

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 changing
5 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 alcohol,
8 other drug or drugs, intoxicating compound or compounds or any
9 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 or
13 breath is 0.08 or more based on the definition of blood and
14 breath units in Section 11-501.2;

15 (2) under the influence of alcohol;

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

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

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

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

31 (b) The fact that any person charged with violating this
32 Section is or has been legally entitled to use alcohol, other

1 drug or drugs, or intoxicating compound or compounds, or any
2 combination thereof, shall not constitute a defense against any
3 charge of violating this Section.

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

5 (1) Any reference to a prior violation of subsection
6 (a) or a similar provision includes any violation of a
7 provision of a local ordinance or a provision of a law of
8 another state that is similar to a violation of subsection
9 (a) of this Section.

10 (2) Any penalty imposed for driving with a license that
11 has been revoked for a previous violation of subsection (a)
12 of this Section shall be in addition to the penalty imposed
13 for any subsequent violation of subsection (a).

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

17 (b-3) In addition to any other criminal or administrative
18 sanction for any second conviction of violating subsection (a)
19 or a similar provision committed within 5 years of a previous
20 violation of subsection (a) or a similar provision, the
21 defendant shall be sentenced to a mandatory minimum of 5 days
22 of imprisonment or assigned a mandatory minimum of 240 hours of
23 community service as may be determined by the court.

24 (b-4) In the case of a third or subsequent violation
25 committed within 5 years of a previous violation of subsection
26 (a) or a similar provision, in addition to any other criminal
27 or administrative sanction, a mandatory minimum term of either
28 10 days of imprisonment or 480 hours of community service shall
29 be imposed.

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

34 (c) (Blank). Except as provided under paragraphs (c-3),
35 (c-4), and (d) of this Section, every person convicted of
36 violating this Section or a similar provision of a local

~~ordinance, shall be guilty of a Class A misdemeanor and, in addition to any other criminal or administrative action, for any second conviction of violating this Section or a similar provision of a law of another state or local ordinance committed within 5 years of a previous violation of this Section or a similar provision of a local ordinance shall be mandatorily sentenced to a minimum of 5 days of imprisonment or assigned to a minimum of 30 days of community service as may be determined by the court. Every person convicted of violating this Section or a similar provision of a local ordinance shall be subject to an additional mandatory minimum fine of \$500 and an additional mandatory 5 days of community service in a program benefiting children if the person committed a violation of paragraph (a) or a similar provision of a local ordinance while transporting a person under age 16. Every person convicted a second time for violating this Section or a similar provision of a local ordinance within 5 years of a previous violation of this Section or a similar provision of a law of another state or local ordinance shall be subject to an additional mandatory minimum fine of \$500 and an additional 10 days of mandatory community service in a program benefiting children if the current offense was committed while transporting a person under age 16. The imprisonment or assignment under this subsection shall not be subject to suspension nor shall the person be eligible for probation in order to reduce the sentence or assignment.~~

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

(2) A person who violates subsection (a) ~~this Section~~ a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or

1 suspended where the revocation or suspension was for a
2 violation of subsection (a) ~~this Section~~, Section
3 11-501.1, paragraph (b) of Section 11-401, or for reckless
4 homicide as defined in Section 9-3 of the Criminal Code of
5 1961, is guilty of a Class 3 felony.

6 (2.1) A person who violates subsection (a) a third
7 time, if the third violation occurs during a period in
8 which his or her driving privileges are revoked or
9 suspended where the revocation or suspension was for a
10 violation of subsection (a), Section 11-501.1, subsection
11 (b) of Section 11-401, or for reckless homicide as defined
12 in Section 9-3 of the Criminal Code of 1961, is guilty of a
13 Class 3 felony; and if the person receives a term of
14 probation or conditional discharge, he or she shall be
15 required to serve a mandatory minimum of 10 days of
16 imprisonment or shall be assigned a mandatory minimum of
17 480 hours of community service, as may be determined by the
18 court, as a condition of the probation or conditional
19 discharge. This mandatory minimum term of imprisonment or
20 assignment of community service shall not be suspended or
21 reduced by the court.

22 (2.2) A person who violates subsection (a), if the
23 violation occurs during a period in which his or her
24 driving privileges are revoked or suspended where the
25 revocation or suspension was for a violation of subsection
26 (a) or Section 11-501.1, shall also be sentenced to an
27 additional mandatory minimum term of 30 consecutive days of
28 imprisonment, 40 days of 24-hour periodic imprisonment, or
29 720 hours of community service, as may be determined by the
30 court. This mandatory term of imprisonment or assignment of
31 community service shall not be suspended or reduced by the
32 court.

33 (3) A person who violates subsection (a) ~~this Section~~ a
34 fourth or subsequent time, if the fourth or subsequent
35 violation occurs during a period in which his or her
36 driving privileges are revoked or suspended where the

1 revocation or suspension was for a violation of subsection
2 (a) this Section, Section 11-501.1, paragraph (b) of
3 Section 11-401, or for reckless homicide as defined in
4 Section 9-3 of the Criminal Code of 1961, is guilty of a
5 Class 2 felony and is not eligible for a sentence of
6 probation or conditional discharge.

7 (c-2) (Blank).

8 (c-3) (Blank). ~~Every person convicted of violating this~~
9 ~~Section or a similar provision of a local ordinance who had a~~
10 ~~child under age 16 in the vehicle at the time of the offense~~
11 ~~shall have his or her punishment under this Act enhanced by 2~~
12 ~~days of imprisonment for a first offense, 10 days of~~
13 ~~imprisonment for a second offense, 30 days of imprisonment for~~
14 ~~a third offense, and 90 days of imprisonment for a fourth or~~
15 ~~subsequent offense, in addition to the fine and community~~
16 ~~service required under subsection (c) and the possible~~
17 ~~imprisonment required under subsection (d). The imprisonment~~
18 ~~or assignment under this subsection shall not be subject to~~
19 ~~suspension nor shall the person be eligible for probation in~~
20 ~~order to reduce the sentence or assignment.~~

21 (c-4) (Blank). ~~When a person is convicted of violating~~
22 ~~Section 11-501 of this Code or a similar provision of a local~~
23 ~~ordinance, the following penalties apply when his or her blood,~~
24 ~~breath, or urine was .16 or more based on the definition of~~
25 ~~blood, breath, or urine units in Section 11-501.2 or when that~~
26 ~~person is convicted of violating this Section while~~
27 ~~transporting a child under the age of 16:~~

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

33 ~~(2) A person who is convicted of violating subsection~~
34 ~~(a) of Section 11-501 of this Code a second time within 10~~
35 ~~years, in addition to any other penalty that may be imposed~~
36 ~~under subsection (c), is subject to a mandatory minimum of~~

1 ~~2 days of imprisonment and a minimum fine of \$1,250.~~

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

8 ~~(4) A person who is convicted of violating this~~
9 ~~subsection (c 4) a fourth or subsequent time is guilty of a~~
10 ~~Class 2 felony and, in addition to any other penalty that~~
11 ~~may be imposed under subsection (c), is not eligible for a~~
12 ~~sentence of probation or conditional discharge and is~~
13 ~~subject to a minimum fine of \$2,500.~~

14 (c-5) A person who violates subsection (a), if the person
15 was transporting a person under the age of 16 at the time of
16 the violation, is subject to an additional mandatory minimum
17 fine of \$1,000, an additional mandatory minimum 140 hours of
18 community service, which shall include 40 hours of community
19 service in a program benefiting children, and an additional 2
20 days of imprisonment. The imprisonment or assignment of
21 community service under this subsection (c-5) is not subject to
22 suspension, nor is the person eligible for a reduced sentence.

23 (c-6) Except as provided in subsections (c-7) and (c-8) a
24 person who violates subsection (a) a second time, if at the
25 time of the second violation the person was transporting a
26 person under the age of 16, is subject to an additional 10 days
27 of imprisonment, an additional mandatory minimum fine of
28 \$1,000, and an additional mandatory minimum 140 hours of
29 community service, which shall include 40 hours of community
30 service in a program benefiting children. The imprisonment or
31 assignment of community service under this subsection (c-6) is
32 not subject to suspension, nor is the person eligible for a
33 reduced sentence.

34 (c-7) Except as provided in subsection (c-8), any person
35 convicted of violating subsection (c-6) or a similar provision
36 within 10 years of a previous violation of subsection (a) or a

1 similar provision shall receive, in addition to any other
2 penalty imposed, a mandatory minimum 12 days imprisonment, an
3 additional 40 hours of mandatory community service in a program
4 benefiting children, and a mandatory minimum fine of \$1,750.
5 The imprisonment or assignment of community service under this
6 subsection (c-7) is not subject to suspension, nor is the
7 person eligible for a reduced sentence.

8 (c-8) any person convicted of violating subsection (c-6) or
9 a similar provision within 5 years of a previous violation of
10 subsection (a) or a similar provision shall receive, in
11 addition to any other penalty imposed, an additional 80 hours
12 of mandatory community service in a program benefiting
13 children, an additional mandatory minimum 12 days of
14 imprisonment, and a mandatory minimum fine of \$1,750. The
15 imprisonment or assignment of community service under this
16 subsection (c-8) is not subject to suspension, nor is the
17 person eligible for a reduced sentence.

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

29 (c-10) Any person convicted of violating subsection (c-9)
30 or a similar provision a third time within 20 years of a
31 previous violation of subsection (a) or a similar provision is
32 guilty of a Class 4 felony and shall receive, in addition to
33 any other penalty imposed, an additional mandatory 40 hours of
34 community service in a program benefiting children, an
35 additional mandatory fine of \$3000, and a mandatory minimum 120
36 days of imprisonment. The imprisonment or assignment of

1 community service under this subsection (c-10) is not subject
2 to suspension, nor is the person eligible for a reduced
3 sentence.

4 (c-11) Any person convicted a fourth or subsequent time for
5 violating subsection (a) or a similar provision, if at the time
6 of the fourth or subsequent violation the person was
7 transporting a person under the age of 16, and if the person's
8 3 prior violations of subsection (a) or similar provision
9 occurred while transporting a person under the age of 16 or
10 while the alcohol concentration in his or her blood, breath, or
11 urine was 0.16 or more based on the definition of blood,
12 breath, or urine units in Section 11-501.2, is guilty of a
13 Class 2 felony, is not eligible for probation or conditional
14 discharge, and is subject to a minimum fine of \$3,000.

15 (c-12) Any person convicted of a first violation of
16 subsection (a) or a similar provision, if the alcohol
17 concentration in his or her blood, breath, or urine was 0.16 or
18 more based on the definition of blood, breath, or urine units
19 in Section 11-501.2, shall be subject, in addition to any other
20 penalty that may be imposed, to a mandatory minimum of 100
21 hours of community service and a mandatory minimum fine of
22 \$500.

23 (c-13) Any person convicted of a second violation of
24 subsection (a) or a similar provision committed within 10 years
25 of a previous violation of subsection (a) or a similar
26 provision committed within 10 years of a previous violation of
27 subsection (a) or a similar provision, if at the time of the
28 second violation of subsection (a) the alcohol concentration in
29 his or her blood, breath, or urine was 0.16 or more based on
30 the definition of blood, breath, or urine units in Section
31 11-501.2, shall be subject, in addition to any other penalty
32 that may be imposed, to a mandatory minimum of 2 days of
33 imprisonment and a mandatory minimum fine of \$1,250.

34 (c-14) Any person convicted of a third violation of
35 subsection (a) or a similar provision within 20 years of a
36 previous violation of subsection (a) or a similar provision, if

1 at the time of the third violation of subsection (a) or a
2 similar provision the alcohol concentration in his or her
3 blood, breath, or urine was 0.16 or more based on the
4 definition of blood, breath, or urine units in Section
5 11-501.2, is guilty of a Class 4 felony and shall be subject,
6 in addition to any other penalty that may be imposed, to a
7 mandatory minimum of 90 days of imprisonment and a mandatory
8 minimum fine of \$2,500.

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

22 (d) (1) Every person convicted of committing a violation of
23 this Section shall be guilty of aggravated driving under
24 the influence of alcohol, other drug or drugs, or
25 intoxicating compound or compounds, or any combination
26 thereof if:

27 (A) the person committed a violation of subsection
28 (a) this Section, or a similar provision ~~of a law of~~
29 ~~another state or a local ordinance when the cause of~~
30 ~~action is the same as or substantially similar to this~~
31 ~~Section,~~ for the third or subsequent time;

32 (B) the person committed a violation of subsection
33 ~~paragraph~~ (a) while driving a school bus with persons
34 18 years of age or younger children on board;

35 (C) the person in committing a violation of
36 subsection ~~paragraph~~ (a) was involved in a motor

1 vehicle accident that resulted in great bodily harm or
2 permanent disability or disfigurement to another, when
3 the violation was a proximate cause of the injuries;

4 (D) the person committed a violation of subsection
5 ~~paragraph~~ (a) for a second time and has been previously
6 convicted of violating Section 9-3 of the Criminal Code
7 of 1961 relating to reckless homicide in which the
8 person was determined to have been under the influence
9 of alcohol, other drug or drugs, or intoxicating
10 compound or compounds as an element of the offense or
11 the person has previously been convicted under
12 subparagraph (C) or subparagraph (F) of this paragraph
13 (1);

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

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

30 (2) Except as provided in this paragraph (2), a person
31 convicted of aggravated driving under the influence of
32 alcohol, other drug or drugs, or intoxicating compound or
33 compounds, or any combination thereof is guilty of a Class
34 4 felony. For a violation of subparagraph (C) of paragraph
35 (1) of this subsection (d), the defendant, if sentenced to
36 a term of imprisonment, shall be sentenced to not less than

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

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

34 (e-1) Any person who is found guilty of or pleads guilty to
35 violating this Section, including any person receiving a
36 disposition of court supervision for violating this Section,

1 may be required by the Court to attend a victim impact panel
2 offered by, or under contract with, a County State's Attorney's
3 office, a probation and court services department, Mothers
4 Against Drunk Driving, or the Alliance Against Intoxicated
5 Motorists. All costs generated by the victim impact panel shall
6 be paid from fees collected from the offender or as may be
7 determined by the court.

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

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

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

26 (i) The Secretary of State shall require the use of
27 ignition interlock devices on all vehicles owned by an
28 individual who has been convicted of a second or subsequent
29 offense of this Section or a similar provision of a local
30 ordinance. The Secretary shall establish by rule and regulation
31 the procedures for certification and use of the interlock
32 system.

33 (j) In addition to any other penalties and liabilities, a
34 person who is found guilty of or pleads guilty to violating
35 subsection (a) this Section, including any person placed on
36 court supervision for violating subsection (a) this Section,

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

18 (k) The Secretary of State Police DUI Fund is created as a
19 special fund in the State treasury. All moneys received by the
20 Secretary of State Police under subsection (j) of this Section
21 shall be deposited into the Secretary of State Police DUI Fund
22 and, subject to appropriation, shall be used to purchase law
23 enforcement equipment to assist in the prevention of alcohol
24 related criminal violence throughout the State.

25 (l) Whenever an individual is sentenced for an offense
26 based upon an arrest for a violation of subsection (a) or a
27 similar provision of a local ordinance, and the professional
28 evaluation recommends remedial or rehabilitative treatment or
29 education, neither the treatment nor the education shall be the
30 sole disposition and either or both may be imposed only in
31 conjunction with another disposition. The court shall monitor
32 compliance with any remedial education or treatment
33 recommendations contained in the professional evaluation.
34 Programs conducting alcohol or other drug evaluation or
35 remedial education must be licensed by the Department of Human
36 Services. If the individual is not a resident of Illinois,

1 however, the court may accept an alcohol or other drug
2 evaluation or remedial education program in the individual's
3 state of residence. Programs providing treatment must be
4 licensed under existing applicable alcoholism and drug
5 treatment licensure standards.

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

23 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;
24 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02;
25 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff.
26 7-18-03; 93-584, eff. 8-22-03; revised 8-27-03.)

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

29 (705 ILCS 105/27.5) (from Ch. 25, par. 27.5)

30 Sec. 27.5. (a) All fees, fines, costs, additional
31 penalties, bail balances assessed or forfeited, and any other
32 amount paid by a person to the circuit clerk that equals an
33 amount less than \$55, except restitution under Section 5-5-6 of
34 the Unified Code of Corrections, reimbursement for the costs of

1 an emergency response as provided under Section 11-501 of the
2 Illinois Vehicle Code ~~5-5-3 of the Unified Code of Corrections,~~
3 any fees collected for attending a traffic safety program under
4 paragraph (c) of Supreme Court Rule 529, any fee collected on
5 behalf of a State's Attorney under Section 4-2002 of the
6 Counties Code or a sheriff under Section 4-5001 of the Counties
7 Code, or any cost imposed under Section 124A-5 of the Code of
8 Criminal Procedure of 1963, for convictions, orders of
9 supervision, or any other disposition for a violation of
10 Chapters 3, 4, 6, 11, and 12 of the Illinois Vehicle Code, or a
11 similar provision of a local ordinance, and any violation of
12 the Child Passenger Protection Act, or a similar provision of a
13 local ordinance, and except as provided in subsection (b) shall
14 be disbursed within 60 days after receipt by the circuit clerk
15 as follows: 47% shall be disbursed to the entity authorized by
16 law to receive the fine imposed in the case; 12% shall be
17 disbursed to the State Treasurer; and 41% shall be disbursed to
18 the county's general corporate fund. Of the 12% disbursed to
19 the State Treasurer, 1/6 shall be deposited by the State
20 Treasurer into the Violent Crime Victims Assistance Fund, 1/2
21 shall be deposited into the Traffic and Criminal Conviction
22 Surcharge Fund, and 1/3 shall be deposited into the Drivers
23 Education Fund. For fiscal years 1992 and 1993, amounts
24 deposited into the Violent Crime Victims Assistance Fund, the
25 Traffic and Criminal Conviction Surcharge Fund, or the Drivers
26 Education Fund shall not exceed 110% of the amounts deposited
27 into those funds in fiscal year 1991. Any amount that exceeds
28 the 110% limit shall be distributed as follows: 50% shall be
29 disbursed to the county's general corporate fund and 50% shall
30 be disbursed to the entity authorized by law to receive the
31 fine imposed in the case. Not later than March 1 of each year
32 the circuit clerk shall submit a report of the amount of funds
33 remitted to the State Treasurer under this Section during the
34 preceding year based upon independent verification of fines and
35 fees. All counties shall be subject to this Section, except
36 that counties with a population under 2,000,000 may, by

1 ordinance, elect not to be subject to this Section. For
2 offenses subject to this Section, judges shall impose one total
3 sum of money payable for violations. The circuit clerk may add
4 on no additional amounts except for amounts that are required
5 by Sections 27.3a and 27.3c of this Act, unless those amounts
6 are specifically waived by the judge. With respect to money
7 collected by the circuit clerk as a result of forfeiture of
8 bail, ex parte judgment or guilty plea pursuant to Supreme
9 Court Rule 529, the circuit clerk shall first deduct and pay
10 amounts required by Sections 27.3a and 27.3c of this Act. This
11 Section is a denial and limitation of home rule powers and
12 functions under subsection (h) of Section 6 of Article VII of
13 the Illinois Constitution.

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

16 (1) 50% of the amounts collected for felony offenses
17 under Sections 3, 3.01, 3.02, 3.03, 4, 4.01, 4.03, 4.04, 5,
18 5.01, 6, 7, 7.5, 7.15, and 16 of the Humane Care for
19 Animals Act and Section 26-5 of the Criminal Code of 1961;

20 (2) 20% of the amounts collected for Class A and Class
21 B misdemeanors under Sections 3, 3.01, 4, 4.01, 4.03, 4.04,
22 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the Humane Care
23 for Animals Act and Section 26-5 of the Criminal Code of
24 1961; and

25 (3) 50% of the amounts collected for Class C
26 misdemeanors under Sections 4.01 and 7.1 of the Humane Care
27 for Animals Act and Section 26-5 of the Criminal Code of
28 1961.

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

30 (705 ILCS 105/27.6)

31 Sec. 27.6. (a) All fees, fines, costs, additional
32 penalties, bail balances assessed or forfeited, and any other
33 amount paid by a person to the circuit clerk equalling an
34 amount of \$55 or more, except the additional fee required by
35 subsections (b) and (c), restitution under Section 5-5-6 of the

1 Unified Code of Corrections, reimbursement for the costs of an
2 emergency response as provided under Section 11-501 of the
3 Illinois Vehicle Code ~~5-5-3 of the Unified Code of Corrections,~~
4 any fees collected for attending a traffic safety program under
5 paragraph (c) of Supreme Court Rule 529, any fee collected on
6 behalf of a State's Attorney under Section 4-2002 of the
7 Counties Code or a sheriff under Section 4-5001 of the Counties
8 Code, or any cost imposed under Section 124A-5 of the Code of
9 Criminal Procedure of 1963, for convictions, orders of
10 supervision, or any other disposition for a violation of
11 Chapters 3, 4, 6, 11, and 12 of the Illinois Vehicle Code, or a
12 similar provision of a local ordinance, and any violation of
13 the Child Passenger Protection Act, or a similar provision of a
14 local ordinance, and except as provided in subsection (d) shall
15 be disbursed within 60 days after receipt by the circuit clerk
16 as follows: 44.5% shall be disbursed to the entity authorized
17 by law to receive the fine imposed in the case; 16.825% shall
18 be disbursed to the State Treasurer; and 38.675% shall be
19 disbursed to the county's general corporate fund. Of the
20 16.825% disbursed to the State Treasurer, 2/17 shall be
21 deposited by the State Treasurer into the Violent Crime Victims
22 Assistance Fund, 5.052/17 shall be deposited into the Traffic
23 and Criminal Conviction Surcharge Fund, 3/17 shall be deposited
24 into the Drivers Education Fund, and 6.948/17 shall be
25 deposited into the Trauma Center Fund. Of the 6.948/17
26 deposited into the Trauma Center Fund from the 16.825%
27 disbursed to the State Treasurer, 50% shall be disbursed to the
28 Department of Public Health and 50% shall be disbursed to the
29 Department of Public Aid. For fiscal year 1993, amounts
30 deposited into the Violent Crime Victims Assistance Fund, the
31 Traffic and Criminal Conviction Surcharge Fund, or the Drivers
32 Education Fund shall not exceed 110% of the amounts deposited
33 into those funds in fiscal year 1991. Any amount that exceeds
34 the 110% limit shall be distributed as follows: 50% shall be
35 disbursed to the county's general corporate fund and 50% shall
36 be disbursed to the entity authorized by law to receive the

1 fine imposed in the case. Not later than March 1 of each year
2 the circuit clerk shall submit a report of the amount of funds
3 remitted to the State Treasurer under this Section during the
4 preceding year based upon independent verification of fines and
5 fees. All counties shall be subject to this Section, except
6 that counties with a population under 2,000,000 may, by
7 ordinance, elect not to be subject to this Section. For
8 offenses subject to this Section, judges shall impose one total
9 sum of money payable for violations. The circuit clerk may add
10 on no additional amounts except for amounts that are required
11 by Sections 27.3a and 27.3c of this Act, unless those amounts
12 are specifically waived by the judge. With respect to money
13 collected by the circuit clerk as a result of forfeiture of
14 bail, ex parte judgment or guilty plea pursuant to Supreme
15 Court Rule 529, the circuit clerk shall first deduct and pay
16 amounts required by Sections 27.3a and 27.3c of this Act. This
17 Section is a denial and limitation of home rule powers and
18 functions under subsection (h) of Section 6 of Article VII of
19 the Illinois Constitution.

20 (b) In addition to any other fines and court costs assessed
21 by the courts, any person convicted or receiving an order of
22 supervision for driving under the influence of alcohol or drugs
23 shall pay an additional fee of \$100 to the clerk of the circuit
24 court. This amount, less 2 1/2% that shall be used to defray
25 administrative costs incurred by the clerk, shall be remitted
26 by the clerk to the Treasurer within 60 days after receipt for
27 deposit into the Trauma Center Fund. This additional fee of
28 \$100 shall not be considered a part of the fine for purposes of
29 any reduction in the fine for time served either before or
30 after sentencing. Not later than March 1 of each year the
31 Circuit Clerk shall submit a report of the amount of funds
32 remitted to the State Treasurer under this subsection during
33 the preceding calendar year.

34 (b-1) In addition to any other fines and court costs
35 assessed by the courts, any person convicted or receiving an
36 order of supervision for driving under the influence of alcohol

1 or drugs shall pay an additional fee of \$5 to the clerk of the
2 circuit court. This amount, less 2 1/2% that shall be used to
3 defray administrative costs incurred by the clerk, shall be
4 remitted by the clerk to the Treasurer within 60 days after
5 receipt for deposit into the Spinal Cord Injury Paralysis Cure
6 Research Trust Fund. This additional fee of \$5 shall not be
7 considered a part of the fine for purposes of any reduction in
8 the fine for time served either before or after sentencing. Not
9 later than March 1 of each year the Circuit Clerk shall submit
10 a report of the amount of funds remitted to the State Treasurer
11 under this subsection during the preceding calendar year.

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

27 (c-1) In addition to any other fines and court costs
28 assessed by the courts, any person sentenced for a violation of
29 the Cannabis Control Act or the Illinois Controlled Substances
30 Act shall pay an additional fee of \$5 to the clerk of the
31 circuit court. This amount, less 2 1/2% that shall be used to
32 defray administrative costs incurred by the clerk, shall be
33 remitted by the clerk to the Treasurer within 60 days after
34 receipt for deposit into the Spinal Cord Injury Paralysis Cure
35 Research Trust Fund. This additional fee of \$5 shall not be
36 considered a part of the fine for purposes of any reduction in

1 the fine for time served either before or after sentencing. Not
2 later than March 1 of each year the Circuit Clerk shall submit
3 a report of the amount of funds remitted to the State Treasurer
4 under this subsection during the preceding calendar year.

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

7 (1) 50% of the amounts collected for felony offenses
8 under Sections 3, 3.01, 3.02, 3.03, 4, 4.01, 4.03, 4.04, 5,
9 5.01, 6, 7, 7.5, 7.15, and 16 of the Humane Care for
10 Animals Act and Section 26-5 of the Criminal Code of 1961;

11 (2) 20% of the amounts collected for Class A and Class
12 B misdemeanors under Sections 3, 3.01, 4, 4.01, 4.03, 4.04,
13 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the Humane Care
14 for Animals Act and Section 26-5 of the Criminal Code of
15 1961; and

16 (3) 50% of the amounts collected for Class C
17 misdemeanors under Sections 4.01 and 7.1 of the Humane Care
18 for Animals Act and Section 26-5 of the Criminal Code of
19 1961.

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

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

24 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

25 Sec. 5-5-3. Disposition.

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

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

33 (1) A period of probation.

34 (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 1961
6 (now repealed).

7 (6) A fine.

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

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

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

29 ~~In addition to any other fine or penalty required by law,~~
30 ~~any individual convicted of a violation of Section 11-501 of~~
31 ~~the Illinois Vehicle Code, Section 5-7 of the Snowmobile~~
32 ~~Registration and Safety Act, Section 5-16 of the Boat~~
33 ~~Registration and Safety Act, or a similar provision of local~~
34 ~~ordinance, whose operation of a motor vehicle while in~~
35 ~~violation of Section 11-501, Section 5-7, Section 5-16, or such~~
36 ~~ordinance proximately caused an incident resulting in an~~

~~appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. Such restitution shall not exceed \$1,000 per public agency for each such emergency response. For the purpose of this paragraph, emergency response shall mean any incident requiring a response by: a police officer as defined under Section 1-162 of the Illinois Vehicle Code; a fireman carried on the rolls of a regularly constituted fire department; and an ambulance as defined under Section 3.85 of the Emergency Medical Services (EMS) Systems Act.~~

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

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

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

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

(B) Attempted first degree murder.

(C) A Class X felony.

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

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

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

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

10 (H) Criminal sexual assault.

11 (I) Aggravated battery of a senior citizen.

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

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

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

24 (K) Vehicular hijacking.

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

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

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

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

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

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

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

8 (S) (Blank). ~~A violation of Section 11-501(c-1)(3)~~
9 ~~of the Illinois Vehicle Code.~~

10 (T) A second or subsequent violation of paragraph
11 (6.6) of subsection (a), subsection (c-5), or
12 subsection (d-5) of Section 401 of the Illinois
13 Controlled Substances Act.

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

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

29 (4.1) (Blank). ~~A minimum term of 30 consecutive days of~~
30 ~~imprisonment, 40 days of 24 hour periodic imprisonment or~~
31 ~~720 hours of community service, as may be determined by the~~
32 ~~court, shall be imposed for a violation of Section 11-501~~
33 ~~of the Illinois Vehicle Code during a period in which the~~
34 ~~defendant's driving privileges are revoked or suspended,~~
35 ~~where the revocation or suspension was for a violation of~~
36 ~~Section 11-501 or Section 11-501.1 of that Code.~~

1 (4.2) Except as provided in paragraph (4.3) of this
2 subsection (c), a minimum of 100 hours of community service
3 shall be imposed for a second violation of Section 6-303 of
4 the Illinois Vehicle Code.

5 (4.3) A minimum term of imprisonment of 30 days or 300
6 hours of community service, as determined by the court,
7 shall be imposed for a second violation of subsection (c)
8 of Section 6-303 of the Illinois Vehicle Code.

9 (4.4) Except as provided in paragraph (4.5) and
10 paragraph (4.6) of this subsection (c), a minimum term of
11 imprisonment of 30 days or 300 hours of community service,
12 as determined by the court, shall be imposed for a third or
13 subsequent violation of Section 6-303 of the Illinois
14 Vehicle Code.

15 (4.5) A minimum term of imprisonment of 30 days shall
16 be imposed for a third violation of subsection (c) of
17 Section 6-303 of the Illinois Vehicle Code.

18 (4.6) A minimum term of imprisonment of 180 days shall
19 be imposed for a fourth or subsequent violation of
20 subsection (c) of Section 6-303 of the Illinois Vehicle
21 Code.

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

25 (A) a period of conditional discharge;

26 (B) a fine;

27 (C) make restitution to the victim under Section
28 5-5-6 of this Code.

29 (5.1) In addition to any penalties imposed under
30 paragraph (5) of this subsection (c), and except as
31 provided in paragraph (5.2) or (5.3), a person convicted of
32 violating subsection (c) of Section 11-907 of the Illinois
33 Vehicle Code shall have his or her driver's license,
34 permit, or privileges suspended for at least 90 days but
35 not more than one year, if the violation resulted in damage
36 to the property of another person.

1 (5.2) In addition to any penalties imposed under
2 paragraph (5) of this subsection (c), and except as
3 provided in paragraph (5.3), a person convicted of
4 violating subsection (c) of Section 11-907 of the Illinois
5 Vehicle Code shall have his or her driver's license,
6 permit, or privileges suspended for at least 180 days but
7 not more than 2 years, if the violation resulted in injury
8 to another person.

9 (5.3) In addition to any penalties imposed under
10 paragraph (5) of this subsection (c), a person convicted of
11 violating subsection (c) of Section 11-907 of the Illinois
12 Vehicle Code shall have his or her driver's license,
13 permit, or privileges suspended for 2 years, if the
14 violation resulted in the death of another person.

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

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

23 (8) When a defendant, over the age of 21 years, is
24 convicted of a Class 1 or Class 2 felony, after having
25 twice been convicted in any state or federal court of an
26 offense that contains the same elements as an offense now
27 classified in Illinois as a Class 2 or greater Class felony
28 and such charges are separately brought and tried and arise
29 out of different series of acts, such defendant shall be
30 sentenced as a Class X offender. This paragraph shall not
31 apply unless (1) the first felony was committed after the
32 effective date of this amendatory Act of 1977; and (2) the
33 second felony was committed after conviction on the first;
34 and (3) the third felony was committed after conviction on
35 the second. A person sentenced as a Class X offender under
36 this paragraph is not eligible to apply for treatment as a

1 condition of probation as provided by Section 40-10 of the
2 Alcoholism and Other Drug Abuse and Dependency Act.

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

6 (10) (Blank). ~~When a person is convicted of violating~~
7 ~~Section 11-501 of the Illinois Vehicle Code or a similar~~
8 ~~provision of a local ordinance, the following penalties~~
9 ~~apply when his or her blood, breath, or urine was .16 or~~
10 ~~more based on the definition of blood, breath, or urine~~
11 ~~units in Section 11-501.2 or that person is convicted of~~
12 ~~violating Section 11-501 of the Illinois Vehicle Code while~~
13 ~~transporting a child under the age of 16:~~

14 ~~(A) For a first violation of subsection (a) of~~
15 ~~Section 11-501, in addition to any other penalty that~~
16 ~~may be imposed under subsection (c) of Section 11-501:~~
17 ~~a mandatory minimum of 100 hours of community service~~
18 ~~and a minimum fine of \$500.~~

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

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

29 ~~(D) For a fourth or subsequent violation of~~
30 ~~subsection (a) of Section 11-501: ineligibility for a~~
31 ~~sentence of probation or conditional discharge and a~~
32 ~~minimum fine of \$2,500.~~

33 (d) In any case in which a sentence originally imposed is
34 vacated, the case shall be remanded to the trial court. The
35 trial court shall hold a hearing under Section 5-4-1 of the
36 Unified Code of Corrections which may include evidence of the

1 defendant's life, moral character and occupation during the
2 time since the original sentence was passed. The trial court
3 shall then impose sentence upon the defendant. The trial court
4 may impose any sentence which could have been imposed at the
5 original trial subject to Section 5-5-4 of the Unified Code of
6 Corrections. If a sentence is vacated on appeal or on
7 collateral attack due to the failure of the trier of fact at
8 trial to determine beyond a reasonable doubt the existence of a
9 fact (other than a prior conviction) necessary to increase the
10 punishment for the offense beyond the statutory maximum
11 otherwise applicable, either the defendant may be re-sentenced
12 to a term within the range otherwise provided or, if the State
13 files notice of its intention to again seek the extended
14 sentence, the defendant shall be afforded a new trial.

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

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

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

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

28 (i) removal from the household;

29 (ii) restricted contact with the victim;

30 (iii) continued financial support of the
31 family;

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

33 and

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

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

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

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

14 For the purposes of this Section, "family member" and
15 "victim" shall have the meanings ascribed to them in Section
16 12-12 of the Criminal Code of 1961.

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

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

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

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

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

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

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

32 (j) In cases when prosecution for any violation of Section
33 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
34 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
35 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
36 Code of 1961, any violation of the Illinois Controlled

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

19 (j-5) A defendant at least 17 years of age who is convicted
20 of a felony and who has not been previously convicted of a
21 misdemeanor or felony and who is sentenced to a term of
22 imprisonment in the Illinois Department of Corrections shall as
23 a condition of his or her sentence be required by the court to
24 attend educational courses designed to prepare the defendant
25 for a high school diploma and to work toward a high school
26 diploma or to work toward passing the high school level Test of
27 General Educational Development (GED) or to work toward
28 completing a vocational training program offered by the
29 Department of Corrections. If a defendant fails to complete the
30 educational training required by his or her sentence during the
31 term of incarceration, the Prisoner Review Board shall, as a
32 condition of mandatory supervised release, require the
33 defendant, at his or her own expense, to pursue a course of
34 study toward a high school diploma or passage of the GED test.
35 The Prisoner Review Board shall revoke the mandatory supervised
36 release of a defendant who wilfully fails to comply with this

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

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

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

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

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

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

34 (B) If the defendant has already been sentenced for a
35 felony or misdemeanor offense, or has been placed on
36 probation under Section 10 of the Cannabis Control Act or

1 Section 410 of the Illinois Controlled Substances Act, the
2 court may, upon motion of the State's Attorney to suspend
3 the sentence imposed, commit the defendant to the custody
4 of the Attorney General of the United States or his or her
5 designated agent 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 (C) This subsection (1) does not apply to offenders who
13 are subject to the provisions of paragraph (2) of
14 subsection (a) of Section 3-6-3.

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

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

31 (n) The court may sentence a person convicted of a
32 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
33 Code of 1961 (i) to an impact incarceration program if the
34 person is otherwise eligible for that program under Section
35 5-8-1.1, (ii) to community service, or (iii) if the person is
36 an addict or alcoholic, as defined in the Alcoholism and Other

1 Drug Abuse and Dependency Act, to a substance or alcohol abuse
2 program licensed under that Act.

3 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
4 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
5 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
6 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
7 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
8 eff. 1-1-04; revised 10-9-03.)

9 (730 ILCS 5/5-6-4) (from Ch. 38, par. 1005-6-4)

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

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

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

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

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

32 Personal service of the petition for violation of probation
33 or the issuance of such warrant, summons or notice shall toll
34 the period of probation, conditional discharge, supervision,
35 or sentence of county impact incarceration until the final

1 determination of the charge, and the term of probation,
2 conditional discharge, supervision, or sentence of county
3 impact incarceration shall not run until the hearing and
4 disposition of the petition for violation.

5 (b) The court shall conduct a hearing of the alleged
6 violation. The court shall admit the offender to bail pending
7 the hearing unless the alleged violation is itself a criminal
8 offense in which case the offender shall be admitted to bail on
9 such terms as are provided in the Code of Criminal Procedure of
10 1963, as amended. In any case where an offender remains
11 incarcerated only as a result of his alleged violation of the
12 court's earlier order of probation, supervision, conditional
13 discharge, or county impact incarceration such hearing shall be
14 held within 14 days of the onset of said incarceration, unless
15 the alleged violation is the commission of another offense by
16 the offender during the period of probation, supervision or
17 conditional discharge in which case such hearing shall be held
18 within the time limits described in Section 103-5 of the Code
19 of Criminal Procedure of 1963, as amended.

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

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

30 (e) If the court finds that the offender has violated a
31 condition at any time prior to the expiration or termination of
32 the period, it may continue him on the existing sentence, with
33 or without modifying or enlarging the conditions, or may impose
34 any other sentence that was available under Section 5-5-3 of
35 this Code or Section 11-501 of the Illinois Vehicle Code at the
36 time of initial sentencing. If the court finds that the person

1 has failed to successfully complete his or her sentence to a
2 county impact incarceration program, the court may impose any
3 other sentence that was available under Section 5-5-3 of this
4 Code or Section 11-501 of the Illinois Vehicle Code at the time
5 of initial sentencing, except for a sentence of probation or
6 conditional discharge.

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

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

15 (h) Resentencing after revocation of probation,
16 conditional discharge, supervision, or a sentence of county
17 impact incarceration shall be under Article 4. Time served on
18 probation, conditional discharge or supervision shall not be
19 credited by the court against a sentence of imprisonment or
20 periodic imprisonment unless the court orders otherwise.

21 (i) Instead of filing a violation of probation, conditional
22 discharge, supervision, or a sentence of county impact
23 incarceration, an agent or employee of the supervising agency
24 with the concurrence of his or her supervisor may serve on the
25 defendant a Notice of Intermediate Sanctions. The Notice shall
26 contain the technical violation or violations involved, the
27 date or dates of the violation or violations, and the
28 intermediate sanctions to be imposed. Upon receipt of the
29 Notice, the defendant shall immediately accept or reject the
30 intermediate sanctions. If the sanctions are accepted, they
31 shall be imposed immediately. If the intermediate sanctions are
32 rejected or the defendant does not respond to the Notice, a
33 violation of probation, conditional discharge, supervision, or
34 a sentence of county impact incarceration shall be immediately
35 filed with the court. The State's Attorney and the sentencing
36 court shall be notified of the Notice of Sanctions. Upon

1 successful completion of the intermediate sanctions, a court
2 may not revoke probation, conditional discharge, supervision,
3 or a sentence of county impact incarceration or impose
4 additional sanctions for the same violation. A notice of
5 intermediate sanctions may not be issued for any violation of
6 probation, conditional discharge, supervision, or a sentence
7 of county impact incarceration which could warrant an
8 additional, separate felony charge. The intermediate sanctions
9 shall include a term of home detention as provided in Article
10 8A of Chapter V of this Code for multiple or repeat violations
11 of the terms and conditions of a sentence of probation,
12 conditional discharge, or supervision.

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

15 (730 ILCS 5/5-6-4.1) (from Ch. 38, par. 1005-6-4.1)

16 Sec. 5-6-4.1. Violation, Modification or Revocation of
17 Conditional Discharge or Supervision - Hearing.) (a) In cases
18 where a defendant was placed upon supervision or conditional
19 discharge for the commission of a petty offense, upon the oral
20 or written motion of the State, or on the court's own motion,
21 which charges that a violation of a condition of that
22 conditional discharge or supervision has occurred, the court
23 may:

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (730 ILCS 5/5-8-7) (from Ch. 38, par. 1005-8-7)

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

34 (a) A sentence of imprisonment shall commence on the date
35 on which the offender is received by the Department or the

1 institution at which the sentence is to be served.

2 (b) The offender shall be given credit on the determinate
3 sentence or maximum term and the minimum period of imprisonment
4 for time spent in custody as a result of the offense for which
5 the sentence was imposed, at the rate specified in Section
6 3-6-3 of this Code. Except when prohibited by subsection (d),
7 the trial court may give credit to the defendant for time spent
8 in home detention, or when the defendant has been confined for
9 psychiatric or substance abuse treatment prior to judgment, if
10 the court finds that the detention or confinement was
11 custodial.

12 (c) An offender arrested on one charge and prosecuted on
13 another charge for conduct which occurred prior to his arrest
14 shall be given credit on the determinate sentence or maximum
15 term and the minimum term of imprisonment for time spent in
16 custody under the former charge not credited against another
17 sentence.

18 (d) An offender sentenced to a term of imprisonment for an
19 offense listed in paragraph (2) of subsection (c) of Section
20 5-5-3 of this Code or in paragraph (3) of subsection (c-1) of
21 Section 11-501 of the Illinois Vehicle Code shall not receive
22 credit for time spent in home detention prior to judgment.

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