

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 31-1a as follows:

6 (720 ILCS 5/31-1a) (from Ch. 38, par. 31-1a)

7 Sec. 31-1a. Disarming a peace officer or correctional  
8 institution employee.

9 (a) Disarming a peace officer or correctional institution  
10 employee. A person who, without the consent of a peace officer  
11 or correctional institution employee as defined in subsection  
12 (b) of Section 31-1, takes ~~or attempts to take~~ a weapon from a  
13 person known to him or her to be a peace officer or  
14 correctional institution employee, while the peace officer or  
15 correctional institution employee is engaged in the  
16 performance of his or her official duties or from an area  
17 within the peace officer's or correctional institution  
18 employee's immediate presence is guilty of a Class 1 ~~2~~ felony.

19 (b) A person who, without the consent of a peace officer or  
20 correctional institution employee as defined in subsection (b)  
21 of Section 31-1, attempts to take a weapon from a person known  
22 to him or her to be a peace officer or correctional institution  
23 employee, while the peace officer or correctional institution

1 employee is engaged in the performance of his or her official  
2 duties or from an area within the peace officer's or  
3 correctional institution employee's immediate presence is  
4 guilty of a Class 2 felony.

5 (Source: P.A. 93-207, eff. 1-1-04.)

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

8 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

9 Sec. 5-5-3. Disposition.

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

13 (b) The following options shall be appropriate  
14 dispositions, alone or in combination, for all felonies and  
15 misdemeanors other than those identified in subsection (c) of  
16 this Section:

17 (1) A period of probation.

18 (2) A term of periodic imprisonment.

19 (3) A term of conditional discharge.

20 (4) A term of imprisonment.

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24 (now repealed).

1 (6) A fine.

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

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

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

1 (B) Attempted first degree murder.

2 (C) A Class X felony.

3 (D) A violation of Section 401.1 or 407 of the  
4 Illinois Controlled Substances Act, or a violation of  
5 subdivision (c) (1), (c) (1.5), or (c) (2) of Section 401  
6 of that Act which relates to more than 5 grams of a  
7 substance containing heroin, cocaine, fentanyl, or an  
8 analog thereof.

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

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

17 (F-5) A violation of Section 24-1, 24-1.1, or  
18 24-1.6 of the Criminal Code of 1961 for which  
19 imprisonment is prescribed in those Sections.

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

23 (H) Criminal sexual assault.

24 (I) Aggravated battery of a senior citizen.

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

1           Before July 1, 1994, for the purposes of this  
2 paragraph, "organized gang" means an association of 5  
3 or more persons, with an established hierarchy, that  
4 encourages members of the association to perpetrate  
5 crimes or provides support to the members of the  
6 association who do commit crimes.

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

11           (K) Vehicular hijacking.

12           (L) A second or subsequent conviction for the  
13 offense of hate crime when the underlying offense upon  
14 which the hate crime is based is felony aggravated  
15 assault or felony mob action.

16           (M) A second or subsequent conviction for the  
17 offense of institutional vandalism if the damage to the  
18 property exceeds \$300.

19           (N) A Class 3 felony violation of paragraph (1) of  
20 subsection (a) of Section 2 of the Firearm Owners  
21 Identification Card Act.

22           (O) A violation of Section 12-6.1 of the Criminal  
23 Code of 1961.

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

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

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

5 (S) (Blank).

6 (T) A second or subsequent violation of the  
7 Methamphetamine Control and Community Protection Act.

8 (U) A second or subsequent violation of Section  
9 6-303 of the Illinois Vehicle Code committed while his  
10 or her driver's license, permit, or privilege was  
11 revoked because of a violation of Section 9-3 of the  
12 Criminal Code of 1961, relating to the offense of  
13 reckless homicide, or a similar provision of a law of  
14 another state.

15 (V) A violation of paragraph (4) of subsection (c)  
16 of Section 11-20.3 of the Criminal Code of 1961.

17 (W) A violation of Section 24-3.5 of the Criminal  
18 Code of 1961.

19 (X) A violation of subsection (a) of Section 31-1a  
20 of the Criminal Code of 1961.

21 (3) (Blank).

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

26 (4.1) (Blank).

1           (4.2) Except as provided in paragraphs (4.3) and (4.8)  
2 of this subsection (c), a minimum of 100 hours of community  
3 service shall be imposed for a second violation of Section  
4 6-303 of 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 paragraphs (4.5), (4.6),  
10 and (4.9) 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) Except as provided in paragraph (4.10) of this  
19 subsection (c), a minimum term of imprisonment of 180 days  
20 shall be imposed for a fourth or subsequent violation of  
21 subsection (c) of Section 6-303 of the Illinois Vehicle  
22 Code.

23           (4.7) A minimum term of imprisonment of not less than  
24 30 consecutive days, or 300 hours of community service,  
25 shall be imposed for a violation of subsection (a-5) of  
26 Section 6-303 of the Illinois Vehicle Code, as provided in

1 subsection (b-5) of that Section.

2 (4.8) A mandatory prison sentence shall be imposed for  
3 a second violation of subsection (a-5) of Section 6-303 of  
4 the Illinois Vehicle Code, as provided in subsection (c-5)  
5 of that Section. The person's driving privileges shall be  
6 revoked for a period of not less than 5 years from the date  
7 of his or her release from prison.

8 (4.9) A mandatory prison sentence of not less than 4  
9 and not more than 15 years shall be imposed for a third  
10 violation of subsection (a-5) of Section 6-303 of the  
11 Illinois Vehicle Code, as provided in subsection (d-2.5) of  
12 that Section. The person's driving privileges shall be  
13 revoked for the remainder of his or her life.

14 (4.10) A mandatory prison sentence for a Class 1 felony  
15 shall be imposed, and the person shall be eligible for an  
16 extended term sentence, for a fourth or subsequent  
17 violation of subsection (a-5) of Section 6-303 of the  
18 Illinois Vehicle Code, as provided in subsection (d-3.5) of  
19 that Section. The person's driving privileges shall be  
20 revoked for the remainder of his or her life.

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

24 (A) a period of conditional discharge;

25 (B) a fine;

26 (C) make restitution to the victim under Section



1           5-5-6 of this Code.

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

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

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

24          (5.4) In addition to any penalties imposed under  
25 paragraph (5) of this subsection (c), a person convicted of  
26 violating Section 3-707 of the Illinois Vehicle Code shall

1 have his or her driver's license, permit, or privileges  
2 suspended for 3 months and until he or she has paid a  
3 reinstatement fee of \$100.

4 (5.5) In addition to any penalties imposed under  
5 paragraph (5) of this subsection (c), a person convicted of  
6 violating Section 3-707 of the Illinois Vehicle Code during  
7 a period in which his or her driver's license, permit, or  
8 privileges were suspended for a previous violation of that  
9 Section shall have his or her driver's license, permit, or  
10 privileges suspended for an additional 6 months after the  
11 expiration of the original 3-month suspension and until he  
12 or she has paid a reinstatement fee of \$100.

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

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

21 (8) When a defendant, over the age of 21 years, is  
22 convicted of a Class 1 or Class 2 felony, after having  
23 twice been convicted in any state or federal court of an  
24 offense that contains the same elements as an offense now  
25 classified in Illinois as a Class 2 or greater Class felony  
26 and such charges are separately brought and tried and arise

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

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

14 (10) (Blank).

15 (11) The court shall impose a minimum fine of \$1,000  
16 for a first offense and \$2,000 for a second or subsequent  
17 offense upon a person convicted of or placed on supervision  
18 for battery when the individual harmed was a sports  
19 official or coach at any level of competition and the act  
20 causing harm to the sports official or coach occurred  
21 within an athletic facility or within the immediate  
22 vicinity of the athletic facility at which the sports  
23 official or coach was an active participant of the athletic  
24 contest held at the athletic facility. For the purposes of  
25 this paragraph (11), "sports official" means a person at an  
26 athletic contest who enforces the rules of the contest,

1           such as an umpire or referee; "athletic facility" means an  
2           indoor or outdoor playing field or recreational area where  
3           sports activities are conducted; and "coach" means a person  
4           recognized as a coach by the sanctioning authority that  
5           conducted the sporting event.

6           (12) A person may not receive a disposition of court  
7           supervision for a violation of Section 5-16 of the Boat  
8           Registration and Safety Act if that person has previously  
9           received a disposition of court supervision for a violation  
10          of that Section.

11          (13) A person convicted of or placed on court  
12          supervision for an assault or aggravated assault when the  
13          victim and the offender are family or household members as  
14          defined in Section 103 of the Illinois Domestic Violence  
15          Act of 1986 or convicted of domestic battery or aggravated  
16          domestic battery may be required to attend a Partner Abuse  
17          Intervention Program under protocols set forth by the  
18          Illinois Department of Human Services under such terms and  
19          conditions imposed by the court. The costs of such classes  
20          shall be paid by the offender.

21          (d) In any case in which a sentence originally imposed is  
22          vacated, the case shall be remanded to the trial court. The  
23          trial court shall hold a hearing under Section 5-4-1 of the  
24          Unified Code of Corrections which may include evidence of the  
25          defendant's life, moral character and occupation during the  
26          time since the original sentence was passed. The trial court

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

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

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

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

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

26 (i) removal from the household;

- 1 (ii) restricted contact with the victim;
- 2 (iii) continued financial support of the
- 3 family;
- 4 (iv) restitution for harm done to the victim;
- 5 and
- 6 (v) compliance with any other measures that
- 7 the court may deem appropriate; and
- 8 (2) the court orders the defendant to pay for the
- 9 victim's counseling services, to the extent that the court
- 10 finds, after considering the defendant's income and
- 11 assets, that the defendant is financially capable of paying
- 12 for such services, if the victim was under 18 years of age
- 13 at the time the offense was committed and requires
- 14 counseling as a result of the offense.

15 Probation may be revoked or modified pursuant to Section

16 5-6-4; except where the court determines at the hearing that

17 the defendant violated a condition of his or her probation

18 restricting contact with the victim or other family members or

19 commits another offense with the victim or other family

20 members, the court shall revoke the defendant's probation and

21 impose a term of imprisonment.

22 For the purposes of this Section, "family member" and

23 "victim" shall have the meanings ascribed to them in Section

24 12-12 of the Criminal Code of 1961.

25 (f) This Article shall not deprive a court in other

26 proceedings to order a forfeiture of property, to suspend or

1 cancel a license, to remove a person from office, or to impose  
2 any other civil penalty.

3 (g) Whenever a defendant is convicted of an offense under  
4 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,  
5 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16  
6 of the Criminal Code of 1961, the defendant shall undergo  
7 medical testing to determine whether the defendant has any  
8 sexually transmissible disease, including a test for infection  
9 with human immunodeficiency virus (HIV) or any other identified  
10 causative agent of acquired immunodeficiency syndrome (AIDS).  
11 Any such medical test shall be performed only by appropriately  
12 licensed medical practitioners and may include an analysis of  
13 any bodily fluids as well as an examination of the defendant's  
14 person. Except as otherwise provided by law, the results of  
15 such test shall be kept strictly confidential by all medical  
16 personnel involved in the testing and must be personally  
17 delivered in a sealed envelope to the judge of the court in  
18 which the conviction was entered for the judge's inspection in  
19 camera. Acting in accordance with the best interests of the  
20 victim and the public, the judge shall have the discretion to  
21 determine to whom, if anyone, the results of the testing may be  
22 revealed. The court shall notify the defendant of the test  
23 results. The court shall also notify the victim if requested by  
24 the victim, and if the victim is under the age of 15 and if  
25 requested by the victim's parents or legal guardian, the court  
26 shall notify the victim's parents or legal guardian of the test

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

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

24 (h) Whenever a defendant is convicted of an offense under  
25 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the  
26 defendant shall undergo medical testing to determine whether



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

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

8 (j) In cases when prosecution for any violation of Section  
9 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,  
10 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
11 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal  
12 Code of 1961, any violation of the Illinois Controlled  
13 Substances Act, any violation of the Cannabis Control Act, or  
14 any violation of the Methamphetamine Control and Community  
15 Protection Act results in conviction, a disposition of court  
16 supervision, or an order of probation granted under Section 10  
17 of the Cannabis Control Act, Section 410 of the Illinois  
18 Controlled Substance Act, or Section 70 of the Methamphetamine  
19 Control and Community Protection Act of a defendant, the court  
20 shall determine whether the defendant is employed by a facility  
21 or center as defined under the Child Care Act of 1969, a public  
22 or private elementary or secondary school, or otherwise works  
23 with children under 18 years of age on a daily basis. When a  
24 defendant is so employed, the court shall order the Clerk of  
25 the Court to send a copy of the judgment of conviction or order  
26 of supervision or probation to the defendant's employer by

1 certified mail. If the employer of the defendant is a school,  
2 the Clerk of the Court shall direct the mailing of a copy of  
3 the judgment of conviction or order of supervision or probation  
4 to the appropriate regional superintendent of schools. The  
5 regional superintendent of schools shall notify the State Board  
6 of Education of any notification under this subsection.

7 (j-5) A defendant at least 17 years of age who is convicted  
8 of a felony and who has not been previously convicted of a  
9 misdemeanor or felony and who is sentenced to a term of  
10 imprisonment in the Illinois Department of Corrections shall as  
11 a condition of his or her sentence be required by the court to  
12 attend educational courses designed to prepare the defendant  
13 for a high school diploma and to work toward a high school  
14 diploma or to work toward passing the high school level Test of  
15 General Educational Development (GED) or to work toward  
16 completing a vocational training program offered by the  
17 Department of Corrections. If a defendant fails to complete the  
18 educational training required by his or her sentence during the  
19 term of incarceration, the Prisoner Review Board shall, as a  
20 condition of mandatory supervised release, require the  
21 defendant, at his or her own expense, to pursue a course of  
22 study toward a high school diploma or passage of the GED test.  
23 The Prisoner Review Board shall revoke the mandatory supervised  
24 release of a defendant who wilfully fails to comply with this  
25 subsection (j-5) upon his or her release from confinement in a  
26 penal institution while serving a mandatory supervised release

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

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

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

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

1           (2) the deportation of the defendant would not  
2           deprecate the seriousness of the defendant's conduct  
3           and would not be inconsistent with the ends of justice.  
4           Otherwise, the defendant shall be sentenced as  
5           provided in this Chapter V.

6           (B) If the defendant has already been sentenced for a  
7           felony or misdemeanor offense, or has been placed on  
8           probation under Section 10 of the Cannabis Control Act,  
9           Section 410 of the Illinois Controlled Substances Act, or  
10          Section 70 of the Methamphetamine Control and Community  
11          Protection Act, the court may, upon motion of the State's  
12          Attorney to suspend the sentence imposed, commit the  
13          defendant to the custody of the Attorney General of the  
14          United States or his or her designated agent when:

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

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

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

24           (D) Upon motion of the State's Attorney, if a defendant  
25           sentenced under this Section returns to the jurisdiction of  
26           the United States, the defendant shall be recommitted to

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

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

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

22 (o) Whenever a person is convicted of a sex offense as  
23 defined in Section 2 of the Sex Offender Registration Act, the  
24 defendant's driver's license or permit shall be subject to  
25 renewal on an annual basis in accordance with the provisions of  
26 license renewal established by the Secretary of State.

1 (Source: P.A. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993,  
2 eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07;  
3 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff.  
4 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff.  
5 1-1-09.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.