92\_HB2292 LRB9205081ARsb

- 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 11-501 as follows:
- 6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)
- 7 Sec. 11-501. Driving while under the influence of
- 8 alcohol, other drug or drugs, intoxicating compound or
- 9 compounds or any combination thereof.
- 10 (a) A person shall not drive or be in actual physical
- 11 control of any vehicle within this State while:
- 12 (1) the alcohol concentration in the person's blood
- or breath is 0.08 or more based on the definition of
- blood and breath units in Section 11-501.2;
- 15 (2) under the influence of alcohol;
- 16 (3) under the influence of any intoxicating
- 17 compound or combination of intoxicating compounds to a
- 18 degree that renders the person incapable of driving
- 19 safely;
- 20 (4) under the influence of any other drug or
- 21 combination of drugs to a degree that renders the person
- incapable of safely driving;
- 23 (5) under the combined influence of alcohol, other
- 24 drug or drugs, or intoxicating compound or compounds to a
- 25 degree that renders the person incapable of safely
- 26 driving; or
- 27 (6) there is any amount of a drug, substance, or
- 28 compound in the person's breath, blood, or urine
- 29 resulting from the unlawful use or consumption of
- 30 cannabis listed in the Cannabis Control Act, a controlled
- 31 substance listed in the Illinois Controlled Substances

- Act, or an intoxicating compound listed in the Use of Intoxicating Compounds Act.
- 3 (b) The fact that any person charged with violating this 4 Section is or has been legally entitled to use alcohol, other 5 drug or drugs, or intoxicating compound or compounds, or any 6 combination thereof, shall not constitute a defense against 7 any charge of violating this Section.
- 8 Except as provided under paragraphs (c-3) and (d) of 9 this Section, every person convicted of violating this Section or a similar provision of a local ordinance, shall be 10 11 guilty of a Class A misdemeanor and, in addition to any other criminal or administrative action, for any second conviction 12 of violating this Section or a similar provision of a law of 13 another state or local ordinance committed within 5 years of 14 a previous violation of this Section or a similar provision 15 16 of a local ordinance shall be mandatorily sentenced to a minimum of 48 consecutive hours of imprisonment or assigned 17 to a minimum of 100 hours of community service as may be 18 determined by the court. Every person convicted of violating 19 20 this Section or a similar provision of a local ordinance 21 shall be subject to a mandatory minimum fine of \$500 and a mandatory 5 days of community service in a program benefiting 22 23 children if the person committed a violation of paragraph (a) or a similar provision of local 24 а ordinance transporting a person under age 16. Every person convicted a 25 second time for violating this Section or a similar provision 26 of a local ordinance within 5 years of a previous violation 27 of this Section or a similar provision of a law of another 28 29 state or local ordinance shall be subject to a mandatory 30 minimum fine of \$500 and 10 days of mandatory community service in a program benefiting children if the current 31 32 offense was committed while transporting a person under age The imprisonment or assignment under this subsection 33 34 shall not be subject to suspension nor shall the person be

eligible for probation in order to reduce the sentence or assignment.

- (c-1) (1) A person who violates this Section during a period in which his or her driving privileges are revoked or suspended, where the revocation or suspension was for a violation of this Section, Section 11-501.1, paragraph (b) of Section 11-401, or Section 9-3 of the Criminal Code of 1961 is guilty of a Class 4 felony.
- (2) A person who violates this Section a third time during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of this Section, Section 11-501.1, paragraph (b) of Section 11-401, or Section 9-3 of the Criminal Code of 1961 is guilty of a Class 3 felony.
- (3) A person who violates this Section a fourth or subsequent time during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of this Section, Section 11-501.1, paragraph (b) of Section 11-401, or Section 9-3 of the Criminal Code of 1961 is guilty of a Class 1 2 felony.
- (c-2) (Blank).

(c-3) Every person convicted of violating this Section or a similar provision of a local ordinance who had a child under age 16 in the vehicle at the time of the offense shall have his or her punishment under this Act enhanced by 2 days imprisonment for a first offense, 10 days of imprisonment for a second offense, 30 days of imprisonment for a third offense, and 90 days of imprisonment for a fourth or subsequent offense, in addition to the fine and community service required under subsection (c) and the possible imprisonment required under subsection (d). The imprisonment or assignment under this subsection shall not be subject to

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suspension nor shall the person be eligible for probation in order to reduce the sentence or assignment.

- (d) (1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof if:
  - (A) the person committed a violation of this Section, or a similar provision of a law of another state or a local ordinance when the cause of action is the same as or substantially similar to this Section, for the third or subsequent time;
  - (B) the person committed a violation of paragraph(a) while driving a school bus with children on board;
  - (C) the person in committing a violation of paragraph (a) was involved in a motor vehicle accident that resulted in great bodily harm or permanent disability or disfigurement to another, when the violation was a proximate cause of the injuries; or
  - (D) the person committed a violation of paragraph (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) of this paragraph (1).
- (2) Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is a Class 4 felony for which a person, if sentenced to a term of imprisonment, shall be sentenced to not less than one year and not more than 3 years for a violation of subparagraph (A), (B) or (D) of paragraph

- 1 (1) of this subsection (d) and not less than one year and not
- 2 more than 12 years for a violation of subparagraph (C) of
- 3 paragraph (1) of this subsection (d). For any prosecution
- 4 under this subsection (d), a certified copy of the driving
- 5 abstract of the defendant shall be admitted as proof of any
- 6 prior conviction.
- 7 (e) After a finding of guilt and prior to any final
- 8 sentencing, or an order for supervision, for an offense based
- 9 upon an arrest for a violation of this Section or a similar
- 10 provision of a local ordinance, individuals shall be required
- 11 to undergo a professional evaluation to determine if an
- 12 alcohol, drug, or intoxicating compound abuse problem exists
- 13 and the extent of the problem. Programs conducting these
- 14 evaluations shall be licensed by the Department of Human
- 15 Services. The cost of any professional evaluation shall be
- 16 paid for by the individual required to undergo the
- 17 professional evaluation.
- 18 (f) Every person found guilty of violating this Section,
- 19 whose operation of a motor vehicle while in violation of this
- 20 Section proximately caused any incident resulting in an
- 21 appropriate emergency response, shall be liable for the
- 22 expense of an emergency response as provided under Section
- 23 5-5-3 of the Unified Code of Corrections.
- 24 (g) The Secretary of State shall revoke the driving
- 25 privileges of any person convicted under this Section or a
- 26 similar provision of a local ordinance.
- 27 (h) Every person sentenced under subsection (d) of this
- 28 Section and who receives a term of probation or conditional
- 29 discharge shall be required to serve a minimum term of either
- 30 30 days community service or, beginning July 1, 1993, 48
- 31 consecutive hours of imprisonment as a condition of the
- 32 probation or conditional discharge. This mandatory minimum
- 33 term of imprisonment or assignment of community service shall
- not be suspended and shall not be subject to reduction by the

- 1 court.
- 2 (i) The Secretary of State may use ignition interlock
- 3 device requirements when granting driving relief to
- 4 individuals who have been arrested for a second or subsequent
- 5 offense of this Section or a similar provision of a local
- 6 ordinance. The Secretary shall establish by rule and
- 7 regulation the procedures for use of the interlock system.
- 8 (j) In addition to any other penalties and liabilities,
- 9 a person who is found guilty of or pleads guilty to violating
- 10 this Section, including any person placed on court
- 11 supervision for violating this Section, shall be fined \$100,
- 12 payable to the circuit clerk, who shall distribute the money
- 13 to the law enforcement agency that made the arrest. In the
- 14 event that more than one agency is responsible for the
- 15 arrest, the \$100 shall be shared equally. Any moneys
- 16 received by a law enforcement agency under this subsection
- 17 (j) shall be used to purchase law enforcement equipment that
- 18 will assist in the prevention of alcohol related criminal
- 19 violence throughout the State. This shall include, but is
- 20 not limited to, in-car video cameras, radar and laser speed
- 21 detection devices, and alcohol breath testers. Any moneys
- 22 received by the Department of State Police under this
- 23 subsection (j) shall be deposited into the State Police DUI
- 24 Fund and shall be used to purchase law enforcement equipment
- 25 that will assist in the prevention of alcohol related
- 26 criminal violence throughout the State.
- 27 (Source: P.A. 90-43, eff. 7-2-97; 90-400, eff. 8-15-97;
- 28 90-611, eff. 1-1-99; 90-655, eff. 7-30-98; 90-738, eff.
- 29 1-1-99; 90-779, eff. 1-1-99; 91-126, eff. 7-16-99; 91-357,
- 30 eff. 7-29-99; 91-692, eff. 4-13-00; 91-822, eff. 6-13-00.)
- 31 Section 10. The Unified Code of Corrections is amended
- 32 by changing Section 5-5-3 as follows:

- 1 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)
- 2 Sec. 5-5-3. Disposition.
- 3 (a) Every person convicted of an offense shall be 4 sentenced as provided in this Section.
- 5 (b) The following options shall be appropriate 6 dispositions, alone or in combination, for all felonies and
- 7 misdemeanors other than those identified in subsection (c) of
- 8 this Section:
- 9 (1) A period of probation.
- 10 (2) A term of periodic imprisonment.
- 11 (3) A term of conditional discharge.
- 12 (4) A term of imprisonment.
- 13 (5) An order directing the offender to clean up and 14 repair the damage, if the offender was convicted under 15 paragraph (h) of Section 21-1 of the Criminal Code of 16 1961.
- 17 (6) A fine.
- 18 (7) An order directing the offender to make 19 restitution to the victim under Section 5-5-6 of this 20 Code.
- 21 (8) A sentence of participation in a county impact 22 incarceration program under Section 5-8-1.2 of this Code.
- Whenever an individual is sentenced for an offense based upon an arrest for a violation of Section 11-501 of the
- 25 Illinois Vehicle Code, or a similar provision of a local
- 26 ordinance, and the professional evaluation recommends
- 27 remedial or rehabilitative treatment or education, neither
- 28 the treatment nor the education shall be the sole disposition
- 29 and either or both may be imposed only in conjunction with
- 30 another disposition. The court shall monitor compliance with
- 31 any remedial education or treatment recommendations contained
- in the professional evaluation. Programs conducting alcohol
- 33 or other drug evaluation or remedial education must be
- 34 licensed by the Department of Human Services. However, if

1 the individual is not a resident of Illinois, the court may

2 accept an alcohol or other drug evaluation or remedial

3 education program in the state of such individual's

4 residence. Programs providing treatment must be licensed

under existing applicable alcoholism and drug treatment

6 licensure standards.

Services (EMS) Systems Act.

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In addition to any other fine or penalty required by law, 7 any individual convicted of a violation of Section 11-501 of 8 9 the Illinois Vehicle Code or a similar provision of local ordinance, whose operation of a motor vehicle while in 10 violation of Section 11-501 or such ordinance proximately 11 caused an incident resulting in an appropriate emergency 12 response, shall be required to make restitution to a public 13 agency for the costs of that emergency response. 14 restitution shall not exceed \$500 per public agency for each 15 16 such emergency response. For the purpose of this paragraph, emergency response shall mean any incident requiring a 17 response by: a police officer as defined under Section 1-162 18 19 of the Illinois Vehicle Code; a fireman carried on the rolls of a regularly constituted fire department; and an ambulance 20

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

as defined under Section 4.05 of the Emergency Medical

- (c) (1) When a defendant is found guilty of first degree murder the State may either seek a sentence of imprisonment under Section 5-8-1 of this Code, or where appropriate seek a sentence of death under Section 9-1 of the Criminal Code of 1961.
- 31 (2) A period of probation, a term of periodic 32 imprisonment or conditional discharge shall not be 33 imposed for the following offenses. The court shall 34 sentence the offender to not less than the minimum term

1	of imprisonment set forth in this Code for the following
2	offenses, and may order a fine or restitution or both in
3	conjunction with such term of imprisonment:
4	(A) First degree murder where the death
5	penalty is not imposed.
6	(B) Attempted first degree murder.
7	(C) A Class X felony.
8	(D) A violation of Section 401.1 or 407 of the
9	Illinois Controlled Substances Act, or a violation
10	of subdivision (c)(2) of Section 401 of that Act
11	which relates to more than 5 grams of a substance
12	containing cocaine or an analog thereof.
13	(E) A violation of Section 5.1 or 9 of the
14	Cannabis Control Act.
15	(F) A Class 2 or greater felony if the
16	offender had been convicted of a Class 2 or greater
17	felony within 10 years of the date on which the
18	offender committed the offense for which he or she
19	is being sentenced, except as otherwise provided in
20	Section 40-10 of the Alcoholism and Other Drug Abuse
21	and Dependency Act.
22	(G) Residential burglary, except as otherwise
23	provided in Section 40-10 of the Alcoholism and
24	Other Drug Abuse and Dependency Act.
25	(H) Criminal sexual assault, except as
26	otherwise provided in subsection (e) of this
27	Section.
28	(I) Aggravated battery of a senior citizen.
29	(J) A forcible felony if the offense was
30	related to the activities of an organized gang.
31	Before July 1, 1994, for the purposes of this
32	paragraph, "organized gang" means an association of
33	5 or more persons, with an established hierarchy,
34	that encourages members of the association to

1	perpetrate crimes or provides support to the members
2	of the association who do commit crimes.
3	Beginning July 1, 1994, for the purposes of
4	this paragraph, "organized gang" has the meaning
5	ascribed to it in Section 10 of the Illinois
6	Streetgang Terrorism Omnibus Prevention Act.
7	(K) Vehicular hijacking.
8	(L) A second or subsequent conviction for the
9	offense of hate crime when the underlying offense
10	upon which the hate crime is based is felony
11	aggravated assault or felony mob action.
12	(M) A second or subsequent conviction for the
13	offense of institutional vandalism if the damage to
14	the property exceeds \$300.
15	(N) A Class 3 felony violation of paragraph
16	(1) of subsection (a) of Section 2 of the Firearm
17	Owners Identification Card Act.
18	(0) A violation of Section 12-6.1 of the
19	Criminal Code of 1961.
20	(P) A violation of paragraph (1), (2), (3),
21	(4), $(5)$ , or $(7)$ of subsection $(a)$ of Section
22	11-20.1 of the Criminal Code of 1961.
23	(Q) A violation of Section 20-1.2 of the
24	Criminal Code of 1961.
25	(R) A violation of Section 24-3A of the
26	Criminal Code of 1961.
27	(S) A violation of Section 11-501(c-1)(3) of
28	the Illinois Vehicle Code.
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.

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

- (4.1) A minimum term of 30 consecutive days of imprisonment, 40 days of 24 hour periodic imprisonment or 720 hours of community service, as may be determined by the court, shall be imposed for a violation of Section 11-501 of the Illinois Vehicle Code during a period in which the defendant's driving privileges are revoked or suspended, where the revocation or suspension was for a violation of Section 11-501 or Section 11-501.1 of that Code.
- (5) The court may sentence an offender convicted of a business offense or a petty offense or a corporation or unincorporated association convicted of any offense to:
  - (A) a period of conditional discharge;
  - (B) a fine;
  - (C) make restitution to the victim under Section 5-5-6 of this Code.
- (6) In no case shall an offender be eligible for a disposition of probation or conditional discharge for a Class 1 felony committed while he was serving a term of probation or conditional discharge for a felony.
- (7) When a defendant is adjudged a habitual criminal under Article 33B of the Criminal Code of 1961, the court shall sentence the defendant to a term of natural life imprisonment.
- (8) When a defendant, over the age of 21 years, is convicted of a Class 1 or Class 2 felony, after having twice been convicted of any Class 2 or greater Class felonies in Illinois, and such charges are separately brought and tried and arise out of different series of acts, such defendant shall be sentenced as a Class X

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1	offender. This paragraph shall not apply unless (1) the
2	first felony was committed after the effective date of
3	this amendatory Act of 1977; and (2) the second felony
4	was committed after conviction on the first; and (3) the
5	third felony was committed after conviction on the
6	second.

- (9) A defendant convicted of a second or subsequent offense of ritualized abuse of a child may be sentenced to a term of natural life imprisonment.
- (d) In any case in which a sentence originally imposed 10 11 is vacated, the case shall be remanded to the trial court. The trial court shall hold a hearing under Section 5-4-1 of 12 the Unified Code of Corrections which may include evidence of 13 the defendant's life, moral character and occupation during 14 15 the time since the original sentence was passed. The trial 16 court shall then impose sentence upon the defendant. trial court may impose any sentence which could have been 17 imposed at the original trial subject to Section 5-5-4 of the 18 19 Unified Code of Corrections.
  - (e) In cases where prosecution for criminal sexual assault or aggravated criminal sexual abuse under Section 12-13 or 12-16 of the Criminal Code of 1961 results in conviction of a defendant who was a family member of the victim at the time of the commission of the offense, the court shall consider the safety and welfare of the victim and may impose a sentence of probation only where:
- 27 (1) the court finds (A) or (B) or both are 28 appropriate:
- 29 (A) the defendant is willing to undergo a 30 court approved counseling program for a minimum 31 duration of 2 years; or
- 32 (B) the defendant is willing to participate in 33 a court approved plan including but not limited to 34 the defendant's:

1	(i) removal from the household;
2	(ii) restricted contact with the victim;
3	(iii) continued financial support of the
4	family;
5	(iv) restitution for harm done to the
6	victim; and
7	(v) compliance with any other measures
8	that the court may deem appropriate; and
9	(2) the court orders the defendant to pay for the
10	victim's counseling services, to the extent that the
11	court finds, after considering the defendant's income and
12	assets, that the defendant is financially capable of
13	paying for such services, if the victim was under 18
14	years of age at the time the offense was committed and
15	requires counseling as a result of the offense.
16	Probation may be revoked or modified pursuant to Section
17	5-6-4; except where the court determines at the hearing that
18	the defendant violated a condition of his or her probation
19	restricting contact with the victim or other family members
20	or commits another offense with the victim or other family
21	members, the court shall revoke the defendant's probation and
22	impose a term of imprisonment.
23	For the purposes of this Section, "family member" and
24	"victim" shall have the meanings ascribed to them in Section
25	12-12 of the Criminal Code of 1961.
26	(f) This Article shall not deprive a court in other
27	proceedings to order a forfeiture of property, to suspend or
28	cancel a license, to remove a person from office, or to
29	impose any other civil penalty.
30	(g) Whenever a defendant is convicted of an offense
31	under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,
32	11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,
33	12-15 or 12-16 of the Criminal Code of 1961, the defendant
34	shall undergo medical testing to determine whether the

defendant has any sexually transmissible disease, including a 2 test for infection with human immunodeficiency virus (HIV) or identified causative agent 3 other of acquired 4 immunodeficiency syndrome (AIDS). Any such medical test 5 shall be performed only by appropriately licensed medical 6 practitioners and may include an analysis of any bodily 7 fluids as well as an examination of the defendant's person. 8 Except as otherwise provided by law, the results of such test 9 shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a 10 11 sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. 12 Acting in accordance with the best interests of the victim 13 and the public, the judge shall have the discretion to 14 15 determine to whom, if anyone, the results of the testing may 16 be revealed. The court shall notify the defendant of the test results. The court shall also notify the victim if requested 17 by the victim, and if the victim is under the age of 15 and 18 if requested by the victim's parents or legal guardian, the 19 court shall notify the victim's parents or legal guardian of 20 21 the test results. The court shall provide information on the availability of HIV testing and counseling at Department of 22 23 Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's 24 25 Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain 26 the results of any HIV test administered under this 27 Section, and the court shall grant the disclosure if the State's 28 29 Attorney shows it is relevant in order to prosecute a charge 30 of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall 31 32 order that the cost of any such test shall be paid by the 33 county and may be taxed as costs against the convicted 34 defendant.

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

(h) Whenever a defendant is convicted of an offense under Section 1 or 2 of the Hypodermic Syringes and Needles Act, the defendant shall undergo medical testing to determine the defendant has been exposed immunodeficiency virus (HIV) or any other causative agent of acquired immunodeficiency syndrome (AIDS). Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of a positive test showing an infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court

- 1 shall grant the disclosure if the State's Attorney shows it
- 2 is relevant in order to prosecute a charge of criminal
- transmission of HIV under Section 12-16.2 of the Criminal 3
- 4 Code of 1961 against the defendant. The court shall order
- 5 that the cost of any such test shall be paid by the county
- 6 and may be taxed as costs against the convicted defendant.
- 7 (i) All fines and penalties imposed under this Section
- for any violation of Chapters 3, 4, 6, and 11 of the Illinois 8
- 9 Vehicle Code, or a similar provision of a local ordinance,
- and any violation of the Child Passenger Protection Act, or a 10
- 11 similar provision of a local ordinance, shall be collected
- and disbursed by the circuit clerk as provided under Section 12
- 27.5 of the Clerks of Courts Act. 13

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- In cases when prosecution for any violation of 14
- Section 11-6, 11-8, 11-9, 11-11, 11-14, 15 11-15,
- 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 16
- 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or 17
- 12-16 of the Criminal Code of 1961, any violation of the 18
- 19 Illinois Controlled Substances Act, or any violation of the
- Cannabis Control Act results in conviction, a disposition of 20
- 21 court supervision, or an order of probation granted under

Section 10 of the Cannabis Control Act or Section 410 of the

- 23 Illinois Controlled Substance Act of a defendant, the court
- shall determine whether the defendant is employed by a
- 25 facility or center as defined under the Child Care Act of
- 1969, a public or private elementary or secondary school, or 26
- otherwise works with children under 18 years of age on a 27
- When a defendant is so employed, the court daily basis. 28
- 29 shall order the Clerk of the Court to send a copy of the
- 30 judgment of conviction or order of supervision or probation
- to the defendant's employer by certified mail. If the 31
- employer of the defendant is a school, the Clerk of the Court 32
- 33 shall direct the mailing of a copy of the judgment of
- 34 conviction or order of supervision or probation to the

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

4 (j-5) A defendant at least 17 years of age who is 5 convicted of a felony and who has not been previously 6 convicted of a misdemeanor or felony and who is sentenced to 7 a term of imprisonment in the Illinois Department Corrections shall as a condition of his or her sentence be 8 9 required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to 10 11 work toward a high school diploma or to work toward passing the high school level Test of General Educational Development 12 (GED) or to work toward completing a vocational training 13 program offered by the Department of Corrections. 14 15 defendant fails to complete the educational training required 16 by his or her sentence during the term of incarceration, the Prisoner Review Board shall, as a condition of mandatory 17 18 supervised release, require the defendant, at his or her own 19 expense, to pursue a course of study toward a high school diploma or passage of the GED test. The Prisoner Review 20 21 Board shall revoke the mandatory supervised release of a defendant who wilfully fails to comply with this subsection 22 23 (j-5) upon his or her release from confinement in a penal institution while serving a mandatory supervised release 24 25 term; however, the inability of the defendant after making a good faith effort to obtain financial aid or pay for the 26 educational training shall not be deemed a wilful failure to 27 The Prisoner Review Board shall recommit the 28 29 defendant whose mandatory supervised release term has been 30 revoked under this subsection (j-5) as provided in Section This subsection (j-5) does not apply to a defendant 31 32 who has a high school diploma or has successfully passed the GED test. This subsection (j-5) does not apply to a defendant 33 34 who is determined by the court to be developmentally disabled

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- or otherwise mentally incapable of completing the educational or vocational program.
  - (k) A court may not impose a sentence or disposition for a felony or misdemeanor that requires the defendant to be implanted or injected with or to use any form of birth control.
    - (1) (A) Except as provided in paragraph (C) of subsection (1), whenever a defendant, who is an alien as defined by the Immigration and Nationality Act, is convicted of any felony or misdemeanor offense, the court after sentencing the defendant may, upon motion of the State's Attorney, hold sentence in abeyance and remand the defendant to the custody of the Attorney General of the United States or his or her designated agent to be deported when:
      - (1) a final order of deportation has been issued against the defendant pursuant to proceedings under the Immigration and Nationality Act, and
      - (2) the deportation of the defendant would not deprecate the seriousness of the defendant's conduct and would not be inconsistent with the ends of justice.
      - Otherwise, the defendant shall be sentenced as provided in this Chapter V.
      - (B) If the defendant has already been sentenced for a felony or misdemeanor offense, or has been placed on probation under Section 10 of the Cannabis Control Act or Section 410 of the Illinois Controlled Substances Act, the court may, upon motion of the State's Attorney to suspend the sentence imposed, commit the defendant to the custody of the Attorney General of the United States or his or her designated agent when:
- 33 (1) a final order of deportation has been 34 issued against the defendant pursuant to proceedings

1 under the Immigration and Nationality Act, and

- 2 (2) the deportation of the defendant would not
  3 deprecate the seriousness of the defendant's conduct
  4 and would not be inconsistent with the ends of
  5 justice.
  - (C) This subsection (1) does not apply to offenders who are subject to the provisions of paragraph (2) of subsection (a) of Section 3-6-3.
  - (D) Upon motion of the State's Attorney, if a defendant sentenced under this Section returns to the jurisdiction of the United States, the defendant shall be recommitted to the custody of the county from which he or she was sentenced. Thereafter, the defendant shall be brought before the sentencing court, which may impose any sentence that was available under Section 5-5-3 at the time of initial sentencing. In addition, the defendant shall not be eligible for additional good conduct credit for meritorious service as provided under Section 3-6-6.
- 19 (m) A person convicted of criminal defacement of 20 property under Section 21-1.3 of the Criminal Code of 1961, 21 in which the property damage exceeds \$300 and the property 22 damaged is a school building, shall be ordered to perform 23 community service that may include cleanup, removal, or 24 painting over the defacement.
- 25 (Source: P.A. 90-14, eff. 7-1-97; 90-68, eff. 7-8-97; 90-680,
- 26 eff. 1-1-99; 90-685, eff. 1-1-99; 90-787, eff. 8-14-98;
- 27 91-357, eff. 7-29-99; 91-404, eff. 1-1-00; 91-663, eff.
- 28 12-22-99; 91-695, eff. 4-13-00.)

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29 Section 99. Effective date. This Act takes effect upon 30 becoming law.