

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, a controlled substance as listed in
32 the Illinois Controlled Substances Act, or an
33 intoxicating compound as listed in the Use of
34 Intoxicating Compounds Act, in which case the penalty

1 shall be as prescribed in Section 6-208.1;

2 32. Has been convicted of Section 24-1.2 of the
3 Criminal Code of 1961 relating to the aggravated
4 discharge of a firearm if the offender was located in a
5 motor vehicle at the time the firearm was discharged, in
6 which case the suspension shall be for 3 years;

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

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

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

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

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

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

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

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

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

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

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

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

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

16 3. At the conclusion of a hearing under Section
17 2-118 of this Code, the Secretary of State shall either
18 rescind or continue an order of revocation or shall
19 substitute an order of suspension; or, good cause
20 appearing therefor, rescind, continue, change, or extend
21 the order of suspension. If the Secretary of State does
22 not rescind the order, the Secretary may upon
23 application, to relieve undue hardship, issue a
24 restricted driving permit granting the privilege of
25 driving a motor vehicle between the petitioner's
26 residence and petitioner's place of employment or within
27 the scope of his employment related duties, or to allow
28 transportation for the petitioner, or a household member
29 of the petitioner's family, to receive necessary medical
30 care and if the professional evaluation indicates,
31 provide transportation for alcohol remedial or
32 rehabilitative activity, or for the petitioner to attend
33 classes, as a student, in an accredited educational
34 institution; if the petitioner is able to demonstrate

1 that no alternative means of transportation is reasonably
2 available and the petitioner will not endanger the public
3 safety or welfare.

4 If a person's license or permit has been revoked or
5 suspended due to 2 or more convictions of violating
6 Section 11-501 of this Code or a similar provision of a
7 local ordinance or a similar out-of-state offense,
8 arising out of separate occurrences, that person, if
9 issued a restricted driving permit, may not operate a
10 vehicle unless it has been equipped with an ignition
11 interlock device as defined in Section 1-129.1.

12 If a person's license or permit has been revoked or
13 suspended 2 or more times within a 10 year period due to
14 a single conviction of violating Section 11-501 of this
15 Code or a similar provision of a local ordinance or a
16 similar out-of-state offense, and a statutory summary
17 suspension under Section 11-501.1, or 2 or more statutory
18 summary suspensions, or combination of 2 offenses, or of
19 an offense and a statutory summary suspension, arising
20 out of separate occurrences, that person, if issued a
21 restricted driving permit, may not operate a vehicle
22 unless it has been equipped with an ignition interlock
23 device as defined in Section 1-129.1. The person must pay
24 to the Secretary of State DUI Administration Fund an
25 amount not to exceed \$20 per month. The Secretary shall
26 establish by rule the amount and the procedures, terms,
27 and conditions relating to these fees. If the restricted
28 driving permit was issued for employment purposes, then
29 this provision does not apply to the operation of an
30 occupational vehicle owned or leased by that person's
31 employer. In each case the Secretary may issue a
32 restricted driving permit for a period deemed
33 appropriate, except that all permits shall expire within
34 one year from the date of issuance. The Secretary may

1 not, however, issue a restricted driving permit to any
2 person whose current revocation is the result of a second
3 or subsequent conviction for a violation of Section
4 11-501 of this Code or a similar provision of a local
5 ordinance relating to the offense of operating or being
6 in physical control of a motor vehicle while under the
7 influence of alcohol, other drug or drugs, intoxicating
8 compound or compounds, or any similar out-of-state
9 offense, or any combination of those offenses, until the
10 expiration of at least one year from the date of the
11 revocation. A restricted driving permit issued under this
12 Section shall be subject to cancellation, revocation, and
13 suspension by the Secretary of State in like manner and
14 for like cause as a driver's license issued under this
15 Code may be cancelled, revoked, or suspended; except that
16 a conviction upon one or more offenses against laws or
17 ordinances regulating the movement of traffic shall be
18 deemed sufficient cause for the revocation, suspension,
19 or cancellation of a restricted driving permit. The
20 Secretary of State may, as a condition to the issuance of
21 a restricted driving permit, require the applicant to
22 participate in a designated driver remedial or
23 rehabilitative program. The Secretary of State is
24 authorized to cancel a restricted driving permit if the
25 permit holder does not successfully complete the program.

26 (c-5) The Secretary of State may, as a condition of the
27 reissuance of a driver's license or permit to an applicant
28 whose driver's license or permit has been suspended before he
29 or she reached the age of 18 years pursuant to any of the
30 provisions of this Section, require the applicant to
31 participate in a driver remedial education course and be
32 retested under Section 6-109 of this Code.

33 (d) This Section is subject to the provisions of the
34 Drivers License Compact.

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

5 (Source: P.A. 92-283, eff. 1-1-02; 92-418, eff. 8-17-01;
6 92-458, eff. 8-22-01; revised 8-27-01.)

7 (625 ILCS 5/11-907) (from Ch. 95 1/2, par. 11-907)

8 Sec. 11-907. Operation of vehicles and streetcars on
9 approach of authorized emergency vehicles.

10 (a) Upon the immediate approach of an authorized
11 emergency vehicle making use of audible and visual signals
12 meeting the requirements of this Code or a police vehicle
13 properly and lawfully making use of an audible or visual
14 signal,

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

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

28 (b) This Section shall not operate to relieve the driver
29 of an authorized emergency vehicle from the duty to drive
30 with due regard for the safety of all persons using the
31 highway.

32 (c) Upon approaching a stationary authorized emergency
33 vehicle, when the authorized emergency vehicle is giving a

1 signal by displaying alternately flashing red, red and white,
2 blue, or red and blue lights or amber or yellow warning
3 lights, a person who drives an approaching vehicle shall:

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

11 (2) proceeding with due caution, reduce the speed
12 of the vehicle, maintaining a safe speed for road
13 conditions, if changing lanes would be impossible or
14 unsafe.

15 As used in this Section ~~subsection--(e)~~, "authorized
16 emergency vehicle" includes any vehicle authorized by law to
17 be equipped with oscillating, rotating, or flashing lights
18 under Section 12-215 of this Code, while the owner or
19 operator of the vehicle is engaged in his or her official
20 duties.

21 (d) A person who violates subsection (a) or subsection
22 (c) of this Section commits a business offense punishable by
23 a fine of not more than \$10,000. It is a factor in
24 aggravation if the person committed the offense while in
25 violation of Section 11-501 of this Code.

26 (e) If a violation of subsection (a) or subsection (c)
27 of this Section results in damage to the property of another
28 person, in addition to any other penalty imposed, the
29 person's driving privileges shall be suspended for a fixed
30 period of not less than 90 days and not more than one year.

31 (f) If a violation of subsection (a) or subsection (c)
32 of this Section results in injury to another person, in
33 addition to any other penalty imposed, the person's driving
34 privileges shall be suspended for a fixed period of not less

1 than 180 days and not more than 2 years.

2 (g) If a violation of subsection (a) or subsection (c)
3 of this Section results in the death of another person, in
4 addition to any other penalty imposed, the person's driving
5 privileges shall be suspended for 2 years.

6 (h) The Secretary of State shall, upon receiving a
7 record of a judgment entered against a person under
8 subsection (a) or subsection (c) of this Section:

9 (1) suspend the person's driving privileges for the
10 mandatory period; or

11 (2) extend the period of an existing suspension by
12 the appropriate mandatory period.

13 (Source: P.A. 92-283, eff. 1-1-02.)

14 Section 10. The Unified Code of Corrections is amended
15 by changing Section 5-5-3 as follows:

16 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)
17 Sec. 5-5-3. Disposition.

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

20 (b) The following options shall be appropriate
21 dispositions, alone or in combination, for all felonies and
22 misdemeanors other than those identified in subsection (c) of
23 this Section:

24 (1) A period of probation.

25 (2) A term of periodic imprisonment.

26 (3) A term of conditional discharge.

27 (4) A term of imprisonment.

28 (5) An order directing the offender to clean up and
29 repair the damage, if the offender was convicted under
30 paragraph (h) of Section 21-1 of the Criminal Code of
31 1961.

32 (6) A fine.

1 (7) An order directing the offender to make
2 restitution to the victim under Section 5-5-6 of this
3 Code.

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

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

24 In addition to any other fine or penalty required by law,
25 any individual convicted of a violation of Section 11-501 of
26 the Illinois Vehicle Code or a similar provision of local
27 ordinance, whose operation of a motor vehicle while in
28 violation of Section 11-501 or such ordinance proximately
29 caused an incident resulting in an appropriate emergency
30 response, shall be required to make restitution to a public
31 agency for the costs of that emergency response. Such
32 restitution shall not exceed \$500 per public agency for each
33 such emergency response. For the purpose of this paragraph,
34 emergency response shall mean any incident requiring a

1 response by: a police officer as defined under Section 1-162
2 of the Illinois Vehicle Code; a fireman carried on the rolls
3 of a regularly constituted fire department; and an ambulance
4 as defined under Section 4.05 of the Emergency Medical
5 Services (EMS) Systems Act.

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

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

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

21 (A) First degree murder where the death
22 penalty is not imposed.

23 (B) Attempted first degree murder.

24 (C) A Class X felony.

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

30 (E) A violation of Section 5.1 or 9 of the
31 Cannabis Control Act.

32 (F) A Class 2 or greater felony if the
33 offender had been convicted of a Class 2 or greater
34 felony within 10 years of the date on which the

1 offender committed the offense for which he or she
2 is being sentenced, except as otherwise provided in
3 Section 40-10 of the Alcoholism and Other Drug Abuse
4 and Dependency Act.

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

8 (H) Criminal sexual assault, except as
9 otherwise provided in subsection (e) of this
10 Section.

11 (I) Aggravated battery of a senior citizen.

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

14 Before July 1, 1994, for the purposes of this
15 paragraph, "organized gang" means an association of
16 5 or more persons, with an established hierarchy,
17 that encourages members of the association to
18 perpetrate crimes or provides support to the members
19 of the association who do commit crimes.

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

24 (K) Vehicular hijacking.

25 (L) A second or subsequent conviction for the
26 offense of hate crime when the underlying offense
27 upon which the hate crime is based is felony
28 aggravated assault or felony mob action.

29 (M) A second or subsequent conviction for the
30 offense of institutional vandalism if the damage to
31 the property exceeds \$300.

32 (N) A Class 3 felony violation of paragraph
33 (1) of subsection (a) of Section 2 of the Firearm
34 Owners Identification Card Act.

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

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

6 (Q) A violation of Section 20-1.2 of the
7 Criminal Code of 1961.

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

10 (S) A violation of Section 11-501(c-1)(3) of
11 the Illinois Vehicle Code.

12 (3) A minimum term of imprisonment of not less than
13 5 days or 30 days of community service as may be
14 determined by the court shall be imposed for a second
15 violation committed within 5 years of a previous
16 violation of Section 11-501 of the Illinois Vehicle Code
17 or a similar provision of a local ordinance. In the case
18 of a third or subsequent violation committed within 5
19 years of a previous violation of Section 11-501 of the
20 Illinois Vehicle Code or a similar provision of a local
21 ordinance, a minimum term of either 10 days of
22 imprisonment or 60 days of community service shall be
23 imposed.

24 (4) A minimum term of imprisonment of not less than
25 10 consecutive days or 30 days of community service shall
26 be imposed for a violation of paragraph (c) of Section
27 6-303 of the Illinois Vehicle Code.

28 (4.1) A minimum term of 30 consecutive days of
29 imprisonment, 40 days of 24 hour periodic imprisonment or
30 720 hours of community service, as may be determined by
31 the court, shall be imposed for a violation of Section
32 11-501 of the Illinois Vehicle Code during a period in
33 which the defendant's driving privileges are revoked or
34 suspended, where the revocation or suspension was for a

1 violation of Section 11-501 or Section 11-501.1 of that
2 Code.

3 (4.2) Except as provided in paragraph (4.3) of this
4 subsection (c), a minimum of 100 hours of community
5 service shall be imposed for a second violation of
6 Section 6-303 of the Illinois Vehicle Code.

7 (4.3) A minimum term of imprisonment of 30 days or
8 300 hours of community service, as determined by the
9 court, shall be imposed for a second violation of
10 subsection (c) of Section 6-303 of the Illinois Vehicle
11 Code.

12 (4.4) Except as provided in paragraph (4.5) and
13 paragraph (4.6) of this subsection (c), a minimum term of
14 imprisonment of 30 days or 300 hours of community
15 service, as determined by the court, shall be imposed for
16 a third or subsequent violation of Section 6-303 of the
17 Illinois Vehicle Code.

18 (4.5) A minimum term of imprisonment of 30 days
19 shall be imposed for a third violation of subsection (c)
20 of Section 6-303 of the Illinois Vehicle Code.

21 (4.6) A minimum term of imprisonment of 180 days
22 shall be imposed for a fourth or subsequent violation of
23 subsection (c) of Section 6-303 of the Illinois Vehicle
24 Code.

25 (5) The court may sentence an offender convicted of
26 a business offense or a petty offense or a corporation or
27 unincorporated association convicted of any offense to:

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

32 (5.1) In addition to any penalties imposed under
33 paragraph (5) of this subsection (c), and except as
34 provided in paragraph (5.2) or (5.3), a person convicted

1 of violating subsection (a) or subsection (c) of Section
2 11-907 of the Illinois Vehicle Code shall have his or her
3 driver's license, permit, or privileges suspended for at
4 least 90 days but not more than one year, if the
5 violation resulted in damage to the property of another
6 person.

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

15 (5.3) In addition to any penalties imposed under
16 paragraph (5) of this subsection (c), a person convicted
17 of violating subsection (a) or subsection (c) of Section
18 11-907 of the Illinois Vehicle Code shall have his or her
19 driver's license, permit, or privileges suspended for 2
20 years, if the violation resulted in the death of another
21 person.

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

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

30 (8) When a defendant, over the age of 21 years, is
31 convicted of a Class 1 or Class 2 felony, after having
32 twice been convicted in any state or federal court of an
33 offense that contains the same elements as an offense now
34 classified in Illinois as a Class 2 or greater Class

1 felony and such charges are separately brought and tried
2 and arise out of different series of acts, such defendant
3 shall be sentenced as a Class X offender. This paragraph
4 shall not apply unless (1) the first felony was committed
5 after the effective date of this amendatory Act of 1977;
6 and (2) the second felony was committed after conviction
7 on the first; and (3) the third felony was committed
8 after conviction on the second. A person sentenced as a
9 Class X offender under this paragraph is not eligible to
10 apply for treatment as a condition of probation as
11 provided by Section 40-10 of the Alcoholism and Other
12 Drug Abuse and Dependency Act.

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

16 (10) When a person is convicted of violating
17 Section 11-501 of the Illinois Vehicle Code or a similar
18 provision of a local ordinance, the following penalties
19 apply when his or her blood, breath, or urine was .16 or
20 more based on the definition of blood, breath, or urine
21 units in Section 11-501.2 or that person is convicted of
22 violating Section 11-501 of the Illinois Vehicle Code
23 while transporting a child under the age of 16:

24 (A) For a first violation of subsection (a) of
25 Section 11-501, in addition to any other penalty
26 that may be imposed under subsection (c) of Section
27 11-501: a mandatory minimum of 100 hours of
28 community service and a minimum fine of \$500.

29 (B) For a second violation of subsection (a)
30 of Section 11-501, in addition to any other penalty
31 that may be imposed under subsection (c) of Section
32 11-501 within 10 years: a mandatory minimum of 2
33 days of imprisonment and a minimum fine of \$1,250.

34 (C) For a third violation of subsection (a) of

1 Section 11-501, in addition to any other penalty
2 that may be imposed under subsection (c) of Section
3 11-501 within 20 years: a mandatory minimum of 90
4 days of imprisonment and a minimum fine of \$2,500.

5 (D) For a fourth or subsequent violation of
6 subsection (a) of Section 11-501: ineligibility for
7 a sentence of probation or conditional discharge and
8 a minimum fine of \$2,500.

9 (d) In any case in which a sentence originally imposed
10 is vacated, the case shall be remanded to the trial court.
11 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 the time since the original sentence was passed. The trial
15 court shall then impose sentence upon the defendant. The
16 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 Unified Code of Corrections. If a sentence is vacated on
19 appeal or on collateral attack due to the failure of the
20 trier of fact at trial to determine beyond a reasonable doubt
21 the existence of a fact (other than a prior conviction)
22 necessary to increase the punishment for the offense beyond
23 the statutory maximum otherwise applicable, either the
24 defendant may be re-sentenced to a term within the range
25 otherwise provided or, if the State files notice of its
26 intention to again seek the extended sentence, the defendant
27 shall be afforded a new trial.

28 (e) In cases where prosecution for criminal sexual
29 assault or aggravated criminal sexual abuse under Section
30 12-13 or 12-16 of the Criminal Code of 1961 results in
31 conviction of a defendant who was a family member of the
32 victim at the time of the commission of the offense, the
33 court shall consider the safety and welfare of the victim and
34 may impose a sentence of probation only where:

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

3 (A) the defendant is willing to undergo a
4 court approved counseling program for a minimum
5 duration of 2 years; or

6 (B) the defendant is willing to participate in
7 a court approved plan including but not limited to
8 the defendant's:

9 (i) removal from the household;

10 (ii) restricted contact with the victim;

11 (iii) continued financial support of the
12 family;

13 (iv) restitution for harm done to the
14 victim; and

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

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

24 Probation may be revoked or modified pursuant to Section
25 5-6-4; except where the court determines at the hearing that
26 the defendant violated a condition of his or her probation
27 restricting contact with the victim or other family members
28 or commits another offense with the victim or other family
29 members, the court shall revoke the defendant's probation and
30 impose a term of imprisonment.

31 For the purposes of this Section, "family member" and
32 "victim" shall have the meanings ascribed to them in Section
33 12-12 of the Criminal Code of 1961.

34 (f) This Article shall not deprive a court in other

1 proceedings to order a forfeiture of property, to suspend or
2 cancel a license, to remove a person from office, or to
3 impose any other civil penalty.

4 (g) Whenever a defendant is convicted of an offense
5 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,
6 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,
7 12-15 or 12-16 of the Criminal Code of 1961, the defendant
8 shall undergo medical testing to determine whether the
9 defendant has any sexually transmissible disease, including a
10 test for infection with human immunodeficiency virus (HIV) or
11 any other identified causative agent of acquired
12 immunodeficiency syndrome (AIDS). Any such medical test
13 shall be performed only by appropriately licensed medical
14 practitioners and may include an analysis of any bodily
15 fluids as well as an examination of the defendant's person.
16 Except as otherwise provided by law, the results of such test
17 shall be kept strictly confidential by all medical personnel
18 involved in the testing and must be personally delivered in a
19 sealed envelope to the judge of the court in which the
20 conviction was entered for the judge's inspection in camera.
21 Acting in accordance with the best interests of the victim
22 and the public, the judge shall have the discretion to
23 determine to whom, if anyone, the results of the testing may
24 be revealed. The court shall notify the defendant of the test
25 results. The court shall also notify the victim if requested
26 by the victim, and if the victim is under the age of 15 and
27 if requested by the victim's parents or legal guardian, the
28 court shall notify the victim's parents or legal guardian of
29 the test results. The court shall provide information on the
30 availability of HIV testing and counseling at Department of
31 Public Health facilities to all parties to whom the results
32 of the testing are revealed and shall direct the State's
33 Attorney to provide the information to the victim when
34 possible. A State's Attorney may petition the court to obtain

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

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

20 (h) Whenever a defendant is convicted of an offense
21 under Section 1 or 2 of the Hypodermic Syringes and Needles
22 Act, the defendant shall undergo medical testing to determine
23 whether the defendant has been exposed to human
24 immunodeficiency virus (HIV) or any other identified
25 causative agent of acquired immunodeficiency syndrome (AIDS).
26 Except as otherwise provided by law, the results of such test
27 shall be kept strictly confidential by all medical personnel
28 involved in the testing and must be personally delivered in a
29 sealed envelope to the judge of the court in which the
30 conviction was entered for the judge's inspection in camera.
31 Acting in accordance with the best interests of the public,
32 the judge shall have the discretion to determine to whom, if
33 anyone, the results of the testing may be revealed. The court
34 shall notify the defendant of a positive test showing an

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

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

22 (j) In cases when prosecution for any violation of
23 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,
24 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,
25 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or
26 12-16 of the Criminal Code of 1961, any violation of the
27 Illinois Controlled Substances Act, or any violation of the
28 Cannabis Control Act results in conviction, a disposition of
29 court supervision, or an order of probation granted under
30 Section 10 of the Cannabis Control Act or Section 410 of the
31 Illinois Controlled Substance Act of a defendant, the court
32 shall determine whether the defendant is employed by a
33 facility or center as defined under the Child Care Act of
34 1969, a public or private elementary or secondary school, or

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

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

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

11 (k) A court may not impose a sentence or disposition for
12 a felony or misdemeanor that requires the defendant to be
13 implanted or injected with or to use any form of birth
14 control.

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

24 (1) a final order of deportation has been
25 issued against the defendant pursuant to proceedings
26 under the Immigration and Nationality Act, and

27 (2) the deportation of the defendant would not
28 deprecate the seriousness of the defendant's conduct
29 and would not be inconsistent with the ends of
30 justice.

31 Otherwise, the defendant shall be sentenced as
32 provided in this Chapter V.

33 (B) If the defendant has already been sentenced for
34 a felony or misdemeanor offense, or has been placed on

1 probation under Section 10 of the Cannabis Control Act or
2 Section 410 of the Illinois Controlled Substances Act,
3 the court may, upon motion of the State's Attorney to
4 suspend the sentence imposed, commit the defendant to the
5 custody of the Attorney General of the United States or
6 his or her designated agent when:

7 (1) a final order of deportation has been
8 issued against the defendant pursuant to proceedings
9 under the Immigration and Nationality Act, and

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

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

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

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

33 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;
34 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.

1 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,
2 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;
3 92-422, eff. 8-17-01; revised 8-28-01.)