

1 AN ACT concerning 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 Section 6-303 as follows:

6 (625 ILCS 5/6-303) (from Ch. 95 1/2, par. 6-303)

7 Sec. 6-303. Driving while driver's license, permit or  
8 privilege to operate a motor vehicle is suspended or revoked.

9 (a) Any person who drives or is in actual physical  
10 control of a motor vehicle on any highway of this State at a  
11 time when such person's driver's license, permit or privilege  
12 to do so or the privilege to obtain a driver's license or  
13 permit is revoked or suspended as provided by this Code or  
14 the law of another state, except as may be specifically  
15 allowed by a judicial driving permit, family financial  
16 responsibility driving permit, probationary license to drive,  
17 or a restricted driving permit issued pursuant to this Code  
18 or under the law of another state, shall be guilty of a Class  
19 A misdemeanor.

20 (b) The Secretary of State upon receiving a report of  
21 the conviction of any violation indicating a person was  
22 operating a motor vehicle during the time when said person's  
23 driver's license, permit or privilege was suspended by the  
24 Secretary, by the appropriate authority of another state, or  
25 pursuant to Section 11-501.1; except as may be specifically  
26 allowed by a probationary license to drive, judicial driving  
27 permit or restricted driving permit issued pursuant to this  
28 Code or the law of another state; shall extend the suspension  
29 for the same period of time as the originally imposed  
30 suspension; however, if the period of suspension has then  
31 expired, the Secretary shall be authorized to suspend said

1 person's driving privileges for the same period of time as  
 2 the originally imposed suspension; and if the conviction was  
 3 upon a charge which indicated that a vehicle was operated  
 4 during the time when the person's driver's license, permit or  
 5 privilege was revoked; except as may be allowed by a  
 6 restricted driving permit issued pursuant to this Code or the  
 7 law of another state; the Secretary shall not issue a  
 8 driver's license for an additional period of one year from  
 9 the date of such conviction indicating such person was  
 10 operating a vehicle during such period of revocation.

11 (c) Any person convicted of violating this Section shall  
 12 serve a minimum term of imprisonment of 10 7 consecutive days  
 13 or 30 days of community service when the person's driving  
 14 privilege was revoked or suspended as a result of:

15 (1) a violation of Section 11-501 of this Code or a  
 16 similar provision of a local ordinance relating to the  
 17 offense of operating or being in physical control of a  
 18 vehicle while under the influence of alcohol, any other  
 19 drug or any combination thereof; or

20 (2) a violation of paragraph (b) of Section 11-401  
 21 of this Code or a similar provision of a local ordinance  
 22 relating to the offense of leaving the scene of a motor  
 23 vehicle accident involving personal injury or death; or

24 (3) a violation of Section 9-3 of the Criminal Code  
 25 of 1961, as amended, relating to the offense of reckless  
 26 homicide; or

27 (4) a statutory summary suspension under Section  
 28 11-501.1 of this Code.

29 Such sentence of imprisonment or community service shall  
 30 not be subject to suspension in order to reduce such  
 31 sentence.

32 (c-1) Except as provided in subsection (d), any person  
 33 convicted of a second violation of this Section shall be  
 34 ordered by the court to serve a minimum of 100 hours of

1 community service.

2 (c-2) In addition to other penalties imposed under this  
3 Section, the court may impose on any person convicted a  
4 fourth time of violating this Section any of the following:

5 (1) Seizure of the license plates of the person's  
6 vehicle.

7 (2) Immobilization of the person's vehicle for a  
8 period of time to be determined by the court.

9 (d) Any person convicted of a second or subsequent  
10 violation of this Section shall be guilty of a Class 4 felony  
11 and shall serve a minimum term of imprisonment of 30 days or  
12 300 hours of community service, as determined by the court,  
13 if the original revocation or suspension was for a violation  
14 of Section 11-401 or 11-501 of this Code, or a similar  
15 out-of-state offense, or a similar provision of a local  
16 ordinance, a violation of Section 9-3 of the Criminal Code of  
17 1961, relating to the offense of reckless homicide, or a  
18 similar out-of-state offense, or a statutory summary  
19 suspension under Section 11-501.1 of this Code.

20 (d-1) Except as provided in subsection (d-2) and  
21 subsection (d-3), any person convicted of a third or  
22 subsequent violation of this Section shall serve a minimum  
23 term of imprisonment of 30 days or 300 hours of community  
24 service, as determined by the court.

25 (d-2) Any person convicted of a third violation of this  
26 Section is guilty of a Class 4 felony and must serve a  
27 minimum term of imprisonment of 30 days if the revocation or  
28 suspension was for a violation of Section 11-401 or 11-501 of  
29 this Code, or a similar out-of-state offense, or a similar  
30 provision of a local ordinance, a violation of Section 9-3 of  
31 the Criminal Code of 1961, relating to the offense of  
32 reckless homicide, or a similar out-of-state offense, or a  
33 statutory summary suspension under Section 11-501.1 of this  
34 Code.

1        (d-3) Any person convicted of a fourth or subsequent  
 2 violation of this Section is guilty of a Class 4 felony and  
 3 must serve a minimum term of imprisonment of 180 days if the  
 4 revocation or suspension was for a violation of Section  
 5 11-401 or 11-501 of this Code, or a similar out-of-state  
 6 offense, or a similar provision of a local ordinance, a  
 7 violation of Section 9-3 of the Criminal Code of 1961,  
 8 relating to the offense of reckless homicide, or a similar  
 9 out-of-state offense, or a statutory summary suspension under  
 10 Section 11-501.1 of this Code.

11        (e) Any person in violation of this Section who is also  
 12 in violation of Section 7-601 of this Code relating to  
 13 mandatory insurance requirements, in addition to other  
 14 penalties imposed under this Section, shall have his or her  
 15 motor vehicle immediately impounded by the arresting law  
 16 enforcement officer. The motor vehicle may be released to  
 17 any licensed driver upon a showing of proof of insurance for  
 18 the vehicle that was impounded and the notarized written  
 19 consent for the release by the vehicle owner.

20        (f) For any prosecution under this Section, a certified  
 21 copy of the driving abstract of the defendant shall be  
 22 admitted as proof of any prior conviction.

23        (Source: P.A. 90-400, eff. 8-15-97; 90-738, eff. 1-1-99;  
 24 91-692, eff. 4-13-00.)

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

27        (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

28        Sec. 5-5-3. Disposition.

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

31        (b) The following options shall be appropriate  
 32 dispositions, alone or in combination, for all felonies and

1 misdemeanors other than those identified in subsection (c) of  
2 this Section:

- 3 (1) A period of probation.
- 4 (2) A term of periodic imprisonment.
- 5 (3) A term of conditional discharge.
- 6 (4) A term of imprisonment.
- 7 (5) An order directing the offender to clean up and  
8 repair the damage, if the offender was convicted under  
9 paragraph (h) of Section 21-1 of the Criminal Code of  
10 1961.
- 11 (6) A fine.
- 12 (7) An order directing the offender to make  
13 restitution to the victim under Section 5-5-6 of this  
14 Code.
- 15 (8) A sentence of participation in a county impact  
16 incarceration program under Section 5-8-1.2 of this Code.

17 Whenever an individual is sentenced for an offense based  
18 upon an arrest for a violation of Section 11-501 of the  
19 Illinois Vehicle Code, or a similar provision of a local  
20 ordinance, and the professional evaluation recommends  
21 remedial or rehabilitative treatment or education, neither  
22 the treatment nor the education shall be the sole disposition  
23 and either or both may be imposed only in conjunction with  
24 another disposition. The court shall monitor compliance with  
25 any remedial education or treatment recommendations contained  
26 in the professional evaluation. Programs conducting alcohol  
27 or other drug evaluation or remedial education must be  
28 licensed by the Department of Human Services. However, if  
29 the individual is not a resident of Illinois, the court may  
30 accept an alcohol or other drug evaluation or remedial  
31 education program in the state of such individual's  
32 residence. Programs providing treatment must be licensed  
33 under existing applicable alcoholism and drug treatment  
34 licensure standards.

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

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

20          (c) (1) When a defendant is found guilty of first degree  
21          murder the State may either seek a sentence of  
22          imprisonment under Section 5-8-1 of this Code, or where  
23          appropriate seek a sentence of death under Section 9-1 of  
24          the Criminal Code of 1961.

25          (2) A period of probation, a term of periodic  
26          imprisonment or conditional discharge shall not be  
27          imposed for the following offenses. The court shall  
28          sentence the offender to not less than the minimum term  
29          of imprisonment set forth in this Code for the following  
30          offenses, and may order a fine or restitution or both in  
31          conjunction with such term of imprisonment:

32                  (A) First degree murder where the death  
33                  penalty is not imposed.

34                  (B) Attempted first degree murder.

1 (C) A Class X felony.

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

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

9 (F) A Class 2 or greater felony if the  
10 offender had been convicted of a Class 2 or greater  
11 felony within 10 years of the date on which the  
12 offender committed the offense for which he or she  
13 is being sentenced, except as otherwise provided in  
14 Section 40-10 of the Alcoholism and Other Drug Abuse  
15 and Dependency Act.

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

19 (H) Criminal sexual assault, except as  
20 otherwise provided in subsection (e) of this  
21 Section.

22 (I) Aggravated battery of a senior citizen.

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

25 Before July 1, 1994, for the purposes of this  
26 paragraph, "organized gang" means an association of  
27 5 or more persons, with an established hierarchy,  
28 that encourages members of the association to  
29 perpetrate crimes or provides support to the members  
30 of the association who do commit crimes.

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

1 (K) Vehicular hijacking.

2 (L) A second or subsequent conviction for the  
3 offense of hate crime when the underlying offense  
4 upon which the hate crime is based is felony  
5 aggravated assault or felony mob action.

6 (M) A second or subsequent conviction for the  
7 offense of institutional vandalism if the damage to  
8 the property exceeds \$300.

9 (N) A Class 3 felony violation of paragraph  
10 (1) of subsection (a) of Section 2 of the Firearm  
11 Owners Identification Card Act.

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

14 (P) A violation of paragraph (1), (2), (3),  
15 (4), (5), or (7) of subsection (a) of Section  
16 11-20.1 of the Criminal Code of 1961.

17 (Q) A violation of Section 20-1.2 of the  
18 Criminal Code of 1961.

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

21 (3) A minimum term of imprisonment of not less than  
22 48 consecutive hours or 100 hours of community service as  
23 may be determined by the court shall be imposed for a  
24 second or subsequent violation committed within 5 years  
25 of a previous violation of Section 11-501 of the Illinois  
26 Vehicle Code or a similar provision of a local ordinance.

27 (4) A minimum term of imprisonment of not less than  
28 10 7 consecutive days or 30 days of community service  
29 shall be imposed for a violation of paragraph (c) of  
30 Section 6-303 of the Illinois Vehicle Code.

31 (4.1) A minimum term of 30 consecutive days of  
32 imprisonment, 40 days of 24 hour periodic imprisonment or  
33 720 hours of community service, as may be determined by  
34 the court, shall be imposed for a violation of Section



1 11-501 of the Illinois Vehicle Code during a period in  
2 which the defendant's driving privileges are revoked or  
3 suspended, where the revocation or suspension was for a  
4 violation of Section 11-501 or Section 11-501.1 of that  
5 Code.

6 (4.2) Except as provided in paragraph (4.3) of this  
7 subsection (c), a minimum of 100 hours of community  
8 service shall be imposed for a second violation of  
9 Section 6-303 of the Illinois Vehicle Code.

10 (4.3) A minimum term of imprisonment of 30 days or  
11 300 hours of community service, as determined by the  
12 court, shall be imposed for a second violation of  
13 subsection (c) of Section 6-303 of the Illinois Vehicle  
14 Code.

15 (4.4) Except as provided in paragraph (4.5) and  
16 paragraph (4.6) of this subsection (c), a minimum term of  
17 imprisonment of 30 days or 300 hours of community  
18 service, as determined by the court, shall be imposed for  
19 a third or subsequent violation of Section 6-303 of the  
20 Illinois Vehicle Code.

21 (4.5) A minimum term of imprisonment of 30 days  
22 shall be imposed for a third violation of subsection (c)  
23 of Section 6-303 of the Illinois Vehicle Code.

24 (4.6) A minimum term of imprisonment of 180 days  
25 shall be imposed for a fourth or subsequent violation of  
26 subsection (c) of Section 6-303 of the Illinois Vehicle  
27 Code.

28 (5) The court may sentence an offender convicted of  
29 a business offense or a petty offense or a corporation or  
30 unincorporated association convicted of any offense to:

- 31 (A) a period of conditional discharge;
- 32 (B) a fine;
- 33 (C) make restitution to the victim under
- 34 Section 5-5-6 of this Code.

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

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

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

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

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

34           (e) In cases where prosecution for criminal sexual

1 assault or aggravated criminal sexual abuse under Section  
 2 12-13 or 12-16 of the Criminal Code of 1961 results in  
 3 conviction of a defendant who was a family member of the  
 4 victim at the time of the commission of the offense, the  
 5 court shall consider the safety and welfare of the victim and  
 6 may impose a sentence of probation only where:

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

9 (A) the defendant is willing to undergo a  
 10 court approved counseling program for a minimum  
 11 duration of 2 years; or

12 (B) the defendant is willing to participate in  
 13 a court approved plan including but not limited to  
 14 the defendant's:

15 (i) removal from the household;

16 (ii) restricted contact with the victim;

17 (iii) continued financial support of the  
 18 family;

19 (iv) restitution for harm done to the  
 20 victim; and

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

23 (2) the court orders the defendant to pay for the  
 24 victim's counseling services, to the extent that the  
 25 court finds, after considering the defendant's income and  
 26 assets, that the defendant is financially capable of  
 27 paying for such services, if the victim was under 18  
 28 years of age at the time the offense was committed and  
 29 requires counseling as a result of the offense.

30 Probation may be revoked or modified pursuant to Section  
 31 5-6-4; except where the court determines at the hearing that  
 32 the defendant violated a condition of his or her probation  
 33 restricting contact with the victim or other family members  
 34 or commits another offense with the victim or other family

1 members, the court shall revoke the defendant's probation and  
2 impose a term of imprisonment.

3 For the purposes of this Section, "family member" and  
4 "victim" shall have the meanings ascribed to them in Section  
5 12-12 of the Criminal Code of 1961.

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

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

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

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

26 (h) Whenever a defendant is convicted of an offense  
27 under Section 1 or 2 of the Hypodermic Syringes and Needles  
28 Act, the defendant shall undergo medical testing to determine  
29 whether the defendant has been exposed to human  
30 immunodeficiency virus (HIV) or any other identified  
31 causative agent of acquired immunodeficiency syndrome (AIDS).  
32 Except as otherwise provided by law, the results of such test  
33 shall be kept strictly confidential by all medical personnel  
34 involved in the testing and must be personally delivered in a

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

21 (i) All fines and penalties imposed under this Section  
22 for any violation of Chapters 3, 4, 6, and 11 of the Illinois  
23 Vehicle Code, or a similar provision of a local ordinance,  
24 and any violation of the Child Passenger Protection Act, or a  
25 similar provision of a local ordinance, shall be collected  
26 and disbursed by the circuit clerk as provided under Section  
27 27.5 of the Clerks of Courts Act.

28 (j) In cases when prosecution for any violation of  
29 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,  
30 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,  
31 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or  
32 12-16 of the Criminal Code of 1961, any violation of the  
33 Illinois Controlled Substances Act, or any violation of the  
34 Cannabis Control Act results in conviction, a disposition of

1 court supervision, or an order of probation granted under  
2 Section 10 of the Cannabis Control Act or Section 410 of the  
3 Illinois Controlled Substance Act of a defendant, the court  
4 shall determine whether the defendant is employed by a  
5 facility or center as defined under the Child Care Act of  
6 1969, a public or private elementary or secondary school, or  
7 otherwise works with children under 18 years of age on a  
8 daily basis. When a defendant is so employed, the court  
9 shall order the Clerk of the Court to send a copy of the  
10 judgment of conviction or order of supervision or probation  
11 to the defendant's employer by certified mail. If the  
12 employer of the defendant is a school, the Clerk of the Court  
13 shall direct the mailing of a copy of the judgment of  
14 conviction or order of supervision or probation to the  
15 appropriate regional superintendent of schools. The regional  
16 superintendent of schools shall notify the State Board of  
17 Education of any notification under this subsection.

18 (j-5) A defendant at least 17 years of age who is  
19 convicted of a felony and who has not been previously  
20 convicted of a misdemeanor or felony and who is sentenced to  
21 a term of imprisonment in the Illinois Department of  
22 Corrections shall as a condition of his or her sentence be  
23 required by the court to attend educational courses designed  
24 to prepare the defendant for a high school diploma and to  
25 work toward a high school diploma or to work toward passing  
26 the high school level Test of General Educational Development  
27 (GED) or to work toward completing a vocational training  
28 program offered by the Department of Corrections. If a  
29 defendant fails to complete the educational training required  
30 by his or her sentence during the term of incarceration, the  
31 Prisoner Review Board shall, as a condition of mandatory  
32 supervised release, require the defendant, at his or her own  
33 expense, to pursue a course of study toward a high school  
34 diploma or passage of the GED test. The Prisoner Review

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

17 (k) A court may not impose a sentence or disposition for  
18 a felony or misdemeanor that requires the defendant to be  
19 implanted or injected with or to use any form of birth  
20 control.

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

30 (1) a final order of deportation has been  
31 issued against the defendant pursuant to proceedings  
32 under the Immigration and Nationality Act, and

33 (2) the deportation of the defendant would not  
34 deprecate the seriousness of the defendant's conduct



1 and would not be inconsistent with the ends of  
2 justice.

3 Otherwise, the defendant shall be sentenced as  
4 provided in this Chapter V.

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

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

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

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

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

33 (m) A person convicted of criminal defacement of  
34 property under Section 21-1.3 of the Criminal Code of 1961,

1 in which the property damage exceeds \$300 and the property  
2 damaged is a school building, shall be ordered to perform  
3 community service that may include cleanup, removal, or  
4 painting over the defacement.

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

9 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

10 Sec. 5-6-3. Conditions of Probation and of Conditional  
11 Discharge.

12 (a) The conditions of probation and of conditional  
13 discharge shall be that the person:

14 (1) not violate any criminal statute of any  
15 jurisdiction;

16 (2) report to or appear in person before such  
17 person or agency as directed by the court;

18 (3) refrain from possessing a firearm or other  
19 dangerous weapon;

20 (4) not leave the State without the consent of the  
21 court or, in circumstances in which the reason for the  
22 absence is of such an emergency nature that prior consent  
23 by the court is not possible, without the prior  
24 notification and approval of the person's probation  
25 officer;

26 (5) permit the probation officer to visit him at  
27 his home or elsewhere to the extent necessary to  
28 discharge his duties;

29 (6) perform no less than 30 hours of community  
30 service and not more than 120 hours of community service,  
31 if community service is available in the jurisdiction and  
32 is funded and approved by the county board where the  
33 offense was committed, where the offense was related to

1 or in furtherance of the criminal activities of an  
2 organized gang and was motivated by the offender's  
3 membership in or allegiance to an organized gang. The  
4 community service shall include, but not be limited to,  
5 the cleanup and repair of any damage caused by a  
6 violation of Section 21-1.3 of the Criminal Code of 1961  
7 and similar damage to property located within the  
8 municipality or county in which the violation occurred.  
9 When possible and reasonable, the community service  
10 should be performed in the offender's neighborhood. For  
11 purposes of this Section, "organized gang" has the  
12 meaning ascribed to it in Section 10 of the Illinois  
13 Streetgang Terrorism Omnibus Prevention Act;

14 (7) if he or she is at least 17 years of age and  
15 has been sentenced to probation or conditional discharge  
16 for a misdemeanor or felony in a county of 3,000,000 or  
17 more inhabitants and has not been previously convicted of  
18 a misdemeanor or felony, may be required by the  
19 sentencing court to attend educational courses designed  
20 to prepare the defendant for a high school diploma and to  
21 work toward a high school diploma or to work toward  
22 passing the high school level Test of General Educational  
23 Development (GED) or to work toward completing a  
24 vocational training program approved by the court. The  
25 person on probation or conditional discharge must attend  
26 a public institution of education to obtain the  
27 educational or vocational training required by this  
28 clause (7). The court shall revoke the probation or  
29 conditional discharge of a person who wilfully fails to  
30 comply with this clause (7). The person on probation or  
31 conditional discharge shall be required to pay for the  
32 cost of the educational courses or GED test, if a fee is  
33 charged for those courses or test. The court shall  
34 resentence the offender whose probation or conditional

1 discharge has been revoked as provided in Section 5-6-4.  
 2 This clause (7) does not apply to a person who has a high  
 3 school diploma or has successfully passed the GED test.  
 4 This clause (7) does not apply to a person who is  
 5 determined by the court to be developmentally disabled or  
 6 otherwise mentally incapable of completing the  
 7 educational or vocational program; and

8 (8) if convicted of possession of a substance  
 9 prohibited by the Cannabis Control Act or Illinois  
 10 Controlled Substances Act after a previous conviction or  
 11 disposition of supervision for possession of a substance  
 12 prohibited by the Cannabis Control Act or Illinois  
 13 Controlled Substances Act or after a sentence of  
 14 probation under Section 10 of the Cannabis Control Act or  
 15 Section 410 of the Illinois Controlled Substances Act and  
 16 upon a finding by the court that the person is addicted,  
 17 undergo treatment at a substance abuse program approved  
 18 by the court.

19 (b) The Court may in addition to other reasonable  
 20 conditions relating to the nature of the offense or the  
 21 rehabilitation of the defendant as determined for each  
 22 defendant in the proper discretion of the Court require that  
 23 the person:

24 (1) serve a term of periodic imprisonment under  
 25 Article 7 for a period not to exceed that specified in  
 26 paragraph (d) of Section 5-7-1;

27 (2) pay a fine and costs;

28 (3) work or pursue a course of study or vocational  
 29 training;

30 (4) undergo medical, psychological or psychiatric  
 31 treatment; or treatment for drug addiction or alcoholism;

32 (5) attend or reside in a facility established for  
 33 the instruction or residence of defendants on probation;

34 (6) support his dependents;

- 1           (7) and in addition, if a minor:
- 2           (i) reside with his parents or in a foster
- 3           home;
- 4           (ii) attend school;
- 5           (iii) attend a non-residential program for
- 6           youth;
- 7           (iv) contribute to his own support at home or
- 8           in a foster home;
- 9           (8) make restitution as provided in Section 5-5-6
- 10          of this Code;
- 11          (9) perform some reasonable public or community
- 12          service;
- 13          (10) serve a term of home confinement. In addition
- 14          to any other applicable condition of probation or
- 15          conditional discharge, the conditions of home confinement
- 16          shall be that the offender:
- 17               (i) remain within the interior premises of the
- 18               place designated for his confinement during the
- 19               hours designated by the court;
- 20               (ii) admit any person or agent designated by
- 21               the court into the offender's place of confinement
- 22               at any time for purposes of verifying the offender's
- 23               compliance with the conditions of his confinement;
- 24               and
- 25               (iii) if further deemed necessary by the court
- 26               or the Probation or Court Services Department, be
- 27               placed on an approved electronic monitoring device,
- 28               subject to Article 8A of Chapter V;
- 29               (iv) for persons convicted of any alcohol,
- 30               cannabis or controlled substance violation who are
- 31               placed on an approved monitoring device as a
- 32               condition of probation or conditional discharge, the
- 33               court shall impose a reasonable fee for each day of
- 34               the use of the device, as established by the county

1 board in subsection (g) of this Section, unless  
 2 after determining the inability of the offender to  
 3 pay the fee, the court assesses a lesser fee or no  
 4 fee as the case may be. This fee shall be imposed in  
 5 addition to the fees imposed under subsections (g)  
 6 and (i) of this Section. The fee shall be collected  
 7 by the clerk of the circuit court. The clerk of the  
 8 circuit court shall pay all monies collected from  
 9 this fee to the county treasurer for deposit in the  
 10 substance abuse services fund under Section 5-1086.1  
 11 of the Counties Code; and

12 (v) for persons convicted of offenses other  
 13 than those referenced in clause (iv) above and who  
 14 are placed on an approved monitoring device as a  
 15 condition of probation or conditional discharge, the  
 16 court shall impose a reasonable fee for each day of  
 17 the use of the device, as established by the county  
 18 board in subsection (g) of this Section, unless  
 19 after determining the inability of the defendant to  
 20 pay the fee, the court assesses a lesser fee or no  
 21 fee as the case may be. This fee shall be imposed  
 22 in addition to the fees imposed under subsections  
 23 (g) and (i) of this Section. The fee shall be  
 24 collected by the clerk of the circuit court. The  
 25 clerk of the circuit court shall pay all monies  
 26 collected from this fee to the county treasurer who  
 27 shall use the monies collected to defray the costs  
 28 of corrections. The county treasurer shall deposit  
 29 the fee collected in the county working cash fund  
 30 under Section 6-27001 or Section 6-29002 of the  
 31 Counties Code, as the case may be.

32 (11) comply with the terms and conditions of an  
 33 order of protection issued by the court pursuant to the  
 34 Illinois Domestic Violence Act of 1986, as now or

1 hereafter amended, or an order of protection issued by  
2 the court of another state, tribe, or United States  
3 territory. A copy of the order of protection shall be  
4 transmitted to the probation officer or agency having  
5 responsibility for the case;

6 (12) reimburse any "local anti-crime program" as  
7 defined in Section 7 of the Anti-Crime Advisory Council  
8 Act for any reasonable expenses incurred by the program  
9 on the offender's case, not to exceed the maximum amount  
10 of the fine authorized for the offense for which the  
11 defendant was sentenced;

12 (13) contribute a reasonable sum of money, not to  
13 exceed the maximum amount of the fine authorized for the  
14 offense for which the defendant was sentenced, to a  
15 "local anti-crime program", as defined in Section 7 of  
16 the Anti-Crime Advisory Council Act;

17 (14) refrain from entering into a designated  
18 geographic area except upon such terms as the court finds  
19 appropriate. Such terms may include consideration of the  
20 purpose of the entry, the time of day, other persons  
21 accompanying the defendant, and advance approval by a  
22 probation officer, if the defendant has been placed on  
23 probation or advance approval by the court, if the  
24 defendant was placed on conditional discharge;

25 (15) refrain from having any contact, directly or  
26 indirectly, with certain specified persons or particular  
27 types of persons, including but not limited to members of  
28 street gangs and drug users or dealers;

29 (16) refrain from having in his or her body the  
30 presence of any illicit drug prohibited by the Cannabis  
31 Control Act or the Illinois Controlled Substances Act,  
32 unless prescribed by a physician, and submit samples of  
33 his or her blood or urine or both for tests to determine  
34 the presence of any illicit drug.

1           (c) The court may as a condition of probation or of  
2 conditional discharge require that a person under 18 years of  
3 age found guilty of any alcohol, cannabis or controlled  
4 substance violation, refrain from acquiring a driver's  
5 license during the period of probation or conditional  
6 discharge. If such person is in possession of a permit or  
7 license, the court may require that the minor refrain from  
8 driving or operating any motor vehicle during the period of  
9 probation or conditional discharge, except as may be  
10 necessary in the course of the minor's lawful employment.

11           (d) An offender sentenced to probation or to conditional  
12 discharge shall be given a certificate setting forth the  
13 conditions thereof.

14           (e) Except where the offender has committed a fourth or  
15 subsequent violation of subsection (c) of Section 6-303 of  
16 the Illinois Vehicle Code, the court shall not require as a  
17 condition of the sentence of probation or conditional  
18 discharge that the offender be committed to a period of  
19 imprisonment in excess of 6 months. This 6 month limit shall  
20 not include periods of confinement given pursuant to a  
21 sentence of county impact incarceration under Section  
22 5-8-1.2.

23           Persons committed to imprisonment as a condition of  
24 probation or conditional discharge shall not be committed to  
25 the Department of Corrections.

26           (f) The court may combine a sentence of periodic  
27 imprisonment under Article 7 or a sentence to a county impact  
28 incarceration program under Article 8 with a sentence of  
29 probation or conditional discharge.

30           (g) An offender sentenced to probation or to conditional  
31 discharge and who during the term of either undergoes  
32 mandatory drug or alcohol testing, or both, or is assigned to  
33 be placed on an approved electronic monitoring device, shall  
34 be ordered to pay all costs incidental to such mandatory drug



1 or alcohol testing, or both, and all costs incidental to such  
2 approved electronic monitoring in accordance with the  
3 defendant's ability to pay those costs. The county board  
4 with the concurrence of the Chief Judge of the judicial  
5 circuit in which the county is located shall establish  
6 reasonable fees for the cost of maintenance, testing, and  
7 incidental expenses related to the mandatory drug or alcohol  
8 testing, or both, and all costs incidental to approved  
9 electronic monitoring, involved in a successful probation  
10 program for the county. The concurrence of the Chief Judge  
11 shall be in the form of an administrative order. The fees  
12 shall be collected by the clerk of the circuit court. The  
13 clerk of the circuit court shall pay all moneys collected  
14 from these fees to the county treasurer who shall use the  
15 moneys collected to defray the costs of drug testing, alcohol  
16 testing, and electronic monitoring. The county treasurer  
17 shall deposit the fees collected in the county working cash  
18 fund under Section 6-27001 or Section 6-29002 of the Counties  
19 Code, as the case may be.

20 (h) Jurisdiction over an offender may be transferred  
21 from the sentencing court to the court of another circuit  
22 with the concurrence of both courts, or to another state  
23 under an Interstate Probation Reciprocal Agreement as  
24 provided in Section 3-3-11. Further transfers or retransfers  
25 of jurisdiction are also authorized in the same manner. The  
26 court to which jurisdiction has been transferred shall have  
27 the same powers as the sentencing court.

28 (i) The court shall impose upon an offender sentenced to  
29 probation after January 1, 1989 or to conditional discharge  
30 after January 1, 1992, as a condition of such probation or  
31 conditional discharge, a fee of \$25 for each month of  
32 probation or conditional discharge supervision ordered by the  
33 court, unless after determining the inability of the person  
34 sentenced to probation or conditional discharge to pay the

1 fee, the court assesses a lesser fee. The court may not  
2 impose the fee on a minor who is made a ward of the State  
3 under the Juvenile Court Act of 1987 while the minor is in  
4 placement. The fee shall be imposed only upon an offender who  
5 is actively supervised by the probation and court services  
6 department. The fee shall be collected by the clerk of the  
7 circuit court. The clerk of the circuit court shall pay all  
8 monies collected from this fee to the county treasurer for  
9 deposit in the probation and court services fund under  
10 Section 15.1 of the Probation and Probation Officers Act.

11 (j) All fines and costs imposed under this Section for  
12 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
13 Vehicle Code, or a similar provision of a local ordinance,  
14 and any violation of the Child Passenger Protection Act, or a  
15 similar provision of a local ordinance, shall be collected  
16 and disbursed by the circuit clerk as provided under Section  
17 27.5 of the Clerks of Courts Act.

18 (Source: P.A. 90-14, eff. 7-1-97; 90-399, eff. 1-1-98;  
19 90-504, eff. 1-1-98; 90-655, eff. 7-30-98; 91-325, eff.  
20 7-29-99; 91-696, eff. 4-13-00; 91-903, eff. 1-1-01.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.