

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

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

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

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

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

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

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

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

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

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

27 (B) Attempted first degree murder.

28 (C) A Class X felony.

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

34 (E) A violation of Section 5.1 or 9 of the Cannabis

1 Control Act.

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

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

11 (H) Criminal sexual assault.

12 (I) Aggravated battery of a senior citizen.

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

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

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

25 (K) Vehicular hijacking.

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

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

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

1 Identification Card Act.

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

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

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

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

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

13 (T) A second or subsequent violation of paragraph
14 (6.6) of subsection (a), subsection (c-5), or
15 subsection (d-5) of Section 401 of the Illinois
16 Controlled Substances Act.

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

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

32 (4.1) A minimum term of 30 consecutive days of
33 imprisonment, 40 days of 24 hour periodic imprisonment or
34 720 hours of community service, as may be determined by the

1 court, shall be imposed for a violation of Section 11-501
2 of the Illinois Vehicle Code during a period in which the
3 defendant's driving privileges are revoked or suspended,
4 where the revocation or suspension was for a violation of
5 Section 11-501 or Section 11-501.1 of that Code.

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

10 (4.3) A minimum term of imprisonment of 30 days or 300
11 hours of community service, as determined by the court,
12 shall be imposed for a second violation of subsection (c)
13 of Section 6-303 of the Illinois Vehicle Code.

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

20 (4.5) A minimum term of imprisonment of 30 days shall
21 be imposed for a third violation of subsection (c) of
22 Section 6-303 of the Illinois Vehicle Code.

23 (4.6) A minimum term of imprisonment of 180 days shall
24 be imposed for a fourth or subsequent violation of
25 subsection (c) of Section 6-303 of the Illinois Vehicle
26 Code.

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

30 (A) a period of conditional discharge;

31 (B) a fine;

32 (C) make restitution to the victim under Section
33 5-5-6 of this Code.

34 (5.1) In addition to any penalties imposed under

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

8 (5.2) In addition to any penalties imposed under
9 paragraph (5) of this subsection (c), and except as
10 provided in paragraph (5.3), 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 at least 180 days but
14 not more than 2 years, if the violation resulted in injury
15 to another person.

16 (5.3) In addition to any penalties imposed under
17 paragraph (5) of this subsection (c), a person convicted of
18 violating subsection (c) of Section 11-907 of the Illinois
19 Vehicle Code shall have his or her driver's license,
20 permit, or privileges suspended for 2 years, if the
21 violation resulted in the death of another person.

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

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

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

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

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

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

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

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

33 (C) For a third violation of subsection (a) of
34 Section 11-501, in addition to any other penalty that

1 may be imposed under subsection (c) of Section 11-501
2 within 20 years: a mandatory minimum of 90 days of
3 imprisonment and a minimum fine of \$2,500.

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

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

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

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

33 (A) the defendant is willing to undergo a court
34 approved counseling program for a minimum duration of 2

1 years; or

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

5 (i) removal from the household;

6 (ii) restricted contact with the victim;

7 (iii) continued financial support of the
8 family;

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

10 and

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

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

20 Probation may be revoked or modified pursuant to Section
21 5-6-4; except where the court determines at the hearing that
22 the defendant violated a condition of his or her probation
23 restricting contact with the victim or other family members or
24 commits another offense with the victim or other family
25 members, the court shall revoke the defendant's probation and
26 impose a term of imprisonment.

27 For the purposes of this Section, "family member" and
28 "victim" shall have the meanings ascribed to them in Section
29 12-12 of the Criminal Code of 1961.

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

34 (g) Whenever a defendant is convicted of an offense under

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

1 cost of any such test shall be paid by the county and may be
2 taxed as costs against the convicted defendant.

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

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

1 Section, and the court shall grant the disclosure if the
2 State's Attorney shows it is relevant in order to prosecute a
3 charge of criminal transmission of HIV under Section 12-16.2 of
4 the Criminal Code of 1961 against the defendant. The court
5 shall order that the cost of any such test shall be paid by the
6 county and may be taxed as costs against the convicted
7 defendant.

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

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

1 superintendent of schools. The regional superintendent of
2 schools shall notify the State Board of Education of any
3 notification under this subsection.

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

1 vocational program.

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

5 (1) (A) Except as provided in paragraph (C) of subsection
6 (1), whenever a defendant, who is an alien as defined by
7 the Immigration and Nationality Act, is convicted of any
8 felony or misdemeanor offense, the court after sentencing
9 the defendant may, upon motion of the State's Attorney,
10 hold sentence in abeyance and remand the defendant to the
11 custody of the Attorney General of the United States or his
12 or her designated agent to be deported when:

13 (1) a final order of deportation has been issued
14 against the defendant pursuant to proceedings under
15 the Immigration and Nationality Act, and

16 (2) the deportation of the defendant would not
17 deprecate the seriousness of the defendant's conduct
18 and would not be inconsistent with the ends of justice.

19 Otherwise, the defendant shall be sentenced as
20 provided in this Chapter V.

21 (B) If the defendant has already been sentenced for a
22 felony or misdemeanor offense, or has been placed on
23 probation under Section 10 of the Cannabis Control Act or
24 Section 410 of the Illinois Controlled Substances Act, the
25 court may, upon motion of the State's Attorney to suspend
26 the sentence imposed, commit the defendant to the custody
27 of the Attorney General of the United States or his or her
28 designated agent when:

29 (1) a final order of deportation has been issued
30 against the defendant pursuant to proceedings under
31 the Immigration and Nationality Act, and

32 (2) the deportation of the defendant would not
33 deprecate the seriousness of the defendant's conduct
34 and would not be inconsistent with the ends of justice.

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

4 (D) Upon motion of the State's Attorney, if a defendant
5 sentenced under this Section returns to the jurisdiction of
6 the United States, the defendant shall be recommitted to
7 the custody of the county from which he or she was
8 sentenced. Thereafter, the defendant shall be brought
9 before the sentencing court, which may impose any sentence
10 that was available under Section 5-5-3 at the time of
11 initial sentencing. In addition, the defendant shall not be
12 eligible for additional good conduct credit for
13 meritorious service as provided under Section 3-6-6.

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

20 (n) The court may sentence a person convicted of a
21 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
22 Code of 1961 (i) to an impact incarceration program if the
23 person is otherwise eligible for that program under Section
24 5-8-1.1, (ii) to community service, or (iii) if the person is
25 an addict or alcoholic, as defined in the Alcoholism and Other
26 Drug Abuse and Dependency Act, to a substance or alcohol abuse
27 program licensed under that Act.

28 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
29 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
30 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
31 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
32 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
33 eff. 1-1-04; revised 10-9-03.)

1 (730 ILCS 5/5-6-1) (from Ch. 38, par. 1005-6-1)

2 Sec. 5-6-1. Sentences of Probation and of Conditional
3 Discharge and Disposition of Supervision. The General Assembly
4 finds that in order to protect the public, the criminal justice
5 system must compel compliance with the conditions of probation
6 by responding to violations with swift, certain and fair
7 punishments and intermediate sanctions. The Chief Judge of each
8 circuit shall adopt a system of structured, intermediate
9 sanctions for violations of the terms and conditions of a
10 sentence of probation, conditional discharge or disposition of
11 supervision.

12 (a) Except where specifically prohibited by other
13 provisions of this Code, the court shall impose a sentence of
14 probation or conditional discharge upon an offender unless,
15 having regard to the nature and circumstance of the offense,
16 and to the history, character and condition of the offender,
17 the court is of the opinion that:

18 (1) his imprisonment or periodic imprisonment is
19 necessary for the protection of the public; or

20 (2) probation or conditional discharge would deprecate
21 the seriousness of the offender's conduct and would be
22 inconsistent with the ends of justice; ~~or~~

23 (3) a combination of imprisonment with concurrent or
24 consecutive probation when an offender has been admitted
25 into a drug court program under Section 20 of the Drug
26 Court Treatment Act is necessary for the protection of the
27 public and for the rehabilitation of the offender.

28 The court shall impose as a condition of a sentence of
29 probation, conditional discharge, or supervision, that the
30 probation agency may invoke any sanction from the list of
31 intermediate sanctions adopted by the chief judge of the
32 circuit court for violations of the terms and conditions of the
33 sentence of probation, conditional discharge, or supervision,
34 subject to the provisions of Section 5-6-4 of this Act.

1 (b) The court may impose a sentence of conditional
2 discharge for an offense if the court is of the opinion that
3 neither a sentence of imprisonment nor of periodic imprisonment
4 nor of probation supervision is appropriate.

5 (c) The court may, upon a plea of guilty or a stipulation
6 by the defendant of the facts supporting the charge or a
7 finding of guilt, defer further proceedings and the imposition
8 of a sentence, and enter an order for supervision of the
9 defendant, if the defendant is not charged with: (i) a Class A
10 misdemeanor, as defined by the following provisions of the
11 Criminal Code of 1961: Sections 12-3.2; 12-15; 26-5; 31-1;
12 31-6; 31-7; subsections (b) and (c) of Section 21-1; paragraph
13 (1) through (5), (8), (10), and (11) of subsection (a) of
14 Section 24-1; (ii) a Class A misdemeanor violation of Section
15 3.01, 3.03-1, or 4.01 of the Humane Care for Animals Act; or
16 (iii) felony. If the defendant is not barred from receiving an
17 order for supervision as provided in this subsection, the court
18 may enter an order for supervision after considering the
19 circumstances of the offense, and the history, character and
20 condition of the offender, if the court is of the opinion that:

21 (1) the offender is not likely to commit further
22 crimes;

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

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

28 (d) The provisions of paragraph (c) shall not apply to a
29 defendant charged with violating Section 11-501 of the Illinois
30 Vehicle Code or a similar provision of a local ordinance when
31 the defendant has previously been:

32 (1) convicted for a violation of Section 11-501 of the
33 Illinois Vehicle Code or a similar provision of a local
34 ordinance or any similar law or ordinance of another state;

1 or

2 (2) assigned supervision for a violation of Section
3 11-501 of the Illinois Vehicle Code or a similar provision
4 of a local ordinance or any similar law or ordinance of
5 another state; or

6 (3) pleaded guilty to or stipulated to the facts
7 supporting a charge or a finding of guilty to a violation
8 of Section 11-503 of the Illinois Vehicle Code or a similar
9 provision of a local ordinance or any similar law or
10 ordinance of another state, and the plea or stipulation was
11 the result of a plea agreement.

12 The court shall consider the statement of the prosecuting
13 authority with regard to the standards set forth in this
14 Section.

15 (e) The provisions of paragraph (c) shall not apply to a
16 defendant charged with violating Section 16A-3 of the Criminal
17 Code of 1961 if said defendant has within the last 5 years
18 been:

19 (1) convicted for a violation of Section 16A-3 of the
20 Criminal Code of 1961; or

21 (2) assigned supervision for a violation of Section
22 16A-3 of the Criminal Code of 1961.

23 The court shall consider the statement of the prosecuting
24 authority with regard to the standards set forth in this
25 Section.

26 (f) The provisions of paragraph (c) shall not apply to a
27 defendant charged with violating Sections 15-111, 15-112,
28 15-301, paragraph (b) of Section 6-104, Section 11-605, or
29 Section 11-1414 of the Illinois Vehicle Code or a similar
30 provision of a local ordinance.

31 (g) Except as otherwise provided in paragraph (i) of this
32 Section, the provisions of paragraph (c) shall not apply to a
33 defendant charged with violating Section 3-707, 3-708, 3-710,
34 or 5-401.3 of the Illinois Vehicle Code or a similar provision

1 of a local ordinance if the defendant has within the last 5
2 years been:

3 (1) convicted for a violation of Section 3-707, 3-708,
4 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar
5 provision of a local ordinance; or

6 (2) assigned supervision for a violation of Section
7 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle
8 Code or a similar provision of a local ordinance.

9 The court shall consider the statement of the prosecuting
10 authority with regard to the standards set forth in this
11 Section.

12 (h) The provisions of paragraph (c) shall not apply to a
13 defendant under the age of 21 years charged with violating a
14 serious traffic offense as defined in Section 1-187.001 of the
15 Illinois Vehicle Code:

16 (1) unless the defendant, upon payment of the fines,
17 penalties, and costs provided by law, agrees to attend and
18 successfully complete a traffic safety program approved by
19 the court under standards set by the Conference of Chief
20 Circuit Judges. The accused shall be responsible for
21 payment of any traffic safety program fees. If the accused
22 fails to file a certificate of successful completion on or
23 before the termination date of the supervision order, the
24 supervision shall be summarily revoked and conviction
25 entered. The provisions of Supreme Court Rule 402 relating
26 to pleas of guilty do not apply in cases when a defendant
27 enters a guilty plea under this provision; or

28 (2) if the defendant has previously been sentenced
29 under the provisions of paragraph (c) on or after January
30 1, 1998 for any serious traffic offense as defined in
31 Section 1-187.001 of the Illinois Vehicle Code.

32 (i) The provisions of paragraph (c) shall not apply to a
33 defendant charged with violating Section 3-707 of the Illinois
34 Vehicle Code or a similar provision of a local ordinance if the

1 defendant has been assigned supervision for a violation of
2 Section 3-707 of the Illinois Vehicle Code or a similar
3 provision of a local ordinance.

4 (j) The provisions of paragraph (c) shall not apply to a
5 defendant charged with violating Section 6-303 of the Illinois
6 Vehicle Code or a similar provision of a local ordinance when
7 the revocation or suspension was for a violation of Section
8 11-501 or a similar provision of a local ordinance, a violation
9 of Section 11-501.1 or paragraph (b) of Section 11-401 of the
10 Illinois Vehicle Code, or a violation of Section 9-3 of the
11 Criminal Code of 1961 if the defendant has within the last 10
12 years been:

13 (1) convicted for a violation of Section 6-303 of the
14 Illinois Vehicle Code or a similar provision of a local
15 ordinance; or

16 (2) assigned supervision for a violation of Section
17 6-303 of the Illinois Vehicle Code or a similar provision
18 of a local ordinance.

19 (Source: P.A. 93-388, eff. 7-25-03.)

20 (730 ILCS 5/5-6-2) (from Ch. 38, par. 1005-6-2)
21 Sec. 5-6-2. Incidents of Probation and of Conditional
22 Discharge.

23 (a) When an offender is sentenced to probation or
24 conditional discharge, the court shall impose a period under
25 paragraph (b) of this Section, and shall specify the conditions
26 under Section 5-6-3.

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

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

33 (2) for a Class 3 or Class 4 felony, not to exceed 30

1 months;

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

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

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

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

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

12 (e) The court may extend any period of probation or
13 conditional discharge beyond the limits set forth in paragraph
14 (b) of this Section upon a violation of a condition of the
15 probation or conditional discharge, for the payment of an
16 assessment required by Section 10.3 of the Cannabis Control Act
17 or Section 411.2 of the Illinois Controlled Substances Act, or
18 for the payment of restitution as provided by an order of
19 restitution under Section 5-5-6 of this Code.

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

27 (Source: P.A. 91-153, eff. 1-1-00.)

28 (730 ILCS 5/5-6-4) (from Ch. 38, par. 1005-6-4)

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

32 (a) Except in cases where conditional discharge or
33 supervision was imposed for a petty offense as defined in

1 Section 5-1-17, when a petition is filed charging a violation
2 of a condition, the court may:

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

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

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

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

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

1 held within 14 days of the onset of said incarceration, unless
2 the alleged violation is the commission of another offense by
3 the offender during the period of probation, supervision or
4 conditional discharge in which case such hearing shall be held
5 within the time limits described in Section 103-5 of the Code
6 of Criminal Procedure of 1963, as amended.

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

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

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

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

33 (g) A judgment revoking supervision, probation,
34 conditional discharge, or a sentence of county impact

1 incarceration is a final appealable order.

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

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

1 conditional discharge, or supervision.

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

7 (Source: P.A. 89-198, eff. 7-21-95; 89-587, eff. 7-31-96;
8 89-647, eff. 1-1-97; 90-14, eff. 7-1-97.)".