



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4440

Introduced 02/03/04, by Kathleen A. Ryg

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-1427.5 new
730 ILCS 5/5-5-3

from Ch. 38, par. 1005-5-3

Amends the Illinois Vehicle Code and the Unified Code of Corrections. Provides that a person who intentionally damages agricultural crops on private property while operating a motor vehicle is guilty of: a Class A misdemeanor if the damage does not exceed \$300; a Class 4 felony if the damage exceeds \$300 but does not exceed \$10,000; a Class 3 felony if the damage exceeds \$10,000 but does not exceed \$100,000; or a Class 2 felony if the damage exceeds \$100,000. Provides that, in addition to any other penalty that may be imposed, the person's driving privileges shall be suspended for 6 months. Provides that, if the person held an instruction permit for a minor at the time of the offense, the person's instruction permit shall be revoked. Effective immediately.

LRB093 15029 DRH 40601 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning driving offenses.

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

4 Section 5. The Illinois Vehicle Code is amended by adding
5 Section 11-1427.5 as follows:

6 (625 ILCS 5/11-1427.5 new)

7 Sec. 11-1427.5. Criminal damage to agricultural crops.

8 (a) A person violates this Section if he or she
9 intentionally damages agricultural crops on private property
10 while operating a motor vehicle.

11 (b) A person who violates this Section is guilty of:

12 (1) a Class A misdemeanor if the damage to the crops
13 does not exceed \$300.

14 (2) a Class 4 felony if the damage to the crops exceeds
15 \$300 but does not exceed \$10,000.

16 (3) a Class 3 felony if the damage to the crops exceeds
17 \$10,000 but does not exceed \$100,000.

18 (4) a Class 2 felony if the damage to the crops exceeds
19 \$100,000.

20 (c) In addition to any other penalty that may be imposed,
21 except as provided in subsection (d), a person who violates
22 this Section shall have his or her driving privileges suspended
23 for a period of 6 months.

24 (d) In addition to any other penalty that may be imposed, a
25 person who violates this Section while holding an instruction
26 permit for a minor under Section 6-107.1 shall have his or her
27 instruction permit revoked.

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

30 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

1 Sec. 5-5-3. Disposition.

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

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

8 (1) A period of probation.

9 (2) A term of periodic imprisonment.

10 (3) A term of conditional discharge.

11 (4) A term of imprisonment.

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

16 (6) A fine.

17 (7) An order directing the offender to make restitution
18 to the victim under Section 5-5-6 of this 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 remedial
25 or rehabilitative treatment or education, neither the
26 treatment nor the education shall be the sole disposition and
27 either or both may be imposed only in conjunction with another
28 disposition. The court shall monitor compliance with any
29 remedial education or treatment recommendations contained in
30 the professional evaluation. Programs conducting alcohol or
31 other drug evaluation or remedial education must be licensed by
32 the Department of Human Services. However, if the individual is
33 not a resident of Illinois, the court may accept an alcohol or
34 other drug evaluation or remedial education program in the
35 state of such individual's residence. Programs providing
36 treatment must be licensed under existing applicable

1 alcoholism and drug treatment licensure standards.

2 In addition to any other fine or penalty required by law,
3 any individual convicted of a violation of Section 11-501 of
4 the Illinois Vehicle Code, Section 5-7 of the Snowmobile
5 Registration and Safety Act, Section 5-16 of the Boat
6 Registration and Safety Act, or a similar provision of local
7 ordinance, whose operation of a motor vehicle while in
8 violation of Section 11-501, Section 5-7, Section 5-16, or such
9 ordinance proximately caused an incident resulting in an
10 appropriate emergency response, shall be required to make
11 restitution to a public agency for the costs of that emergency
12 response. Such restitution shall not exceed \$1,000 per public
13 agency for each such emergency response. For the purpose of
14 this paragraph, emergency response shall mean any incident
15 requiring a response by: a police officer as defined under
16 Section 1-162 of the Illinois Vehicle Code; a fireman carried
17 on the rolls of a regularly constituted fire department; and an
18 ambulance as defined under Section 3.85 of the Emergency
19 Medical Services (EMS) Systems Act.

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

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

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

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

1 (B) Attempted first degree murder.

2 (C) A Class X felony.

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

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

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

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

19 (H) Criminal sexual assault.

20 (I) Aggravated battery of a senior citizen.

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

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

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

33 (K) Vehicular hijacking.

34 (L) A second or subsequent conviction for the
35 offense of hate crime when the underlying offense upon
36 which the hate crime is based is felony aggravated

1 assault or felony mob action.

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

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

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

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

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

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

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

19 (T) A second or subsequent violation of paragraph
20 (6.6) of subsection (a), subsection (c-5), or
21 subsection (d-5) of Section 401 of the Illinois
22 Controlled Substances Act.

23 (3) A minimum term of imprisonment of not less than 5
24 days or 30 days of community service as may be determined
25 by the court shall be imposed for a second violation
26 committed within 5 years of a previous violation of Section
27 11-501 of the Illinois Vehicle Code or a similar provision
28 of a local ordinance. In the case of a third or subsequent
29 violation committed within 5 years of a previous violation
30 of Section 11-501 of the Illinois Vehicle Code or a similar
31 provision of a local ordinance, a minimum term of either 10
32 days of imprisonment or 60 days of community service shall
33 be imposed.

34 (4) A minimum term of imprisonment of not less than 10
35 consecutive days or 30 days of community service shall be
36 imposed for a violation of paragraph (c) of Section 6-303

1 of the Illinois Vehicle Code.

2 (4.1) A minimum term of 30 consecutive days of
3 imprisonment, 40 days of 24 hour periodic imprisonment or
4 720 hours of community service, as may be determined by the
5 court, shall be imposed for a violation of Section 11-501
6 of the Illinois Vehicle Code during a period in which the
7 defendant's driving privileges are revoked or suspended,
8 where the revocation or suspension was for a violation of
9 Section 11-501 or Section 11-501.1 of that Code.

10 (4.2) Except as provided in paragraph (4.3) of this
11 subsection (c), a minimum of 100 hours of community service
12 shall be imposed for a second violation of Section 6-303 of
13 the Illinois Vehicle Code.

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

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

24 (4.5) A minimum term of imprisonment of 30 days shall
25 be imposed for a third violation of subsection (c) of
26 Section 6-303 of the Illinois Vehicle Code.

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

31 (5) The court may sentence an offender convicted of a
32 business offense or a petty offense or a corporation or
33 unincorporated association convicted of any offense to:

34 (A) a period of conditional discharge;

35 (B) a fine;

36 (C) make restitution to the victim under Section

1 5-5-6 of this Code.

2 (5.1) In addition to any penalties imposed under
3 paragraph (5) of this subsection (c), and except as
4 provided in paragraph (5.2) or (5.3), a person convicted of
5 violating subsection (c) of Section 11-907 of the Illinois
6 Vehicle Code shall have his or her driver's license,
7 permit, or privileges suspended for at least 90 days but
8 not more than one year, if the violation resulted in damage
9 to the property of another person.

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

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

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

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

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

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

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

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

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

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

33 (C) For a third violation of subsection (a) of
34 Section 11-501, in addition to any other penalty that
35 may be imposed under subsection (c) of Section 11-501
36 within 20 years: a mandatory minimum of 90 days of

1 imprisonment and a minimum fine of \$2,500.

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

6 (11) In addition to any other penalty that may be
7 imposed, a person convicted of violating Section 11-1427.5
8 of the Illinois Vehicle Code shall have his or her driving
9 privileges revoked for a period of 6 months. If the person
10 committed the offense while holding an instruction permit
11 for a minor under Section 6-107.1 of the Illinois Vehicle
12 Code, the person's instruction permit shall be revoked.

13 (d) In any case in which a sentence originally imposed is
14 vacated, the case shall be remanded to the trial court. The
15 trial court shall hold a hearing under Section 5-4-1 of the
16 Unified Code of Corrections which may include evidence of the
17 defendant's life, moral character and occupation during the
18 time since the original sentence was passed. The trial court
19 shall then impose sentence upon the defendant. The trial court
20 may impose any sentence which could have been imposed at the
21 original trial subject to Section 5-5-4 of the Unified Code of
22 Corrections. If a sentence is vacated on appeal or on
23 collateral attack due to the failure of the trier of fact at
24 trial to determine beyond a reasonable doubt the existence of a
25 fact (other than a prior conviction) necessary to increase the
26 punishment for the offense beyond the statutory maximum
27 otherwise applicable, either the defendant may be re-sentenced
28 to a term within the range otherwise provided or, if the State
29 files notice of its intention to again seek the extended
30 sentence, the defendant shall be afforded a new trial.

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

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

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

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

8 (i) removal from the household;

9 (ii) restricted contact with the victim;

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

12 (iv) restitution for harm done to the victim;

13 and

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

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

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

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

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

1 (g) Whenever a defendant is convicted of an offense under
2 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
3 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
4 of the Criminal Code of 1961, the defendant shall undergo
5 medical testing to determine whether the defendant has any
6 sexually transmissible disease, including a test for infection
7 with human immunodeficiency virus (HIV) or any other identified
8 causative agent of acquired immunodeficiency syndrome (AIDS).
9 Any such medical test shall be performed only by appropriately
10 licensed medical practitioners and may include an analysis of
11 any bodily fluids as well as an examination of the defendant's
12 person. Except as otherwise provided by law, the results of
13 such test shall be kept strictly confidential by all medical
14 personnel involved in the testing and must be personally
15 delivered in a sealed envelope to the judge of the court in
16 which the conviction was entered for the judge's inspection in
17 camera. Acting in accordance with the best interests of the
18 victim and the public, the judge shall have the discretion to
19 determine to whom, if anyone, the results of the testing may be
20 revealed. The court shall notify the defendant of the test
21 results. The court shall also notify the victim if requested by
22 the victim, and if the victim is under the age of 15 and if
23 requested by the victim's parents or legal guardian, the court
24 shall notify the victim's parents or legal guardian of the test
25 results. The court shall provide information on the
26 availability of HIV testing and counseling at Department of
27 Public Health facilities to all parties to whom the results of
28 the testing are revealed and shall direct the State's Attorney
29 to provide the information to the victim when possible. A
30 State's Attorney may petition the court to obtain the results
31 of any HIV test administered under this Section, and the court
32 shall grant the disclosure if the State's Attorney shows it is
33 relevant in order to prosecute a charge of criminal
34 transmission of HIV under Section 12-16.2 of the Criminal Code
35 of 1961 against the defendant. The court shall order that the
36 cost of any such test shall be paid by the county and may be

1 taxed as costs against the convicted defendant.

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

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

1 the Criminal Code of 1961 against the defendant. The court
2 shall order that the cost of any such test shall be paid by the
3 county and may be taxed as costs against the convicted
4 defendant.

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

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

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

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

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

34 (l) (A) Except as provided in paragraph (C) of subsection
35 (l), whenever a defendant, who is an alien as defined by
36 the Immigration and Nationality Act, is convicted of any

1 felony or misdemeanor offense, the court after sentencing
2 the defendant may, upon motion of the State's Attorney,
3 hold sentence in abeyance and remand the defendant to the
4 custody of the Attorney General of the United States or his
5 or her designated agent to be deported when:

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

9 (2) the deportation of the defendant would not
10 deprecate the seriousness of the defendant's conduct
11 and would not be inconsistent with the ends of 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 a
15 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, the
18 court may, upon motion of the State's Attorney to suspend
19 the sentence imposed, commit the defendant to the custody
20 of the Attorney General of the United States or his or her
21 designated agent when:

22 (1) a final order of deportation has been issued
23 against the defendant pursuant to proceedings under
24 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 justice.

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

31 (D) Upon motion of the State's Attorney, if a defendant
32 sentenced under this Section returns to the jurisdiction of
33 the United States, the defendant shall be recommitted to
34 the custody of the county from which he or she was
35 sentenced. Thereafter, the defendant shall be brought
36 before the sentencing court, which may impose any sentence

1 that was available under Section 5-5-3 at the time of
2 initial sentencing. In addition, the defendant shall not be
3 eligible for additional good conduct credit for
4 meritorious service as provided under Section 3-6-6.

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

11 (n) The court may sentence a person convicted of a
12 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
13 Code of 1961 (i) to an impact incarceration program if the
14 person is otherwise eligible for that program under Section
15 5-8-1.1, (ii) to community service, or (iii) if the person is
16 an addict or alcoholic, as defined in the Alcoholism and Other
17 Drug Abuse and Dependency Act, to a substance or alcohol abuse
18 program licensed under that Act.

19 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
20 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
21 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
22 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
23 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
24 eff. 1-1-04; revised 10-9-03.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.