

1 AN ACT in relation to vehicles.

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

4 Section 5. The Snowmobile Registration and Safety Act is
5 amended by changing Sections 2-2, 5-7. 5-7.1, 5-7.2, 5-7.3,
6 5-7.4, and 5-7.5 and adding Section 5-7.6 as follows:

7 (625 ILCS 40/2-2) (from Ch. 95 1/2, par. 602-2)
8 Sec. 2-2. Inspection.

9 (a) Agents of the Department or other duly authorized
10 police officers may stop and inspect any snowmobile at any
11 time for the purpose of determining if the provisions of this
12 Act are being complied with. If the inspecting officer or
13 agent discovers any violation of the provisions of this Act,
14 he must issue a summons to the operator of such snowmobile
15 requiring that the operator appear before the circuit court
16 for the county within which the offense was committed.

17 (b) Every snowmobile subject to this Act, if under way
18 and upon being hailed by a designated law enforcement
19 officer, must stop immediately.

20 (c) Agents of the Department and other duly authorized
21 police officers may seize and impound, at the owner's
22 expense, any snowmobile involved in an accident or a
23 violation of subsection B of Section 5-1 or of Section 5-7 of
24 this Act.

25 (Source: P.A. 77-1312.)

26 (625 ILCS 40/5-7)

27 Sec. 5-7. Operating a snowmobile while under the
28 influence of alcohol or other drug or drugs, intoxicating
29 compound or compounds, or a combination of them; criminal
30 penalties; suspension of operating privileges.

1 (a) A person may not operate or be in actual physical
2 control of a snowmobile within this State while:

3 1. The alcohol concentration in that person's blood
4 or breath is a concentration at which driving a motor
5 vehicle is prohibited under subdivision (1) of subsection
6 (a) of Section 11-501 of the Illinois Vehicle Code;

7 2. The person is under the influence of alcohol;

8 3. The person is under the influence of any other
9 drug or combination of drugs to a degree that renders
10 that person incapable of safely operating a snowmobile;

11 3.1. The person is under the influence of any
12 intoxicating compound or combination of intoxicating
13 compounds to a degree that renders the person incapable
14 of safely operating a snowmobile;

15 4. The person is under the combined influence of
16 alcohol and any other drug or drugs or intoxicating
17 compound or compounds to a degree that renders that
18 person incapable of safely operating a snowmobile; or

19 5. There is any amount of a drug, substance, or
20 compound in that person's breath, blood, or urine
21 resulting from the unlawful use or consumption of
22 cannabis listed in the Cannabis Control Act, ~~or~~
23 controlled substance listed in the Illinois Controlled
24 Substances Act, or intoxicating compound listed in the
25 use of Intoxicating Compounds Act.

26 (b) The fact that a person charged with violating this
27 Section is or has been legally entitled to use alcohol, ~~or~~
28 other drug or drugs, any intoxicating compound or compounds,
29 or any combination of them does not constitute a defense
30 against a charge of violating this Section.

31 (c) Every person convicted of violating this Section or
32 a similar provision of a local ordinance is guilty of a Class
33 A misdemeanor, except as otherwise provided in this Section.

34 (d) Every person convicted of violating this Section is

1 guilty of a Class 4 felony if:

2 1. The person has a previous conviction under this
3 Section; ~~or~~

4 2. The offense results in personal injury where a
5 person other than the operator suffers great bodily harm
6 or permanent disability or disfigurement, when the
7 violation was a proximate cause of the injuries. A person
8 guilty of a Class 4 felony under this paragraph 2, if
9 sentenced to a term of imprisonment, shall be sentenced
10 to not less than one year nor more than 12 years; or

11 3. The offense occurred during a period in which
12 the person's privileges to operate a snowmobile are
13 revoked or suspended, and the revocation or suspension
14 was for a violation of this Section or was imposed under
15 Section 5-7.1.

16 (e) Every person convicted of violating this Section is
17 guilty of a Class 2 felony if the offense results in the
18 death of a person. A person guilty of a Class 2 felony under
19 this subsection (e), if sentenced to a term of imprisonment,
20 shall be sentenced to a term of not less than 3 years and not
21 more than 14 years.

22 (e-1) Every person convicted of violating this Section
23 or a similar provision of a local ordinance who had a child
24 under the age of 16 on board the snowmobile at the time of
25 offense shall be subject to a mandatory minimum fine of \$500
26 and shall be subject to a mandatory minimum of 5 days of
27 community service in a program benefiting children. The
28 assignment under this subsection shall not be subject to
29 suspension nor shall the person be eligible for probation in
30 order to reduce the assignment.

31 (e-2) Every person found guilty of violating this
32 Section, whose operation of a snowmobile while in violation
33 of this Section proximately caused any incident resulting in
34 an appropriate emergency response, shall be liable for the

1 expense of an emergency response as provided under Section
2 5-5-3 of the Unified Code of Corrections.

3 (e-3) In addition to any other penalties and
4 liabilities, a person who is found guilty of violating this
5 Section, including any person placed on court supervision,
6 shall be fined \$100, payable to the circuit clerk, who shall
7 distribute the money to the law enforcement agency that made
8 the arrest. In the event that more than one agency is
9 responsible for the arrest, the \$100 shall be shared equally.
10 Any moneys received by a law enforcement agency under this
11 subsection (e-3) shall be used to purchase law enforcement
12 equipment or to provide law enforcement training that will
13 assist in the prevention of alcohol related criminal violence
14 throughout the State. Law enforcement equipment shall
15 include, but is not limited to, in-car video cameras, radar
16 and laser speed detection devices, and alcohol breath
17 testers.

18 (f) In addition to any criminal penalties imposed, the
19 Department of Natural Resources Conservation shall suspend
20 the snowmobile operation privileges of a person convicted or
21 found guilty of a misdemeanor under this Section for a period
22 of one year, except that first-time offenders receiving
23 supervision are exempt from this mandatory one year
24 suspension.

25 (g) In addition to any criminal penalties imposed, the
26 Department of Natural Resources shall suspend for a period of
27 5 years the snowmobile operation privileges of any person
28 convicted or found guilty of a felony under this Section or
29 for a period of 5 years if the person is convicted of a
30 felony under this Section.

31 (Source: P.A. 92-615, eff. 1-1-03.)

32 (625 ILCS 40/5-7.1)

33 Sec. 5-7.1. Implied consent.

1 (a) A person who operates or is in actual physical
2 control of a snowmobile in this State is deemed to have given
3 consent to a chemical test or tests of blood, breath, or
4 urine for the purpose of determining the content of alcohol,
5 ~~or~~ other drug or drugs, intoxicating compound or compounds,
6 or a combination of them in content-of that person's blood if
7 arrested for a violation of Section 5-7. The chemical test
8 or tests shall be administered at the direction of the
9 arresting officer. The law enforcement agency employing the
10 officer shall designate which tests shall be administered. A
11 urine test may be administered even after a blood or breath
12 test or both has been administered.

13 (a-1) For the purposes of this Section, an Illinois law
14 enforcement officer of this State who is investigating the
15 person for any offense defined in Section 5-7 may travel into
16 an adjoining state, where the person has been transported for
17 medical care to complete an investigation and to request that
18 the person submit to the test or tests set forth in this
19 Section. The requirements of this Section that the person be
20 arrested are inapplicable, but the officer shall issue the
21 person a uniform citation for an offense as defined in
22 Section 5-7 or a similar provision of a local ordinance prior
23 to requesting that the person submit to the test or tests.
24 The issuance of the uniform citation shall not constitute an
25 arrest, but shall be for the purpose of notifying the person
26 that he or she is subject to the provisions of this Section
27 and of the officer's belief of the existence of probable
28 cause to arrest. Upon returning to this State, the officer
29 shall file the uniform citation with the circuit clerk of the
30 county where the offense was committed and shall seek the
31 issuance of an arrest warrant or a summons for the person.

32 (a-2) Notwithstanding any ability to refuse under this
33 Act to submit to these tests or any ability to revoke the
34 implied consent to these tests, if a law enforcement officer

1 has probable cause to believe that a snowmobile operated by
2 or under actual physical control of a person under the
3 influence of alcohol, other drug or drugs, intoxicating
4 compound or compounds, or any combination of them has caused
5 the death or personal injury to another, that person shall
6 submit, upon the request of a law enforcement officer, to a
7 chemical test or tests of his or her blood, breath, or urine
8 for the purpose of determining the alcohol content or the
9 presence of any other drug or combination of both. For the
10 purposes of this Section, a personal injury includes severe
11 bleeding wounds, distorted extremities, and injuries that
12 require the injured party to be carried from the scene for
13 immediate professional attention in either a doctor's office
14 or a medical facility.

15 (b) A person who is dead, unconscious, or who is
16 otherwise in a condition rendering that person incapable of
17 refusal, is deemed not to have withdrawn the consent provided
18 in subsection (a), and the test or tests may be administered.

19 (c) A person requested to submit to a test as provided
20 in this Section shall be verbally advised by the law
21 enforcement officer requesting the test that a refusal to
22 submit to the test will result in suspension of that person's
23 privilege to operate a snowmobile for a minimum of 2 years.

24 (d) Following this warning, if a person under arrest
25 refuses upon the request of a law enforcement officer to
26 submit to a test designated by the officer, no tests test may
27 be given, but the law enforcement officer shall file with the
28 clerk of the circuit court for the county in which the arrest
29 was made, and with the Department of Natural Resources, a
30 sworn statement naming the person refusing to take and
31 complete the chemical test or tests requested under the
32 provisions of this Section. The sworn statement shall
33 identify the arrested person, the person's current residence
34 address and shall specify that a refusal by that person to

1 take the chemical test or tests was made. The sworn statement
 2 shall include a statement that the officer had reasonable
 3 cause to believe the person was operating or was in actual
 4 physical control of the snowmobile within this State while
 5 under the influence of alcohol, ~~or~~ other drug or drugs, an
 6 intoxicating compound or compound, or a combination of them
 7 and that a chemical test or tests were requested as an
 8 incident to and following the lawful arrest for an offense as
 9 defined in Section 5-7 or a similar provision of a local
 10 ordinance, and that the person, after being arrested for an
 11 offense arising out of acts alleged to have been committed
 12 while operating a snowmobile, refused to submit to and
 13 complete a chemical test or tests as requested by the law
 14 enforcement officer.

15 (e) The law enforcement officer submitting the sworn
 16 statement shall serve immediate written notice upon the
 17 person refusing the chemical test or tests that the person's
 18 privilege to operate a snowmobile within this State will be
 19 suspended for a period of 2 years unless, within 28 days from
 20 the date of the notice, the person requests in writing a
 21 hearing on the suspension. ~~The clerk shall notify the person~~
 22 ~~in writing that the person's privilege to operate a~~
 23 ~~snowmobile will be suspended for a minimum of 2 years unless,~~
 24 ~~within 28 days from the date of mailing of the notice,~~ ~~that~~
 25 ~~person requests a hearing in writing.~~

26 If the person desires a hearing, the person shall file a
 27 complaint in the circuit court in the county where that
 28 person was arrested within 28 days from the date of mailing
 29 of the notice. The hearing shall proceed in the court in the
 30 same manner as other civil proceedings. The hearing shall
 31 cover only the following issues: (1) whether the person was
 32 placed under arrest for an offense as defined in Section 5-7
 33 or a similar provision of a local ordinance as evidenced by
 34 the issuance of a uniform citation; (2) whether the

1 arresting officer had reasonable grounds to believe that the
2 person was operating a snowmobile while under the influence
3 of alcohol, ~~or~~ other drug or drugs, an intoxicating compound
4 or compounds, or a combination of them; and (3) whether that
5 person refused to submit to and complete the chemical test or
6 tests upon the request of the law enforcement officer.
7 Whether the person was informed that the person's privilege
8 to operate a snowmobile would be suspended if that person
9 refused to submit to the chemical test or tests may not be an
10 issue in the hearing.

11 If the person fails to request a hearing in writing
12 within 28 days of the date of the notice, or if a hearing is
13 held and the court finds against the person on the issues
14 before the court, the clerk shall immediately notify the
15 Department of Natural Resources ~~Conservation of--the--court's~~
16 ~~decision,~~ and the Department shall suspend the snowmobile
17 operation privileges of that person for at least 2 years.

18 (f) (Blank) ~~If the person fails to request a hearing--in~~
19 ~~writing--within 28 days of the date of mailing of the notice,~~
20 ~~the--clerk--shall--immediately--notify--the--Department--of~~
21 ~~Conservation--that--no--request--for--a--hearing--was--received~~
22 ~~within the statutory time period,--and--the--Department--shall~~
23 ~~suspend--the--snowmobile--operation privileges of that person~~
24 ~~for at least 2 years.~~

25 (f-1) If the person submits to a test that discloses an
26 alcohol concentration of 0.08 or more, or any amount of a
27 drug, substance, or intoxicating compound in the person's
28 breath, blood, or urine resulting from the unlawful use of
29 cannabis listed in the Cannabis Control Act, a controlled
30 substance listed in the Illinois Controlled Substances Act,
31 or an intoxicating compound listed in the Use of Intoxicating
32 Compounds Act, the law enforcement officer shall immediately
33 submit a sworn report to the circuit clerk of venue and the
34 Department of Natural Resources, certifying that the test or

1 tests was or were requested under subsection (a-1) of this
2 Section and the person submitted to testing that disclosed an
3 alcohol concentration of 0.08 or more.

4 In cases where the blood alcohol concentration of 0.08 or
5 greater or any amount of drug, substance, or compound
6 resulting from the unlawful use of cannabis, a controlled
7 substance, or an intoxicating compound is established by a
8 subsequent analysis of blood or urine collected at the time
9 of arrest, the arresting officer or arresting agency shall
10 immediately submit a sworn report to the circuit clerk of
11 venue and the Department of Natural Resources upon receipt of
12 the test results.

13 (g) A person must submit to each chemical test offered
14 by the law enforcement officer in order to comply with
15 implied consent provisions of this Section.

16 (h) The provision of Section 11-501.2 of the Illinois
17 Vehicle Code concerning the certification and use of chemical
18 tests applies to the use of those tests under this Section.

19 (Source: P.A. 89-55, eff. 1-1-96.)

20 (625 ILCS 40/5-7.2)

21 Sec. 5-7.2. Chemical and other tests.

22 (a) Upon the trial of a civil or criminal action or
23 proceeding arising out of acts alleged to have been committed
24 while under the influence of alcohol, the concentration of
25 alcohol in the person's blood or breath at the time alleged
26 as shown by analysis of the person's blood, urine, breath, or
27 other bodily substance gives rise to the presumptions
28 specified in subdivisions 1, 2, and 3 of subsection (b) of
29 Section 11-501.2 of the Illinois Vehicle Code.

30 (b) The provisions of subsection (a) shall not be
31 construed as limiting the introduction of any other relevant
32 evidence bearing upon the question whether the person was
33 under the influence of alcohol.

1 (c) If a person under arrest refuses to submit to a
 2 chemical test under the provisions of Section 5-7.1, evidence
 3 of refusal is admissible in a civil or criminal action or
 4 proceeding arising out of acts alleged to have been committed
 5 while the person under the influence of alcohol, ~~or~~ other
 6 drug or drugs, an intoxicating compound or compounds, or a
 7 combination of them was operating a snowmobile.

8 (Source: P.A. 89-55, eff. 1-1-96; 90-215, eff. 1-1-98.)

9 (625 ILCS 40/5-7.3)

10 Sec. 5-7.3. Supervision of operator; notification; 6
 11 hour operating limitation.

12 (a) The owner of a snowmobile or person given
 13 supervisory authority over a snowmobile, may not knowingly
 14 permit a snowmobile to be operated by a person under the
 15 influence of alcohol, other drug or drugs, an intoxicating
 16 compound or compounds, or a combination of them.

17 (b) Whenever a person is convicted or found guilty of a
 18 violation of Section 5-7, including any person placed on
 19 court supervision, the court shall notify the Office of Law
 20 Enforcement of the Department of Natural Resources with the
 21 records essential for the performance of the Department's
 22 duties to monitor and enforce an order of suspension or
 23 revocation concerning the person's privilege to operate a
 24 snowmobile.

25 (c) A person who has been arrested and charged with
 26 violating Section 5-7 may not operate a snowmobile within
 27 this State for a period of 24 6 hours after that person's
 28 arrest.

29 (Source: P.A. 89-55, eff. 1-1-96.)

30 (625 ILCS 40/5-7.4)

31 Sec. 5-7.4. Admissibility of chemical tests of blood
 32 conducted in the regular course of providing emergency

1 medical treatment alcohol-tests.

2 (a) Notwithstanding any other provision of law, the
3 written results of blood alcohol tests performed for the
4 purpose of determining the content of alcohol, other drug or
5 drugs, intoxicating compound or compounds, or any combination
6 of them in an individual's blood conducted upon persons
7 receiving medical treatment in a hospital emergency room, are
8 admissible in evidence as a business record exception to the
9 hearsay rule only in prosecutions for a violation of Section
10 5-7 of this Act or a similar provision of a local ordinance
11 or in prosecutions for reckless homicide brought under the
12 Criminal Code of 1961.

13 The results of the tests are admissible only when each of
14 the following criteria are met:

15 1. The chemical tests performed upon an
16 individual's blood were ordered in the regular course of
17 providing emergency treatment and not at the request of
18 law enforcement authorities; and The blood alcohol tests
19 were ordered by a physician on duty at the hospital
20 emergency room and were performed in the regular course
21 of providing emergency medical treatment in order to
22 assist the physician in diagnosis or treatment;

23 2. The chemical tests performed upon an
24 individual's blood were performed by the laboratory
25 routinely used by the hospital. The blood alcohol tests
26 were performed by the hospital's own laboratory; and

27 3. (Blank) The written results of the blood alcohol
28 tests were received and considered by the physician on
29 duty at the hospital emergency room to assist that
30 physician in diagnosis or treatment.

31 Results of chemical tests performed upon an individual's
32 blood are admissible into evidence regardless of the time
33 that the records were prepared.

34 (b) The confidentiality provisions of law pertaining to

1 medical records and medical treatment are not applicable with
 2 regard to chemical ~~blood--alcohol~~ tests performed upon a
 3 person's blood or urine under the provisions of this Section
 4 in prosecutions as specified in subsection (a) of this
 5 Section. No person shall be liable for civil damages as a
 6 result of the evidentiary use of the results of chemical
 7 testing of the individual's ~~blood alcohol-tests-results~~ under
 8 this Section or as a result of that person's testimony made
 9 available under this Section.

10 (Source: P.A. 89-55, eff. 1-1-96; 89-626, eff. 8-9-96.)

11 (625 ILCS 40/5-7.5)

12 Sec. 5-7.5. Preliminary breath screening test. If a law
 13 enforcement officer has reasonable suspicion ~~probable-cause~~
 14 to believe that a person is violating or has violated Section
 15 5-7 or a similar provision of a local ordinance, the officer,
 16 before an arrest, may request the person to provide a sample
 17 of his or her breath for a preliminary breath screening test
 18 using a portable device approved by the Department of State
 19 Police. The results of this preliminary breath screening
 20 test may be used by the law enforcement officer for the
 21 purpose of assisting with the determination of whether to
 22 require a chemical test, as authorized under Sections 5-7.1
 23 and 5-7.2 and the appropriate type of test to request. Any
 24 chemical test authorized under Sections 5-7.1 and 5-7.2 may
 25 be requested by the officer regardless of the result of the
 26 preliminary breath screening test if probable cause for an
 27 arrest exists. The result of a preliminary breath screening
 28 test may be used by the defendant as evidence in an
 29 administrative or court proceeding involving a violation of
 30 Section 5-7 ~~or 5-7.1~~.

31 (Source: P.A. 91-828, eff. 1-1-01.)

32 (625 ILCS 4/5-7.6 new)

1 Sec. 5-7.6. Reporting of test results of blood or urine
2 conducted in the regular course of providing emergency
3 medical treatment.

4 (a) Notwithstanding any other provision of law, the
5 results of blood or urine tests performed for the purpose of
6 determining the content of alcohol, other drug or drugs,
7 intoxicating compound or compounds, or any combination of
8 them in an individual's blood or urine, conducted upon
9 persons receiving medical treatment in a hospital emergency
10 room for injuries resulting from a snowmobile accident, shall
11 be disclosed to the Department of Natural Resources, or local
12 law enforcement agencies of jurisdiction, upon request. The
13 blood or urine tests are admissible in evidence as a business
14 record exception to the hearsay rule only in prosecutions for
15 violations of Section 5-7 of this Code or a similar provision
16 of a local ordinance, or in prosecutions for reckless
17 homicide brought under the Criminal Code of 1961.

18 (b) The confidentiality provisions of the law pertaining
19 to medical records and medical treatment shall not be
20 applicable with regard to tests performed upon an
21 individual's blood or urine under the provisions of
22 subsection (a) of this Section. No person shall be liable for
23 civil damages or professional discipline as a result of
24 disclosure or reporting of the tests or the evidentiary use
25 of an individual's blood or urine test results under this
26 Section or Section 5-7.4 or as a result of that person's
27 testimony made available under this Section or Section 5-7.4,
28 except for willful or wanton misconduct.

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

31 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

32 Sec. 5-5-3. Disposition.

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

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

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

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

1 education program in the state of such individual's
2 residence. Programs providing treatment must be licensed
3 under existing applicable alcoholism and drug treatment
4 licensure standards.

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

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

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

30 (2) A period of probation, a term of periodic
31 imprisonment or conditional discharge shall not be
32 imposed for the following offenses. The court shall
33 sentence the offender to not less than the minimum term
34 of imprisonment set forth in this Code for the following

1 offenses, and may order a fine or restitution or both in
2 conjunction with such term of imprisonment:

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

5 (B) Attempted first degree murder.

6 (C) A Class X felony.

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

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

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

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

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

28 (I) Aggravated battery of a senior citizen.

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

31 Before July 1, 1994, for the purposes of this
32 paragraph, "organized gang" means an association of
33 5 or more persons, with an established hierarchy,
34 that encourages members of the association to

1 perpetrate crimes or provides support to the members
2 of the association who do commit crimes.

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

7 (K) Vehicular hijacking.

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

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

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

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

20 (P) A violation of paragraph (1), (2), (3),
21 (4), (5), or (7) of subsection (a) of Section
22 11-20.1 of the Criminal Code of 1961.

23 (Q) A violation of Section 20-1.2 of the
24 Criminal Code of 1961.

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

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

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

1 of a third or subsequent violation committed within 5
2 years of a previous violation of Section 11-501 of the
3 Illinois Vehicle Code or a similar provision of a local
4 ordinance, a minimum term of either 10 days of
5 imprisonment or 60 days of community service shall be
6 imposed.

7 (4) A minimum term of imprisonment of not less than
8 10 consecutive days or 30 days of community service shall
9 be imposed for a violation of paragraph (c) of Section
10 6-303 of the Illinois Vehicle Code.

11 (4.1) A minimum term of 30 consecutive days of
12 imprisonment, 40 days of 24 hour periodic imprisonment or
13 720 hours of community service, as may be determined by
14 the court, shall be imposed for a violation of Section
15 11-501 of the Illinois Vehicle Code during a period in
16 which the defendant's driving privileges are revoked or
17 suspended, where the revocation or suspension was for a
18 violation of Section 11-501 or Section 11-501.1 of that
19 Code.

20 (4.2) Except as provided in paragraph (4.3) of this
21 subsection (c), a minimum of 100 hours of community
22 service shall be imposed for a second violation of
23 Section 6-303 of the Illinois Vehicle Code.

24 (4.3) A minimum term of imprisonment of 30 days or
25 300 hours of community service, as determined by the
26 court, shall be imposed for a second violation of
27 subsection (c) of Section 6-303 of the Illinois Vehicle
28 Code.

29 (4.4) Except as provided in paragraph (4.5) and
30 paragraph (4.6) of this subsection (c), a minimum term of
31 imprisonment of 30 days or 300 hours of community
32 service, as determined by the court, shall be imposed for
33 a third or subsequent violation of Section 6-303 of the
34 Illinois Vehicle Code.

1 (4.5) A minimum term of imprisonment of 30 days
2 shall be imposed for a third violation of subsection (c)
3 of Section 6-303 of the Illinois Vehicle Code.

4 (4.6) A minimum term of imprisonment of 180 days
5 shall be imposed for a fourth or subsequent violation of
6 subsection (c) of Section 6-303 of the Illinois Vehicle
7 Code.

8 (5) The court may sentence an offender convicted of
9 a business offense or a petty offense or a corporation or
10 unincorporated association convicted of any offense to:

11 (A) a period of conditional discharge;

12 (B) a fine;

13 (C) make restitution to the victim under
14 Section 5-5-6 of this Code.

15 (5.1) In addition to any penalties imposed under
16 paragraph (5) of this subsection (c), and except as
17 provided in paragraph (5.2) or (5.3), a person convicted
18 of violating subsection (c) of Section 11-907 of the
19 Illinois Vehicle Code shall have his or her driver's
20 license, permit, or privileges suspended for at least 90
21 days but not more than one year, if the violation
22 resulted in damage to the property of another person.

23 (5.2) In addition to any penalties imposed under
24 paragraph (5) of this subsection (c), and except as
25 provided in paragraph (5.3), a person convicted of
26 violating subsection (c) of Section 11-907 of the
27 Illinois Vehicle Code shall have his or her driver's
28 license, permit, or privileges suspended for at least 180
29 days but not more than 2 years, if the violation resulted
30 in injury to another person.

31 (5.3) In addition to any penalties imposed under
32 paragraph (5) of this subsection (c), a person convicted
33 of violating subsection (c) of Section 11-907 of the
34 Illinois Vehicle Code shall have his or her driver's

1 license, permit, or privileges suspended for 2 years, if
2 the violation resulted in the death of another person.

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

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

11 (8) When a defendant, over the age of 21 years, is
12 convicted of a Class 1 or Class 2 felony, after having
13 twice been convicted in any state or federal court of an
14 offense that contains the same elements as an offense now
15 classified in Illinois as a Class 2 or greater Class
16 felony and such charges are separately brought and tried
17 and arise out of different series of acts, such defendant
18 shall be sentenced as a Class X offender. This paragraph
19 shall not apply unless (1) the first felony was committed
20 after the effective date of this amendatory Act of 1977;
21 and (2) the second felony was committed after conviction
22 on the first; and (3) the third felony was committed
23 after conviction on the second. A person sentenced as a
24 Class X offender under this paragraph is not eligible to
25 apply for treatment as a condition of probation as
26 provided by Section 40-10 of the Alcoholism and Other
27 Drug Abuse and Dependency Act.

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

31 (10) When a person is convicted of violating
32 Section 11-501 of the Illinois Vehicle Code or a similar
33 provision of a local ordinance, the following penalties
34 apply when his or her blood, breath, or urine was .16 or

1 more based on the definition of blood, breath, or urine
2 units in Section 11-501.2 or that person is convicted of
3 violating Section 11-501 of the Illinois Vehicle Code
4 while transporting a child under the age of 16:

5 (A) For a first violation of subsection (a) of
6 Section 11-501, in addition to any other penalty
7 that may be imposed under subsection (c) of Section
8 11-501: a mandatory minimum of 100 hours of
9 community service and a minimum fine of \$500.

10 (B) For a second violation of subsection (a)
11 of Section 11-501, in addition to any other penalty
12 that may be imposed under subsection (c) of Section
13 11-501 within 10 years: a mandatory minimum of 2
14 days of imprisonment and a minimum fine of \$1,250.

15 (C) For a third violation of subsection (a) of
16 Section 11-501, in addition to any other penalty
17 that may be imposed under subsection (c) of Section
18 11-501 within 20 years: a mandatory minimum of 90
19 days of imprisonment and a minimum fine of \$2,500.

20 (D) For a fourth or subsequent violation of
21 subsection (a) of Section 11-501: ineligibility for
22 a sentence of probation or conditional discharge and
23 a minimum fine of \$2,500.

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

1 trier of fact at trial to determine beyond a reasonable doubt
2 the existence of a fact (other than a prior conviction)
3 necessary to increase the punishment for the offense beyond
4 the statutory maximum otherwise applicable, either the
5 defendant may be re-sentenced to a term within the range
6 otherwise provided or, if the State files notice of its
7 intention to again seek the extended sentence, the defendant
8 shall be afforded a new trial.

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

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

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

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

24 (i) removal from the household;

25 (ii) restricted contact with the victim;

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

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

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

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

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

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

12 For the purposes of this Section, "family member" and
13 "victim" shall have the meanings ascribed to them in Section
14 12-12 of the Criminal Code of 1961.

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

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

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

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

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

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

1 and disbursed by the circuit clerk as provided under Section
2 27.5 of the Clerks of Courts Act.

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

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

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

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

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

1 State's Attorney, hold sentence in abeyance and remand
2 the defendant to the custody of the Attorney General of
3 the United States or his or her designated agent to be
4 deported when:

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

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

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

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

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

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

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

32 (D) Upon motion of the State's Attorney, if a
33 defendant sentenced under this Section returns to the
34 jurisdiction of the United States, the defendant shall be

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

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

14 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;
15 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.
16 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,
17 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;
18 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff.
19 7-19-02.)