

1 AN ACT in relation to 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  
5 changing Section 11-501 as follows:

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

7 Sec. 11-501. Driving while under the influence of  
8 alcohol, other drug or drugs, intoxicating compound or  
9 compounds or any combination thereof.

10 (a) A person shall not drive or be in actual physical  
11 control of any vehicle within this State while:

12 (1) the alcohol concentration in the person's blood  
13 or breath is 0.08 or more based on the definition of  
14 blood and breath units in Section 11-501.2;

15 (2) under the influence of alcohol;

16 (3) under the influence of any intoxicating  
17 compound or combination of intoxicating compounds to a  
18 degree that renders the person incapable of driving  
19 safely;

20 (4) under the influence of any other drug or  
21 combination of drugs to a degree that renders the person  
22 incapable of safely driving;

23 (5) under the combined influence of alcohol, other  
24 drug or drugs, or intoxicating compound or compounds to a  
25 degree that renders the person incapable of safely  
26 driving; or

27 (6) there is any amount of a drug, substance, or  
28 compound in the person's breath, blood, or urine  
29 resulting from the unlawful use or consumption of  
30 cannabis listed in the Cannabis Control Act, a controlled  
31 substance listed in the Illinois Controlled Substances

1 Act, or an intoxicating compound listed in the Use of  
2 Intoxicating Compounds Act.

3 (b) The fact that any person charged with violating this  
4 Section is or has been legally entitled to use alcohol, other  
5 drug or drugs, or intoxicating compound or compounds, or any  
6 combination thereof, shall not constitute a defense against  
7 any charge of violating this Section.

8 (b-1) With regard to penalties imposed under this  
9 Section:

10 (1) Any reference to a prior violation of  
11 subsection (a) or a similar provision includes any  
12 violation of a provision of a local ordinance or a  
13 provision of a law of another state that is similar to a  
14 violation of subsection (a) of this Section.

15 (2) Any penalty imposed for driving with a license  
16 that has been revoked for a previous violation of  
17 subsection (a) of this Section shall be in addition to  
18 the penalty imposed for any subsequent violation of  
19 subsection (a).

20 (b-2) Except as otherwise provided in this Section, any  
21 person convicted of violating subsection (a) of this Section  
22 is guilty of a Class A misdemeanor.

23 (b-3) In addition to any other criminal or  
24 administrative sanction for any second conviction of  
25 violating subsection (a) or a similar provision committed  
26 within 5 years of a previous violation of subsection (a) or a  
27 similar provision, the defendant shall be sentenced to a  
28 mandatory minimum of 5 days of imprisonment or assigned a  
29 mandatory minimum of 240 hours of community service as may be  
30 determined by the court.

31 (b-4) In the case of a third or subsequent violation  
32 committed within 5 years of a previous violation of  
33 subsection (a) or a similar provision, in addition to any  
34 other criminal or administrative sanction, a mandatory

1 minimum term of either 10 days of imprisonment or 480 hours  
2 of community service shall be imposed.

3 (b-5) The imprisonment or assignment of community  
4 service under subsections (b-3) and (b-4) shall not be  
5 subject to suspension, nor shall the person be eligible for a  
6 reduced sentence.

7 (c) (Blank). Except-as-provided-under-paragraphs--(e-3),  
8 (e-4),--and--(d)--of--this-Section, every-person-convicted-of  
9 violating-this-Section-or-a--similar--provision--of--a--local  
10 ordinance,--shall--be-guilty-of-a-Class-A-misdemeanor-and,--in  
11 addition-to-any-other-criminal-or-administrative-action,--for  
12 any--second-conviction-of-violating-this-Section-or-a-similar  
13 provision-of-a--law--of--another--state--or--local--ordinance  
14 committed--within--5--years--of--a-previous-violation-of-this  
15 Section-or-a-similar-provision-of-a-local-ordinance-shall--be  
16 mandatorily--sentenced-to-a-minimum-of-5-days-of-imprisonment  
17 or-assigned-to-a-minimum-of-30-days-of-community--service--as  
18 may--be--determined--by--the-court.-Every-person-convicted-of  
19 violating-this-Section-or-a--similar--provision--of--a--local  
20 ordinance-shall-be-subject-to-an-additional-mandatory-minimum  
21 fine--of--\$500-and-an-additional-mandatory-5-days-of-community  
22 service-in--a--program--benefiting--children--if--the--person  
23 committed-a-violation-of-paragraph-(a)-or-a-similar-provision  
24 of--a--local--ordinance-while-transporting-a-person-under-age  
25 16.--Every-person-convicted-a-second-time-for-violating--this  
26 Section--or-a-similar-provision-of-a-local-ordinance-within-5  
27 years-of-a-previous-violation-of-this-Section--or--a--similar  
28 provision--of-a-law-of-another-state-or-local-ordinance-shall  
29 be-subject-to-an-additional-mandatory-minimum--fine--of--\$500  
30 and-an-additional-10-days-of-mandatory-community-service-in-a  
31 program--benefiting--children--if--the--current--offense--was  
32 committed--while--transporting--a--person--under-age-16.--The  
33 imprisonment-or-assignment-under-this-subsection-shall-not-be  
34 subject-to-suspension-nor-shall-the-person--be--eligible--for

1 ~~probation-in-order-to-reduce-the-sentence-or-assignment.~~

2 (c-1) (1) A person who violates subsection (a) this  
3 Section during a period in which his or her driving  
4 privileges are revoked or suspended, where the revocation  
5 or suspension was for a violation of subsection (a) this  
6 Section, Section 11-501.1, paragraph (b) of Section  
7 11-401, or for reckless homicide as defined in Section  
8 9-3 of the Criminal Code of 1961 is guilty of a Class 4  
9 felony.

10 (2) A person who violates subsection (a) this  
11 Section a third time, if the third violation occurs  
12 during a period in which his or her driving privileges  
13 are revoked or suspended where the revocation or  
14 suspension was for a violation of subsection (a) this  
15 Section, Section 11-501.1, paragraph (b) of Section  
16 11-401, or for reckless homicide as defined in Section  
17 9-3 of the Criminal Code of 1961, is guilty of a Class 3  
18 felony.

19 (2.1) A person who violates subsection (a) a third  
20 time, if the third violation occurs during a period in  
21 which his or her driving privileges are revoked or  
22 suspended where the revocation or suspension was for a  
23 violation of subsection (a), Section 11-501.1, subsection  
24 (b) of Section 11-401, or for reckless homicide as  
25 defined in Section 9-3 of the Criminal Code of 1961, is  
26 guilty of a Class 3 felony; and if the person receives a  
27 term of probation or conditional discharge, he or she  
28 shall be required to serve a mandatory minimum of 10 days  
29 of imprisonment or shall be assigned a mandatory minimum  
30 of 480 hours of community service, as may be determined  
31 by the court, as a condition of the probation or  
32 conditional discharge. This mandatory minimum term of  
33 imprisonment or assignment of community service shall not  
34 be suspended or reduced by the court.

1           (2.2) A person who violates subsection (a), if the  
 2 violation occurs during a period in which his or her  
 3 driving privileges are revoked or suspended where the  
 4 revocation or suspension was for a violation of  
 5 subsection (a) or Section 11-501.1, shall also be  
 6 sentenced to an additional mandatory minimum term of 30  
 7 consecutive days of imprisonment, 40 days of 24-hour  
 8 periodic imprisonment, or 720 hours of community service,  
 9 as may be determined by the court. This mandatory term  
 10 of imprisonment or assignment of community service shall  
 11 not be suspended or reduced by the court.

12           (3) A person who violates subsection (a) this  
 13 Section a fourth or subsequent time, if the fourth or  
 14 subsequent violation occurs during a period in which his  
 15 or her driving privileges are revoked or suspended where  
 16 the revocation or suspension was for a violation of  
 17 subsection (a) this-Section, Section 11-501.1, paragraph  
 18 (b) of Section 11-401, or for reckless homicide as  
 19 defined in Section 9-3 of the Criminal Code of 1961, is  
 20 guilty of a Class 2 felony and is not eligible for a  
 21 sentence of probation or conditional discharge.

22           (c-2) (Blank).

23           (c-3) (Blank). Every-person-convicted-of-violating--this  
 24 Section-or-a-similar-provision-of-a-local-ordinance-who-had-a  
 25 child--under-age-16-in-the-vehicle-at-the-time-of-the-offense  
 26 shall-have-his-or-her-punishment-under-this-Act-enhanced-by-2  
 27 days--of--imprisonment--for--a--first--offense,--10--days--of  
 28 imprisonment-for-a-second-offense,--30--days--of--imprisonment  
 29 for-a-third-offense,--and-90-days-of-imprisonment-for-a-fourth  
 30 or--subsequent-offense,--in-addition-to-the-fine-and-community  
 31 service--required--under--subsection--(c)--and--the--possible  
 32 imprisonment-required-under-subsection-(d).--The-imprisonment  
 33 or-assignment-under-this-subsection-shall-not-be--subject--to  
 34 suspension--nor-shall-the-person-be-eligible-for-probation-in

1 order-to-reduce-the-sentence-or-assignment.

2 (c-4) (Blank). When-a-person-is-convicted--of--violating  
3 Section-11-501-of-this-Code-or-a-similar-provision-of-a-local  
4 ordinance,--the--following--penalties--apply--when-his-or-her  
5 blood,--breath,--or--urine--was--.16--or--more--based--on--the  
6 definition--of--blood,--breath,--or--urine--units--in-Section  
7 11-501.2-or-when-that-person-is-convicted-of--violating--this  
8 Section-while-transporting-a-child-under-the-age-of-16:

9 (1)--A--person--who--is--convicted--of--violating  
10 subsection-(a)-of-Section-11-501-of--this--Code--a--first  
11 time,--in--addition--to--any--other--penalty--that-may-be  
12 imposed-under-subsection-(c),--is-subject-to--a--mandatory  
13 minimum--of--100-hours-of-community-service-and-a-minimum  
14 fine-of-\$500.

15 (2)--A--person--who--is--convicted--of--violating  
16 subsection--(a)--of--Section-11-501-of-this-Code-a-second  
17 time-within-10-years,--in-addition-to--any--other--penalty  
18 that-may-be-imposed-under-subsection-(c),--is-subject-to-a  
19 mandatory-minimum-of-2-days-of-imprisonment-and-a-minimum  
20 fine-of-\$1,250.

21 (3)--A--person--who--is--convicted--of--violating  
22 subsection-(a)-of-Section-11-501-of--this--Code--a--third  
23 time--within--20-years-is-guilty-of-a-Class-4-felony-and,  
24 in-addition-to-any-other--penalty--that--may--be--imposed  
25 under--subsection--(c),--is-subject-to-a-mandatory-minimum  
26 of-90-days-of-imprisonment-and-a-minimum-fine-of-\$2,500.

27 (4)--A-person-who-is--convicted--of--violating--this  
28 subsection-(c-4)-a-fourth-or-subsequent-time-is-guilty-of  
29 a--Class--2--felony-and,--in-addition-to-any-other-penalty  
30 that-may-be-imposed-under-subsection-(c),--is-not-eligible  
31 for-a-sentence-of-probation-or-conditional-discharge--and  
32 is-subject-to-a-minimum-fine-of-\$2,500.

33 (c-5) A person who violates subsection (a), if the  
34 person was transporting a person under the age of 16 at the

1 time of the violation, is subject to an additional mandatory  
2 minimum fine of \$1,000, an additional mandatory minimum 140  
3 hours of community service, which shall include 40 hours of  
4 community service in a program benefiting children, and an  
5 additional 2 days of imprisonment. The imprisonment or  
6 assignment of community service under this subsection (c-5)  
7 is not subject to suspension, nor is the person eligible for  
8 a reduced sentence.

9 (c-6) Except as provided in subsections (c-7) and (c-8)  
10 a person who violates subsection (a) a second time, if at the  
11 time of the second violation the person was transporting a  
12 person under the age of 16, is subject to an additional 10  
13 days of imprisonment, an additional mandatory minimum fine of  
14 \$1,000, and an additional mandatory minimum 140 hours of  
15 community service, which shall include 40 hours of community  
16 service in a program benefiting children. The imprisonment or  
17 assignment of community service under this subsection (c-6)  
18 is not subject to suspension, nor is the person eligible for  
19 a reduced sentence.

20 (c-7) Except as provided in subsection (c-8), any person  
21 convicted of violating subsection (c-6) or a similar  
22 provision within 10 years of a previous violation of  
23 subsection (a) or a similar provision shall receive, in  
24 addition to any other penalty imposed, a mandatory minimum 12  
25 days imprisonment, an additional 40 hours of mandatory  
26 community service in a program benefiting children, and a  
27 mandatory minimum fine of \$1,750. The imprisonment or  
28 assignment of community service under this subsection (c-7)  
29 is not subject to suspension, nor is the person eligible for  
30 a reduced sentence.

31 (c-8) any person convicted of violating subsection (c-6)  
32 or a similar provision within 5 years of a previous violation  
33 of subsection (a) or a similar provision shall receive, in  
34 addition to any other penalty imposed, an additional 80 hours

1 of mandatory community service in a program benefiting  
2 children, an additional mandatory minimum 12 days of  
3 imprisonment, and a mandatory minimum fine of \$1,750. The  
4 imprisonment or assignment of community service under this  
5 subsection (c-8) is not subject to suspension, nor is the  
6 person eligible for a reduced sentence.

7 (c-9) Any person convicted a third time for violating  
8 subsection (a) or a similar provision, if at the time of the  
9 third violation the person was transporting a person under  
10 the age 16, is guilty of a Class 4 felony and shall receive,  
11 in addition to any other penalty imposed, an additional  
12 mandatory fine of \$1,000, an additional mandatory 140 hours  
13 of community service, which shall include 40 hours in a  
14 program benefiting children, and a mandatory minimum 30 days  
15 of imprisonment. The imprisonment or assignment of community  
16 service under this subsection (c-9) is not subject to  
17 suspension, nor is the person eligible for a reduced  
18 sentence.

19 (c-10) Any person convicted of violating subsection  
20 (c-9) or a similar provision a third time within 20 years of  
21 a previous violation of subsection (a) or a similar provision  
22 is guilty of a Class 4 felony and shall receive, in addition  
23 to any other penalty imposed, an additional mandatory 40  
24 hours of community service in a program benefiting children,  
25 an additional mandatory fine of \$3000, and a mandatory  
26 minimum 120 days of imprisonment. The imprisonment or  
27 assignment of community service under this subsection (c-10)  
28 is not subject to suspension, nor is the person eligible for  
29 a reduced sentence.

30 (c-11) Any person convicted a fourth or subsequent time  
31 for violating subsection (a) or a similar provision, if at  
32 the time of the fourth or subsequent violation the person was  
33 transporting a person under the age of 16, and if the  
34 person's 3 prior violations of subsection (a) or similar



1 provision occurred while transporting a person under the age  
2 of 16 or while the alcohol concentration in his or her blood,  
3 breath, or urine was 0.16 or more based on the definition of  
4 blood, breath, or urine units in Section 11-501.2, is guilty  
5 of a Class 2 felony, is not eligible for probation or  
6 conditional discharge, and is subject to a minimum fine of  
7 \$3,000.

8 (c-12) Any person convicted of a first violation of  
9 subsection (a) or a similar provision, if the alcohol  
10 concentration in his or her blood, breath, or urine was 0.16  
11 or more based on the definition of blood, breath, or urine  
12 units in Section 11-501.2, shall be subject, in addition to  
13 any other penalty that may be imposed, to a mandatory minimum  
14 of 100 hours of community service and a mandatory minimum  
15 fine of \$500.

16 (c-13) Any person convicted of a second violation of  
17 subsection (a) or a similar provision, if at the time of the  
18 second violation of subsection (a) the alcohol concentration  
19 in his or her blood, breath, or urine was 0.16 or more based  
20 on the definition of blood, breath, or urine units in Section  
21 11-501.2, shall be subject, in addition to any other penalty  
22 that may be imposed, to a mandatory minimum of 2 days of  
23 imprisonment and a mandatory minimum fine of \$1,250.

24 (c-14) Any person convicted of a third violation of  
25 subsection (a) or a similar provision within 20 years of a  
26 previous violation of subsection (a) or a similar provision,  
27 if at the time of the third violation of subsection (a) or a  
28 similar provision the alcohol concentration in his or her  
29 blood, breath, or urine was 0.16 or more based on the  
30 definition of blood, breath, or urine units in Section  
31 11-501.2, is guilty of a Class 4 felony and shall be subject,  
32 in addition to any other penalty that may be imposed, to a  
33 mandatory minimum of 90 days of imprisonment and a mandatory  
34 minimum fine of \$2,500.

1        (c-15) Any person convicted of a fourth or subsequent  
 2 violation of subsection (a) or a similar provision, if at the  
 3 time of the fourth or subsequent violation the alcohol  
 4 concentration in his or her blood, breath, or urine was 0.16  
 5 or more based on the definition of blood, breath, or urine  
 6 units in Section 11-501.2, and if the person's 3 prior  
 7 violations of subsection (a) or a similar provision occurred  
 8 while transporting a person under the age of 16 or while the  
 9 alcohol concentration in his or her blood, breath, or urine  
 10 was 0.16 or more based on the definition of blood, breath, or  
 11 urine units in Section 11-501.2, is guilty of a Class 2  
 12 felony and is not eligible for a sentence of probation or  
 13 conditional discharge and is subject to a minimum fine of  
 14 \$2,500.

15        (d) (1) Every person convicted of committing a violation  
 16 of this Section shall be guilty of aggravated driving  
 17 under the influence of alcohol, other drug or drugs, or  
 18 intoxicating compound or compounds, or any combination  
 19 thereof if:

20                (A) the person committed a violation of  
 21 subsection (a) this-Section, or a similar provision  
 22 of--a-law-of-another-state-or-a-local-ordinance-when  
 23 the-cause-of-action-is-the-same-as-or--substantially  
 24 similar-to-this-Section, for the third or subsequent  
 25 time;

26                (B) the person committed a violation of  
 27 subsection paragraph (a) while driving a school bus  
 28 with persons 18 years of age or younger children on  
 29 board;

30                (C) the person in committing a violation of  
 31 subsection paragraph (a) was involved in a motor  
 32 vehicle accident that resulted in great bodily harm  
 33 or permanent disability or disfigurement to another,  
 34 when the violation was a proximate cause of the

1 injuries;

2 (D) the person committed a violation of  
3 subsection paragraph (a) for a second time and has  
4 been previously convicted of violating Section 9-3  
5 of the Criminal Code of 1961 relating to reckless  
6 homicide in which the person was determined to have  
7 been under the influence of alcohol, other drug or  
8 drugs, or intoxicating compound or compounds as an  
9 element of the offense or the person has previously  
10 been convicted under subparagraph (C) or  
11 subparagraph (F) of this paragraph (1);

12 (E) the person, in committing a violation of  
13 subsection paragraph (a) while driving at any speed  
14 in a school speed zone at a time when a speed limit  
15 of 20 miles per hour was in effect under subsection  
16 (a) of Section 11-605 of this Code, was involved in  
17 a motor vehicle accident that resulted in bodily  
18 harm, other than great bodily harm or permanent  
19 disability or disfigurement, to another person, when  
20 the violation of subsection paragraph (a) was a  
21 proximate cause of the bodily harm; or

22 (F) the person, in committing a violation of  
23 subsection paragraph (a), was involved in a motor  
24 vehicle, snowmobile, all-terrain vehicle, or  
25 watercraft accident that resulted in the death of  
26 another person, when the violation of subsection  
27 paragraph (a) was a proximate cause of the death.

28 (2) Except as provided in this paragraph (2), a  
29 person convicted of aggravated driving under the  
30 influence of alcohol, other drug or drugs, or  
31 intoxicating compound or compounds, or any combination  
32 thereof is guilty of a Class 4 felony. For a violation  
33 of subparagraph (C) of paragraph (1) of this subsection  
34 (d), the defendant, if sentenced to a term of

1 imprisonment, shall be sentenced to not less than one  
2 year nor more than 12 years. Aggravated driving under the  
3 influence of alcohol, other drug or drugs, or  
4 intoxicating compound or compounds, or any combination  
5 thereof as defined in subparagraph (F) of paragraph (1)  
6 of this subsection (d) is a Class 2 felony, for which the  
7 defendant, if sentenced to a term of imprisonment, shall  
8 be sentenced to: (A) a term of imprisonment of not less  
9 than 3 years and not more than 14 years if the violation  
10 resulted in the death of one person; or (B) a term of  
11 imprisonment of not less than 6 years and not more than  
12 28 years if the violation resulted in the deaths of 2 or  
13 more persons. For any prosecution under this subsection  
14 (d), a certified copy of the driving abstract of the  
15 defendant shall be admitted as proof of any prior  
16 conviction. Any person sentenced under this subsection  
17 (d) who receives a term of probation or conditional  
18 discharge must serve a minimum term of either 480 hours  
19 of community service or 10 days of imprisonment as a  
20 condition of the probation or conditional discharge. This  
21 mandatory minimum term of imprisonment or assignment of  
22 community service may not be suspended or reduced by the  
23 court.

24 (e) After a finding of guilt and prior to any final  
25 sentencing, or an order for supervision, for an offense based  
26 upon an arrest for a violation of this Section or a similar  
27 provision of a local ordinance, individuals shall be required  
28 to undergo a professional evaluation to determine if an  
29 alcohol, drug, or intoxicating compound abuse problem exists  
30 and the extent of the problem, and undergo the imposition of  
31 treatment as appropriate. Programs conducting these  
32 evaluations shall be licensed by the Department of Human  
33 Services. The cost of any professional evaluation shall be  
34 paid for by the individual required to undergo the

1 professional evaluation.

2 (e-1) Any person who is found guilty of or pleads guilty  
3 to violating this Section, including any person receiving a  
4 disposition of court supervision for violating this Section,  
5 may be required by the Court to attend a victim impact panel  
6 offered by, or under contract with, a County State's  
7 Attorney's office, a probation and court services department,  
8 Mothers Against Drunk Driving, or the Alliance Against  
9 Intoxicated Motorists. All costs generated by the victim  
10 impact panel shall be paid from fees collected from the  
11 offender or as may be determined by the court.

12 (f) Every person found guilty of violating this Section,  
13 whose operation of a motor vehicle while in violation of this  
14 Section proximately caused any incident resulting in an  
15 appropriate emergency response, shall be liable for the  
16 expense of an emergency response as provided under Section  
17 5-5-3 of the Unified Code of Corrections.

18 (g) The Secretary of State shall revoke the driving  
19 privileges of any person convicted under this Section or a  
20 similar provision of a local ordinance.

21 (h) Blank. ~~Every person sentenced under paragraph (2) or~~  
22 ~~(3) of subsection (e-1) of this Section or subsection (d) of~~  
23 ~~this Section and who receives a term of probation or~~  
24 ~~conditional discharge shall be required to serve a minimum~~  
25 ~~term of either 60 days community service or 10 days of~~  
26 ~~imprisonment as a condition of the probation or conditional~~  
27 ~~discharge. This mandatory minimum term of imprisonment or~~  
28 ~~assignment of community service shall not be suspended and~~  
29 ~~shall not be subject to reduction by the court.~~

30 (i) The Secretary of State shall require the use of  
31 ignition interlock devices on all vehicles owned by an  
32 individual who has been convicted of a second or subsequent  
33 offense of this Section or a similar provision of a local  
34 ordinance. The Secretary shall establish by rule and

1 regulation the procedures for certification and use of the  
2 interlock system.

3 (j) In addition to any other penalties and liabilities,  
4 a person who is found guilty of or pleads guilty to violating  
5 subsection (a) this-Section, including any person placed on  
6 court supervision for violating subsection (a) this-Section,  
7 shall be fined \$100, payable to the circuit clerk, who shall  
8 distribute the money to the law enforcement agency that made  
9 the arrest. If the person has been previously convicted of  
10 violating subsection (a) this-Section or a similar provision  
11 of a local ordinance, the fine shall be \$200. In the event  
12 that more than one agency is responsible for the arrest, the  
13 \$100 or \$200 shall be shared equally. Any moneys received by  
14 a law enforcement agency under this subsection (j) shall be  
15 used to purchase law enforcement equipment that will assist  
16 in the prevention of alcohol related criminal violence  
17 throughout the State. This shall include, but is not limited  
18 to, in-car video cameras, radar and laser speed detection  
19 devices, and alcohol breath testers. Any moneys received by  
20 the Department of State Police under this subsection (j)  
21 shall be deposited into the State Police DUI Fund and shall  
22 be used to purchase law enforcement equipment that will  
23 assist in the prevention of alcohol related criminal violence  
24 throughout the State.

25 (k) The Secretary of State Police DUI Fund is created as  
26 a special fund in the State treasury. All moneys received by  
27 the Secretary of State Police under subsection (j) of this  
28 Section shall be deposited into the Secretary of State Police  
29 DUI Fund and, subject to appropriation, shall be used to  
30 purchase law enforcement equipment to assist in the  
31 prevention of alcohol related criminal violence throughout  
32 the State.

33 (l) Whenever an individual is sentenced for an offense  
34 based upon an arrest for a violation of subsection (a) or a

1 similar provision of a local ordinance, and the professional  
2 evaluation recommends remedial or rehabilitative treatment or  
3 education, neither the treatment nor the education shall be  
4 the sole disposition and either or both may be imposed only  
5 in conjunction with another disposition. The court shall  
6 monitor compliance with any remedial education or treatment  
7 recommendations contained in the professional evaluation.  
8 Programs conducting alcohol or other drug evaluation or  
9 remedial education must be licensed by the Department of  
10 Human Services. If the individual is not a resident of  
11 Illinois, however, the court may accept an alcohol or other  
12 drug evaluation or remedial education program in the  
13 individual's state of residence. Programs providing  
14 treatment must be licensed under existing applicable  
15 alcoholism and drug treatment licensure standards.

16 (m) In addition to any other fine or penalty required by  
17 law, an individual convicted of a violation of subsection  
18 (a), Section 5-7 of the Snowmobile Registration and Safety  
19 Act, Section 5-16 of the Boat Registration and Safety Act, or  
20 a similar provision, whose operation of a motor vehicle,  
21 snowmobile, or watercraft while in violation of subsection  
22 (a), Section 5-7 of the Snowmobile Registration and Safety  
23 Act, Section 5-16 of the Boat Registration and Safety Act, or  
24 a similar provision proximately caused an incident resulting  
25 in an appropriate emergency response, shall be required to  
26 make restitution to a public agency for the costs of that  
27 emergency response. The restitution may not exceed \$1,000 per  
28 public agency for each emergency response. As used in this  
29 subsection (m), "emergency response" means any incident  
30 requiring a response by a police officer, a firefighter  
31 carried on the rolls of a regularly constituted fire  
32 department, or an ambulance.

33 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;  
34 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff.

1 1-1-02; 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213,  
2 eff. 7-18-03; 93-584, eff. 8-22-03; revised 8-27-03.)

3 Section 10. The Clerks of Courts Act is amended by  
4 changing Sections 27.5 and 27.6 as follows:

5 (705 ILCS 105/27.5) (from Ch. 25, par. 27.5)

6 Sec. 27.5. (a) All fees, fines, costs, additional  
7 penalties, bail balances assessed or forfeited, and any other  
8 amount paid by a person to the circuit clerk that equals an  
9 amount less than \$55, except restitution under Section 5-5-6  
10 of the Unified Code of Corrections, reimbursement for the  
11 costs of an emergency response as provided under Section  
12 ~~11-501 of the Illinois Vehicle Code 5-5-3-of-the-Unified-Code~~  
13 ~~of--Corrections~~, any fees collected for attending a traffic  
14 safety program under paragraph (c) of Supreme Court Rule 529,  
15 any fee collected on behalf of a State's Attorney under  
16 Section 4-2002 of the Counties Code or a sheriff under  
17 Section 4-5001 of the Counties Code, or any cost imposed  
18 under Section 124A-5 of the Code of Criminal Procedure of  
19 1963, for convictions, orders of supervision, or any other  
20 disposition for a violation of Chapters 3, 4, 6, 11, and 12  
21 of the Illinois Vehicle Code, or a similar provision of a  
22 local ordinance, and any violation of the Child Passenger  
23 Protection Act, or a similar provision of a local ordinance,  
24 and except as provided in subsection (b) shall be disbursed  
25 within 60 days after receipt by the circuit clerk as follows:  
26 47% shall be disbursed to the entity authorized by law to  
27 receive the fine imposed in the case; 12% shall be disbursed  
28 to the State Treasurer; and 41% shall be disbursed to the  
29 county's general corporate fund. Of the 12% disbursed to the  
30 State Treasurer, 1/6 shall be deposited by the State  
31 Treasurer into the Violent Crime Victims Assistance Fund, 1/2  
32 shall be deposited into the Traffic and Criminal Conviction



1 Surcharge Fund, and 1/3 shall be deposited into the Drivers  
2 Education Fund. For fiscal years 1992 and 1993, amounts  
3 deposited into the Violent Crime Victims Assistance Fund, the  
4 Traffic and Criminal Conviction Surcharge Fund, or the  
5 Drivers Education Fund shall not exceed 110% of the amounts  
6 deposited into those funds in fiscal year 1991. Any amount  
7 that exceeds the 110% limit shall be distributed as follows:  
8 50% shall be disbursed to the county's general corporate fund  
9 and 50% shall be disbursed to the entity authorized by law to  
10 receive the fine imposed in the case. Not later than March 1  
11 of each year the circuit clerk shall submit a report of the  
12 amount of funds remitted to the State Treasurer under this  
13 Section during the preceding year based upon independent  
14 verification of fines and fees. All counties shall be  
15 subject to this Section, except that counties with a  
16 population under 2,000,000 may, by ordinance, elect not to be  
17 subject to this Section. For offenses subject to this  
18 Section, judges shall impose one total sum of money payable  
19 for violations. The circuit clerk may add on no additional  
20 amounts except for amounts that are required by Sections  
21 27.3a and 27.3c of this Act, unless those amounts are  
22 specifically waived by the judge. With respect to money  
23 collected by the circuit clerk as a result of forfeiture of  
24 bail, ex parte judgment or guilty plea pursuant to Supreme  
25 Court Rule 529, the circuit clerk shall first deduct and pay  
26 amounts required by Sections 27.3a and 27.3c of this Act.  
27 This Section is a denial and limitation of home rule powers  
28 and functions under subsection (h) of Section 6 of Article  
29 VII of the Illinois Constitution.

30 (b) The following amounts must be remitted to the State  
31 Treasurer for deposit into the Illinois Animal Abuse Fund:

32 (1) 50% of the amounts collected for felony  
33 offenses under Sections 3, 3.01, 3.02, 3.03, 4, 4.01,  
34 4.03, 4.04, 5, 5.01, 6, 7, 7.5, 7.15, and 16 of the

1 Humane Care for Animals Act and Section 26-5 of the  
2 Criminal Code of 1961;

3 (2) 20% of the amounts collected for Class A and  
4 Class B misdemeanors under Sections 3, 3.01, 4, 4.01,  
5 4.03, 4.04, 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the  
6 Humane Care for Animals Act and Section 26-5 of the  
7 Criminal Code of 1961; and

8 (3) 50% of the amounts collected for Class C  
9 misdemeanors under Sections 4.01 and 7.1 of the Humane  
10 Care for Animals Act and Section 26-5 of the Criminal  
11 Code of 1961.

12 (Source: P.A. 92-454, eff. 1-1-02; 92-650, eff. 7-11-02.)

13 (705 ILCS 105/27.6)

14 Sec. 27.6. (a) All fees, fines, costs, additional  
15 penalties, bail balances assessed or forfeited, and any other  
16 amount paid by a person to the circuit clerk equalling an  
17 amount of \$55 or more, except the additional fee required by  
18 subsections (b) and (c), restitution under Section 5-5-6 of  
19 the Unified Code of Corrections, reimbursement for the costs  
20 of an emergency response as provided under Section 11-501 of  
21 the Illinois Vehicle Code ~~5-5-3--of--the--Unified-Code-of~~  
22 ~~Corrections~~, any fees collected for attending a traffic  
23 safety program under paragraph (c) of Supreme Court Rule 529,  
24 any fee collected on behalf of a State's Attorney under  
25 Section 4-2002 of the Counties Code or a sheriff under  
26 Section 4-5001 of the Counties Code, or any cost imposed  
27 under Section 124A-5 of the Code of Criminal Procedure of  
28 1963, for convictions, orders of supervision, or any other  
29 disposition for a violation of Chapters 3, 4, 6, 11, and 12  
30 of the Illinois Vehicle Code, or a similar provision of a  
31 local ordinance, and any violation of the Child Passenger  
32 Protection Act, or a similar provision of a local ordinance,  
33 and except as provided in subsection (d) shall be disbursed

1 within 60 days after receipt by the circuit clerk as follows:  
2 44.5% shall be disbursed to the entity authorized by law to  
3 receive the fine imposed in the case; 16.825% shall be  
4 disbursed to the State Treasurer; and 38.675% shall be  
5 disbursed to the county's general corporate fund. Of the  
6 16.825% disbursed to the State Treasurer, 2/17 shall be  
7 deposited by the State Treasurer into the Violent Crime  
8 Victims Assistance Fund, 5.052/17 shall be deposited into the  
9 Traffic and Criminal Conviction Surcharge Fund, 3/17 shall be  
10 deposited into the Drivers Education Fund, and 6.948/17 shall  
11 be deposited into the Trauma Center Fund. Of the 6.948/17  
12 deposited into the Trauma Center Fund from the 16.825%  
13 disbursed to the State Treasurer, 50% shall be disbursed to  
14 the Department of Public Health and 50% shall be disbursed to  
15 the Department of Public Aid. For fiscal year 1993, amounts  
16 deposited into the Violent Crime Victims Assistance Fund, the  
17 Traffic and Criminal Conviction Surcharge Fund, or the  
18 Drivers Education Fund shall not exceed 110% of the amounts  
19 deposited into those funds in fiscal year 1991. Any amount  
20 that exceeds the 110% limit shall be distributed as follows:  
21 50% shall be disbursed to the county's general corporate fund  
22 and 50% shall be disbursed to the entity authorized by law to  
23 receive the fine imposed in the case. Not later than March 1  
24 of each year the circuit clerk shall submit a report of the  
25 amount of funds remitted to the State Treasurer under this  
26 Section during the preceding year based upon independent  
27 verification of fines and fees. All counties shall be  
28 subject to this Section, except that counties with a  
29 population under 2,000,000 may, by ordinance, elect not to be  
30 subject to this Section. For offenses subject to this  
31 Section, judges shall impose one total sum of money payable  
32 for violations. The circuit clerk may add on no additional  
33 amounts except for amounts that are required by Sections  
34 27.3a and 27.3c of this Act, unless those amounts are

1 specifically waived by the judge. With respect to money  
2 collected by the circuit clerk as a result of forfeiture of  
3 bail, ex parte judgment or guilty plea pursuant to Supreme  
4 Court Rule 529, the circuit clerk shall first deduct and pay  
5 amounts required by Sections 27.3a and 27.3c of this Act.  
6 This Section is a denial and limitation of home rule powers  
7 and functions under subsection (h) of Section 6 of Article  
8 VII of the Illinois Constitution.

9 (b) In addition to any other fines and court costs  
10 assessed by the courts, any person convicted or receiving an  
11 order of supervision for driving under the influence of  
12 alcohol or drugs shall pay an additional fee of \$100 to the  
13 clerk of the circuit court. This amount, less 2 1/2% that  
14 shall be used to defray administrative costs incurred by the  
15 clerk, shall be remitted by the clerk to the Treasurer within  
16 60 days after receipt for deposit into the Trauma Center  
17 Fund. This additional fee of \$100 shall not be considered a  
18 part of the fine for purposes of any reduction in the fine  
19 for time served either before or after sentencing. Not later  
20 than March 1 of each year the Circuit Clerk shall submit a  
21 report of the amount of funds remitted to the State Treasurer  
22 under this subsection during the preceding calendar year.

23 (b-1) In addition to any other fines and court costs  
24 assessed by the courts, any person convicted or receiving an  
25 order of supervision for driving under the influence of  
26 alcohol or drugs shall pay an additional fee of \$5 to the  
27 clerk of the circuit court. This amount, less 2 1/2% that  
28 shall be used to defray administrative costs incurred by the  
29 clerk, shall be remitted by the clerk to the Treasurer within  
30 60 days after receipt for deposit into the Spinal Cord Injury  
31 Paralysis Cure Research Trust Fund. This additional fee of  
32 \$5 shall not be considered a part of the fine for purposes of  
33 any reduction in the fine for time served either before or  
34 after sentencing. Not later than March 1 of each year the

1 Circuit Clerk shall submit a report of the amount of funds  
2 remitted to the State Treasurer under this subsection during  
3 the preceding calendar year.

4 (c) In addition to any other fines and court costs  
5 assessed by the courts, any person convicted for a violation  
6 of Sections 24-1.1, 24-1.2, or 24-1.5 of the Criminal Code of  
7 1961 or a person sentenced for a violation of the Cannabis  
8 Control Act or the Controlled Substance Act shall pay an  
9 additional fee of \$100 to the clerk of the circuit court.  
10 This amount, less 2 1/2% that shall be used to defray  
11 administrative costs incurred by the clerk, shall be remitted  
12 by the clerk to the Treasurer within 60 days after receipt  
13 for deposit into the Trauma Center Fund. This additional fee  
14 of \$100 shall not be considered a part of the fine for  
15 purposes of any reduction in the fine for time served either  
16 before or after sentencing. Not later than March 1 of each  
17 year the Circuit Clerk shall submit a report of the amount of  
18 funds remitted to the State Treasurer under this subsection  
19 during the preceding calendar year.

20 (c-1) In addition to any other fines and court costs  
21 assessed by the courts, any person sentenced for a violation  
22 of the Cannabis Control Act or the Illinois Controlled  
23 Substances Act shall pay an additional fee of \$5 to the clerk  
24 of the circuit court. This amount, less 2 1/2% that shall be  
25 used to defray administrative costs incurred by the clerk,  
26 shall be remitted by the clerk to the Treasurer within 60  
27 days after receipt for deposit into the Spinal Cord Injury  
28 Paralysis Cure Research Trust Fund. This additional fee of  
29 \$5 shall not be considered a part of the fine for purposes of  
30 any reduction in the fine for time served either before or  
31 after sentencing. Not later than March 1 of each year the  
32 Circuit Clerk shall submit a report of the amount of funds  
33 remitted to the State Treasurer under this subsection during  
34 the preceding calendar year.

1 (d) The following amounts must be remitted to the State  
2 Treasurer for deposit into the Illinois Animal Abuse Fund:

3 (1) 50% of the amounts collected for felony  
4 offenses under Sections 3, 3.01, 3.02, 3.03, 4, 4.01,  
5 4.03, 4.04, 5, 5.01, 6, 7, 7.5, 7.15, and 16 of the  
6 Humane Care for Animals Act and Section 26-5 of the  
7 Criminal Code of 1961;

8 (2) 20% of the amounts collected for Class A and  
9 Class B misdemeanors under Sections 3, 3.01, 4, 4.01,  
10 4.03, 4.04, 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the  
11 Humane Care for Animals Act and Section 26-5 of the  
12 Criminal Code of 1961; and

13 (3) 50% of the amounts collected for Class C  
14 misdemeanors under Sections 4.01 and 7.1 of the Humane  
15 Care for Animals Act and Section 26-5 of the Criminal  
16 Code of 1961.

17 (Source: P.A. 92-431, eff. 1-1-02; 92-454, eff. 1-1-02;  
18 92-650, eff. 7-11-02; 92-651, eff. 7-11-02.)

19 Section 15. The Unified Code of Corrections is amended  
20 by changing Sections 5-5-3, 5-6-4, 5-6-4.1, and 5-8-7 as  
21 follows:

22 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

23 Sec. 5-5-3. Disposition.

24 (a) Except as provided in Section 11-501 of the Illinois  
25 Vehicle Code, every person convicted of an offense shall be  
26 sentenced as provided in this Section.

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

31 (1) A period of probation.

32 (2) A term of periodic imprisonment.

1 (3) A term of conditional discharge.

2 (4) A term of imprisonment.

3 (5) An order directing the offender to clean up and  
4 repair the damage, if the offender was convicted under  
5 paragraph (h) of Section 21-1 of the Criminal Code of  
6 1961 (now repealed).

7 (6) A fine.

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

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

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

31 ~~In-addition-to-any-other-fine-or-penalty-required-by-law,~~  
32 ~~any--individual-convicted-of-a-violation-of-Section-11-501-of~~  
33 ~~the-Illinois-Vehicle-Code,--Section--5-7--of--the--Snowmobile~~  
34 ~~Registration--and--Safety--Act,--Section--5-16--of--the--Boat~~

1 Registration--and-Safety-Act, or-a-similar-provision-of-local  
2 ordinance, whose--operation--of--a--motor--vehicle--while--in  
3 violation--of--Section--11-501, Section-5-7, Section-5-16, or  
4 such-ordinance-proximately-caused-an-incident-resulting-in-an  
5 appropriate-emergency-response, shall--be--required--to--make  
6 restitution--to--a--public--agency--for--the--costs--of--that  
7 emergency-response.--Such-restitution-shall-not-exceed-\$1,000  
8 per--public-agency-for-each-such-emergency-response.--For-the  
9 purpose-of-this-paragraph, emergency-response-shall-mean--any  
10 incident-requiring-a-response-by:-a-police-officer-as-defined  
11 under--Section--1-162-of-the-Illinois-Vehicle-Code;-a-fireman  
12 carried--on--the--rolls--of--a--regularly--constituted---fire  
13 department;-and-an-ambulance-as-defined-under-Section-3-85-of  
14 the-Emergency-Medical-Services-(EMS)-Systems-Act.

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

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

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

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

32 (B) Attempted first degree murder.

33 (C) A Class X felony.

34 (D) A violation of Section 401.1 or 407 of the



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

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

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

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

18 (H) Criminal sexual assault.

19 (I) Aggravated battery of a senior citizen.

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

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

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

32 (K) Vehicular hijacking.

33 (L) A second or subsequent conviction for the  
34 offense of hate crime when the underlying offense

1 upon which the hate crime is based is felony  
2 aggravated assault or felony mob action.

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

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

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

11 (P) A violation of paragraph (1), (2), (3),  
12 (4), (5), or (7) of subsection (a) of Section  
13 11-20.1 of the Criminal Code of 1961.

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

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

18 (S) (Blank). A---violation---of---Section  
19 11-501(e-1)(3)-of-the-Illinois-Vehiele-Code.

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

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

1 imposed.

2 (4) A minimum term of imprisonment of not less than  
3 10 consecutive days or 30 days of community service shall  
4 be imposed for a violation of paragraph (c) of Section  
5 6-303 of the Illinois Vehicle Code.

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

15 (4.2) Except as provided in paragraph (4.3) of this  
16 subsection (c), a minimum of 100 hours of community  
17 service shall be imposed for a second violation of  
18 Section 6-303 of the Illinois Vehicle Code.

19 (4.3) A minimum term of imprisonment of 30 days or  
20 300 hours of community service, as determined by the  
21 court, shall be imposed for a second violation of  
22 subsection (c) of Section 6-303 of the Illinois Vehicle  
23 Code.

24 (4.4) Except as provided in paragraph (4.5) and  
25 paragraph (4.6) of this subsection (c), a minimum term of  
26 imprisonment of 30 days or 300 hours of community  
27 service, as determined by the court, shall be imposed for  
28 a third or subsequent violation of Section 6-303 of the  
29 Illinois Vehicle Code.

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

33 (4.6) A minimum term of imprisonment of 180 days  
34 shall be imposed for a fourth or subsequent violation of

1 subsection (c) of Section 6-303 of the Illinois Vehicle  
2 Code.

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

6 (A) a period of conditional discharge;

7 (B) a fine;

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

10 (5.1) In addition to any penalties imposed under  
11 paragraph (5) of this subsection (c), and except as  
12 provided in paragraph (5.2) or (5.3), a person convicted  
13 of violating subsection (c) of Section 11-907 of the  
14 Illinois Vehicle Code shall have his or her driver's  
15 license, permit, or privileges suspended for at least 90  
16 days but not more than one year, if the violation  
17 resulted in damage to the property of another person.

18 (5.2) In addition to any penalties imposed under  
19 paragraph (5) of this subsection (c), and except as  
20 provided in paragraph (5.3), a person convicted of  
21 violating subsection (c) of Section 11-907 of the  
22 Illinois Vehicle Code shall have his or her driver's  
23 license, permit, or privileges suspended for at least 180  
24 days but not more than 2 years, if the violation resulted  
25 in injury to another person.

26 (5.3) In addition to any penalties imposed under  
27 paragraph (5) of this subsection (c), a person convicted  
28 of violating subsection (c) of Section 11-907 of the  
29 Illinois Vehicle Code shall have his or her driver's  
30 license, permit, or privileges suspended for 2 years, if  
31 the violation resulted in the death of another person.

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

1 probation or conditional discharge for a felony.

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

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

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

26 (10) (Blank). ~~When---a--person--is--convicted--of~~  
27 ~~violating-Section-11-501-of-the-Illinois-Vehiele-Code--or~~  
28 ~~a--similar--provision-of-a-local-ordinance, the following~~  
29 ~~penalties-apply-when-his-or-her-blood, breath,--or--urine~~  
30 ~~was--16-or-more-based-on-the-definition-of-blood, breath,~~  
31 ~~or--urine--units--in--Section--11-501.2-or-that-person-is~~  
32 ~~convicted-of-violating-Section--11-501--of--the--Illinois~~  
33 ~~Vehiele--Code-while-transporting-a-child-under-the-age-of~~  
34 16÷

1           (A) -- For a first violation of subsection (a) of  
 2           Section 11-501, in addition to any other penalty  
 3           that may be imposed under subsection (c) of Section  
 4           11-501: a mandatory minimum of 100 hours of  
 5           community service and a minimum fine of \$500.

6           (B) -- For a second violation of subsection (a)  
 7           of Section 11-501, in addition to any other penalty  
 8           that may be imposed under subsection (c) of Section  
 9           11-501 within 10 years: a mandatory minimum of 2  
 10          days of imprisonment and a minimum fine of \$1,250.

11          (C) -- For a third violation of subsection (a) of  
 12          Section 11-501, in addition to any other penalty  
 13          that may be imposed under subsection (c) of Section  
 14          11-501 within 20 years: a mandatory minimum of 90  
 15          days of imprisonment and a minimum fine of \$2,500.

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

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

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

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

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

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

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

19 (i) removal from the household;

20 (ii) restricted contact with the victim;

21 (iii) continued financial support of the  
22 family;

23 (iv) restitution for harm done to the  
24 victim; and

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

27 (2) the court orders the defendant to pay for the  
28 victim's counseling services, to the extent that the  
29 court finds, after considering the defendant's income and  
30 assets, that the defendant is financially capable of  
31 paying for such services, if the victim was under 18  
32 years of age at the time the offense was committed and  
33 requires counseling as a result of the offense.

34 Probation may be revoked or modified pursuant to Section

1 5-6-4; except where the court determines at the hearing that  
2 the defendant violated a condition of his or her probation  
3 restricting contact with the victim or other family members  
4 or commits another offense with the victim or other family  
5 members, the court shall revoke the defendant's probation and  
6 impose a term of imprisonment.

7 For the purposes of this Section, "family member" and  
8 "victim" shall have the meanings ascribed to them in Section  
9 12-12 of the Criminal Code of 1961.

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

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



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

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

30 (h) Whenever a defendant is convicted of an offense  
31 under Section 1 or 2 of the Hypodermic Syringes and Needles  
32 Act, the defendant shall undergo medical testing to determine  
33 whether the defendant has been exposed to human  
34 immunodeficiency virus (HIV) or any other identified

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

25 (i) All fines and penalties imposed under this Section  
26 for any violation of Chapters 3, 4, 6, and 11 of the Illinois  
27 Vehicle Code, or a similar provision of a local ordinance,  
28 and any violation of the Child Passenger Protection Act, or a  
29 similar provision of a local ordinance, shall be collected  
30 and disbursed by the circuit clerk as provided under Section  
31 27.5 of the Clerks of Courts Act.

32 (j) In cases when prosecution for any violation of  
33 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,  
34 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,

1 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or  
2 12-16 of the Criminal Code of 1961, any violation of the  
3 Illinois Controlled Substances Act, or any violation of the  
4 Cannabis Control Act results in conviction, a disposition of  
5 court supervision, or an order of probation granted under  
6 Section 10 of the Cannabis Control Act or Section 410 of the  
7 Illinois Controlled Substance Act of a defendant, the court  
8 shall determine whether the defendant is employed by a  
9 facility or center as defined under the Child Care Act of  
10 1969, a public or private elementary or secondary school, or  
11 otherwise works with children under 18 years of age on a  
12 daily basis. When a defendant is so employed, the court  
13 shall order the Clerk of the Court to send a copy of the  
14 judgment of conviction or order of supervision or probation  
15 to the defendant's employer by certified mail. If the  
16 employer of the defendant is a school, the Clerk of the Court  
17 shall direct the mailing of a copy of the judgment of  
18 conviction or order of supervision or probation to the  
19 appropriate regional superintendent of schools. The regional  
20 superintendent of schools shall notify the State Board of  
21 Education of any notification under this subsection.

22 (j-5) A defendant at least 17 years of age who is  
23 convicted of a felony and who has not been previously  
24 convicted of a misdemeanor or felony and who is sentenced to  
25 a term of imprisonment in the Illinois Department of  
26 Corrections shall as a condition of his or her sentence be  
27 required by the court to attend educational courses designed  
28 to prepare the defendant for a high school diploma and to  
29 work toward a high school diploma or to work toward passing  
30 the high school level Test of General Educational Development  
31 (GED) or to work toward completing a vocational training  
32 program offered by the Department of Corrections. If a  
33 defendant fails to complete the educational training required  
34 by his or her sentence during the term of incarceration, the

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

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

25 (l) (A) Except as provided in paragraph (C) of  
26 subsection (l), whenever a defendant, who is an alien as  
27 defined by the Immigration and Nationality Act, is  
28 convicted of any felony or misdemeanor offense, the court  
29 after sentencing the defendant may, upon motion of the  
30 State's Attorney, hold sentence in abeyance and remand  
31 the defendant to the custody of the Attorney General of  
32 the United States or his or her designated agent to be  
33 deported when:

34 (1) a final order of deportation has been

1 issued against the defendant pursuant to proceedings  
2 under the Immigration and Nationality Act, and

3 (2) the deportation of the defendant would not  
4 deprecate the seriousness of the defendant's conduct  
5 and would not be inconsistent with the ends of  
6 justice.

7 Otherwise, the defendant shall be sentenced as  
8 provided in this Chapter V.

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

17 (1) a final order of deportation has been  
18 issued against the defendant pursuant to proceedings  
19 under the Immigration and Nationality Act, and

20 (2) the deportation of the defendant would not  
21 deprecate the seriousness of the defendant's conduct  
22 and would not be inconsistent with the ends of  
23 justice.

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

27 (D) Upon motion of the State's Attorney, if a  
28 defendant sentenced under this Section returns to the  
29 jurisdiction of the United States, the defendant shall be  
30 recommitted to the custody of the county from which he or  
31 she was sentenced. Thereafter, the defendant shall be  
32 brought before the sentencing court, which may impose any  
33 sentence that was available under Section 5-5-3 at the  
34 time of initial sentencing. In addition, the defendant

1 shall not be eligible for additional good conduct credit  
2 for meritorious service as provided under Section 3-6-6.

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

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

17 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;  
18 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.  
19 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,  
20 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04;  
21 93-169, eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff.  
22 1-1-04; 93-546, eff. 1-1-04; revised 10-9-03.)

23 (730 ILCS 5/5-6-4) (from Ch. 38, par. 1005-6-4)

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

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

31 (1) in the case of probation violations, order the  
32 issuance of a notice to the offender to be present by the  
33 County Probation Department or such other agency

1 designated by the court to handle probation matters; and  
2 in the case of conditional discharge or supervision  
3 violations, such notice to the offender shall be issued  
4 by the Circuit Court Clerk; and in the case of a  
5 violation of a sentence of county impact incarceration,  
6 such notice shall be issued by the Sheriff;

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

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

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

22 (b) The court shall conduct a hearing of the alleged  
23 violation. The court shall admit the offender to bail pending  
24 the hearing unless the alleged violation is itself a criminal  
25 offense in which case the offender shall be admitted to bail  
26 on such terms as are provided in the Code of Criminal  
27 Procedure of 1963, as amended. In any case where an offender  
28 remains incarcerated only as a result of his alleged  
29 violation of the court's earlier order of probation,  
30 supervision, conditional discharge, or county impact  
31 incarceration such hearing shall be held within 14 days of  
32 the onset of said incarceration, unless the alleged violation  
33 is the commission of another offense by the offender during  
34 the period of probation, supervision or conditional discharge

1 in which case such hearing shall be held within the time  
2 limits described in Section 103-5 of the Code of Criminal  
3 Procedure of 1963, as amended.

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

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

14 (e) If the court finds that the offender has violated a  
15 condition at any time prior to the expiration or termination  
16 of the period, it may continue him on the existing sentence,  
17 with or without modifying or enlarging the conditions, or may  
18 impose any other sentence that was available under Section  
19 5-5-3 of this Code or Section 11-501 of the Illinois Vehicle  
20 Code at the time of initial sentencing. If the court finds  
21 that the person has failed to successfully complete his or  
22 her sentence to a county impact incarceration program, the  
23 court may impose any other sentence that was available under  
24 Section 5-5-3 of this Code or Section 11-501 of the Illinois  
25 Vehicle Code at the time of initial sentencing, except for a  
26 sentence of probation or conditional discharge.

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

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



1           (h) Resentencing after revocation of probation,  
2 conditional discharge, supervision, or a sentence of county  
3 impact incarceration shall be under Article 4. Time served on  
4 probation, conditional discharge or supervision shall not be  
5 credited by the court against a sentence of imprisonment or  
6 periodic imprisonment unless the court orders otherwise.

7           (i) Instead of filing a violation of probation,  
8 conditional discharge, supervision, or a sentence of county  
9 impact incarceration, an agent or employee of the supervising  
10 agency with the concurrence of his or her supervisor may  
11 serve on the defendant a Notice of Intermediate Sanctions.  
12 The Notice shall contain the technical violation or  
13 violations involved, the date or dates of the violation or  
14 violations, and the intermediate sanctions to be imposed.  
15 Upon receipt of the Notice, the defendant shall immediately  
16 accept or reject the intermediate sanctions. If the  
17 sanctions are accepted, they shall be imposed immediately.  
18 If the intermediate sanctions are rejected or the defendant  
19 does not respond to the Notice, a violation of probation,  
20 conditional discharge, supervision, or a sentence of county  
21 impact incarceration shall be immediately filed with the  
22 court. The State's Attorney and the sentencing court shall  
23 be notified of the Notice of Sanctions. Upon successful  
24 completion of the intermediate sanctions, a court may not  
25 revoke probation, conditional discharge, supervision, or a  
26 sentence of county impact incarceration or impose additional  
27 sanctions for the same violation. A notice of intermediate  
28 sanctions may not be issued for any violation of probation,  
29 conditional discharge, supervision, or a sentence of county  
30 impact incarceration which could warrant an additional,  
31 separate felony charge. The intermediate sanctions shall  
32 include a term of home detention as provided in Article 8A of  
33 Chapter V of this Code for multiple or repeat violations of  
34 the terms and conditions of a sentence of probation,

1 conditional discharge, or supervision.

2 (Source: P.A. 89-198, eff. 7-21-95; 89-587, eff. 7-31-96;  
3 89-647, eff. 1-1-97; 90-14, eff. 7-1-97.)

4 (730 ILCS 5/5-6-4.1) (from Ch. 38, par. 1005-6-4.1)

5 Sec. 5-6-4.1. Violation, Modification or Revocation of  
6 Conditional Discharge or Supervision - Hearing.) (a) In  
7 cases where a defendant was placed upon supervision or  
8 conditional discharge for the commission of a petty offense,  
9 upon the oral or written motion of the State, or on the  
10 court's own motion, which charges that a violation of a  
11 condition of that conditional discharge or supervision has  
12 occurred, the court may:

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

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

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

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

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

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

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

32 (d) Conditional discharge or supervision shall not be  
33 revoked for failure to comply with the conditions of the

1 discharge or supervision which imposed financial obligations  
2 upon the offender unless such failure is due to his wilful  
3 refusal to pay.

4 (e) If the court finds that the offender has violated a  
5 condition at any time prior to the expiration or termination  
6 of the period, it may continue him on the existing sentence  
7 or supervision with or without modifying or enlarging the  
8 conditions, or may impose any other sentence that was  
9 available under Section 5-5-3 of this Code or Section 11-501  
10 of the Illinois Vehicle Code at the time of initial  
11 sentencing.

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

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

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

23 (Source: P.A. 81-815.)

24 (730 ILCS 5/5-8-7) (from Ch. 38, par. 1005-8-7)

25 Sec. 5-8-7. Calculation of Term of Imprisonment.

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

29 (b) The offender shall be given credit on the  
30 determinate sentence or maximum term and the minimum period  
31 of imprisonment for time spent in custody as a result of the  
32 offense for which the sentence was imposed, at the rate  
33 specified in Section 3-6-3 of this Code. Except when

1 prohibited by subsection (d), the trial court may give credit  
2 to the defendant for time spent in home detention, or when  
3 the defendant has been confined for psychiatric or substance  
4 abuse treatment prior to judgment, if the court finds that  
5 the detention or confinement was custodial.

6 (c) An offender arrested on one charge and prosecuted on  
7 another charge for conduct which occurred prior to his arrest  
8 shall be given credit on the determinate sentence or maximum  
9 term and the minimum term of imprisonment for time spent in  
10 custody under the former charge not credited against another  
11 sentence.

12 (d) An offender sentenced to a term of imprisonment for  
13 an offense listed in paragraph (2) of subsection (c) of  
14 Section 5-5-3 of this Code or in paragraph (3) of subsection  
15 (c-1) of Section 11-501 of the Illinois Vehicle Code shall  
16 not receive credit for time spent in home detention prior to  
17 judgment.

18 (Source: P.A. 88-119; 89-647, eff. 1-1-97.)