, shall be imposed for a violation of Section
9 11-501 of the Illinois Vehicle Code during a period in
10 which the defendant's driving privileges are revoked or
11 suspended, where the revocation or suspension was for a
12 violation of Section 11-501 or Section 11-501.1 of that
13 Code.

14 (5) The court may sentence an offender convicted of
15 a business offense or a petty offense or a corporation or
16 unincorporated association convicted of any offense to:

- 17 (A) a period of conditional discharge;
- 18 (B) a fine;
- 19 (C) make restitution to the victim under
20 Section 5-5-6 of this Code.

21 (5.1) In addition to any penalties imposed under
22 paragraph (5) of this subsection (c), and except as
23 provided in paragraph (5.2) or (5.3), a person convicted
24 of violating subsection (c) of Section 11-907 of the
25 Illinois Vehicle Code shall have his or her driver's
26 license, permit, or privileges suspended for at least 90
27 days but not more than one year, if the violation
28 resulted in damage to the property of another person.

29 (5.2) In addition to any penalties imposed under
30 paragraph (5) of this subsection (c), and except as
31 provided in paragraph (5.3), a person convicted of
32 violating subsection (c) of Section 11-907 of the
33 Illinois Vehicle Code shall have his or her driver's
34 license, permit, or privileges suspended for at least 180

1 days but not more than 2 years, if the violation resulted
2 in injury to another person.

3 (5.3) In addition to any penalties imposed under
4 paragraph (5) of this subsection (c), a person convicted
5 of violating subsection (c) of Section 11-907 of the
6 Illinois Vehicle Code shall have his or her driver's
7 license, permit, or privileges suspended for 2 years, if
8 the violation resulted in the death of another person.

9 (6) In no case shall an offender be eligible for a
10 disposition of probation or conditional discharge for a
11 Class 1 felony committed while he was serving a term of
12 probation or conditional discharge for a felony.

13 (7) When a defendant is adjudged a habitual
14 criminal under Article 33B of the Criminal Code of 1961,
15 the court shall sentence the defendant to a term of
16 natural life imprisonment.

17 (8) When a defendant, over the age of 21 years, is
18 convicted of a Class 1 or Class 2 felony, after having
19 twice been convicted of any Class 2 or greater Class
20 felonies in Illinois, and such charges are separately
21 brought and tried and arise out of different series of
22 acts, such defendant shall be sentenced as a Class X
23 offender. This paragraph shall not apply unless (1) the
24 first felony was committed after the effective date of
25 this amendatory Act of 1977; and (2) the second felony
26 was committed after conviction on the first; and (3) the
27 third felony was committed after conviction on the
28 second.

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

32 (d) In any case in which a sentence originally imposed
33 is vacated, the case shall be remanded to the trial court.
34 The trial court shall hold a hearing under Section 5-4-1 of

1 the Unified Code of Corrections which may include evidence of
2 the defendant's life, moral character and occupation during
3 the time since the original sentence was passed. The trial
4 court shall then impose sentence upon the defendant. The
5 trial court may impose any sentence which could have been
6 imposed at the original trial subject to Section 5-5-4 of the
7 Unified Code of Corrections.

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

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

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

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

23 (i) removal from the household;

24 (ii) restricted contact with the victim;

25 (iii) continued financial support of the
26 family;

27 (iv) restitution for harm done to the
28 victim; and

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

31 (2) the court orders the defendant to pay for the
32 victim's counseling services, to the extent that the
33 court finds, after considering the defendant's income and
34 assets, that the defendant is financially capable of

1 paying for such services, if the victim was under 18
2 years of age at the time the offense was committed and
3 requires counseling as a result of the offense.

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

11 For the purposes of this Section, "family member" and
12 "victim" shall have the meanings ascribed to them in Section
13 12-12 of the Criminal Code of 1961.

14 (f) This Article shall not deprive a court in other
15 proceedings to order a forfeiture of property, to suspend or
16 cancel a license, to remove a person from office, or to
17 impose any other civil penalty.

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

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

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

34 (h) Whenever a defendant is convicted of an offense

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

29 (i) All fines and penalties imposed under this Section
30 for any violation of Chapters 3, 4, 6, and 11 of the Illinois
31 Vehicle Code, or a similar provision of a local ordinance,
32 and any violation of the Child Passenger Protection Act, or a
33 similar provision of a local ordinance, shall be collected
34 and disbursed by the circuit clerk as provided under Section

1 27.5 of the Clerks of Courts Act.

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

26 (j-5) A defendant at least 17 years of age who is
27 convicted of a felony and who has not been previously
28 convicted of a misdemeanor or felony and who is sentenced to
29 a term of imprisonment in the Illinois Department of
30 Corrections shall as a condition of his or her sentence be
31 required by the court to attend educational courses designed
32 to prepare the defendant for a high school diploma and to
33 work toward a high school diploma or to work toward passing
34 the high school level Test of General Educational Development

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

25 (k) A court may not impose a sentence or disposition for
26 a felony or misdemeanor that requires the defendant to be
27 implanted or injected with or to use any form of birth
28 control.

29 (l) (A) Except as provided in paragraph (C) of
30 subsection (l), whenever a defendant, who is an alien as
31 defined by the Immigration and Nationality Act, is
32 convicted of any felony or misdemeanor offense, the court
33 after sentencing the defendant may, upon motion of the
34 State's Attorney, hold sentence in abeyance and remand

1 the defendant to the custody of the Attorney General of
2 the United States or his or her designated agent to be
3 deported when:

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

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

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

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

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

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

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

31 (D) Upon motion of the State's Attorney, if a
32 defendant sentenced under this Section returns to the
33 jurisdiction of the United States, the defendant shall be
34 recommitted to the custody of the county from which he or

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

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

13 (Source: P.A. 90-14, eff. 7-1-97; 90-68, eff. 7-8-97; 90-680,
14 eff. 1-1-99; 90-685, eff. 1-1-99; 90-787, eff. 8-14-98;
15 91-357, eff. 7-29-99; 91-404, eff. 1-1-00; 91-663, eff.
16 12-22-99; 91-695, eff. 4-13-00.)