

AN ACT concerning criminal law.

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

Section 5. The Unified Code of Corrections is amended by adding Article 4.5 to Chapter V as follows:

(730 ILCS 5/Ch. V. Art. 4.5 heading new)

ARTICLE 4.5. GENERAL SENTENCING PROVISIONS

(730 ILCS 5/5-4.5-5 new)

Sec. 5-4.5-5. STANDARD SENTENCING. Except as specifically provided elsewhere, this Article governs sentencing for offenses.

(730 ILCS 5/5-4.5-10 new)

Sec. 5-4.5-10. OFFENSE CLASSIFICATIONS.

(a) FELONY CLASSIFICATIONS. Felonies are classified, for the purpose of sentencing, as follows:

(1) First degree murder (as a separate class of felony).

(2) Class X felonies.

(3) Class 1 felonies.

(4) Class 2 felonies.

(5) Class 3 felonies.

(6) Class 4 felonies.

(b) MISDEMEANOR CLASSIFICATIONS. Misdemeanors are classified, for the purpose of sentencing, as follows:

(1) Class A misdemeanors.

(2) Class B misdemeanors.

(3) Class C misdemeanors.

(c) PETTY AND BUSINESS OFFENSES. Petty offenses and business offenses are not classified.

(730 ILCS 5/5-4.5-15 new)

Sec. 5-4.5-15. DISPOSITIONS.

(a) APPROPRIATE DISPOSITIONS. The following are appropriate dispositions, alone or in combination, for all felonies and misdemeanors other than as provided in Section 5-5-3 (730 ILCS 5/5-5-3) or as specifically provided in the statute defining the offense or elsewhere:

(1) A period of probation.

(2) A term of periodic imprisonment.

(3) A term of conditional discharge.

(4) A term of imprisonment.

(5) A fine.

(6) Restitution to the victim.

(7) Participation in an impact incarceration program.

(8) A term of imprisonment in combination with a term of probation when the offender has been admitted into a drug court program.

(b) FINE; RESTITUTION; NOT SOLE DISPOSITION. 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.

(c) PAROLE; MANDATORY SUPERVISED RELEASE. Except when a term of natural life is imposed, every sentence includes a term in addition to the term of imprisonment. For those sentenced under the law in effect before February 1, 1978, that term is a parole term. For those sentenced on or after February 1, 1978, that term is a mandatory supervised release term.

(730 ILCS 5/5-4.5-20 new)

Sec. 5-4.5-20. FIRST DEGREE MURDER; SENTENCE. For first degree murder:

(a) TERM. The defendant shall be sentenced to imprisonment or, if appropriate, death under Section 9-1 of the Criminal Code of 1961 (720 ILCS 5/9-1). Imprisonment shall be for a determinate term of (1) not less than 20 years and not more than 60 years; (2) not less than 60 years and not more than 100 years when an extended term is imposed under Section 5-8-2 (730 ILCS 5/5-8-2); or (3) natural life as provided in Section 5-8-1 (730 ILCS 5/5-8-1).

(b) PERIODIC IMPRISONMENT. A term of periodic imprisonment shall not be imposed.

(c) IMPACT INCARCERATION. The impact incarceration program or the county impact incarceration program is not an authorized

disposition.

(d) PROBATION; CONDITIONAL DISCHARGE. A period of probation or conditional discharge shall not be imposed.

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50 (b) (730 ILCS 5/5-4.5-50 (b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. Drug court is not an authorized disposition.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning no credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 (730 ILCS 5/3-6-3) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. Electronic home detention is not an authorized disposition, except in limited circumstances as provided in Section 5-8A-3 (730 ILCS 5/5-8A-3).

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 (730 ILCS 5/3-3-8), the parole or mandatory supervised release term shall be 3 years upon release from imprisonment.

(730 ILCS 5/5-4.5-25 new)

Sec. 5-4.5-25. CLASS X FELONIES; SENTENCE. For a Class X felony:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not less than 6 years and not more than 30 years. The sentence of imprisonment for an extended term Class X felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be not less than 30 years and not more than 60 years.

(b) PERIODIC IMPRISONMENT. A term of periodic imprisonment shall not be imposed.

(c) IMPACT INCARCERATION. The impact incarceration program or the county impact incarceration program is not an authorized disposition.

(d) PROBATION; CONDITIONAL DISCHARGE. A period of probation or conditional discharge shall not be imposed.

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50 (b) (730 ILCS 5/5-4.5-50 (b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court

program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning no credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 (730 ILCS 5/3-6-3) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be 3 years upon release from imprisonment.

(730 ILCS 5/5-4.5-30 new)

Sec. 5-4.5-30. CLASS 1 FELONIES; SENTENCE. For a Class 1 felony:

(a) TERM. The sentence of imprisonment, other than for second degree murder, shall be a determinate sentence of not less than 4 years and not more than 15 years. The sentence of imprisonment for second degree murder shall be a determinate sentence of not less than 4 years and not more than 20 years. The sentence of imprisonment for an extended term Class 1 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be a term not less than 15 years and not more than 30 years.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of from 3 to 4 years, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for the impact incarceration program or the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 4 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3). In no case shall an offender be eligible for a disposition of probation or conditional discharge for a Class 1 felony committed while he or she was serving a term of probation or conditional discharge for a felony.

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court

program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be 2 years upon release from imprisonment.

(730 ILCS 5/5-4.5-35 new)

Sec. 5-4.5-35. CLASS 2 FELONIES; SENTENCE. For a Class 2 felony:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not less than 3 years and not more than 7 years. The sentence of imprisonment for an extended term Class 2 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be a term not less than 7 years and not more than 14 years.

(b) PERIODIC IMPRISONMENT. A sentence of periodic

imprisonment shall be for a definite term of from 18 to 30 months, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for the impact incarceration program or the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 4 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50 (b) (730 ILCS 5/5-4.5-50 (b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be 2 years upon release from imprisonment.

(730 ILCS 5/5-4.5-40 new)

Sec. 5-4.5-40. CLASS 3 FELONIES; SENTENCE. For a Class 3 felony:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not less than 2 years and not more than 5 years. The sentence of imprisonment for an extended term Class 3 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be a term not less than 5 years and not more than 10 years.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of up to 18 months, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2

(730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for the impact incarceration program or the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 30 months. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50 (b) (730 ILCS 5/5-4.5-50 (b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be one year upon release from imprisonment.

(730 ILCS 5/5-4.5-45 new)

Sec. 5-4.5-45. CLASS 4 FELONIES; SENTENCE. For a Class 4 felony:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not less than one year and not more than 3 years. The sentence of imprisonment for an extended term Class 4 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be a term not less than 3 years and not more than 6 years.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of up to 18 months, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for the impact incarceration program or the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided

in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 30 months. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as

provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be one year upon release from imprisonment.

(730 ILCS 5/5-4.5-50 new)

Sec. 5-4.5-50. SENTENCE PROVISIONS; ALL FELONIES. Except as otherwise provided, for all felonies:

(a) NO SUPERVISION. The court, upon a plea of guilty or a stipulation by the defendant of the facts supporting the charge or a finding of guilt, may not defer further proceedings and the imposition of a sentence and may not enter an order for supervision of the defendant.

(b) FELONY FINES. An offender may be sentenced to pay a fine not to exceed, for each offense, \$25,000 or the amount specified in the offense, whichever is greater, or if the offender is a corporation, \$50,000 or the amount specified in the offense, whichever is greater. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) for imposition of additional amounts and determination of amounts and payment.

(c) REASONS FOR SENTENCE STATED. The sentencing judge in each felony conviction shall set forth his or her reasons for imposing the particular sentence entered in the case, as provided in Section 5-4-1 (730 ILCS 5/5-4-1). Those reasons may include any mitigating or aggravating factors specified in this

Code, or the lack of any such factors, as well as any other mitigating or aggravating factors that the judge sets forth on the record that are consistent with the purposes and principles of sentencing set out in this Code.

(d) MOTION TO REDUCE SENTENCE. A motion to reduce a sentence may be made, or the court may reduce a sentence without motion, within 30 days after the sentence is imposed. A defendant's challenge to the correctness of a sentence or to any aspect of the sentencing hearing shall be made by a written motion filed with the circuit court clerk within 30 days following the imposition of sentence. A motion not filed within that 30-day period is not timely. The court may not increase a sentence once it is imposed. A notice of motion must be filed with the motion. The notice of motion shall set the motion on the court's calendar on a date certain within a reasonable time after the date of filing.

If a motion filed pursuant to this subsection is timely filed, the proponent of the motion shall exercise due diligence in seeking a determination on the motion and the court shall thereafter decide the motion within a reasonable time.

If a motion filed pursuant to this subsection is timely filed, then for purposes of perfecting an appeal, a final judgment is not considered to have been entered until the motion to reduce the sentence has been decided by order entered by the trial court.

(e) CONCURRENT SENTENCE; PREVIOUS UNEXPIRED FEDERAL OR

OTHER-STATE SENTENCE. A defendant who has a previous and unexpired sentence of imprisonment imposed by another state or by any district court of the United States and who, after sentence for a crime in Illinois, must return to serve the unexpired prior sentence may have his or her sentence by the Illinois court ordered to be concurrent with the prior other-state or federal sentence. The court may order that any time served on the unexpired portion of the other-state or federal sentence, prior to his or her return to Illinois, shall be credited on his or her Illinois sentence. The appropriate official of the other state or the United States shall be furnished with a copy of the order imposing sentence, which shall provide that, when the offender is released from other-state or federal confinement, whether by parole or by termination of sentence, the offender shall be transferred by the Sheriff of the committing Illinois county to the Illinois Department of Corrections. The court shall cause the Department of Corrections to be notified of the sentence at the time of commitment and to be provided with copies of all records regarding the sentence.

(f) REDUCTION; PREVIOUS UNEXPIRED ILLINOIS SENTENCE. A defendant who has a previous and unexpired sentence of imprisonment imposed by an Illinois circuit court for a crime in this State and who is subsequently sentenced to a term of imprisonment by another state or by any district court of the United States and who has served a term of imprisonment imposed

by the other state or district court of the United States, and must return to serve the unexpired prior sentence imposed by the Illinois circuit court, may apply to the Illinois circuit court that imposed sentence to have his or her sentence reduced.

The circuit court may order that any time served on the sentence imposed by the other state or district court of the United States be credited on his or her Illinois sentence. The application for reduction of a sentence under this subsection shall be made within 30 days after the defendant has completed the sentence imposed by the other state or district court of the United States.

(g) NO REQUIRED BIRTH CONTROL. A court may not impose a sentence or disposition that requires the defendant to be implanted or injected with or to use any form of birth control.

(730 ILCS 5/5-4.5-55 new)

Sec. 5-4.5-55. CLASS A MISDEMEANORS; SENTENCE. For a Class A misdemeanor:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of less than one year.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of less than one year, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) IMPACT INCARCERATION. See Section 5-8-1.2 (730 ILCS

5/5-8-1.2) concerning eligibility for the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 2 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. A fine not to exceed \$2,500 for each offense or the amount specified in the offense, whichever is greater, may be imposed. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) for imposition of additional amounts and determination of amounts and payment.

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(730 ILCS 5/5-4.5-60 new)

Sec. 5-4.5-60. CLASS B MISDEMEANORS; SENTENCE. For a Class B misdemeanor:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not more than 6 months.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of up to 6 months or as otherwise provided in Section 5-7-1 (730 ILCS 5/5-7-1).

(c) IMPACT INCARCERATION. See Section 5-8-1.2 (730 ILCS 5/5-8-1.2) concerning eligibility for the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-6-2 (730 ILCS 5/5-6-2), the period of probation or conditional discharge shall not exceed 2 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. A fine not to exceed \$1,500 for each offense or the amount specified in the offense, whichever is greater, may be imposed. A fine may be imposed in addition to a sentence of

conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) for imposition of additional amounts and determination of amounts and payment.

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(730 ILCS 5/5-4.5-65 new)

Sec. 5-4.5-65. CLASS C MISDEMEANORS; SENTENCE. For a Class C misdemeanor:

(a) TERM. The sentence of imprisonment shall be a

determinate sentence of not more than 30 days.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of up to 30 days or as otherwise provided in Section 5-7-1 (730 ILCS 5/5-7-1).

(c) IMPACT INCARCERATION. See Section 5-8-1.2 (730 ILCS 5/5-8-1.2) concerning eligibility for the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-6-2 (730 ILCS 5/5-6-2), the period of probation or conditional discharge shall not exceed 2 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. A fine not to exceed \$1,500 for each offense or the amount specified in the offense, whichever is greater, may be imposed. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) for imposition of additional amounts and determination of amounts and payment.

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court

program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(730 ILCS 5/5-4.5-70 new)

Sec. 5-4.5-70. SENTENCE PROVISIONS; ALL MISDEMEANORS. Except as otherwise provided, for all misdemeanors:

(a) SUPERVISION; ORDER. The court, upon a plea of guilty or a stipulation by the defendant of the facts supporting the charge or a finding of guilt, may defer further proceedings and the imposition of a sentence and may enter an order for supervision of the defendant. If the defendant is not barred from receiving an order for supervision under Section 5-6-1 (730 ILCS 5/5-6-1) or otherwise, the court may enter an order for supervision after considering the circumstances of the offense, and the history, character, and condition of the offender, if the court is of the opinion that:

(1) the defendant is not likely to commit further crimes;

(2) the defendant and the public would be best served if the defendant were not to receive a criminal record; and

(3) in the best interests of justice, an order of supervision is more appropriate than a sentence otherwise permitted under this Code.

(b) SUPERVISION; PERIOD. When a defendant is placed on supervision, the court shall enter an order for supervision specifying the period of supervision, and shall defer further proceedings in the case until the conclusion of the period. The period of supervision shall be reasonable under all of the circumstances of the case, and except as otherwise provided, may not be longer than 2 years, unless the defendant has failed to pay the assessment required by Section 10.3 of the Cannabis Control Act (720 ILCS 550/10.3), Section 411.2 of the Illinois Controlled Substances Act (720 ILCS 570/411.2), or Section 80 of the Methamphetamine Control and Community Protection Act (720 ILCS 646/80), in which case the court may extend supervision beyond 2 years. The court shall specify the conditions of supervision as set forth in Section 5-6-3.1 (730 ILCS 5/5-6-3.1).

(c) NO REQUIRED BIRTH CONTROL. A court may not impose a sentence or disposition that requires the defendant to be implanted or injected with or to use any form of birth control.

(730 ILCS 5/5-4.5-75 new)

Sec. 5-4.5-75. PETTY OFFENSES; SENTENCE. Except as

otherwise provided, for a petty offense:

(a) FINE. A defendant may be sentenced to pay a fine not to exceed \$1,000 for each offense or the amount specified in the offense, whichever is less. A fine may be imposed in addition to a sentence of conditional discharge or probation. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) for imposition of additional amounts and determination of amounts and payment.

(b) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-6-2 (730 ILCS 5/5-6-2), a defendant may be sentenced to a period of probation or conditional discharge not to exceed 6 months. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(c) RESTITUTION. A defendant may be sentenced to make restitution to the victim under Section 5-5-6 (730 ILCS 5/5-5-6).

(d) SUPERVISION; ORDER. The court, upon a plea of guilty or a stipulation by the defendant of the facts supporting the charge or a finding of guilt, may defer further proceedings and the imposition of a sentence and may enter an order for supervision of the defendant. If the defendant is not barred from receiving an order for supervision under Section 5-6-1 (730 ILCS 5/5-6-1) or otherwise, the court may enter an order for supervision after considering the circumstances of the offense, and the history, character, and condition of the

offender, if the court is of the opinion that:

(1) the defendant is not likely to commit further crimes;

(2) the defendant and the public would be best served if the defendant were not to receive a criminal record; and

(3) in the best interests of justice, an order of supervision is more appropriate than a sentence otherwise permitted under this Code.

(e) SUPERVISION; PERIOD. When a defendant is placed on supervision, the court shall enter an order for supervision specifying the period of supervision, and shall defer further proceedings in the case until the conclusion of the period. The period of supervision shall be reasonable under all of the circumstances of the case, and except as otherwise provided, may not be longer than 2 years. The court shall specify the conditions of supervision as set forth in Section 5-6-3.1 (730 ILCS 5/5-6-3.1).

(730 ILCS 5/5-4.5-80 new)

Sec. 5-4.5-80. BUSINESS OFFENSES; SENTENCE. Except as otherwise provided, for a business offense:

(a) FINE. A defendant may be sentenced to pay a fine not to exceed for each offense the amount specified in the statute defining that offense. A fine may be imposed in addition to a sentence of conditional discharge. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) for imposition of additional amounts

and determination of amounts and payment.

(b) CONDITIONAL DISCHARGE. A defendant may be sentenced to a period of conditional discharge. The court shall specify the conditions of conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(c) RESTITUTION. A defendant may be sentenced to make restitution to the victim under Section 5-5-6 (730 ILCS 5/5-5-6).

(d) SUPERVISION; ORDER. The court, upon a plea of guilty or a stipulation by the defendant of the facts supporting the charge or a finding of guilt, may defer further proceedings and the imposition of a sentence and may enter an order for supervision of the defendant. If the defendant is not barred from receiving an order for supervision under Section 5-6-1 (730 ILCS 5/5-6-1) or otherwise, the court may enter an order for supervision after considering the circumstances of the offense, and the history, character, and condition of the offender, if the court is of the opinion that:

(1) the defendant is not likely to commit further crimes;

(2) the defendant and the public would be best served if the defendant were not to receive a criminal record; and

(3) in the best interests of justice, an order of supervision is more appropriate than a sentence otherwise permitted under this Code.

(e) SUPERVISION; PERIOD. When a defendant is placed on

supervision, the court shall enter an order for supervision specifying the period of supervision, and shall defer further proceedings in the case until the conclusion of the period. The period of supervision shall be reasonable under all of the circumstances of the case, and except as otherwise provided, may not be longer than 2 years. The court shall specify the conditions of supervision as set forth in Section 5-6-3.1 (730 ILCS 5/5-6-3.1).

(730 ILCS 5/5-4.5-85 new)

Sec. 5-4.5-85. UNCLASSIFIED OFFENSES; SENTENCE.

(a) FELONY. The particular classification of each felony is specified in the law defining the felony. Any unclassified offense that is declared by law to be a felony or that provides a sentence to a term of imprisonment for one year or more is a Class 4 felony.

(b) MISDEMEANOR. The particular classification of each misdemeanor is specified in the law or ordinance defining the misdemeanor.

(1) Any offense not so classified that provides a sentence to a term of imprisonment of less than one year but in excess of 6 months is a Class A misdemeanor.

(2) Any offense not so classified that provides a sentence to a term of imprisonment of 6 months or less but in excess of 30 days is a Class B misdemeanor.

(3) Any offense not so classified that provides a

sentence to a term of imprisonment of 30 days or less is a Class C misdemeanor.

(c) PETTY OR BUSINESS OFFENSE. Any unclassified offense that does not provide for a sentence of imprisonment is a petty offense or a business offense.

(730 ILCS 5/5-4.5-90 new)

Sec. 5-4.5-90. OTHER REMEDIES NOT LIMITED. This Article does not deprive a court in other proceedings of the power to order a forfeiture of property, to suspend or cancel a license, to remove a person from office, or to impose any other civil penalty.

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

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

(a) HABITUAL CRIMINALS.

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

(2) The 2 prior convictions need not have been for the

same offense.

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

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

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

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

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

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

(5) Except when the death penalty is imposed, anyone adjudged an habitual criminal shall be sentenced to a term of natural life imprisonment.

(6) A prior conviction shall not be alleged in the indictment, and no evidence or other disclosure of that conviction shall be presented to the court or the jury during the trial of an offense set forth in this Section unless otherwise permitted by the issues properly raised in that trial. After a plea or verdict or finding of guilty

and before sentence is imposed, the prosecutor may file with the court a verified written statement signed by the State's Attorney concerning any former conviction of an offense set forth in this Section rendered against the defendant. The court shall then cause the defendant to be brought before it; shall inform the defendant of the allegations of the statement so filed, and of his or her right to a hearing before the court on the issue of that former conviction and of his or her right to counsel at that hearing; and unless the defendant admits such conviction, shall hear and determine the issue, and shall make a written finding thereon. If a sentence has previously been imposed, the court may vacate that sentence and impose a new sentence in accordance with this Section.

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

(8) Any claim that a previous conviction offered by the prosecution is not a former conviction of an offense set forth in this Section because of the existence of any exceptions described in this Section, is waived unless duly

raised at the hearing on that conviction, or unless the prosecution's proof shows the existence of the exceptions described in this Section.

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

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

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

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

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

A person sentenced as a Class X offender under this subsection (b) is not eligible to apply for treatment as a

condition of probation as provided by Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS 301/40-10).

(730 ILCS 5/5-4.5-100 new)

Sec. 5-4.5-100. CALCULATION OF TERM OF IMPRISONMENT.

(a) COMMENCEMENT. A sentence of imprisonment shall commence on the date on which the offender is received by the Department or the institution at which the sentence is to be served.

(b) CREDIT; TIME IN CUSTODY; SAME CHARGE. The offender shall be given credit on the determinate sentence or maximum term and the minimum period of imprisonment for time spent in custody as a result of the offense for which the sentence was imposed, at the rate specified in Section 3-6-3 (730 ILCS 5/3-6-3). Except when prohibited by subsection (d), the trial court may give credit to the defendant for time spent in home detention, or when the defendant has been confined for psychiatric or substance abuse treatment prior to judgment, if the court finds that the detention or confinement was custodial.

(c) CREDIT; TIME IN CUSTODY; FORMER CHARGE. An offender arrested on one charge and prosecuted on another charge for conduct that occurred prior to his or her arrest shall be given credit on the determinate sentence or maximum term and the minimum term of imprisonment for time spent in custody under

the former charge not credited against another sentence.

(d) NO CREDIT; SOME HOME DETENTION. An offender sentenced to a term of imprisonment for an offense listed in paragraph (2) of subsection (c) of Section 5-5-3 (730 ILCS 5/5-5-3) or in paragraph (3) of subsection (c-1) of Section 11-501 of the Illinois Vehicle Code (625 ILCS 5/11-501) shall not receive credit for time spent in home detention prior to judgment.

(730 ILCS 5/5-4.5-990 new)

Sec. 5-4.5-990. PRIOR LAW; OTHER ACTS; PRIOR SENTENCING.

(a) This Article 4.5 and the other provisions of this amendatory Act of the 95th General Assembly consolidate and unify certain criminal sentencing provisions and make conforming changes in the law.

(b) A provision of this Article 4.5 or any other provision of this amendatory Act of the 95th General Assembly that is the same or substantially the same as a prior law shall be construed as a continuation of the prior law and not as a new or different law.

(c) A citation in this Code or in another Act to a provision consolidated or unified in this Article 4.5 or to any other provision consolidated or unified in this amendatory Act of the 95th General Assembly shall be construed to be a citation to that consolidated or unified provision.

(d) If any other Act of the General Assembly changes, adds, or repeals a provision of prior law that is consolidated or

unified in this Article 4.5 or in any other provision of this amendatory Act of the 95th General Assembly, then that change, addition, or repeal shall be construed together with this Article 4.5 and the other provisions of this amendatory Act of the 95th General Assembly.

(e) Sentencing for any violation of the law occurring before the effective date of this amendatory Act of the 95th General Assembly is not affected or abated by this amendatory Act of the 95th General Assembly.

Section 80. The Criminal Code of 1961 is amended by changing Sections 10-5 and 33A-3 as follows:

(720 ILCS 5/10-5) (from Ch. 38, par. 10-5)

Sec. 10-5. Child Abduction.

(a) For purposes of this Section, the following terms shall have the following meanings:

(1) "Child" means a person under the age of 18 or a severely or profoundly mentally retarded person at the time the alleged violation occurred; and

(2) "Detains" means taking or retaining physical custody of a child, whether or not the child resists or objects; and

(3) "Lawful custodian" means a person or persons granted legal custody of a child or entitled to physical possession of a child pursuant to a court order. It is

presumed that, when the parties have never been married to each other, the mother has legal custody of the child unless a valid court order states otherwise. If an adjudication of paternity has been completed and the father has been assigned support obligations or visitation rights, such a paternity order should, for the purposes of this Section be considered a valid court order granting custody to the mother.

(b) A person commits child abduction when he or she:

(1) Intentionally violates any terms of a valid court order granting sole or joint custody, care or possession to another, by concealing or detaining the child or removing the child from the jurisdiction of the court; or

(2) Intentionally violates a court order prohibiting the person from concealing or detaining the child or removing the child from the jurisdiction of the court; or

(3) Intentionally conceals, detains or removes the child without the consent of the mother or lawful custodian of the child if the person is a putative father and either:

(A) the paternity of the child has not been legally established or (B) the paternity of the child has been legally established but no orders relating to custody have been entered. However, notwithstanding the presumption created by paragraph (3) of subsection (a), a mother commits child abduction when she intentionally conceals or removes a child, whom she has abandoned or relinquished

custody of, from an unadjudicated father who has provided sole ongoing care and custody of the child in her absence;
or

(4) Intentionally conceals or removes the child from a parent after filing a petition or being served with process in an action affecting marriage or paternity but prior to the issuance of a temporary or final order determining custody; or

(5) At the expiration of visitation rights outside the State, intentionally fails or refuses to return or impedes the return of the child to the lawful custodian in Illinois; or

(6) Being a parent of the child, and where the parents of such child are or have been married and there has been no court order of custody, conceals the child for 15 days, and fails to make reasonable attempts within the 15 day period to notify the other parent as to the specific whereabouts of the child, including a means by which to contact such child, or to arrange reasonable visitation or contact with the child. It is not a violation of this Section for a person fleeing domestic violence to take the child with him or her to housing provided by a domestic violence program; or

(7) Being a parent of the child, and where the parents of the child are or have been married and there has been no court order of custody, conceals, detains, or removes the

child with physical force or threat of physical force; or

(8) Conceals, detains, or removes the child for payment or promise of payment at the instruction of a person who has no legal right to custody; or

(9) Retains in this State for 30 days a child removed from another state without the consent of the lawful custodian or in violation of a valid court order of custody; or

(10) Intentionally lures or attempts to lure a child under the age of 16 into a motor vehicle, building, housetrailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose.

For the purposes of this subsection (b), paragraph (10), the luring or attempted luring of a child under the age of 16 into a motor vehicle, building, housetrailer, or dwelling place without the consent of the parent or lawful custodian of the child shall be prima facie evidence of other than a lawful purpose.

(c) It shall be an affirmative defense that:

(1) The person had custody of the child pursuant to a court order granting legal custody or visitation rights which existed at the time of the alleged violation; or

(2) The person had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a

result of circumstances beyond his or her control, and the person notified and disclosed to the other parent or legal custodian the specific whereabouts of the child and a means by which such child can be contacted or made a reasonable attempt to notify the other parent or lawful custodian of the child of such circumstances and make such disclosure within 24 hours after the visitation period had expired and returned the child as soon as possible; or

(3) The person was fleeing an incidence or pattern of domestic violence; or

(4) The person lured or attempted to lure a child under the age of 16 into a motor vehicle, building, housetrailer, or dwelling place for a lawful purpose in prosecutions under subsection (b), paragraph (10).

(d) A person convicted of child abduction under this Section is guilty of a Class 4 felony. A person convicted of a second or subsequent violation of paragraph (10) of subsection (b) of this Section is guilty of a Class 3 felony. It shall be a factor in aggravation for which a court may impose a more severe sentence under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V of the Unified Code of Corrections, if upon sentencing the court finds evidence of any of the following aggravating factors:

(1) that the defendant abused or neglected the child following the concealment, detention or removal of the child; or

(2) that the defendant inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child with intent to cause such parent or lawful custodian to discontinue criminal prosecution of the defendant under this Section; or

(3) that the defendant demanded payment in exchange for return of the child or demanded that he or she be relieved of the financial or legal obligation to support the child in exchange for return of the child; or

(4) that the defendant has previously been convicted of child abduction; or

(5) that the defendant committed the abduction while armed with a deadly weapon or the taking of the child resulted in serious bodily injury to another; or

(6) that the defendant committed the abduction while in a school, regardless of the time of day or time of year; in a playground; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school or playground. For purposes of this paragraph (6), "playground" means a piece of land owned or controlled by a unit of local government that is designated by the unit of local government for use solely or primarily for children's recreation; and "school" means a public or private elementary or secondary

school, community college, college, or university.

(e) The court may order the child to be returned to the parent or lawful custodian from whom the child was concealed, detained or removed. In addition to any sentence imposed, the court may assess any reasonable expense incurred in searching for or returning the child against any person convicted of violating this Section.

(f) Nothing contained in this Section shall be construed to limit the court's contempt power.

(g) Every law enforcement officer investigating an alleged incident of child abduction shall make a written police report of any bona fide allegation and the disposition of such investigation. Every police report completed pursuant to this Section shall be compiled and recorded within the meaning of Section 5.1 of "An Act in relation to criminal identification and investigation", approved July 2, 1931, as now or hereafter amended.

(h) Whenever a law enforcement officer has reasons to believe a child abduction has occurred, he shall provide the lawful custodian a summary of her or his rights under this Act, including the procedures and relief available to her or him.

(i) If during the course of an investigation under this Section the child is found in the physical custody of the defendant or another, the law enforcement officer shall return the child to the parent or lawful custodian from whom the child was concealed, detained or removed, unless there is good cause

for the law enforcement officer or the Department of Children and Family Services to retain temporary protective custody of the child pursuant to the Abused and Neglected Child Reporting Act, as now or hereafter amended.

(Source: P.A. 92-434, eff. 1-1-02.)

(720 ILCS 5/33A-3) (from Ch. 38, par. 33A-3)

Sec. 33A-3. Sentence.

(a) Violation of Section 33A-2(a) with a Category I weapon is a Class X felony for which the defendant shall be sentenced to a minimum term of imprisonment of 15 years.

(a-5) Violation of Section 33A-2(a) with a Category II weapon is a Class X felony for which the defendant shall be sentenced to a minimum term of imprisonment of 10 years.

(b) Violation of Section 33A-2(a) with a Category III weapon is a Class 2 felony or the felony classification provided for the same act while unarmed, whichever permits the greater penalty. A second or subsequent violation of Section 33A-2(a) with a Category III weapon is a Class 1 felony or the felony classification provided for the same act while unarmed, whichever permits the greater penalty.

(b-5) Violation of Section 33A-2(b) with a firearm that is a Category I or Category II weapon is a Class X felony for which the defendant shall be sentenced to a minimum term of imprisonment of 20 years.

(b-10) Violation of Section 33A-2(c) with a firearm that is

a Category I or Category II weapon is a Class X felony for which the defendant shall be sentenced to a term of imprisonment of not less than 25 years nor more than 40 years.

(c) Unless sentencing under subsection (a) of Section 5-4.5-95 of the Unified Code of Corrections (730 ILCS 5/5-4.5-95) ~~Section 33B-1~~ is applicable, any person who violates subsection (a) or (b) of Section 33A-2 with a firearm, when that person has been convicted in any state or federal court of 3 or more of the following offenses: treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, arson, kidnaping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement, a violation of the Methamphetamine Control and Community Protection Act, or a violation of Section 401(a) of the Illinois Controlled Substances Act, when the third offense was committed after conviction on the second, the second offense was committed after conviction on the first, and the violation of Section 33A-2 was committed after conviction on the third, shall be sentenced to a term of imprisonment of not less than 25 years nor more than 50 years.

(c-5) Except as otherwise provided in paragraph (b-10) or (c) of this Section, a person who violates Section 33A-2(a) with a firearm that is a Category I weapon or Section 33A-2(b) in any school, in any conveyance owned, leased, or contracted

by a school to transport students to or from school or a school related activity, or on the real property comprising any school or public park, and where the offense was related to the activities of an organized gang, shall be sentenced to a term of imprisonment of not less than the term set forth in subsection (a) or (b-5) of this Section, whichever is applicable, and not more than 30 years. For the purposes of this subsection (c-5), "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(d) For armed violence based upon a predicate offense listed in this subsection (d) the court shall enter the sentence for armed violence to run consecutively to the sentence imposed for the predicate offense. The offenses covered by this provision are:

- (i) solicitation of murder,
- (ii) solicitation of murder for hire,
- (iii) heinous battery,
- (iv) aggravated battery of a senior citizen,
- (v) (blank),
- (vi) a violation of subsection (g) of Section 5 of the Cannabis Control Act,
- (vii) cannabis trafficking,
- (viii) a violation of subsection (a) of Section 401 of the Illinois Controlled Substances Act,
- (ix) controlled substance trafficking involving a

Class X felony amount of controlled substance under Section 401 of the Illinois Controlled Substances Act,

(x) calculated criminal drug conspiracy,

(xi) streetgang criminal drug conspiracy, or

(xii) a violation of the Methamphetamine Control and Community Protection Act.

(Source: P.A. 94-556, eff. 9-11-05; 95-688, eff. 10-23-07.)

Section 85. The Code of Criminal Procedure of 1963 is amended by changing Sections 104-25 and 111-3 as follows:

(725 ILCS 5/104-25) (from Ch. 38, par. 104-25)

Sec. 104-25. Discharge hearing.

(a) As provided for in paragraph (a) of Section 104-23 and subparagraph (1) of paragraph (b) of Section 104-23 a hearing to determine the sufficiency of the evidence shall be held. Such hearing shall be conducted by the court without a jury. The State and the defendant may introduce evidence relevant to the question of defendant's guilt of the crime charged.

The court may admit hearsay or affidavit evidence on secondary matters such as testimony to establish the chain of possession of physical evidence, laboratory reports, authentication of transcripts taken by official reporters, court and business records, and public documents.

(b) If the evidence does not prove the defendant guilty beyond a reasonable doubt, the court shall enter a judgment of

acquittal; however nothing herein shall prevent the State from requesting the court to commit the defendant to the Department of Human Services under the provisions of the Mental Health and Developmental Disabilities Code.

(c) If the defendant is found not guilty by reason of insanity, the court shall enter a judgment of acquittal and the proceedings after acquittal by reason of insanity under Section 5-2-4 of the Unified Code of Corrections shall apply.

(d) If the discharge hearing does not result in an acquittal of the charge the defendant may be remanded for further treatment and the one year time limit set forth in Section 104-23 shall be extended as follows:

(1) If the most serious charge upon which the State sustained its burden of proof was a Class 1 or Class X felony, the treatment period may be extended up to a maximum treatment period of 2 years; if a Class 2, 3, or 4 felony, the treatment period may be extended up to a maximum of 15 months;

(2) If the State sustained its burden of proof on a charge of first degree murder, the treatment period may be extended up to a maximum treatment period of 5 years.

(e) Transcripts of testimony taken at a discharge hearing may be admitted in evidence at a subsequent trial of the case, subject to the rules of evidence, if the witness who gave such testimony is legally unavailable at the time of the subsequent trial.

(f) If the court fails to enter an order of acquittal the defendant may appeal from such judgment in the same manner provided for an appeal from a conviction in a criminal case.

(g) At the expiration of an extended period of treatment ordered pursuant to this Section:

(1) Upon a finding that the defendant is fit or can be rendered fit consistent with Section 104-22, the court may proceed with trial.

(2) If the defendant continues to be unfit to stand trial, the court shall determine whether he or she is subject to involuntary admission under the Mental Health and Developmental Disabilities Code or constitutes a serious threat to the public safety. If so found, the defendant shall be remanded to the Department of Human Services for further treatment and shall be treated in the same manner as a civilly committed patient for all purposes, except that the original court having jurisdiction over the defendant shall be required to approve any conditional release or discharge of the defendant, for the period of commitment equal to the maximum sentence to which the defendant would have been subject had he or she been convicted in a criminal proceeding. During this period of commitment, the original court having jurisdiction over the defendant shall hold hearings under clause (i) of this paragraph (2). However, if the defendant is remanded to the Department of Human

Services, the defendant shall be placed in a secure setting unless the court determines that there are compelling reasons why such placement is not necessary.

If the defendant does not have a current treatment plan, then within 3 days of admission under this subdivision (g) (2), a treatment plan shall be prepared for each defendant and entered into his or her record. The plan shall include (i) an assessment of the defendant's treatment needs, (ii) a description of the services recommended for treatment, (iii) the goals of each type of element of service, (iv) an anticipated timetable for the accomplishment of the goals, and (v) a designation of the qualified professional responsible for the implementation of the plan. The plan shall be reviewed and updated as the clinical condition warrants, but not less than every 30 days.

Every 90 days after the initial admission under this subdivision (g) (2), the facility director shall file a typed treatment plan report with the original court having jurisdiction over the defendant. The report shall include an opinion as to whether the defendant is fit to stand trial and whether the defendant is currently subject to involuntary admission, in need of mental health services on an inpatient basis, or in need of mental health services on an outpatient basis. The report shall also summarize the basis for those findings and provide a current summary of

the 5 items required in a treatment plan. A copy of the report shall be forwarded to the clerk of the court, the State's Attorney, and the defendant's attorney if the defendant is represented by counsel.

The court on its own motion may order a hearing to review the treatment plan. The defendant or the State's Attorney may request a treatment plan review every 90 days and the court shall review the current treatment plan to determine whether the plan complies with the requirements of this Section. The court may order an independent examination on its own initiative and shall order such an evaluation if either the recipient or the State's Attorney so requests and has demonstrated to the court that the plan cannot be effectively reviewed by the court without such an examination. Under no circumstances shall the court be required to order an independent examination pursuant to this Section more than once each year. The examination shall be conducted by a psychiatrist or clinical psychologist as defined in Section 1-103 of the Mental Health and Developmental Disabilities Code who is not in the employ of the Department of Human Services.

If, during the period within which the defendant is confined in a secure setting, the court enters an order that requires the defendant to appear, the court shall timely transmit a copy of the order or writ to the director of the particular Department of Human Services facility

where the defendant resides authorizing the transportation of the defendant to the court for the purpose of the hearing.

(i) 180 days after a defendant is remanded to the Department of Human Services, under paragraph (2), and every 180 days thereafter for so long as the defendant is confined under the order entered thereunder, the court shall set a hearing and shall direct that notice of the time and place of the hearing be served upon the defendant, the facility director, the State's Attorney, and the defendant's attorney. If requested by either the State or the defense or if the court determines that it is appropriate, an impartial examination of the defendant by a psychiatrist or clinical psychologist as defined in Section 1-103 of the Mental Health and Developmental Disabilities Code who is not in the employ of the Department of Human Services shall be ordered, and the report considered at the time of the hearing. If the defendant is not currently represented by counsel the court shall appoint the public defender to represent the defendant at the hearing. The court shall make a finding as to whether the defendant is:

(A) subject to involuntary admission; or

(B) in need of mental health services in the form of inpatient care; or

(C) in need of mental health services but not subject to involuntary admission nor inpatient care.

The findings of the court shall be established by clear and convincing evidence and the burden of proof and the burden of going forward with the evidence shall rest with the State's Attorney. Upon finding by the court, the court shall enter its findings and an appropriate order.

(ii) The terms "subject to involuntary admission", "in need of mental health services in the form of inpatient care" and "in need of mental health services but not subject to involuntary admission nor inpatient care" shall have the meanings ascribed to them in clause (d)(3) of Section 5-2-4 of the Unified Code of Corrections.

(3) If the defendant is not committed pursuant to this Section, he or she shall be released.

(4) In no event may the treatment period be extended to exceed the maximum sentence to which a defendant would have been subject had he or she been convicted in a criminal proceeding. For purposes of this Section, the maximum sentence shall be determined by Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V of the "Unified Code of Corrections", excluding any sentence of natural life.

(Source: P.A. 91-536, eff. 1-1-00.)

(725 ILCS 5/111-3) (from Ch. 38, par. 111-3)

Sec. 111-3. Form of charge.

(a) A charge shall be in writing and allege the commission of an offense by:

(1) Stating the name of the offense;

(2) Citing the statutory provision alleged to have been violated;

(3) Setting forth the nature and elements of the offense charged;

(4) Stating the date and county of the offense as definitely as can be done; and

(5) Stating the name of the accused, if known, and if not known, designate the accused by any name or description by which he can be identified with reasonable certainty.

(b) An indictment shall be signed by the foreman of the Grand Jury and an information shall be signed by the State's Attorney and sworn to by him or another. A complaint shall be sworn to and signed by the complainant; Provided, however, that when a citation is issued on a Uniform Traffic Ticket or Uniform Conservation Ticket (in a form prescribed by the Conference of Chief Circuit Judges and filed with the Supreme Court), the copy of such Uniform Ticket which is filed with the circuit court constitutes a complaint to which the defendant may plead, unless he specifically requests that a verified complaint be filed.

(c) When the State seeks an enhanced sentence because of a prior conviction, the charge shall also state the intention to seek an enhanced sentence and shall state such prior conviction so as to give notice to the defendant. However, the fact of such prior conviction and the State's intention to seek an enhanced sentence are not elements of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial. For the purposes of this Section, "enhanced sentence" means a sentence which is increased by a prior conviction from one classification of offense to another higher level classification of offense set forth in Section 5-4.5-10 ~~5-5-1~~ of the "Unified Code of Corrections (730 ILCS 5/5-4.5-10)", ~~approved July 26, 1972, as amended;~~ it does not include an increase in the sentence applied within the same level of classification of offense.

(c-5) Notwithstanding any other provision of law, in all cases in which the imposition of the death penalty is not a possibility, if an alleged fact (other than the fact of a prior conviction) is not an element of an offense but is sought to be used to increase the range of penalties for the offense beyond the statutory maximum that could otherwise be imposed for the offense, the alleged fact must be included in the charging instrument or otherwise provided to the defendant through a written notification before trial, submitted to a trier of fact as an aggravating factor, and proved beyond a reasonable doubt.

Failure to prove the fact beyond a reasonable doubt is not a bar to a conviction for commission of the offense, but is a bar to increasing, based on that fact, the range of penalties for the offense beyond the statutory maximum that could otherwise be imposed for that offense. Nothing in this subsection (c-5) requires the imposition of a sentence that increases the range of penalties for the offense beyond the statutory maximum that could otherwise be imposed for the offense if the imposition of that sentence is not required by law.

(d) At any time prior to trial, the State on motion shall be permitted to amend the charge, whether brought by indictment, information or complaint, to make the charge comply with subsection (c) or (c-5) of this Section. Nothing in Section 103-5 of this Code precludes such an amendment or a written notification made in accordance with subsection (c-5) of this Section.

(e) The provisions of subsection (a) of Section 5-4.5-95 of the Unified Code of Corrections (730 ILCS 5/5-4.5-95) ~~Article 33B of the Criminal Code of 1961, as amended,~~ shall not be affected by this Section.

(Source: P.A. 91-953, eff. 2-23-01.)

Section 90. The Unified Code of Corrections is amended by changing Sections 3-3-2.1, 5-1-17, 5-2-6, 5-5-3, 5-5-3.2, 5-5-4.3, 5-6-2, 5-6-4, 5-6-4.1, 5-7-8, 5-8-1, 5-8-2, 5-8-4, and 5-9-1 as follows:

(730 ILCS 5/3-3-2.1) (from Ch. 38, par. 1003-3-2.1)

Sec. 3-3-2.1. Prisoner Review Board - Release Date. (a) Except as provided in subsection (b), the Prisoner Review Board shall, no later than 7 days following a prisoner's next parole hearing after the effective date of this Amendatory Act of 1977, provide each prisoner sentenced under the law in effect prior to the effective date of this amendatory Act of 1977, with a fixed release date.

(b) No release date under this Section shall be set for any person sentenced to an indeterminate sentence under the law in effect prior to the effective date of this amendatory Act of 1977 in which the minimum term of such sentence is 20 years or more.

(c) The Prisoner Review Board shall notify each eligible offender of his or her release date in a form substantially as follows:

Date of Notice

"To (Name of offender):

Under a recent change in the law you are provided with this choice:

(1) You may remain under your present indeterminate sentence and continue to be eligible for parole; or (2) you may waive your right to parole and accept the release date which has been set for you. From this release date will be deducted any good conduct credit you may earn.

If you accept the release date established by the Board, you will no longer be eligible for parole.

Your release date from prison has been set for: (release date) , subject to a term of mandatory supervised release as provided by law.

If you accumulate the maximum amount of good conduct credit as allowed by law recently enacted, you can be released on: , subject to a term of mandatory supervised release as provided by law.

Should you choose not to accept the release date, your next parole hearing will be: .

The Board has based its determination of your release date on the following:

(1) The material that normally would be examined in connection with your parole hearing, as set forth in paragraph (d) of Section 3-3-4 of the Unified Code of Corrections:

(2) the intent of the court in imposing sentence on you;

(3) the present schedule of sentences for similar offenses provided by Articles 4.5 and 5 of Chapter V ~~Sections 5-8-1 and 5-8-2~~ of the Unified Code of Corrections, as amended;

(4) the factors in mitigation and aggravation provided by Sections 5-5-3.1 and 5-5-3.2 of the Unified Code of Corrections, as amended;

(5) The rate of accumulating good conduct credits provided by Section 3-6-3 of the Unified Code of Corrections, as amended;

(6) your behavior since commitment.

You now have 60 days in which to decide whether to remain under your indeterminate sentence and continue to be eligible for parole or waive your right to parole and accept the release date established for you by the Board. If you do nothing within 60 days, you will remain under the parole system.

If you accept the release date, you may accumulate good conduct credit at the maximum rate provided under the law recently enacted.

If you feel that the release date set for you is unfair or is not based on complete information required to be considered by the Board, you may request that the Board reconsider the date. In your request you must set forth specific reasons why you feel the Board's release date is unfair and you may submit relevant material in support of your request.

The Department of Corrections is obligated to assist you in that effort, if you ask it to do so.

The Board will notify you within 60 days whether or not it will reconsider its decision. The Board's decision with respect to reconsidering your release date is final and cannot be appealed to any court.

If the Board decides not to reconsider your case you will have 60 days in which to decide whether to accept the release date and waive your right to parole or to continue under the parole system. If you do nothing within 60 days after you receive notification of the Board's decision you will remain

under the parole system.

If the Board decides to reconsider its decision with respect to your release date, the Board will schedule a date for reconsideration as soon as practicable, but no later than 60 days from the date it receives your request, and give you at least 30 days notice. You may submit material to the Board which you believe will be helpful in deciding a proper date for your release. The Department of Corrections is obligated to assist you in that effort, if you ask it to do so.

Neither you nor your lawyer has the right to be present on the date of reconsideration, nor the right to call witnesses. However, the Board may ask you or your lawyer to appear or may ask to hear witnesses. The Board will base its determination on the same data on which it made its earlier determination, plus any new information which may be available to it.

When the Board has made its decision you will be informed of the release date. In no event will it be longer than the release date originally determined. From this date you may continue to accumulate good conduct credits at the maximum rate. You will not be able to appeal the Board's decision to a court.

Following the Board's reconsideration and upon being notified of your release date you will have 60 days in which to decide whether to accept the release date and waive your right to parole or to continue under the parole system. If you do nothing within 60 days after notification of the Board's

decision you will remain under the parole system."

(d) The Board shall provide each eligible offender with a form substantially as follows:

"I (name of offender) am fully aware of my right to choose between parole eligibility and a fixed release date. I know that if I accept the release date established, I will give up my right to seek parole. I have read and understood the Prisoner Review Board's letter, and I know how and under what circumstances the Board has set my release date. I know that I will be released on that date and will be released earlier if I accumulate good conduct credit. I know that the date set by the Board is final, and can't be appealed to a court.

Fully aware of all the implications, I expressly and knowingly waive my right to seek parole and accept the release date as established by the Prisoner Review Board."

(e) The Board shall use the following information and standards in establishing a release date for each eligible offender who requests that a date be set:

(1) Such information as would be considered in a parole hearing under Section 3-3-4 of this Code;

(2) The intent of the court in imposing the offender's sentence;

(3) The present schedule for similar offenses provided by Articles 4.5 and 5 of Chapter V ~~Sections 5-8-1 and 5-8-2~~ of this Code;

(4) Factors in aggravation and mitigation of sentence as

provided in Sections 5-5-3.1 and 5-5-3.2 of this Code;

(5) The rate of accumulating good conduct credits provided by Section 3-6-3 of this Code;

(6) The offender's behavior since commitment to the Department.

(f) After the release date is set by the Board, the offender can accumulate good conduct credits in accordance with Section 3-6-3 of this Code.

(g) The release date established by the Board shall not be sooner than the earliest date that the offender would have been eligible for release under the sentence imposed on him by the court, less time credit previously earned for good behavior, nor shall it be later than the latest date at which the offender would have been eligible for release under such sentence, less time credit previously earned for good behavior.

(h) (1) Except as provided in subsection (b), each prisoner appearing at his next parole hearing subsequent to the effective date of the amendatory Act of 1977, shall be notified within 7 days of the hearing that he will either be released on parole or that a release date has been set by the Board. The notice and waiver form provided for in subsections (c) and (d) shall be presented to eligible prisoners no later than 7 days following their parole hearing. A written statement of the basis for the decision with regard to the release date set shall be given to such prisoners no later than 14 days following the parole hearing.

(2) Each prisoner upon notification of his release date shall have 60 days to choose whether to remain under the parole system or to accept the release date established by the Board. No release date shall be effective unless the prisoner waives his right to parole in writing. If no choice is made by such prisoner within 60 days from the date of his notification of a release date, such prisoner shall remain under the parole system.

(3) Within the 60 day period as provided in paragraph (2) of this subsection, a prisoner may request that the Board reconsider its decision with regard to such prisoner's release date. No later than 60 days following receipt of such request for reconsideration, the Board shall notify the prisoner as to whether or not it will reconsider such prisoner's release date. No court shall have jurisdiction to review the Board's decision. No prisoner shall be entitled to more than one request for reconsideration of his release date.

(A) If the Board decides not to reconsider the release date, the prisoner shall have 60 days to choose whether to remain under the parole system or to accept the release date established by the Board. No release date shall be effective unless the prisoner waives his right to parole in writing. If no choice is made by such prisoner within 60 days from the date of the notification by the Board refusing to reconsider his release date, such prisoner shall remain under the parole system.

(B) If the Board decides to reconsider its decision with respect to such release date, the Board shall schedule a date for reconsideration as soon as practicable, but no later than 60 days from the date of the prisoner's request, and give such prisoner at least 30 days notice. Such prisoner may submit any relevant material to the Board which would aid in ascertaining a proper release date. The Department of Corrections shall assist any such prisoner if asked to do so.

Neither the prisoner nor his lawyer has the right to be present on the date of reconsideration, nor the right to call witnesses. However, the Board may ask such prisoner or his or her lawyer to appear or may ask to hear witnesses. The Board shall base its determination on the factors specified in subsection (e), plus any new information which may be available to it.

(C) When the Board has made its decision, the prisoner shall be informed of the release date as provided for in subsection (c) no later than 7 days following the reconsideration. In no event shall such release date be longer than the release date originally determined. The decision of the Board is final. No court shall have jurisdiction to review the Board's decision.

Following the Board's reconsideration and its notification to the prisoner of his or her release date, such prisoner shall have 60 days from the date of such notice in which to decide whether to accept the release date and waive his or her right

to parole or to continue under the parole system. If such prisoner does nothing within 60 days after notification of the Board's decision, he or she shall remain under the parole system.

(Source: P.A. 80-1387.)

(730 ILCS 5/5-1-17) (from Ch. 38, par. 1005-1-17)

Sec. 5-1-17. Petty Offense.

"Petty offense" means any offense for which a sentence of imprisonment is not an authorized disposition ~~to a fine only is provided.~~

(Source: P.A. 77-2097.)

(730 ILCS 5/5-2-6) (from Ch. 38, par. 1005-2-6)

Sec. 5-2-6. Sentencing and Treatment of Defendant Found Guilty but Mentally Ill.

(a) After a plea or verdict of guilty but mentally ill under Sections 115-2, 115-3 or 115-4 of the Code of Criminal Procedure of 1963, the court shall order a presentence investigation and report pursuant to Sections 5-3-1 and 5-3-2 of this Act, and shall set a date for a sentencing hearing. The court may impose any sentence upon the defendant which could be imposed pursuant to law upon a defendant who had been convicted of the same offense without a finding of mental illness.

(b) If the court imposes a sentence of imprisonment upon a defendant who has been found guilty but mentally ill, the

defendant shall be committed to the Department of Corrections, which shall cause periodic inquiry and examination to be made concerning the nature, extent, continuance, and treatment of the defendant's mental illness. The Department of Corrections shall provide such psychiatric, psychological, or other counseling and treatment for the defendant as it determines necessary.

(c) The Department of Corrections may transfer the defendant's custody to the Department of Human Services in accordance with the provisions of Section 3-8-5 of this Act.

(d) (1) The Department of Human Services shall return to the Department of Corrections any person committed to it pursuant to this Section whose sentence has not expired and whom the Department of Human Services deems no longer requires hospitalization for mental treatment, mental retardation, or addiction.

(2) The Department of Corrections shall notify the Secretary of Human Services of the expiration of the sentence of any person transferred to the Department of Human Services under this Section. If the Department of Human Services determines that any such person requires further hospitalization, it shall file an appropriate petition for involuntary commitment pursuant to the Mental Health and Developmental Disabilities Code.

(e) (1) All persons found guilty but mentally ill, whether by plea or by verdict, who are placed on probation or sentenced

to a term of periodic imprisonment or a period of conditional discharge shall be required to submit to a course of mental treatment prescribed by the sentencing court.

(2) The course of treatment prescribed by the court shall reasonably assure the defendant's satisfactory progress in treatment or habilitation and for the safety of the defendant and others. The court shall consider terms, conditions and supervision which may include, but need not be limited to, notification and discharge of the person to the custody of his family, community adjustment programs, periodic checks with legal authorities and outpatient care and utilization of local mental health or developmental disabilities facilities.

(3) Failure to continue treatment, except by agreement with the treating person or agency and the court, shall be a basis for the institution of probation revocation proceedings.

(4) The period of probation shall be in accordance with Article 4.5 of Chapter V of this Code ~~Section 5-6-2 of this Act~~ and shall not be shortened without receipt and consideration of such psychiatric or psychological report or reports as the court may require.

(Source: P.A. 89-507, eff. 7-1-97.)

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

Sec. 5-5-3. Disposition.

(a) (Blank.) ~~Except as provided in Section 11-501 of the Illinois Vehicle Code, every person convicted of an offense~~

~~shall be sentenced as provided in this Section.~~

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

~~(1) A period of probation.~~

~~(2) A term of periodic imprisonment.~~

~~(3) A term of conditional discharge.~~

~~(4) A term of imprisonment.~~

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

~~(6) A fine.~~

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

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

~~(9) A term of imprisonment in combination with a term of probation when the offender has been admitted into a drug court program under Section 20 of the Drug Court Treatment Act.~~

~~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.~~

(c) (1) (Blank.) ~~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.~~

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

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

(B) Attempted first degree murder.

(C) A Class X felony.

(D) A violation of Section 401.1 or 407 of the Illinois Controlled Substances Act, or a violation of subdivision (c)(1), (c)(1.5), or (c)(2) of Section 401 of that Act which relates to more than 5 grams of a substance containing heroin, cocaine, fentanyl, or an analog thereof.

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

(F) A Class 2 or greater felony if the offender had been convicted of a Class 2 or greater felony, including any state or federal conviction for an

offense that contained, at the time it was committed, the same elements as an offense now (the date of the offense committed after the prior Class 2 or greater felony) classified as a Class 2 or greater felony, within 10 years of the date on which the offender committed the offense for which he or she is being sentenced, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

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

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

(H) Criminal sexual assault.

(I) Aggravated battery of a senior citizen.

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

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

Beginning July 1, 1994, for the purposes of this

paragraph, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(K) Vehicular hijacking.

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

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

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

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

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

(Q) A violation of Section 20-1.2 or 20-1.3 of the Criminal Code of 1961.

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

(S) (Blank).

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

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

(V) A violation of paragraph (4) of subsection (c) of Section 11-20.3 of the Criminal Code of 1961.

(W) A violation of Section 24-3.5 of the Criminal Code of 1961.

(3) (Blank).

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

(4.1) (Blank).

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

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

(4.4) Except as provided in paragraphs (4.5), (4.6),

and (4.9) of this subsection (c), a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, shall be imposed for a third or subsequent violation of Section 6-303 of the Illinois Vehicle Code.

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

(4.6) Except as provided in paragraph (4.10) of this subsection (c), a minimum term of imprisonment of 180 days shall be imposed for a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

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

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

(4.9) A mandatory prison sentence of not less than 4 and not more than 15 years shall be imposed for a third

violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (d-2.5) of that Section. The person's driving privileges shall be revoked for the remainder of his or her life.

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

(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.

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

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

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

(5.4) In addition to any other penalties imposed ~~under paragraph (5) of this subsection (c)~~, a person convicted of violating Section 3-707 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for 3 months and until he or she has paid a reinstatement fee of \$100.

(5.5) In addition to any other penalties imposed ~~under paragraph (5) of this subsection (c)~~, a person convicted of violating Section 3-707 of the Illinois Vehicle Code during a period in which his or her driver's license, permit, or privileges were suspended for a previous violation of that Section shall have his or her driver's license, permit, or

privileges suspended for an additional 6 months after the expiration of the original 3-month suspension and until he or she has paid a reinstatement fee of \$100.

(6) (Blank.) ~~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) (Blank.) ~~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) (Blank.) ~~When a defendant, over the age of 21 years, is convicted of a Class 1 or Class 2 felony, after having twice been convicted in any state or federal court of an offense that contains the same elements as an offense now classified in Illinois as a Class 2 or greater Class felony 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 offender. This paragraph shall not apply unless (1) the first felony was committed after the effective date of this amendatory Act of 1977; and (2) the second felony was committed after conviction on the first; and (3) the third felony was committed after conviction on the second. A person sentenced as a Class X offender under this paragraph is not eligible to apply for treatment as a condition of probation as provided by~~

~~Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.~~

(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.

(10) (Blank).

(11) The court shall impose a minimum fine of \$1,000 for a first offense and \$2,000 for a second or subsequent offense upon a person convicted of or placed on supervision for battery when the individual harmed was a sports official or coach at any level of competition and the act causing harm to the sports official or coach occurred within an athletic facility or within the immediate vicinity of the athletic facility at which the sports official or coach was an active participant of the athletic contest held at the athletic facility. For the purposes of this paragraph (11), "sports official" means a person at an athletic contest who enforces the rules of the contest, such as an umpire or referee; "athletic facility" means an indoor or outdoor playing field or recreational area where sports activities are conducted; and "coach" means a person recognized as a coach by the sanctioning authority that conducted the sporting event.

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

received a disposition of court supervision for a violation of that Section.

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

(d) In any case in which a sentence originally imposed is vacated, the case shall be remanded to the trial court. The trial court shall hold a hearing under Section 5-4-1 of the Unified Code of Corrections which may include evidence of the defendant's life, moral character and occupation during the time since the original sentence was passed. The trial court shall then impose sentence upon the defendant. The trial court may impose any sentence which could have been imposed at the original trial subject to Section 5-5-4 of the Unified Code of Corrections. If a sentence is vacated on appeal or on collateral attack due to the failure of the trier of fact at trial to determine beyond a reasonable doubt the existence of a fact (other than a prior conviction) necessary to increase the punishment for the offense beyond the statutory maximum

otherwise applicable, either the defendant may be re-sentenced to a term within the range otherwise provided or, if the State files notice of its intention to again seek the extended sentence, the defendant shall be afforded a new trial.

(e) In cases where prosecution for aggravated criminal sexual abuse under Section 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:

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

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

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

(i) removal from the household;

(ii) restricted contact with the victim;

(iii) continued financial support of the family;

(iv) restitution for harm done to the victim;

and

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

(2) the court orders the defendant to pay for the

victim's counseling services, to the extent that the court finds, after considering the defendant's income and assets, that the defendant is financially capable of paying for such services, if the victim was under 18 years of age at the time the offense was committed and requires counseling as a result of the offense.

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

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

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

(g) Whenever a defendant is convicted of an offense under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, the defendant shall undergo medical testing to determine whether the defendant has any sexually transmissible disease, including a test for infection

with human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Any such medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the defendant's person. 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 victim and 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 the test results. The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or legal guardian of the test results. The court shall provide information on the availability of HIV testing 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 shall grant the disclosure if the State's Attorney shows it is

relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(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 whether the defendant has been exposed to human immunodeficiency virus (HIV) or any other identified 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 HIV testing 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 shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

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

(j) In cases when prosecution for any violation of Section

11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961, any violation of the Illinois Controlled Substances Act, any violation of the Cannabis Control Act, or any violation of the Methamphetamine Control and Community Protection Act results in conviction, a disposition of court supervision, or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substance Act, or Section 70 of the Methamphetamine Control and Community Protection Act of a defendant, the court shall determine whether the defendant is employed by a facility or center as defined under the Child Care Act of 1969, a public or private elementary or secondary school, or otherwise works with children under 18 years of age on a daily basis. When a defendant is so employed, the court shall order the Clerk of the Court to send a copy of the judgment of conviction or order of supervision or probation to the defendant's employer by certified mail. If the employer of the defendant is a school, the Clerk of the Court shall direct the mailing of a copy of the judgment of 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.

(j-5) A defendant at least 17 years of age who is convicted of a felony and who has not been previously convicted of a

misdemeanor or felony and who is sentenced to a term of imprisonment in the Illinois Department of Corrections shall as a condition of his or her sentence be required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program offered by the Department of Corrections. If a defendant fails to complete the educational training required by his or her sentence during the term of incarceration, the Prisoner Review Board shall, as a condition of mandatory supervised release, require the defendant, at his or her own expense, to pursue a course of study toward a high school diploma or passage of the GED test. The Prisoner Review Board shall revoke the mandatory supervised release of a defendant who wilfully fails to comply with this subsection (j-5) upon his or her release from confinement in a penal institution while serving a mandatory supervised release term; however, the inability of the defendant after making a good faith effort to obtain financial aid or pay for the educational training shall not be deemed a wilful failure to comply. The Prisoner Review Board shall recommit the defendant whose mandatory supervised release term has been revoked under this subsection (j-5) as provided in Section 3-3-9. This subsection (j-5) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This

subsection (j-5) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(k) (Blank.) ~~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, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection 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:

(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.

(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.

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

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

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

(Source: P.A. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993, eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07; 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff. 1-1-09.)

(730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

Sec. 5-5-3.2. Factors in Aggravation.

(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1 or Article 4.5 of Chapter V:

(1) the defendant's conduct caused or threatened serious harm;

(2) the defendant received compensation for committing the offense;

(3) the defendant has a history of prior delinquency or criminal activity;

(4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;

(5) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;

(6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;

(7) the sentence is necessary to deter others from committing the same crime;

(8) the defendant committed the offense against a person 60 years of age or older or such person's property;

(9) the defendant committed the offense against a

person who is physically handicapped or such person's property;

(10) by reason of another individual's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin, the defendant committed the offense against (i) the person or property of that individual; (ii) the person or property of a person who has an association with, is married to, or has a friendship with the other individual; or (iii) the person or property of a relative (by blood or marriage) of a person described in clause (i) or (ii). For the purposes of this Section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality;

(11) the offense took place in a place of worship or on the grounds of a place of worship, immediately prior to, during or immediately following worship services. For purposes of this subparagraph, "place of worship" shall mean any church, synagogue or other building, structure or place used primarily for religious worship;

(12) the defendant was convicted of a felony committed while he was released on bail or his own recognizance pending trial for a prior felony and was convicted of such prior felony, or the defendant was convicted of a felony committed while he was serving a period of probation, conditional discharge, or mandatory supervised release

under subsection (d) of Section 5-8-1 for a prior felony;

(13) the defendant committed or attempted to commit a felony while he was wearing a bulletproof vest. For the purposes of this paragraph (13), a bulletproof vest is any device which is designed for the purpose of protecting the wearer from bullets, shot or other lethal projectiles;

(14) the defendant held a position of trust or supervision such as, but not limited to, family member as defined in Section 12-12 of the Criminal Code of 1961, teacher, scout leader, baby sitter, or day care worker, in relation to a victim under 18 years of age, and the defendant committed an offense in violation of Section 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 against that victim;

(15) the defendant committed an offense related to the activities of an organized gang. For the purposes of this factor, "organized gang" has the meaning ascribed to it in Section 10 of the Streetgang Terrorism Omnibus Prevention Act;

(16) the defendant committed an offense in violation of one of the following Sections while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within

1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(16.5) the defendant committed an offense in violation of one of the following Sections while in a day care center, regardless of the time of day or time of year; on the real property of a day care center, regardless of the time of day or time of year; or on a public way within 1,000 feet of the real property comprising any day care center, regardless of the time of day or time of year: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(17) the defendant committed the offense by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, "community policing volunteer" has the meaning ascribed to it in Section 2-3.5 of the Criminal Code of 1961;

(18) the defendant committed the offense in a nursing home or on the real property comprising a nursing home. For the purposes of this paragraph (18), "nursing home" means a

skilled nursing or intermediate long term care facility that is subject to license by the Illinois Department of Public Health under the Nursing Home Care Act;

(19) the defendant was a federally licensed firearm dealer and was previously convicted of a violation of subsection (a) of Section 3 of the Firearm Owners Identification Card Act and has now committed either a felony violation of the Firearm Owners Identification Card Act or an act of armed violence while armed with a firearm;

(20) the defendant (i) committed the offense of reckless homicide under Section 9-3 of the Criminal Code of 1961 or the offense of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof under Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(21) the defendant (i) committed the offense of reckless driving or aggravated reckless driving under Section 11-503 of the Illinois Vehicle Code and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(22) the defendant committed the offense against a

person that the defendant knew, or reasonably should have known, was a member of the Armed Forces of the United States serving on active duty. For purposes of this clause (22), the term "Armed Forces" means any of the Armed Forces of the United States, including a member of any reserve component thereof or National Guard unit called to active duty; ~~or~~

(23) the defendant committed the offense against a person who was elderly, disabled, or infirm by taking advantage of a family or fiduciary relationship with the elderly, disabled, or infirm person; or.

(24) ~~(22)~~ the defendant committed any offense under Section 11-20.1 of the Criminal Code of 1961 and possessed 100 or more images.

For the purposes of this Section:

"School" is defined as a public or private elementary or secondary school, community college, college, or university.

"Day care center" means a public or private State certified and licensed day care center as defined in Section 2.09 of the Child Care Act of 1969 that displays a sign in plain view stating that the property is a day care center.

(b) The following factors, related to all felonies, may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other

jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty; or

~~(3) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter or reckless homicide in which the defendant has been convicted of causing the death of more than one individual; or~~

(3) ~~(4)~~ When a defendant is convicted of any felony committed against:

(i) a person under 12 years of age at the time of the offense or such person's property;

(ii) a person 60 years of age or older at the time of the offense or such person's property; or

(iii) a person physically handicapped at the time of the offense or such person's property; or

~~(5) In the case of a defendant convicted of aggravated criminal sexual assault or criminal sexual assault, when the court finds that aggravated criminal sexual assault or criminal sexual assault was also committed on the same~~

~~victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective; or~~

(4) ~~(6)~~ When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

(i) the brutalizing or torturing of humans or animals;

(ii) the theft of human corpses;

(iii) the kidnapping of humans;

(iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or

(v) ritualized abuse of a child; or

~~(7) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c) (2) of Section 5-5-3, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried~~

~~and arise out of different series of acts; or~~

(5) ~~(8)~~ When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang; or

~~(9) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 and the court finds that the defendant is a member of an organized gang; or~~

(6) ~~(10)~~ When a defendant is convicted of an ~~committed~~ the offense committed while using a firearm with a laser sight attached to it. For purposes of this paragraph ~~(10)~~, "laser sight" has the meaning ascribed to it in Section 24.6-5 of the Criminal Code of 1961; or

(7) ~~(11)~~ When a defendant who was at least 17 years of age at the time of the commission of the offense is convicted of a felony and has been previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a Class X or Class 1 felony when the conviction has occurred within 10

years after the previous adjudication, excluding time spent in custody; or

~~(12) When a defendant commits an offense involving the illegal manufacture of a controlled substance under Section 401 of the Illinois Controlled Substances Act, the illegal manufacture of methamphetamine under Section 25 of the Methamphetamine Control and Community Protection Act, or the illegal possession of explosives and an emergency response officer in the performance of his or her duties is killed or injured at the scene of the offense while responding to the emergency caused by the commission of the offense. In this paragraph (12), "emergency" means a situation in which a person's life, health, or safety is in jeopardy; and "emergency response officer" means a peace officer, community policing volunteer, fireman, emergency medical technician ambulance, emergency medical technician intermediate, emergency medical technician paramedic, ambulance driver, other medical assistance or first aid personnel, or hospital emergency room personnel; or~~

(8) ~~(13)~~ When a defendant commits any felony and the defendant used, possessed, exercised control over, or otherwise directed an animal to assault a law enforcement officer engaged in the execution of his or her official duties or in furtherance of the criminal activities of an organized gang in which the defendant is engaged.

(c) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

(1) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and the charges are separately brought and tried and arise out of different series of acts.

(1.5) When a defendant is convicted of first degree murder, after having been previously convicted of domestic battery (720 ILCS 5/12-3.2) or aggravated domestic battery (720 ILCS 5/12-3.3) committed on the same victim or after having been previously convicted of violation of an order of protection (720 ILCS 5/12-30) in which the same victim was the protected person.

(2) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter, or reckless homicide in which the defendant has been convicted of causing the death of more than one individual.

(3) When a defendant is convicted of aggravated criminal sexual assault or criminal sexual assault, when there is a finding that aggravated criminal sexual assault

or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective.

(4) If the victim was under 18 years of age at the time of the commission of the offense, when a defendant is convicted of aggravated criminal sexual assault or predatory criminal sexual assault of a child under subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 (720 ILCS 5/12-14.1).

(5) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) and there is a finding that the defendant is a member of an organized gang.

(6) When a defendant was convicted of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) for possessing a weapon that is not readily distinguishable as one of the weapons enumerated in Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1).

(7) When a defendant is convicted of an offense involving the illegal manufacture of a controlled substance under Section 401 of the Illinois Controlled

Substances Act (720 ILCS 570/401), the illegal manufacture of methamphetamine under Section 25 of the Methamphetamine Control and Community Protection Act (720 ILCS 646/25), or the illegal possession of explosives and an emergency response officer in the performance of his or her duties is killed or injured at the scene of the offense while responding to the emergency caused by the commission of the offense. In this paragraph, "emergency" means a situation in which a person's life, health, or safety is in jeopardy; and "emergency response officer" means a peace officer, community policing volunteer, fireman, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance driver, other medical assistance or first aid personnel, or hospital emergency room personnel.

(d) ~~(b-1)~~ For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

~~(e) The court may impose an extended term sentence under Section 5-8-2 upon any offender who was convicted of aggravated criminal sexual assault or predatory criminal sexual assault of a child under subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 where the victim was under 18 years of age at the time of the commission of the offense.~~

~~(d) The court may impose an extended term sentence under~~

~~Section 5-8-2 upon any offender who was convicted of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 for possessing a weapon that is not readily distinguishable as one of the weapons enumerated in Section 24-1 of the Criminal Code of 1961.~~

~~(c) The court may impose an extended term sentence under Section 5-8-2 upon an offender who has been convicted of first degree murder when the offender has previously been convicted of domestic battery or aggravated domestic battery committed against the murdered individual or has previously been convicted of violation of an order of protection in which the murdered individual was the protected person.~~

(Source: P.A. 94-131, eff. 7-7-05; 94-375, eff. 1-1-06; 94-556, eff. 9-11-05; 94-819, eff. 5-31-06; 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569, eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09; revised 9-23-08.)

(730 ILCS 5/5-5-4.3) (from Ch. 38, par. 1005-5-4.3)

Sec. 5-5-4.3. Duties of Department of Corrections.) (a) The Department of Corrections shall publish an annual report beginning not less than 18 months after the effective date of this amendatory Act of 1977 and not later than April 30 of each year which shall be made available to trial and appellate court judges for their use in imposing or reviewing sentences under this Code and to other interested parties upon a showing of need. That report shall set forth the following data:

(1) The range, frequency, distribution and average of terms of imprisonment imposed on offenders committed to the Department of Corrections, by offense:

(2) The range, frequency, distribution and average of terms actually served in prison by offenders committed to the Department of Corrections, by offense:

(3) The number of instances in which an offender was committed to the Department of Corrections pursuant to Sections 5-8-1, 5-8-2 and 5-8-4 and Article 4.5 of Chapter V of this Code, by offense, and the range, frequency, distribution and average of sentences imposed pursuant to those provisions, by offense; and

(4) Such other information which the Department can provide which might be requested by the court to assist it in imposing sentences.

(b) All data required to be disseminated by this Section shall be set forth for a period of not less than the preceding 5 years, insofar as possible.

(c) All data required to be disseminated by this Section shall conform fully to all state and federal laws and resolutions concerning the security, privacy and confidentiality of such materials.

(Source: P.A. 84-240.)

(730 ILCS 5/5-6-2) (from Ch. 38, par. 1005-6-2)

Sec. 5-6-2. Incidents of Probation and of Conditional

Discharge.

(a) When an offender is sentenced to probation or conditional discharge, the court shall impose a period as provided in Article 4.5 of Chapter V ~~under paragraph (b) of this Section~~, and shall specify the conditions under Section 5-6-3.

~~(b) Unless terminated sooner as provided in paragraph (c) of this Section or extended pursuant to paragraph (c) of this Section, the period of probation or conditional discharge shall be as follows:~~

~~(1) for a Class 1 or Class 2 felony, not to exceed 4 years;~~

~~(2) for a Class 3 or Class 4 felony, not to exceed 30 months;~~

~~(3) for a misdemeanor, not to exceed 2 years;~~

~~(4) for a petty offense, not to exceed 6 months.~~

Multiple terms of probation imposed at the same time shall run concurrently.

(c) The court may at any time terminate probation or conditional discharge if warranted by the conduct of the offender and the ends of justice, as provided in Section 5-6-4.

(d) Upon the expiration or termination of the period of probation or of conditional discharge, the court shall enter an order discharging the offender.

(e) The court may extend any period of probation or conditional discharge beyond the limits set forth in Article

4.5 of Chapter V ~~paragraph (b) of this Section~~ upon a violation of a condition of the probation or conditional discharge, for the payment of an assessment required by Section 10.3 of the Cannabis Control Act, Section 411.2 of the Illinois Controlled Substances Act, or Section 80 of the Methamphetamine Control and Community Protection Act, or for the payment of restitution as provided by an order of restitution under Section 5-5-6 of this Code.

(f) The court may impose a term of probation that is concurrent or consecutive to a term of imprisonment so long as the maximum term imposed does not exceed the maximum term provided under Article 4.5 of Chapter V or Article 8 of this Chapter. The court may provide that probation may commence while an offender is on mandatory supervised release, participating in a day release program, or being monitored by an electronic monitoring device.

(Source: P.A. 93-1014, eff. 1-1-05; 94-556, eff. 9-11-05.)

(730 ILCS 5/5-6-4) (from Ch. 38, par. 1005-6-4)

Sec. 5-6-4. Violation, Modification or Revocation of Probation, of Conditional Discharge or Supervision or of a sentence of county impact incarceration - Hearing.

(a) Except in cases where conditional discharge or supervision was imposed for a petty offense as defined in Section 5-1-17, when a petition is filed charging a violation of a condition, the court may:

(1) in the case of probation violations, order the issuance of a notice to the offender to be present by the County Probation Department or such other agency designated by the court to handle probation matters; and in the case of conditional discharge or supervision violations, such notice to the offender shall be issued by the Circuit Court Clerk; and in the case of a violation of a sentence of county impact incarceration, such notice shall be issued by the Sheriff;

(2) order a summons to the offender to be present for hearing; or

(3) order a warrant for the offender's arrest where there is danger of his fleeing the jurisdiction or causing serious harm to others or when the offender fails to answer a summons or notice from the clerk of the court or Sheriff.

Personal service of the petition for violation of probation or the issuance of such warrant, summons or notice shall toll the period of probation, conditional discharge, supervision, or sentence of county impact incarceration until the final determination of the charge, and the term of probation, conditional discharge, supervision, or sentence of county impact incarceration shall not run until the hearing and disposition of the petition for violation.

(b) The court shall conduct a hearing of the alleged violation. The court shall admit the offender to bail pending the hearing unless the alleged violation is itself a criminal

offense in which case the offender shall be admitted to bail on such terms as are provided in the Code of Criminal Procedure of 1963, as amended. In any case where an offender remains incarcerated only as a result of his alleged violation of the court's earlier order of probation, supervision, conditional discharge, or county impact incarceration such hearing shall be held within 14 days of the onset of said incarceration, unless the alleged violation is the commission of another offense by the offender during the period of probation, supervision or conditional discharge in which case such hearing shall be held within the time limits described in Section 103-5 of the Code of Criminal Procedure of 1963, as amended.

(c) The State has the burden of going forward with the evidence and proving the violation by the preponderance of the evidence. The evidence shall be presented in open court with the right of confrontation, cross-examination, and representation by counsel.

(d) Probation, conditional discharge, periodic imprisonment and supervision shall not be revoked for failure to comply with conditions of a sentence or supervision, which imposes financial obligations upon the offender unless such failure is due to his willful refusal to pay.

(e) If the court finds that the offender has violated a condition at any time prior to the expiration or termination of the period, it may continue him on the existing sentence, with or without modifying or enlarging the conditions, or may impose

any other sentence that was available under Article 4.5 of Chapter V ~~Section 5-5-3~~ of this Code or Section 11-501 of the Illinois Vehicle Code at the time of initial sentencing. If the court finds that the person has failed to successfully complete his or her sentence to a county impact incarceration program, the court may impose any other sentence that was available under Article 4.5 of Chapter V ~~Section 5-5-3~~ of this Code or Section 11-501 of the Illinois Vehicle Code at the time of initial sentencing, except for a sentence of probation or conditional discharge. If the court finds that the offender has violated paragraph (8.6) of subsection (a) of Section 5-6-3, the court shall revoke the probation of the offender. If the court finds that the offender has violated subsection (o) of Section 5-6-3.1, the court shall revoke the supervision of the offender.

(f) The conditions of probation, of conditional discharge, of supervision, or of a sentence of county impact incarceration may be modified by the court on motion of the supervising agency or on its own motion or at the request of the offender after notice and a hearing.

(g) A judgment revoking supervision, probation, conditional discharge, or a sentence of county impact incarceration is a final appealable order.

(h) Resentencing after revocation of probation, conditional discharge, supervision, or a sentence of county impact incarceration shall be under Article 4. The term on

probation, conditional discharge or supervision shall not be credited by the court against a sentence of imprisonment or periodic imprisonment unless the court orders otherwise. The amount of credit to be applied against a sentence of imprisonment or periodic imprisonment when the defendant served a term or partial term of periodic imprisonment shall be calculated upon the basis of the actual days spent in confinement rather than the duration of the term.

(i) Instead of filing a violation of probation, conditional discharge, supervision, or a sentence of county impact incarceration, an agent or employee of the supervising agency with the concurrence of his or her supervisor may serve on the defendant a Notice of Intermediate Sanctions. The Notice shall contain the technical violation or violations involved, the date or dates of the violation or violations, and the intermediate sanctions to be imposed. Upon receipt of the Notice, the defendant shall immediately accept or reject the intermediate sanctions. If the sanctions are accepted, they shall be imposed immediately. If the intermediate sanctions are rejected or the defendant does not respond to the Notice, a violation of probation, conditional discharge, supervision, or a sentence of county impact incarceration shall be immediately filed with the court. The State's Attorney and the sentencing court shall be notified of the Notice of Sanctions. Upon successful completion of the intermediate sanctions, a court may not revoke probation, conditional discharge, supervision,

or a sentence of county impact incarceration or impose additional sanctions for the same violation. A notice of intermediate sanctions may not be issued for any violation of probation, conditional discharge, supervision, or a sentence of county impact incarceration which could warrant an additional, separate felony charge. The intermediate sanctions shall include a term of home detention as provided in Article 8A of Chapter V of this Code for multiple or repeat violations of the terms and conditions of a sentence of probation, conditional discharge, or supervision.

(j) When an offender is re-sentenced after revocation of probation that was imposed in combination with a sentence of imprisonment for the same offense, the aggregate of the sentences may not exceed the maximum term authorized under Article 8 of this Chapter.

(Source: P.A. 94-161, eff. 7-11-05; 95-35, eff. 1-1-08.)

(730 ILCS 5/5-6-4.1) (from Ch. 38, par. 1005-6-4.1)

Sec. 5-6-4.1. Violation, Modification or Revocation of Conditional Discharge or Supervision - Hearing.)

(a) In cases where a defendant was placed upon supervision or conditional discharge for the commission of a petty offense, upon the oral or written motion of the State, or on the court's own motion, which charges that a violation of a condition of that conditional discharge or supervision has occurred, the court may:

(1) Conduct a hearing instanter if the offender is present in court;

(2) Order the issuance by the court clerk of a notice to the offender to be present for a hearing for violation;

(3) Order summons to the offender to be present; or

(4) Order a warrant for the offender's arrest.

The oral motion, if the defendant is present, or the issuance of such warrant, summons or notice shall toll the period of conditional discharge or supervision until the final determination of the charge, and the term of conditional discharge or supervision shall not run until the hearing and disposition of the petition for violation.

(b) The Court shall admit the offender to bail pending the hearing.

(c) The State has the burden of going forward with the evidence and proving the violation by the preponderance of the evidence. The evidence shall be presented in open court with the right of confrontation, cross-examination, and representation by counsel.

(d) Conditional discharge or supervision shall not be revoked for failure to comply with the conditions of the discharge or supervision which imposed financial obligations upon the offender unless such failure is due to his wilful refusal to pay.

(e) If the court finds that the offender has violated a condition at any time prior to the expiration or termination of

the period, it may continue him on the existing sentence or supervision with or without modifying or enlarging the conditions, or may impose any other sentence that was available under Article 4.5 of Chapter V ~~Section 5-5-3~~ of this Code or Section 11-501 of the Illinois Vehicle Code at the time of initial sentencing.

(f) The conditions of conditional discharge and of supervision may be modified by the court on motion of the probation officer or on its own motion or at the request of the offender after notice to the defendant and a hearing.

(g) A judgment revoking supervision is a final appealable order.

(h) Resentencing after revocation of conditional discharge or of supervision shall be under Article 4. Time served on conditional discharge or supervision shall be credited by the court against a sentence of imprisonment or periodic imprisonment unless the court orders otherwise.

(Source: P.A. 93-800, eff. 1-1-05.)

(730 ILCS 5/5-7-8) (from Ch. 38, par. 1005-7-8)

Sec. 5-7-8. Subsequent Sentences. (a) The service of a sentence of imprisonment shall satisfy any sentence of periodic imprisonment which was imposed on an offender for an offense committed prior to the imposition of the sentence. An offender who is serving a sentence of periodic imprisonment at the time a sentence of imprisonment is imposed shall be delivered to the

custody of the Department of Corrections to commence service of the sentence immediately.

(b) If a sentence of imprisonment under Section 5-4.5-55, 5-4.5-60, or 5-4.5-65 (730 ILCS 5/5-4.5-55, 5/5-4.5-60, or 5/5-4.5-65) ~~5-8-3~~ is imposed on an offender who is under a previously imposed sentence of periodic imprisonment, such person shall commence service of the sentence immediately. Where such sentence is for a term in excess of 90 days, the service of such sentence shall satisfy the sentence of periodic imprisonment.

(Source: P.A. 82-717.)

(730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

Sec. 5-8-1. Natural life imprisonment; mandatory supervised release ~~Sentence of Imprisonment for Felony.~~

(a) Except as otherwise provided in the statute defining the offense or in Article 4.5 of Chapter V, a sentence of imprisonment for a felony shall be a determinate sentence set by the court under this Section, according to the following limitations:

(1) for first degree murder,

(a) (blank), ~~a term shall be not less than 20 years and not more than 60 years, or~~

(b) if a trier of fact finds beyond a reasonable doubt that the murder was accompanied by exceptionally brutal or heinous behavior indicative of wanton

cruelty or, except as set forth in subsection (a) (1) (c) of this Section, that any of the aggravating factors listed in subsection (b) of Section 9-1 of the Criminal Code of 1961 are present, the court may sentence the defendant to a term of natural life imprisonment, or

(c) the court shall sentence the defendant to a term of natural life imprisonment when the death penalty is not imposed if the defendant,

(i) has previously been convicted of first degree murder under any state or federal law, or

(ii) is a person who, at the time of the commission of the murder, had attained the age of 17 or more and is found guilty of murdering an individual under 12 years of age; or, irrespective of the defendant's age at the time of the commission of the offense, is found guilty of murdering more than one victim, or

(iii) is found guilty of murdering a peace officer, fireman, or emergency management worker when the peace officer, fireman, or emergency management worker was killed in the course of performing his official duties, or to prevent the peace officer or fireman from performing his official duties, or in retaliation for the peace officer, fireman, or emergency management worker from performing his official duties, and the

defendant knew or should have known that the murdered individual was a peace officer, fireman, or emergency management worker, or

(iv) is found guilty of murdering an employee of an institution or facility of the Department of Corrections, or any similar local correctional agency, when the employee was killed in the course of performing his official duties, or to prevent the employee from performing his official duties, or in retaliation for the employee performing his official duties, or

(v) is found guilty of murdering an emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver or other medical assistance or first aid person while employed by a municipality or other governmental unit when the person was killed in the course of performing official duties or to prevent the person from performing official duties or in retaliation for performing official duties and the defendant knew or should have known that the murdered individual was an emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other

medical assistant or first aid personnel, or

(vi) is a person who, at the time of the commission of the murder, had not attained the age of 17, and is found guilty of murdering a person under 12 years of age and the murder is committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, or

(vii) is found guilty of first degree murder and the murder was committed by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, "community policing volunteer" has the meaning ascribed to it in Section 2-3.5 of the Criminal Code of 1961.

For purposes of clause (v), "emergency medical technician - ambulance", "emergency medical technician - intermediate", "emergency medical technician - paramedic", have the meanings ascribed to them in the Emergency Medical Services (EMS) Systems Act.

(d) (i) if the person committed the offense while armed with a firearm, 15 years shall be added to the term of imprisonment imposed by the court;

(ii) if, during the commission of the offense, the person personally discharged a firearm, 20

years shall be added to the term of imprisonment imposed by the court;

(iii) if, during the commission of the offense, the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person, 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.

~~(1.5) for second degree murder, a term shall be not less than 4 years and not more than 20 years;~~

~~(2) (blank) for a person adjudged a habitual criminal under Article 33B of the Criminal Code of 1961, as amended, the sentence shall be a term of natural life imprisonment;~~

(2.5) for a person convicted under the circumstances described in paragraph (3) of subsection (b) of Section 12-13, paragraph (2) of subsection (d) of Section 12-14, paragraph (1.2) of subsection (b) of Section 12-14.1, or paragraph (2) of subsection (b) of Section 12-14.1 of the Criminal Code of 1961, the sentence shall be a term of natural life imprisonment. †

~~(3) except as otherwise provided in the statute defining the offense, for a Class X felony, the sentence shall be not less than 6 years and not more than 30 years;~~

~~(4) for a Class 1 felony, other than second degree murder, the sentence shall be not less than 4 years and not~~

~~more than 15 years;~~

~~(5) for a Class 2 felony, the sentence shall be not less than 3 years and not more than 7 years;~~

~~(6) for a Class 3 felony, the sentence shall be not less than 2 years and not more than 5 years;~~

~~(7) for a Class 4 felony, the sentence shall be not less than 1 year and not more than 3 years.~~

~~(b) (Blank.) The sentencing judge in each felony conviction shall set forth his reasons for imposing the particular sentence he enters in the case, as provided in Section 5-4-1 of this Code. Those reasons may include any mitigating or aggravating factors specified in this Code, or the lack of any such circumstances, as well as any other such factors as the judge shall set forth on the record that are consistent with the purposes and principles of sentencing set out in this Code.~~

~~(c) (Blank.) A motion to reduce a sentence may be made, or the court may reduce a sentence without motion, within 30 days after the sentence is imposed. A defendant's challenge to the correctness of a sentence or to any aspect of the sentencing hearing shall be made by a written motion filed within 30 days following the imposition of sentence. However, the court may not increase a sentence once it is imposed.~~

~~If a motion filed pursuant to this subsection is timely filed within 30 days after the sentence is imposed, the proponent of the motion shall exercise due diligence in seeking a determination on the motion and the court shall thereafter~~

~~decide such motion within a reasonable time.~~

~~If a motion filed pursuant to this subsection is timely filed within 30 days after the sentence is imposed, then for purposes of perfecting an appeal, a final judgment shall not be considered to have been entered until the motion to reduce a sentence has been decided by order entered by the trial court.~~

~~A motion filed pursuant to this subsection shall not be considered to have been timely filed unless it is filed with the circuit court clerk within 30 days after the sentence is imposed together with a notice of motion, which notice of motion shall set the motion on the court's calendar on a date certain within a reasonable time after the date of filing.~~

(d) ~~Except where a term of natural life is imposed, every sentence shall include as though written therein a term in addition to the term of imprisonment. For those sentenced under the law in effect prior to February 1, 1978, such term shall be identified as a parole term. For those sentenced on or after February 1, 1978, such term shall be identified as a mandatory supervised release term. Subject to earlier termination under Section 3-3-8, the parole or mandatory supervised release term shall be as follows:~~

(1) for first degree murder or a Class X felony except for the offenses of predatory criminal sexual assault of a child, aggravated criminal sexual assault, and criminal sexual assault if committed on or after the effective date of this amendatory Act of the 94th General Assembly and

except for the offense of aggravated child pornography under Section 11-20.3 of the Criminal Code of 1961, if committed on or after January 1, 2009, 3 years;

(2) for a Class 1 felony or a Class 2 felony except for the offense of criminal sexual assault if committed on or after the effective date of this amendatory Act of the 94th General Assembly and except for the offenses of manufacture and dissemination of child pornography under clauses (a)(1) and (a)(2) of Section 11-20.1 of the Criminal Code of 1961, if committed on or after January 1, 2009, 2 years;

(3) for a Class 3 felony or a Class 4 felony, 1 year;

(4) for defendants who commit the offense of predatory criminal sexual assault of a child, aggravated criminal sexual assault, or criminal sexual assault, on or after the effective date of this amendatory Act of the 94th General Assembly, or who commit the offense of aggravated child pornography, manufacture of child pornography, or dissemination of child pornography after January 1, 2009, the term of mandatory supervised release shall range from a minimum of 3 years to a maximum of the natural life of the defendant;

(5) if the victim is under 18 years of age, for a second or subsequent offense of aggravated criminal sexual abuse or felony criminal sexual abuse, 4 years, at least the first 2 years of which the defendant shall serve in an electronic home detention program under Article 8A of

Chapter V of this Code.

(e) (Blank.) ~~A defendant who has a previous and unexpired sentence of imprisonment imposed by another state or by any district court of the United States and who, after sentence for a crime in Illinois, must return to serve the unexpired prior sentence may have his sentence by the Illinois court ordered to be concurrent with the prior sentence in the other state. The court may order that any time served on the unexpired portion of the sentence in the other state, prior to his return to Illinois, shall be credited on his Illinois sentence. The other state shall be furnished with a copy of the order imposing sentence which shall provide that, when the offender is released from confinement of the other state, whether by parole or by termination of sentence, the offender shall be transferred by the Sheriff of the committing county to the Illinois Department of Corrections. The court shall cause the Department of Corrections to be notified of such sentence at the time of commitment and to be provided with copies of all records regarding the sentence.~~

(f) (Blank.) ~~A defendant who has a previous and unexpired sentence of imprisonment imposed by an Illinois circuit court for a crime in this State and who is subsequently sentenced to a term of imprisonment by another state or by any district court of the United States and who has served a term of imprisonment imposed by the other state or district court of the United States, and must return to serve the unexpired prior~~

~~sentence imposed by the Illinois Circuit Court may apply to the court which imposed sentence to have his sentence reduced.~~

~~The circuit court may order that any time served on the sentence imposed by the other state or district court of the United States be credited on his Illinois sentence. Such application for reduction of a sentence under this subsection (f) shall be made within 30 days after the defendant has completed the sentence imposed by the other state or district court of the United States.~~

(Source: P.A. 94-165, eff. 7-11-05; 94-243, eff. 1-1-06; 94-715, eff. 12-13-05; 95-983, eff. 6-1-09.)

(730 ILCS 5/5-8-2) (from Ch. 38, par. 1005-8-2)

Sec. 5-8-2. Extended Term.

(a) A judge shall not sentence an offender to a term of imprisonment in excess of the maximum sentence authorized by Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V for an offense or offenses within the class of the most serious offense of which the offender was convicted unless the factors in aggravation set forth in ~~paragraph (b) of~~ Section 5-5-3.2 or clause (a)(1)(b) of Section 5-8-1 were found to be present. If the pre-trial and trial proceedings were conducted in compliance with subsection (c-5) of Section 111-3 of the Code of Criminal Procedure of 1963, the judge may sentence an offender to an extended term as provided in Article 4.5 of Chapter V (730 ILCS 5/Ch. V, Art. 4.5). ~~to the following:~~

~~(1) for first degree murder, a term shall be not less than 60 years and not more than 100 years;~~

~~(2) for a Class X felony, a term shall be not less than 30 years and not more than 60 years;~~

~~(3) for a Class 1 felony, a term shall be not less than 15 years and not more than 30 years;~~

~~(4) for a Class 2 felony, a term shall be not less than 7 years and not more than 14 years;~~

~~(5) for a Class 3 felony, a term shall not be less than 5 years and not more than 10 years;~~

~~(6) for a Class 4 felony, a term shall be not less than 3 years and not more than 6 years.~~

(b) If the conviction was by plea, it shall appear on the record that the plea was entered with the defendant's knowledge that a sentence under this Section was a possibility. If it does not so appear on the record, the defendant shall not be subject to such a sentence unless he is first given an opportunity to withdraw his plea without prejudice.

(Source: P.A. 92-591, eff. 6-27-02; 93-900, eff. 1-1-05.)

(730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

Sec. 5-8-4. CONCURRENT AND CONSECUTIVE TERMS OF IMPRISONMENT ~~Concurrent and Consecutive Terms of Imprisonment.~~

(a) CONCURRENT TERMS; MULTIPLE OR ADDITIONAL SENTENCES.
When an Illinois court (i) imposes multiple sentences of imprisonment on a defendant at the same time or (ii) imposes a

sentence of imprisonment on a defendant who is already subject to a sentence of imprisonment imposed by an Illinois court, a court of another state, or a federal court, then the sentences shall run concurrently unless otherwise determined by the Illinois court under this Section.

(b) CONCURRENT TERMS; MISDEMEANOR AND FELONY. A defendant serving a sentence for a misdemeanor who is convicted of a felony and sentenced to imprisonment shall be transferred to the Department of Corrections, and the misdemeanor sentence shall be merged in and run concurrently with the felony sentence.

(c) CONSECUTIVE TERMS; PERMISSIVE. The court may impose consecutive sentences in any of the following circumstances:

(1) If, having regard to the nature and circumstances of the offense and the history and character of the defendant, it is the opinion of the court that consecutive sentences are required to protect the public from further criminal conduct by the defendant, the basis for which the court shall set forth in the record.

(2) If one of the offenses for which a defendant was convicted was a violation of Section 32-5.2 (aggravated false personation of a peace officer) of the Criminal Code of 1961 (720 ILCS 5/32-5.2) and the offense was committed in attempting or committing a forcible felony.

(d) CONSECUTIVE TERMS; MANDATORY. The court shall impose consecutive sentences in each of the following circumstances:

(1) One of the offenses for which the defendant was convicted was first degree murder or a Class X or Class 1 felony and the defendant inflicted severe bodily injury.

(2) The defendant was convicted of a violation of Section 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), or 12-14.1 (predatory criminal sexual assault of a child) of the Criminal Code of 1961 (720 ILCS 5/12-13, 5/12-14, or 5/12-14.1).

(3) The defendant was convicted of armed violence based upon the predicate offense of any of the following: solicitation of murder, solicitation of murder for hire, heinous battery, aggravated battery of a senior citizen, criminal sexual assault, a violation of subsection (g) of Section 5 of the Cannabis Control Act (720 ILCS 550/5), cannabis trafficking, a violation of subsection (a) of Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), controlled substance trafficking involving a Class X felony amount of controlled substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), a violation of the Methamphetamine Control and Community Protection Act (720 ILCS 646/), calculated criminal drug conspiracy, or streetgang criminal drug conspiracy.

(4) The defendant was convicted of the offense of leaving the scene of a motor vehicle accident involving death or personal injuries under Section 11-401 of the

Illinois Vehicle Code (625 ILCS 5/11-401) and either: (A) aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof under Section 11-501 of the Illinois Vehicle Code (625 ILCS 5/11-501), (B) reckless homicide under Section 9-3 of the Criminal Code of 1961 (720 ILCS 5/9-3), or (C) both an offense described in item (A) and an offense described in item (B).

(5) The defendant was convicted of a violation of Section 9-3.1 (concealment of homicidal death) or Section 12-20.5 (dismembering a human body) of the Criminal Code of 1961 (720 ILCS 5/9-3.1 or 5/12-20.5).

(6) If the defendant was in the custody of the Department of Corrections at the time of the commission of the offense, the sentence shall be served consecutive to the sentence under which the defendant is held by the Department of Corrections. If, however, the defendant is sentenced to punishment by death, the sentence shall be executed at such time as the court may fix without regard to the sentence under which the defendant may be held by the Department.

(7) A sentence under Section 3-6-4 (730 ILCS 5/3-6-4) for escape or attempted escape shall be served consecutive to the terms under which the offender is held by the Department of Corrections.

(8) If a person charged with a felony commits a

separate felony while on pretrial release or in pretrial detention in a county jail facility or county detention facility, then the sentences imposed upon conviction of these felonies shall be served consecutively regardless of the order in which the judgments of conviction are entered.

(8.5) If a person commits a battery against a county correctional officer or sheriff's employee while serving a sentence or in pretrial detention in a county jail facility, then the sentence imposed upon conviction of the battery shall be served consecutively with the sentence imposed upon conviction of the earlier misdemeanor or felony, regardless of the order in which the judgments of conviction are entered.

(9) If a person admitted to bail following conviction of a felony commits a separate felony while free on bond or if a person detained in a county jail facility or county detention facility following conviction of a felony commits a separate felony while in detention, then any sentence following conviction of the separate felony shall be consecutive to that of the original sentence for which the defendant was on bond or detained.

(10) If a person is found to be in possession of an item of contraband, as defined in clause (c) (2) of Section 31A-1.1 of the Criminal Code of 1961, while serving a sentence in a county jail or while in pre-trial detention in a county jail, the sentence imposed upon conviction for

the offense of possessing contraband in a penal institution shall be served consecutively to the sentence imposed for the offense in which the person is serving sentence in the county jail or serving pretrial detention, regardless of the order in which the judgments of conviction are entered.

(e) CONSECUTIVE TERMS; SUBSEQUENT NON-ILLINOIS TERM. If an Illinois court has imposed a sentence of imprisonment on a defendant and the defendant is subsequently sentenced to a term of imprisonment by a court of another state or a federal court, then the Illinois sentence shall run consecutively to the sentence imposed by the court of the other state or the federal court. That same Illinois court, however, may order that the Illinois sentence run concurrently with the sentence imposed by the court of the other state or the federal court, but only if the defendant applies to that same Illinois court within 30 days after the sentence imposed by the court of the other state or the federal court is finalized.

(f) CONSECUTIVE TERMS; AGGREGATE MAXIMUMS AND MINIMUMS. The aggregate maximum and aggregate minimum of consecutive sentences shall be determined as follows:

(1) For sentences imposed under law in effect prior to February 1, 1978, the aggregate maximum of consecutive sentences shall not exceed the maximum term authorized under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V for the 2 most serious felonies involved. The aggregate minimum period of consecutive sentences shall

not exceed the highest minimum term authorized under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V for the 2 most serious felonies involved. When sentenced only for misdemeanors, a defendant shall not be consecutively sentenced to more than the maximum for one Class A misdemeanor.

(2) For sentences imposed under the law in effect on or after February 1, 1978, the aggregate of consecutive sentences for offenses that were committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective shall not exceed the sum of the maximum terms authorized under Section 5-8-2 (730 ILCS 5/5-8-2) for the 2 most serious felonies involved, but no such limitation shall apply for offenses that were not committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective. When sentenced only for misdemeanors, a defendant shall not be consecutively sentenced to more than the maximum for one Class A misdemeanor.

(g) CONSECUTIVE TERMS; MANNER SERVED. In determining the manner in which consecutive sentences of imprisonment, one or more of which is for a felony, will be served, the Department of Corrections shall treat the defendant as though he or she had been committed for a single term subject to each of the following:

(1) The maximum period of a term of imprisonment shall consist of the aggregate of the maximums of the imposed indeterminate terms, if any, plus the aggregate of the imposed determinate sentences for felonies, plus the aggregate of the imposed determinate sentences for misdemeanors, subject to subsection (f) of this Section.

(2) The parole or mandatory supervised release term shall be as provided in paragraph (e) of Section 5-4.5-50 (730 ILCS 5/5-4.5-50) for the most serious of the offenses involved.

(3) The minimum period of imprisonment shall be the aggregate of the minimum and determinate periods of imprisonment imposed by the court, subject to subsection (f) of this Section.

(4) The defendant shall be awarded credit against the aggregate maximum term and the aggregate minimum term of imprisonment for all time served in an institution since the commission of the offense or offenses and as a consequence thereof at the rate specified in Section 3-6-3 (730 ILCS 5/3-6-3).

~~(a) When multiple sentences of imprisonment are imposed on a defendant at the same time, or when a term of imprisonment is imposed on a defendant who is already subject to sentence in this State or in another state, or for a sentence imposed by any district court of the United States, the sentences shall run concurrently or consecutively as determined by the court.~~

~~When one of the offenses for which a defendant was convicted was a violation of Section 32-5.2 of the Criminal Code of 1961 and the offense was committed in attempting or committing a forcible felony, the court may impose consecutive sentences. When a term of imprisonment is imposed on a defendant by an Illinois circuit court and the defendant is subsequently sentenced to a term of imprisonment by another state or by a district court of the United States, the Illinois circuit court which imposed the sentence may order that the Illinois sentence be made concurrent with the sentence imposed by the other state or district court of the United States. The defendant must apply to the circuit court within 30 days after the defendant's sentence imposed by the other state or district of the United States is finalized. The court shall impose consecutive sentences if:~~

~~(i) one of the offenses for which defendant was convicted was first degree murder or a Class X or Class 1 felony and the defendant inflicted severe bodily injury, or~~

~~(ii) the defendant was convicted of a violation of Section 12-13, 12-14, or 12-14.1 of the Criminal Code of 1961, or~~

~~(iii) the defendant was convicted of armed violence based upon the predicate offense of solicitation of murder, solicitation of murder for hire, heinous battery, aggravated battery of a senior citizen, criminal sexual assault, a violation of subsection (g) of Section 5 of the~~

~~Cannabis Control Act, cannabis trafficking, a violation of subsection (a) of Section 401 of the Illinois Controlled Substances Act, controlled substance trafficking involving a Class X felony amount of controlled substance under Section 401 of the Illinois Controlled Substances Act, a violation of the Methamphetamine Control and Community Protection Act, calculated criminal drug conspiracy, or streetgang criminal drug conspiracy, or~~

~~(iv) the defendant was convicted of the offense of leaving the scene of a motor vehicle accident involving death or personal injuries under Section 11-401 and either: (A) aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof under Section 11-501 of the Illinois Vehicle Code, or (B) reckless homicide under Section 9-3 of the Criminal Code of 1961, or both an offense described in subdivision (A) and an offense described in subdivision (B), or~~

~~(v) the defendant was convicted of a violation of Section 9-3.1 (concealment of homicidal death) or Section 12-20.5 (dismembering a human body) of the Criminal Code of 1961,~~

~~in which event the court shall enter sentences to run consecutively. Sentences shall run concurrently unless otherwise specified by the court.~~

~~(b) Except in cases where consecutive sentences are~~

~~mandated, the court shall impose concurrent sentences unless, having regard to the nature and circumstances of the offense and the history and character of the defendant, it is of the opinion that consecutive sentences are required to protect the public from further criminal conduct by the defendant, the basis for which the court shall set forth in the record.~~

~~(c) (1) For sentences imposed under law in effect prior to February 1, 1978 the aggregate maximum of consecutive sentences shall not exceed the maximum term authorized under Section 5-8-1 for the 2 most serious felonies involved. The aggregate minimum period of consecutive sentences shall not exceed the highest minimum term authorized under Section 5-8-1 for the 2 most serious felonies involved. When sentenced only for misdemeanors, a defendant shall not be consecutively sentenced to more than the maximum for one Class A misdemeanor.~~

~~(2) For sentences imposed under the law in effect on or after February 1, 1978, the aggregate of consecutive sentences for offenses that were committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective shall not exceed the sum of the maximum terms authorized under Section 5-8-2 for the 2 most serious felonies involved, but no such limitation shall apply for offenses that were not committed as part of a single course of conduct during which there was no substantial change in the~~

~~nature of the criminal objective. When sentenced only for misdemeanors, a defendant shall not be consecutively sentenced to more than the maximum for one Class A misdemeanor.~~

~~(d) An offender serving a sentence for a misdemeanor who is convicted of a felony and sentenced to imprisonment shall be transferred to the Department of Corrections, and the misdemeanor sentence shall be merged in and run concurrently with the felony sentence.~~

~~(e) In determining the manner in which consecutive sentences of imprisonment, one or more of which is for a felony, will be served, the Department of Corrections shall treat the offender as though he had been committed for a single term with the following incidents:~~

~~(1) the maximum period of a term of imprisonment shall consist of the aggregate of the maximums of the imposed indeterminate terms, if any, plus the aggregate of the imposed determinate sentences for felonies plus the aggregate of the imposed determinate sentences for misdemeanors subject to paragraph (c) of this Section;~~

~~(2) the parole or mandatory supervised release term shall be as provided in paragraph (c) of Section 5-8-1 of this Code for the most serious of the offenses involved;~~

~~(3) the minimum period of imprisonment shall be the aggregate of the minimum and determinate periods of imprisonment imposed by the court, subject to paragraph (c)~~

~~of this Section; and~~

~~(4) the offender shall be awarded credit against the aggregate maximum term and the aggregate minimum term of imprisonment for all time served in an institution since the commission of the offense or offenses and as a consequence thereof at the rate specified in Section 3-6-3 of this Code.~~

~~(f) A sentence of an offender committed to the Department of Corrections at the time of the commission of the offense shall be served consecutive to the sentence under which he is held by the Department of Corrections. However, in case such offender shall be sentenced to punishment by death, the sentence shall be executed at such time as the court may fix without regard to the sentence under which such offender may be held by the Department.~~

~~(g) A sentence under Section 3-6-4 for escape or attempted escape shall be served consecutive to the terms under which the offender is held by the Department of Corrections.~~

~~(h) If a person charged with a felony commits a separate felony while on pre-trial release or in pretrial detention in a county jail facility or county detention facility, the sentences imposed upon conviction of these felonies shall be served consecutively regardless of the order in which the judgments of conviction are entered.~~

~~(h-1) If a person commits a battery against a county correctional officer or sheriff's employee while serving a~~

~~sentence or in pretrial detention in a county jail facility, then the sentence imposed upon conviction of the battery shall be served consecutively with the sentence imposed upon conviction of the earlier misdemeanor or felony, regardless of the order in which the judgments of conviction are entered.~~

~~(i) If a person admitted to bail following conviction of a felony commits a separate felony while free on bond or if a person detained in a county jail facility or county detention facility following conviction of a felony commits a separate felony while in detention, any sentence following conviction of the separate felony shall be consecutive to that of the original sentence for which the defendant was on bond or detained.~~

~~(j) If a person is found to be in possession of an item of contraband, as defined in clause (c) (2) of Section 31A-1.1 of the Criminal Code of 1961, while serving a sentence in a penal institution or while in pre trial detention in a county jail, the sentence imposed upon conviction for the offense of possessing contraband in a penal institution shall be served consecutively to the sentence imposed for the offense in which the person is serving sentence in the county jail or serving pretrial detention, regardless of the order in which the judgments of conviction are entered.~~

(Source: P.A. 94-556, eff. 9-11-05; 94-985, eff. 1-1-07; 95-379, eff. 8-23-07; 95-766, eff. 1-1-09.)

(730 ILCS 5/5-9-1) (from Ch. 38, par. 1005-9-1)

Sec. 5-9-1. Authorized fines.

(a) An offender may be sentenced to pay a fine as provided in Article 4.5 of Chapter V. ~~which shall not exceed for each offense:~~

~~(1) for a felony, \$25,000 or the amount specified in the offense, whichever is greater, or where the offender is a corporation, \$50,000 or the amount specified in the offense, whichever is greater;~~

~~(2) for a Class A misdemeanor, \$2,500 or the amount specified in the offense, whichever is greater;~~

~~(3) for a Class B or Class C misdemeanor, \$1,500;~~

~~(4) for a petty offense, \$1,000 or the amount specified in the offense, whichever is less;~~

~~(5) for a business offense, the amount specified in the statute defining that offense.~~

(b) (Blank.) ~~A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment.~~

(c) There shall be added to every fine imposed in sentencing for a criminal or traffic offense, except an offense relating to parking or registration, or offense by a pedestrian, an additional penalty of \$10 for each \$40, or fraction thereof, of fine imposed. The additional penalty of \$10 for each \$40, or fraction thereof, of fine imposed, if not otherwise assessed, shall also be added to every fine imposed

upon a plea of guilty, stipulation of facts or findings of guilty, resulting in a judgment of conviction, or order of supervision in criminal, traffic, local ordinance, county ordinance, and conservation cases (except parking, registration, or pedestrian violations), or upon a sentence of probation without entry of judgment under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act.

Such additional amounts shall be assessed by the court imposing the fine and shall be collected by the Circuit Clerk in addition to the fine and costs in the case. Each such additional penalty shall be remitted by the Circuit Clerk within one month after receipt to the State Treasurer. The State Treasurer shall deposit \$1 for each \$40, or fraction thereof, of fine imposed into the LEADS Maintenance Fund. The State Treasurer shall deposit \$1 for each \$40, or fraction thereof, of fine imposed into the Law Enforcement Camera Grant Fund. The remaining surcharge amount shall be deposited into the Traffic and Criminal Conviction Surcharge Fund, unless the fine, costs or additional amounts are subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act. Such additional penalty shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the

amount of funds remitted to the State Treasurer under this subsection (c) during the preceding calendar year. Except as otherwise provided by Supreme Court Rules, if a court in imposing a fine against an offender levies a gross amount for fine, costs, fees and penalties, the amount of the additional penalty provided for herein shall be computed on the amount remaining after deducting from the gross amount levied all fees of the Circuit Clerk, the State's Attorney and the Sheriff. After deducting from the gross amount levied the fees and additional penalty provided for herein, less any other additional penalties provided by law, the clerk shall remit the net balance remaining to the entity authorized by law to receive the fine imposed in the case. For purposes of this Section "fees of the Circuit Clerk" shall include, if applicable, the fee provided for under Section 27.3a of the Clerks of Courts Act and the fee, if applicable, payable to the county in which the violation occurred pursuant to Section 5-1101 of the Counties Code.

(c-5) In addition to the fines imposed by subsection (c), any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional \$100 fee to the clerk. This additional fee, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Trauma Center Fund. This additional fee of \$100 shall not be considered a

part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection (c-5) during the preceding calendar year.

The Circuit Clerk may accept payment of fines and costs by credit card from an offender who has been convicted of a traffic offense, petty offense or misdemeanor and may charge the service fee permitted where fines and costs are paid by credit card provided for in Section 27.3b of the Clerks of Courts Act.

(c-7) In addition to the fines imposed by subsection (c), any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional \$5 fee to the clerk. This additional fee, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Spinal Cord Injury Paralysis Cure Research Trust Fund. This additional fee of \$5 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection (c-7) during the preceding calendar year.

(c-9) (Blank).

(d) In determining the amount and method of payment of a fine, except for those fines established for violations of Chapter 15 of the Illinois Vehicle Code, the court shall consider:

(1) the financial resources and future ability of the offender to pay the fine; and

(2) whether the fine will prevent the offender from making court ordered restitution or reparation to the victim of the offense; and

(3) in a case where the accused is a dissolved corporation and the court has appointed counsel to represent the corporation, the costs incurred either by the county or the State for such representation.

(e) The court may order the fine to be paid forthwith or within a specified period of time or in installments.

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

(Source: P.A. 93-32, eff. 6-20-03; 94-556, eff. 9-11-05; 94-652, eff. 8-22-05; 94-987, eff. 6-30-06.)

(720 ILCS 5/Art. 33B rep.)

Section 93. The Criminal Code of 1961 is amended by repealing all of Article 33B.

(730 ILCS 5/5-5-1 rep.)

(730 ILCS 5/5-5-2 rep.)

(730 ILCS 5/5-8-3 rep.)

(730 ILCS 5/5-8-7 rep.)

Section 95. The Unified Code of Corrections is amended by repealing Sections 5-5-1, 5-5-2, 5-8-3, and 5-8-7.

Section 99. Effective date. This Act takes effect July 1, 2009.