



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4678

by Rep. LaShawn K. Ford

SYNOPSIS AS INTRODUCED:

See Index

Amends the Alcoholism and Other Drug Abuse and Dependency Act, the Cannabis Control Act, the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, and the Unified Code of Corrections. Provides that an individual convicted of an offense involving the illegal possession of cannabis, a controlled, look-a-like, or counterfeit substance, or methamphetamine and sentenced on or after the effective date of the amendatory Act shall be sentenced to probation instead of imprisonment. Provides that the court shall order the individual to receive treatment under the supervision of a program designated by the Department of Human Services for the duration of the individual's probation. Provides that an individual convicted of such an offense and sentenced to a term of imprisonment before the effective date of the amendatory Act may petition the court to have his or her sentence vacated and to be sentenced to probation and treatment and provides for evaluation of the petition.

LRB096 14870 RLC 29736 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Alcoholism and Other Drug Abuse and
5 Dependency Act is amended by changing Sections 40-5 and 40-10
6 as follows:

7 (20 ILCS 301/40-5)

8 Sec. 40-5. Election of treatment.

9 (a) An addict or alcoholic who is charged with or convicted
10 of a crime, other than a violation of Section 4 of the Cannabis
11 Control Act, Section 402 of the Illinois Controlled Substances
12 Act, subsection (c) of Section 404 of the Illinois Controlled
13 Substances Act, or Section 60 of the Methamphetamine Control
14 and Community Protection Act, may elect treatment under the
15 supervision of a licensed program designated by the Department,
16 referred to in this Article as "designated program", unless:

17 (1) the crime is a crime of violence;

18 (2) the crime is a violation of Section 401(a), 401(b),
19 401(c) where the person electing treatment has been
20 previously convicted of a non-probationable felony or the
21 violation is non-probationable, 401(d) where the violation
22 is non-probationable, 401.1, ~~402(a),~~ 405 or 407 of the
23 Illinois Controlled Substances Act, or Section ~~4(d), 4(e),~~

1 ~~4(f), 4(g),~~ 5(d), 5(e), 5(f), 5(g), 5.1, 7 or 9 of the
2 Cannabis Control Act or Section 15, 20, 55, ~~60,~~ or 65 of
3 the Methamphetamine Control and Community Protection Act;

4 (3) the person has a record of 2 or more convictions of
5 a crime of violence;

6 (4) other criminal proceedings alleging commission of
7 a felony are pending against the person;

8 (5) the person is on probation or parole and the
9 appropriate parole or probation authority does not consent
10 to that election;

11 (6) the person elected and was admitted to a designated
12 program on 2 prior occasions within any consecutive 2-year
13 period;

14 (7) the person has been convicted of residential
15 burglary and has a record of one or more felony
16 convictions;

17 (8) the crime is a violation of Section 11-501 of the
18 Illinois Vehicle Code or a similar provision of a local
19 ordinance; or

20 (9) the crime is a reckless homicide or a reckless
21 homicide of an unborn child, as defined in Section 9-3 or
22 9-3.2 of the Criminal Code of 1961, in which the cause of
23 death consists of the driving of a motor vehicle by a
24 person under the influence of alcohol or any other drug or
25 drugs at the time of the violation.

26 (b) An individual convicted of a violation of Section 4 of

1 the Cannabis Control Act, Section 402 of the Illinois
2 Controlled Substances Act, subsection (c) of Section 404 of the
3 Illinois Controlled Substances Act, or Section 60 of the
4 Methamphetamine Control and Community Protection Act shall be
5 sentenced to probation instead of imprisonment. The court shall
6 order that individual to receive treatment under the
7 supervision of a designated program for the duration of the
8 individual's probation. An individual ordered to receive
9 treatment under this subsection (b) is eligible for that
10 treatment regardless of whether that individual is an addict or
11 alcoholic as defined in Section 1-10 of this Act.

12 (c) An individual convicted of an offense described in
13 subsection (b) of this Section and sentenced to a term of
14 imprisonment before the effective date of this amendatory Act
15 of the 96th General Assembly may petition the court to have his
16 or her sentence vacated and to be sentenced to probation and
17 treatment under this Act. The court shall evaluate the petition
18 in the same manner as the court evaluates an election of
19 treatment under this Act.

20 (Source: P.A. 94-556, eff. 9-11-05.)

21 (20 ILCS 301/40-10)

22 Sec. 40-10. Treatment as a condition of probation.

23 (a) If a court has reason to believe that an individual who
24 is charged with or convicted of a crime suffers from alcoholism
25 or other drug addiction and the court finds that he is eligible

1 to make the election provided for under Section 40-5, the court
2 shall advise the individual that he or she may be sentenced to
3 probation and shall be subject to terms and conditions of
4 probation under Section 5-6-3 of the Unified Code of
5 Corrections if he or she elects to submit to treatment and is
6 accepted for treatment by a designated program. If an
7 individual meets the conditions of subsection (b) of Section
8 40-5 of this Act, the court shall advise the individual that he
9 or she shall be sentenced to probation and shall be subject to
10 terms and conditions of probation under Section 5-6-3 of the
11 Unified Code of Corrections. The court shall further advise the
12 individual that:

13 (1) if he or she elects to submit to treatment and is
14 accepted or is ordered to submit to treatment, he or she
15 shall be sentenced to probation and placed under the
16 supervision of the designated program for a period not to
17 exceed the maximum sentence that could be imposed for his
18 conviction or 5 years, whichever is less.

19 (2) during probation he or she may be treated at the
20 discretion of the designated program, unless the
21 individual meets the conditions of subsection (b) of
22 Section 40-5 of this Act, in which case he or she shall be
23 treated by the designated program.

24 (3) if he or she adheres to the requirements of the
25 designated program and fulfills the other conditions of
26 probation ordered by the court, he or she will be

1 discharged, but any failure to adhere to the requirements
2 of the designated program is a breach of probation.

3 The court may certify an individual for treatment while on
4 probation under the supervision of a designated program and
5 probation authorities regardless of the election of the
6 individual. The court shall certify an individual for treatment
7 while on probation under the supervision of a designated
8 program and probation authorities if the individual meets the
9 requirements of subsection (b) of Section 40-5 of this Act.

10 (b) Except as otherwise provided in this Act, if ~~if~~ the
11 individual elects to undergo treatment or is certified for
12 treatment, the court shall order an examination by a designated
13 program to determine whether he suffers from alcoholism or
14 other drug addiction and is likely to be rehabilitated through
15 treatment. The designated program shall report to the court the
16 results of the examination and recommend whether the individual
17 should be placed for treatment. If the court, on the basis of
18 the report and other information, finds that such an individual
19 suffers from alcoholism or other drug addiction and is likely
20 to be rehabilitated through treatment, the individual shall be
21 placed on probation and under the supervision of a designated
22 program for treatment and under the supervision of the proper
23 probation authorities for probation supervision unless, giving
24 consideration to the nature and circumstances of the offense
25 and to the history, character and condition of the individual,
26 the court is of the opinion that no significant relationship

1 exists between the addiction or alcoholism of the individual
2 and the crime committed, or that his imprisonment or periodic
3 imprisonment is necessary for the protection of the public, and
4 the court specifies on the record the particular evidence,
5 information or other reasons that form the basis of such
6 opinion. However, under no circumstances shall the individual
7 be placed under the supervision of a designated program for
8 treatment before the entry of a judgment of conviction.

9 (c) Except as otherwise provided in this Act, if ~~if~~ the
10 court, on the basis of the report or other information, finds
11 that the individual suffering from alcoholism or other drug
12 addiction is not likely to be rehabilitated through treatment,
13 or that his addiction or alcoholism and the crime committed are
14 not significantly related, or that his imprisonment or periodic
15 imprisonment is necessary for the protection of the public, the
16 court shall impose sentence as in other cases. The court may
17 require such progress reports on the individual from the
18 probation officer and designated program as the court finds
19 necessary. No individual may be placed under treatment
20 supervision unless a designated program accepts him for
21 treatment.

22 (d) Failure of an individual placed on probation and under
23 the supervision of a designated program to observe the
24 requirements set down by the designated program shall be
25 considered a probation violation. Such failure shall be
26 reported by the designated program to the probation officer in

1 charge of the individual and treated in accordance with
2 probation regulations.

3 (e) Upon successful fulfillment of the terms and conditions
4 of probation the court shall discharge the person from
5 probation. If the person has not previously been convicted of
6 any felony offense and has not previously been granted a
7 vacation of judgment under this Section, upon motion, the court
8 shall vacate the judgment of conviction and dismiss the
9 criminal proceedings against him unless, having considered the
10 nature and circumstances of the offense and the history,
11 character and condition of the individual, the court finds that
12 the motion should not be granted. Unless good cause is shown,
13 such motion to vacate must be filed within 30 days of the entry
14 of the judgment.

15 (Source: P.A. 91-663, eff. 12-22-99.)

16 Section 10. The Cannabis Control Act is amended by changing
17 Sections 4 and 10 as follows:

18 (720 ILCS 550/4) (from Ch. 56 1/2, par. 704)

19 Sec. 4. It is unlawful for any person knowingly to possess
20 cannabis. Any person who violates this section with respect to:

21 (a) not more than 2.5 grams of any substance containing
22 cannabis is guilty of a Class C misdemeanor for which the
23 offender shall be sentenced to probation and treatment
24 under the Alcoholism and Other Drug Abuse and Dependency

1 Act and may not be sentenced to a term of imprisonment;

2 (b) more than 2.5 grams but not more than 10 grams of
3 any substance containing cannabis is guilty of a Class B
4 misdemeanor for which the offender shall be sentenced to
5 probation and treatment under the Alcoholism and Other Drug
6 Abuse and Dependency Act and may not be sentenced to a term
7 of imprisonment;

8 (c) more than 10 grams but not more than 30 grams of
9 any substance containing cannabis is guilty of a Class A
10 misdemeanor; provided, that if any offense under this
11 subsection (c) is a subsequent offense, the offender shall
12 be guilty of a Class 4 felony for which the offender shall
13 be sentenced to probation and treatment under the
14 Alcoholism and Other Drug Abuse and Dependency Act and may
15 not be sentenced to a term of imprisonment;

16 (d) more than 30 grams but not more than 500 grams of
17 any substance containing cannabis is guilty of a Class 4
18 felony for which the offender shall be sentenced to
19 probation and treatment under the Alcoholism and Other Drug
20 Abuse and Dependency Act and may not be sentenced to a term
21 of imprisonment; provided that if any offense under this
22 subsection (d) is a subsequent offense, the offender shall
23 be guilty of a Class 3 felony for which the offender shall
24 be sentenced to probation and treatment under the
25 Alcoholism and Other Drug Abuse and Dependency Act and may
26 not be sentenced to a term of imprisonment;

1 (e) more than 500 grams but not more than 2,000 grams
2 of any substance containing cannabis is guilty of a Class 3
3 felony for which the offender shall be sentenced to
4 probation and treatment under the Alcoholism and Other Drug
5 Abuse and Dependency Act and may not be sentenced to a term
6 of imprisonment;

7 (f) more than 2,000 grams but not more than 5,000 grams
8 of any substance containing cannabis is guilty of a Class 2
9 felony for which the offender shall be sentenced to
10 probation and treatment under the Alcoholism and Other Drug
11 Abuse and Dependency Act and may not be sentenced to a term
12 of imprisonment;

13 (g) more than 5,000 grams of any substance containing
14 cannabis is guilty of a Class 1 felony for which the
15 offender shall be sentenced to probation and treatment
16 under the Alcoholism and Other Drug Abuse and Dependency
17 Act and may not be sentenced to a term of imprisonment.

18 (Source: P.A. 90-397, eff. 8-15-97.)

19 (720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

20 Sec. 10. (a) Whenever any person who has not previously
21 been convicted of, or placed on probation or court supervision
22 for, any offense under this Act or any law of the United States
23 or of any State relating to cannabis, or controlled substances
24 as defined in the Illinois Controlled Substances Act, pleads
25 guilty to or is found guilty of violating Section ~~Sections~~

1 ~~4(a), 4(b), 4(c)~~, 5(a), 5(b), 5(c) or 8 of this Act, the court
2 may, without entering a judgment and with the consent of such
3 person, sentence him to probation.

4 (b) When a person is placed on probation, the court shall
5 enter an order specifying a period of probation of 24 months,
6 and shall defer further proceedings in the case until the
7 conclusion of the period or until the filing of a petition
8 alleging violation of a term or condition of probation.

9 (c) The conditions of probation shall be that the person:
10 (1) not violate any criminal statute of any jurisdiction; (2)
11 refrain from possession of a firearm or other dangerous weapon;
12 (3) submit to periodic drug testing at a time and in a manner
13 as ordered by the court, but no less than 3 times during the
14 period of the probation, with the cost of the testing to be
15 paid by the probationer; and (4) perform no less than 30 hours
16 of community service, provided community service is available
17 in the jurisdiction and is funded and approved by the county
18 board.

19 (d) The court may, in addition to other conditions, require
20 that the person:

21 (1) make a report to and appear in person before or
22 participate with the court or such courts, person, or
23 social service agency as directed by the court in the order
24 of probation;

25 (2) pay a fine and costs;

26 (3) work or pursue a course of study or vocational

1 training;

2 (4) undergo medical or psychiatric treatment; or
3 treatment for drug addiction or alcoholism;

4 (5) attend or reside in a facility established for the
5 instruction or residence of defendants on probation;

6 (6) support his dependents;

7 (7) refrain from possessing a firearm or other
8 dangerous weapon;

9 (7-5) refrain from having in his or her body the
10 presence of any illicit drug prohibited by the Cannabis
11 Control Act, the Illinois Controlled Substances Act, or the
12 Methamphetamine Control and Community Protection Act,
13 unless prescribed by a physician, and submit samples of his
14 or her blood or urine or both for tests to determine the
15 presence of any illicit drug;

16 (8) and in addition, if a minor:

17 (i) reside with his parents or in a foster home;

18 (ii) attend school;

19 (iii) attend a non-residential program for youth;

20 (iv) contribute to his own support at home or in a
21 foster home.

22 (e) Upon violation of a term or condition of probation, the
23 court may enter a judgment on its original finding of guilt and
24 proceed as otherwise provided.

25 (f) Upon fulfillment of the terms and conditions of
26 probation, the court shall discharge such person and dismiss

1 the proceedings against him.

2 (g) A disposition of probation is considered to be a
3 conviction for the purposes of imposing the conditions of
4 probation and for appeal, however, discharge and dismissal
5 under this Section is not a conviction for purposes of
6 disqualification or disabilities imposed by law upon
7 conviction of a crime (including the additional penalty imposed
8 for subsequent offenses under Section 4(c), 4(d), 5(c) or 5(d)
9 of this Act).

10 (h) Discharge and dismissal under this Section, Section 410
11 of the Illinois Controlled Substances Act, or Section 70 of the
12 Methamphetamine Control and Community Protection Act may occur
13 only once with respect to any person.

14 (i) If a person is convicted of an offense under this Act,
15 the Illinois Controlled Substances Act, or the Methamphetamine
16 Control and Community Protection Act within 5 years subsequent
17 to a discharge and dismissal under this Section, the discharge
18 and dismissal under this Section shall be admissible in the
19 sentencing proceeding for that conviction as a factor in
20 aggravation.

21 (Source: P.A. 94-556, eff. 9-11-05.)

22 Section 15. The Illinois Controlled Substances Act is
23 amended by changing Sections 402, 404, and 410 as follows:

24 (720 ILCS 570/402) (from Ch. 56 1/2, par. 1402)

1 Sec. 402. Except as otherwise authorized by this Act, it is
2 unlawful for any person knowingly to possess a controlled or
3 counterfeit substance or controlled substance analog. A
4 violation of this Act with respect to each of the controlled
5 substances listed herein constitutes a single and separate
6 violation of this Act. For purposes of this Section,
7 "controlled substance analog" or "analog" means a substance
8 which is intended for human consumption, other than a
9 controlled substance, that has a chemical structure
10 substantially similar to that of a controlled substance in
11 Schedule I or II, or that was specifically designed to produce
12 an effect substantially similar to that of a controlled
13 substance in Schedule I or II. Examples of chemical classes in
14 which controlled substance analogs are found include, but are
15 not limited to, the following: phenethylamines, N-substituted
16 piperidines, morphinans, ecgonines, quinazolinones,
17 substituted indoles, and arylcycloalkylamines. For purposes of
18 this Act, a controlled substance analog shall be treated in the
19 same manner as the controlled substance to which it is
20 substantially similar.

21 (a) Any person who violates this Section with respect to
22 the following controlled or counterfeit substances and
23 amounts, notwithstanding any of the provisions of subsections
24 (c) and (d) to the contrary, is guilty of a Class 1 felony for
25 which the offender shall be sentenced to probation and
26 treatment under the Alcoholism and Other Drug Abuse and

1 Dependency Act and may not be sentenced to a term of
2 imprisonment and shall be ~~, if sentenced to a term of~~
3 ~~imprisonment,~~ be sentenced as provided in this subsection (a)
4 ~~and~~ fined as provided in subsection (b). ~~÷~~

5 ~~(1) (A) not less than 4 years and not more than 15~~
6 ~~years with respect to 15 grams or more but less than~~
7 ~~100 grams of a substance containing heroin;~~

8 ~~(B) not less than 6 years and not more than 30~~
9 ~~years with respect to 100 grams or more but less than~~
10 ~~400 grams of a substance containing heroin;~~

11 ~~(C) not less than 8 years and not more than 40~~
12 ~~years with respect to 400 grams or more but less than~~
13 ~~900 grams of any substance containing heroin;~~

14 ~~(D) not less than 10 years and not more than 50~~
15 ~~years with respect to 900 grams or more of any~~
16 ~~substance containing heroin;~~

17 ~~(2) (A) not less than 4 years and not more than 15~~
18 ~~years with respect to 15 grams or more but less than~~
19 ~~100 grams of any substance containing cocaine;~~

20 ~~(B) not less than 6 years and not more than 30~~
21 ~~years with respect to 100 grams or more but less than~~
22 ~~400 grams of any substance containing cocaine;~~

23 ~~(C) not less than 8 years and not more than 40~~
24 ~~years with respect to 400 grams or more but less than~~
25 ~~900 grams of any substance containing cocaine;~~

26 ~~(D) not less than 10 years and not more than 50~~

1 ~~years with respect to 900 grams or more of any~~
2 ~~substance containing cocaine;~~

3 ~~(3) (A) not less than 4 years and not more than 15~~
4 ~~years with respect to 15 grams or more but less than~~
5 ~~100 grams of any substance containing morphine;~~

6 ~~(B) not less than 6 years and not more than 30~~
7 ~~years with respect to 100 grams or more but less than~~
8 ~~400 grams of any substance containing morphine;~~

9 ~~(C) not less than 6 years and not more than 40~~
10 ~~years with respect to 400 grams or more but less than~~
11 ~~900 grams of any substance containing morphine;~~

12 ~~(D) not less than 10 years and not more than 50~~
13 ~~years with respect to 900 grams or more of any~~
14 ~~substance containing morphine;~~

15 ~~(4) 200 grams or more of any substance containing~~
16 ~~peyote;~~

17 ~~(5) 200 grams or more of any substance containing a~~
18 ~~derivative of barbituric acid or any of the salts of a~~
19 ~~derivative of barbituric acid;~~

20 ~~(6) 200 grams or more of any substance containing~~
21 ~~amphetamine or any salt of an optical isomer of~~
22 ~~amphetamine;~~

23 ~~(6.5) (blank);~~

24 ~~(7) (A) not less than 4 years and not more than 15~~
25 ~~years with respect to: (i) 15 grams or more but less~~
26 ~~than 100 grams of any substance containing lysergie~~

1 ~~acid diethylamide (LSD), or an analog thereof, or (ii)~~
2 ~~15 or more objects or 15 or more segregated parts of an~~
3 ~~object or objects but less than 200 objects or 200~~
4 ~~segregated parts of an object or objects containing in~~
5 ~~them or having upon them any amount of any substance~~
6 ~~containing lysergic acid diethylamide (LSD), or an~~
7 ~~analog thereof;~~

8 ~~(B) not less than 6 years and not more than 30~~
9 ~~years with respect to: (i) 100 grams or more but less~~
10 ~~than 400 grams of any substance containing lysergic~~
11 ~~acid diethylamide (LSD), or an analog thereof, or (ii)~~
12 ~~200 or more objects or 200 or more segregated parts of~~
13 ~~an object or objects but less than 600 objects or less~~
14 ~~than 600 segregated parts of an object or objects~~
15 ~~containing in them or having upon them any amount of~~
16 ~~any substance containing lysergic acid diethylamide~~
17 ~~(LSD), or an analog thereof;~~

18 ~~(C) not less than 8 years and not more than 40~~
19 ~~years with respect to: (i) 400 grams or more but less~~
20 ~~than 900 grams of any substance containing lysergic~~
21 ~~acid diethylamide (LSD), or an analog thereof, or (ii)~~
22 ~~600 or more objects or 600 or more segregated parts of~~
23 ~~an object or objects but less than 1500 objects or 1500~~
24 ~~segregated parts of an object or objects containing in~~
25 ~~them or having upon them any amount of any substance~~
26 ~~containing lysergic acid diethylamide (LSD), or an~~

1 ~~analog thereof;~~

2 ~~(D) not less than 10 years and not more than 50~~
3 ~~years with respect to: (i) 900 grams or more of any~~
4 ~~substance containing lysergic acid diethylamide (LSD),~~
5 ~~or an analog thereof, or (ii) 1500 or more objects or~~
6 ~~1500 or more segregated parts of an object or objects~~
7 ~~containing in them or having upon them any amount of a~~
8 ~~substance containing lysergic acid diethylamide (LSD),~~
9 ~~or an analog thereof;~~

10 ~~(7.5) (A) not less than 4 years and not more than 15~~
11 ~~years with respect to: (i) 15 grams or more but less~~
12 ~~than 100 grams of any substance listed in paragraph~~
13 ~~(1), (2), (2.1), (2.2), (3), (14.1), (19), (20),~~
14 ~~(20.1), (21), (25), or (26) of subsection (d) of~~
15 ~~Section 204, or an analog or derivative thereof, or~~
16 ~~(ii) 15 or more pills, tablets, caplets, capsules, or~~
17 ~~objects but less than 200 pills, tablets, caplets,~~
18 ~~capsules, or objects containing in them or having upon~~
19 ~~them any amount of any substance listed in paragraph~~
20 ~~(1), (2), (2.1), (2.2), (3), (14.1), (19), (20),~~
21 ~~(20.1), (21), (25), or (26) of subsection (d) of~~
22 ~~Section 204, or an analog or derivative thereof;~~

23 ~~(B) not less than 6 years and not more than 30~~
24 ~~years with respect to: (i) 100 grams or more but less~~
25 ~~than 400 grams of any substance listed in paragraph~~
26 ~~(1), (2), (2.1), (2.2), (3), (14.1), (19), (20),~~

1 ~~(20.1), (21), (25), or (26) of subsection (d) of~~
2 ~~Section 204, or an analog or derivative thereof, or~~
3 ~~(ii) 200 or more pills, tablets, caplets, capsules, or~~
4 ~~objects but less than 600 pills, tablets, caplets,~~
5 ~~capsules, or objects containing in them or having upon~~
6 ~~them any amount of any substance listed in paragraph~~
7 ~~(1), (2), (2.1), (2.2), (3), (14.1), (19), (20),~~
8 ~~(20.1), (21), (25), or (26) of subsection (d) of~~
9 ~~Section 204, or an analog or derivative thereof;~~

10 ~~(C) not less than 8 years and not more than 40~~
11 ~~years with respect to: (i) 400 grams or more but less~~
12 ~~than 900 grams of any substance listed in paragraph~~
13 ~~(1), (2), (2.1), (2.2), (3), (14.1), (19), (20),~~
14 ~~(20.1), (21), (25), or (26) of subsection (d) of~~
15 ~~Section 204, or an analog or derivative thereof, or~~
16 ~~(ii) 600 or more pills, tablets, caplets, capsules, or~~
17 ~~objects but less than 1,500 pills, tablets, caplets,~~
18 ~~capsules, or objects containing in them or having upon~~
19 ~~them any amount of any substance listed in paragraph~~
20 ~~(1), (2), (2.1), (2.2), (3), (14.1), (19), (20),~~
21 ~~(20.1), (21), (25), or (26) of subsection (d) of~~
22 ~~Section 204, or an analog or derivative thereof;~~

23 ~~(D) not less than 10 years and not more than 50~~
24 ~~years with respect to: (i) 900 grams or more of any~~
25 ~~substance listed in paragraph (1), (2), (2.1), (2.2),~~
26 ~~(3), (14.1), (19), (20), (20.1), (21), (25), or (26) of~~

1 ~~subsection (d) of Section 204, or an analog or~~
2 ~~derivative thereof, or (ii) 1,500 or more pills,~~
3 ~~tablets, caplets, capsules, or objects containing in~~
4 ~~them or having upon them any amount of a substance~~
5 ~~listed in paragraph (1), (2), (2.1), (2.2), (3),~~
6 ~~(14.1), (19), (20), (20.1), (21), (25), or (26) of~~
7 ~~subsection (d) of Section 204, or an analog or~~
8 ~~derivative thereof;~~

9 ~~(8) 30 grams or more of any substance containing~~
10 ~~pentazocine or any of the salts, isomers and salts of~~
11 ~~isomers of pentazocine, or an analog thereof;~~

12 ~~(9) 30 grams or more of any substance containing~~
13 ~~methaqualone or any of the salts, isomers and salts of~~
14 ~~isomers of methaqualone;~~

15 ~~(10) 30 grams or more of any substance containing~~
16 ~~phencyclidine or any of the salts, isomers and salts of~~
17 ~~isomers of phencyclidine (PCP);~~

18 ~~(10.5) 30 grams or more of any substance containing~~
19 ~~ketamine or any of the salts, isomers and salts of isomers~~
20 ~~of ketamine;~~

21 ~~(11) 200 grams or more of any substance containing any~~
22 ~~substance classified as a narcotic drug in Schedules I or~~
23 ~~II, or an analog thereof, which is not otherwise included~~
24 ~~in this subsection.~~

25 (b) Any person sentenced with respect to violations of
26 paragraph (1), (2), (3), (7), or (7.5) of subsection (a)

1 involving 100 grams or more of the controlled substance named
2 therein, may in addition to the penalties provided therein, be
3 fined an amount not to exceed \$200,000 or the full street value
4 of the controlled or counterfeit substances, whichever is
5 greater. The term "street value" shall have the meaning
6 ascribed in Section 110-5 of the Code of Criminal Procedure of
7 1963. Any person sentenced with respect to any other provision
8 of subsection (a), may in addition to the penalties provided
9 therein, be fined an amount not to exceed \$200,000.

10 (c) Any person who violates this Section with regard to an
11 amount of a controlled substance other than methamphetamine or
12 counterfeit substance not set forth in subsection (a) or (d) is
13 guilty of a Class 4 felony for which the offender shall be
14 sentenced to probation and treatment under the Alcoholism and
15 Other Drug Abuse and Dependency Act and may not be sentenced to
16 a term of imprisonment. The fine for a violation punishable
17 under this subsection (c) shall not be more than \$25,000.

18 (d) Any person who violates this Section with regard to any
19 amount of anabolic steroid is guilty of a Class C misdemeanor
20 for the first offense for which the offender shall be sentenced
21 to probation and treatment under the Alcoholism and Other Drug
22 Abuse and Dependency Act and may not be sentenced to a term of
23 imprisonment and a Class B misdemeanor for a subsequent offense
24 committed within 2 years of a prior conviction for which the
25 offender shall be sentenced to probation and treatment under
26 the Alcoholism and Other Drug Abuse and Dependency Act and may

1 not be sentenced to a term of imprisonment.

2 (Source: P.A. 95-331, eff. 8-21-07; 96-347, eff. 1-1-10.)

3 (720 ILCS 570/404) (from Ch. 56 1/2, par. 1404)

4 Sec. 404. (a) For the purposes of this Section:

5 (1) "Advertise" means the attempt, by publication,
6 dissemination, solicitation or circulation, to induce
7 directly or indirectly any person to acquire, or enter into
8 an obligation to acquire, any substance within the scope of
9 this Section.

10 (2) "Distribute" has the meaning ascribed to it in
11 subsection (s) of Section 102 of this Act but as relates to
12 look-alike substances.

13 (3) "Manufacture" means the producing, preparing,
14 compounding, processing, encapsulating, packaging,
15 repackaging, labeling or relabeling of a look-alike
16 substance.

17 (b) It is unlawful for any person knowingly to manufacture,
18 distribute, advertise, or possess with intent to manufacture or
19 distribute a look-alike substance. Any person who violates this
20 subsection (b) shall be guilty of a Class 3 felony, the fine
21 for which shall not exceed \$150,000.

22 (c) It is unlawful for any person knowingly to possess a
23 look-alike substance. Any person who violates this subsection
24 (c) is guilty of a petty offense for which the offender shall
25 be sentenced to probation and treatment under the Alcoholism

1 and Other Drug Abuse and Dependency Act and may not be
2 sentenced to a term of imprisonment. Any person convicted of a
3 subsequent offense under this subsection (c) shall be guilty of
4 a Class C misdemeanor for which the offender shall be sentenced
5 to probation and treatment under the Alcoholism and Other Drug
6 Abuse and Dependency Act and may not be sentenced to a term of
7 imprisonment.

8 (d) In any prosecution brought under this Section, it is
9 not a defense to a violation of this Section that the defendant
10 believed the look-alike substance actually to be a controlled
11 substance.

12 (e) Nothing in this Section applies to:

13 (1) The manufacture, processing, packaging,
14 distribution or sale of noncontrolled substances to
15 licensed medical practitioners for use as placebos in
16 professional practice or research.

17 (2) Persons acting in the course and legitimate scope
18 of their employment as law enforcement officers.

19 (3) The retention of production samples of
20 noncontrolled substances produced prior to the effective
21 date of this amendatory Act of 1982, where such samples are
22 required by federal law.

23 (f) Nothing in this Section or in this Act applies to the
24 lawful manufacture, processing, packaging, advertising or
25 distribution of a drug or drugs by any person registered
26 pursuant to Section 510 of the Federal Food, Drug, and Cosmetic

1 Act (21 U.S.C. 360).

2 (Source: P.A. 83-1362.)

3 (720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

4 Sec. 410. (a) Whenever any person who has not previously
5 been convicted of, or placed on probation or court supervision
6 for any offense under this Act or any law of the United States
7 or of any State relating to cannabis or controlled substances,
8 pleads guilty to or is found guilty of ~~possession of a~~
9 ~~controlled or counterfeit substance under subsection (c) of~~
10 ~~Section 402 or of~~ unauthorized possession of prescription form
11 under Section 406.2, the court, without entering a judgment and
12 with the consent of such person, may sentence him to probation.

13 (b) When a person is placed on probation, the court shall
14 enter an order specifying a period of probation of 24 months
15 and shall defer further proceedings in the case until the
16 conclusion of the period or until the filing of a petition
17 alleging violation of a term or condition of probation.

18 (c) The conditions of probation shall be that the person:
19 (1) not violate any criminal statute of any jurisdiction; (2)
20 refrain from possessing a firearm or other dangerous weapon;
21 (3) submit to periodic drug testing at a time and in a manner
22 as ordered by the court, but no less than 3 times during the
23 period of the probation, with the cost of the testing to be
24 paid by the probationer; and (4) perform no less than 30 hours
25 of community service, provided community service is available

1 in the jurisdiction and is funded and approved by the county
2 board.

3 (d) The court may, in addition to other conditions, require
4 that the person:

5 (1) make a report to and appear in person before or
6 participate with the court or such courts, person, or
7 social service agency as directed by the court in the order
8 of probation;

9 (2) pay a fine and costs;

10 (3) work or pursue a course of study or vocational
11 training;

12 (4) undergo medical or psychiatric treatment; or
13 treatment or rehabilitation approved by the Illinois
14 Department of Human Services;

15 (5) attend or reside in a facility established for the
16 instruction or residence of defendants on probation;

17 (6) support his dependents;

18 (6-5) refrain from having in his or her body the
19 presence of any illicit drug prohibited by the Cannabis
20 Control Act, the Illinois Controlled Substances Act, or the
21 Methamphetamine Control and Community Protection Act,
22 unless prescribed by a physician, and submit samples of his
23 or her blood or urine or both for tests to determine the
24 presence of any illicit drug;

25 (7) and in addition, if a minor:

26 (i) reside with his parents or in a foster home;

- 1 (ii) attend school;
- 2 (iii) attend a non-residential program for youth;
- 3 (iv) contribute to his own support at home or in a
- 4 foster home.

5 (e) Upon violation of a term or condition of probation, the

6 court may enter a judgment on its original finding of guilt and

7 proceed as otherwise provided.

8 (f) Upon fulfillment of the terms and conditions of

9 probation, the court shall discharge the person and dismiss the

10 proceedings against him.

11 (g) A disposition of probation is considered to be a

12 conviction for the purposes of imposing the conditions of

13 probation and for appeal, however, discharge and dismissal

14 under this Section is not a conviction for purposes of this Act

15 or for purposes of disqualifications or disabilities imposed by

16 law upon conviction of a crime.

17 (h) There may be only one discharge and dismissal under

18 this Section, Section 10 of the Cannabis Control Act, or

19 Section 70 of the Methamphetamine Control and Community

20 Protection Act with respect to any person.

21 (i) If a person is convicted of an offense under this Act,

22 the Cannabis Control Act, or the Methamphetamine Control and

23 Community Protection Act within 5 years subsequent to a

24 discharge and dismissal under this Section, the discharge and

25 dismissal under this Section shall be admissible in the

26 sentencing proceeding for that conviction as evidence in

1 aggravation.

2 (Source: P.A. 94-556, eff. 9-11-05; 95-487, eff. 1-1-08.)

3 Section 20. The Methamphetamine Control and Community
4 Protection Act is amended by changing Section 60 as follows:

5 (720 ILCS 646/60)

6 Sec. 60. Methamphetamine possession.

7 (a) It is unlawful knowingly to possess methamphetamine or
8 a substance containing methamphetamine.

9 (b) A person who violates subsection (a) is subject to the
10 following penalties:

11 (1) A person who possesses less than 5 grams of
12 methamphetamine or a substance containing methamphetamine
13 is guilty of a Class 3 felony for which the offender shall
14 be sentenced to probation and treatment under the
15 Alcoholism and Other Drug Abuse and Dependency Act and may
16 not be sentenced to a term of imprisonment.

17 (2) A person who possesses 5 or more grams but less
18 than 15 grams of methamphetamine or a substance containing
19 methamphetamine is guilty of a Class 2 felony for which the
20 offender shall be sentenced to probation and treatment
21 under the Alcoholism and Other Drug Abuse and Dependency
22 Act and may not be sentenced to a term of imprisonment.

23 (3) A person who possesses 15 or more grams but less
24 than 100 grams of methamphetamine or a substance containing

1 methamphetamine is guilty of a Class 1 felony for which the
2 offender shall be sentenced to probation and treatment
3 under the Alcoholism and Other Drug Abuse and Dependency
4 Act and may not be sentenced to a term of imprisonment.

5 (4) A person who possesses 100 or more grams but less
6 than 400 grams of methamphetamine or a substance containing
7 methamphetamine is guilty of a Class X felony for which the
8 offender shall be sentenced to probation and treatment
9 under the Alcoholism and Other Drug Abuse and Dependency
10 Act and may not be sentenced to a term of imprisonment,
11 ~~subject to a term of imprisonment of not less than 6 years~~
12 ~~and not more than 30 years,~~ and subject to a fine not to
13 exceed \$100,000.

14 (5) A person who possesses 400 or more grams but less
15 than 900 grams of methamphetamine or a substance containing
16 methamphetamine is guilty of a Class X felony for which the
17 offender shall be sentenced to probation and treatment
18 under the Alcoholism and Other Drug Abuse and Dependency
19 Act and may not be sentenced to a term of imprisonment,
20 ~~subject to a term of imprisonment of not less than 8 years~~
21 ~~and not more than 40 years,~~ and subject to a fine not to
22 exceed \$200,000.

23 (6) A person who possesses 900 or more grams of
24 methamphetamine or a substance containing methamphetamine
25 is guilty of a Class X felony for which the offender shall
26 be sentenced to probation and treatment under the

1 Alcoholism and Other Drug Abuse and Dependency Act and may
2 not be sentenced to a term of imprisonment, ~~subject to a~~
3 ~~term of imprisonment of not less than 10 years and not more~~
4 ~~than 50 years,~~ and subject to a fine not to exceed
5 \$300,000.

6 (Source: P.A. 94-556, eff. 9-11-05.)

7 (720 ILCS 646/70 rep.)

8 Section 25. The Methamphetamine Control and Community
9 Protection Act is amended by repealing Section 70.

10 Section 30. The Unified Code of Corrections is amended by
11 changing Sections 5-5-3, 5-6-1, and 5-6-3 as follows:

12 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

13 Sec. 5-5-3. Disposition.

14 (a) (Blank~~-~~)..

15 (b) (Blank~~-~~)..

16 ~~(10) If the defendant is convicted of arson,~~
17 ~~aggravated arson, residential arson, or place of worship~~
18 ~~arson, an order directing the offender to reimburse the~~
19 ~~local emergency response department for the costs of~~
20 ~~responding to the fire that the offender was convicted of~~
21 ~~setting in accordance with the Emergency Services Response~~
22 ~~Reimbursement for Criminal Convictions Act.~~

23 (c) (1) (Blank~~-~~)..

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

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

10 (B) Attempted first degree murder.

11 (C) A Class X felony.

12 (D) A violation of Section 401.1 or 407 of the
13 Illinois Controlled Substances Act, or a violation of
14 subdivision (c) (1), (c) (1.5), or (c) (2) of Section 401
15 of that Act which relates to more than 5 grams of a
16 substance containing heroin, cocaine, fentanyl, or an
17 analog thereof.

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

20 (F) A Class 2 or greater felony if the offender had
21 been convicted of a Class 2 or greater felony,
22 including any state or federal conviction for an
23 offense that contained, at the time it was committed,
24 the same elements as an offense now (the date of the
25 offense committed after the prior Class 2 or greater
26 felony) classified as a Class 2 or greater felony,

1 within 10 years of the date on which the offender
2 committed the offense for which he or she is being
3 sentenced, except as otherwise provided in Section
4 40-10 of the Alcoholism and Other Drug Abuse and
5 Dependency Act.

6 (F-5) A violation of Section 24-1, 24-1.1, or
7 24-1.6 of the Criminal Code of 1961 for which
8 imprisonment is prescribed in those Sections.

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

12 (H) Criminal sexual assault.

13 (I) Aggravated battery of a senior citizen.

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

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

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

26 (K) Vehicular hijacking.

1 (L) A second or subsequent conviction for the
2 offense of hate crime when the underlying offense upon
3 which the hate crime is based is felony aggravated
4 assault or felony mob action.

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

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

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

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

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

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

20 (S) (Blank).

21 (T) A second or subsequent violation of the
22 Methamphetamine Control and Community Protection Act,
23 except that a second or subsequent violation of Section
24 60 of the Methamphetamine Control and Community
25 Protection Act is probationable.

26 (U) A second or subsequent violation of Section

1 6-303 of the Illinois Vehicle Code committed while his
2 or her driver's license, permit, or privilege was
3 revoked because of a violation of Section 9-3 of the
4 Criminal Code of 1961, relating to the offense of
5 reckless homicide, or a similar provision of a law of
6 another state.

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

9 (W) A violation of Section 24-3.5 of the Criminal
10 Code of 1961.

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

13 (3) (Blank).

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

18 (4.1) (Blank).

19 (4.2) Except as provided in paragraphs (4.3) and (4.8)
20 of this subsection (c), a minimum of 100 hours of community
21 service shall be imposed for a second violation of Section
22 6-303 of the Illinois Vehicle Code.

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

1 (4.4) Except as provided in paragraphs (4.5), (4.6),
2 and (4.9) of this subsection (c), a minimum term of
3 imprisonment of 30 days or 300 hours of community service,
4 as determined by the court, shall be imposed for a third or
5 subsequent violation of Section 6-303 of the Illinois
6 Vehicle Code.

7 (4.5) A minimum term of imprisonment of 30 days shall
8 be imposed for a third violation of subsection (c) of
9 Section 6-303 of the Illinois Vehicle Code.

10 (4.6) Except as provided in paragraph (4.10) of this
11 subsection (c), a minimum term of imprisonment of 180 days
12 shall be imposed for a fourth or subsequent violation of
13 subsection (c) of Section 6-303 of the Illinois Vehicle
14 Code.

15 (4.7) A minimum term of imprisonment of not less than
16 30 consecutive days, or 300 hours of community service,
17 shall be imposed for a violation of subsection (a-5) of
18 Section 6-303 of the Illinois Vehicle Code, as provided in
19 subsection (b-5) of that Section.

20 (4.8) A mandatory prison sentence shall be imposed for
21 a second violation of subsection (a-5) of Section 6-303 of
22 the Illinois Vehicle Code, as provided in subsection (c-5)
23 of that Section. The person's driving privileges shall be
24 revoked for a period of not less than 5 years from the date
25 of his or her release from prison.

26 (4.9) A mandatory prison sentence of not less than 4

1 and not more than 15 years shall be imposed for a third
2 violation of subsection (a-5) of Section 6-303 of the
3 Illinois Vehicle Code, as provided in subsection (d-2.5) of
4 that Section. The person's driving privileges shall be
5 revoked for the remainder of his or her life.

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

13 (5) The court may sentence a corporation or
14 unincorporated association convicted of any offense to:

15 (A) a period of conditional discharge;

16 (B) a fine;

17 (C) make restitution to the victim under Section
18 5-5-6 of this Code.

19 (5.1) In addition to any other penalties imposed, and
20 except as provided in paragraph (5.2) or (5.3), a person
21 convicted of violating subsection (c) of Section 11-907 of
22 the Illinois Vehicle Code shall have his or her driver's
23 license, permit, or privileges suspended for at least 90
24 days but not more than one year, if the violation resulted
25 in damage to the property of another person.

26 (5.2) In addition to any other penalties imposed, and

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

7 (5.3) In addition to any other penalties imposed, a
8 person convicted of violating subsection (c) of Section
9 11-907 of the Illinois Vehicle Code shall have his or her
10 driver's license, permit, or privileges suspended for 2
11 years, if the violation resulted in the death of another
12 person.

13 (5.4) In addition to any other penalties imposed, a
14 person convicted of violating Section 3-707 of the Illinois
15 Vehicle Code shall have his or her driver's license,
16 permit, or privileges suspended for 3 months and until he
17 or she has paid a reinstatement fee of \$100.

18 (5.5) In addition to any other penalties imposed, a
19 person convicted of violating Section 3-707 of the Illinois
20 Vehicle Code during a period in which his or her driver's
21 license, permit, or privileges were suspended for a
22 previous violation of that Section shall have his or her
23 driver's license, permit, or privileges suspended for an
24 additional 6 months after the expiration of the original
25 3-month suspension and until he or she has paid a
26 reinstatement fee of \$100.

1 (6) (Blank) .

2 (7) (Blank) .

3 (8) (Blank) .

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

7 (10) (Blank).

8 (11) The court shall impose a minimum fine of \$1,000
9 for a first offense and \$2,000 for a second or subsequent
10 offense upon a person convicted of or placed on supervision
11 for battery when the individual harmed was a sports
12 official or coach at any level of competition and the act
13 causing harm to the sports official or coach occurred
14 within an athletic facility or within the immediate
15 vicinity of the athletic facility at which the sports
16 official or coach was an active participant of the athletic
17 contest held at the athletic facility. For the purposes of
18 this paragraph (11), "sports official" means a person at an
19 athletic contest who enforces the rules of the contest,
20 such as an umpire or referee; "athletic facility" means an
21 indoor or outdoor playing field or recreational area where
22 sports activities are conducted; and "coach" means a person
23 recognized as a coach by the sanctioning authority that
24 conducted the sporting event.

25 (12) A person may not receive a disposition of court
26 supervision for a violation of Section 5-16 of the Boat

1 Registration and Safety Act if that person has previously
2 received a disposition of court supervision for a violation
3 of that Section.

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

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

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

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

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

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

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

19 (i) removal from the household;

20 (ii) restricted contact with the victim;

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

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

24 and

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

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

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

15 For the purposes of this Section, "family member" and
16 "victim" shall have the meanings ascribed to them in Section
17 12-12 of the Criminal Code of 1961.

18 (f) (Blank~~ed~~).

19 (g) Whenever a defendant is convicted of an offense under
20 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
21 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
22 of the Criminal Code of 1961, the defendant shall undergo
23 medical testing to determine whether the defendant has any
24 sexually transmissible disease, including a test for infection
25 with human immunodeficiency virus (HIV) or any other identified
26 causative agent of acquired immunodeficiency syndrome (AIDS).

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

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

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

14 (h) Whenever a defendant is convicted of an offense under
15 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
16 defendant shall undergo medical testing to determine whether
17 the defendant has been exposed to human immunodeficiency virus
18 (HIV) or any other identified causative agent of acquired
19 immunodeficiency syndrome (AIDS). Except as otherwise provided
20 by law, the results of such test shall be kept strictly
21 confidential by all medical personnel involved in the testing
22 and must be personally delivered in a sealed envelope to the
23 judge of the court in which the conviction was entered for the
24 judge's inspection in camera. Acting in accordance with the
25 best interests of the public, the judge shall have the
26 discretion to determine to whom, if anyone, the results of the

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

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

24 (j) In cases when prosecution for any violation of Section
25 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
26 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,

1 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
2 Code of 1961, any violation of the Illinois Controlled
3 Substances Act, any violation of the Cannabis Control Act, or
4 any violation of the Methamphetamine Control and Community
5 Protection Act results in conviction, a disposition of court
6 supervision, or an order of probation granted under Section 10
7 of the Cannabis Control Act, Section 410 of the Illinois
8 Controlled Substance Act, or Section 70 of the Methamphetamine
9 Control and Community Protection Act of a defendant, the court
10 shall determine whether the defendant is employed by a facility
11 or center as defined under the Child Care Act of 1969, a public
12 or private elementary or secondary school, or otherwise works
13 with children under 18 years of age on a daily basis. When a
14 defendant is so employed, the court shall order the Clerk of
15 the Court to send a copy of the judgment of conviction or order
16 of supervision or probation to the defendant's employer by
17 certified mail. If the employer of the defendant is a school,
18 the Clerk of the Court shall direct the mailing of a copy of
19 the judgment of conviction or order of supervision or probation
20 to the appropriate regional superintendent of schools. The
21 regional superintendent of schools shall notify the State Board
22 of Education of any notification under this subsection.

23 (j-5) A defendant at least 17 years of age who is convicted
24 of a felony and who has not been previously convicted of a
25 misdemeanor or felony and who is sentenced to a term of
26 imprisonment in the Illinois Department of Corrections shall as

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

1 otherwise mentally incapable of completing the educational or
2 vocational program.

3 (k) (Blank~~+~~).

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

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

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

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

20 (B) If the defendant has already been sentenced for a
21 felony or misdemeanor offense, or has been placed on
22 probation under Section 10 of the Cannabis Control Act,
23 Section 410 of the Illinois Controlled Substances Act, or
24 Section 70 of the Methamphetamine Control and Community
25 Protection Act, the court may, upon motion of the State's
26 Attorney to suspend the sentence imposed, commit the

1 defendant to the custody of the Attorney General of the
2 United States or his or her designated agent when:

3 (1) a final order of deportation has been issued
4 against the defendant pursuant to proceedings under
5 the Immigration and Nationality Act, and

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

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

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

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

1 defacement.

2 (n) The court may sentence a person convicted of a
3 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
4 Code of 1961 (i) to an impact incarceration program if the
5 person is otherwise eligible for that program under Section
6 5-8-1.1, (ii) to community service, or (iii) if the person is
7 an addict or alcoholic, as defined in the Alcoholism and Other
8 Drug Abuse and Dependency Act, to a substance or alcohol abuse
9 program licensed under that Act.

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

15 (Source: P.A. 95-188, eff. 8-16-07; 95-259, eff. 8-17-07;
16 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08;
17 95-876, eff. 8-21-08; 95-882, eff. 1-1-09; 95-1052, eff.
18 7-1-09; 96-348, eff. 8-12-09; 96-400, eff. 8-13-09; revised
19 9-4-09.)

20 (730 ILCS 5/5-6-1) (from Ch. 38, par. 1005-6-1)

21 Sec. 5-6-1. Sentences of Probation and of Conditional
22 Discharge and Disposition of Supervision. The General Assembly
23 finds that in order to protect the public, the criminal justice
24 system must compel compliance with the conditions of probation
25 by responding to violations with swift, certain and fair

1 punishments and intermediate sanctions. The Chief Judge of each
2 circuit shall adopt a system of structured, intermediate
3 sanctions for violations of the terms and conditions of a
4 sentence of probation, conditional discharge or disposition of
5 supervision.

6 (a) Except where specifically prohibited by other
7 provisions of this Code, the court shall impose a sentence of
8 probation or conditional discharge upon an offender unless,
9 having regard to the nature and circumstance of the offense,
10 and to the history, character and condition of the offender,
11 the court is of the opinion that:

12 (1) his imprisonment or periodic imprisonment is
13 necessary for the protection of the public; or

14 (2) probation or conditional discharge would deprecate
15 the seriousness of the offender's conduct and would be
16 inconsistent with the ends of justice; or

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

22 The court shall impose as a condition of a sentence of
23 probation, conditional discharge, or supervision, that the
24 probation agency may invoke any sanction from the list of
25 intermediate sanctions adopted by the chief judge of the
26 circuit court for violations of the terms and conditions of the

1 sentence of probation, conditional discharge, or supervision,
2 subject to the provisions of Section 5-6-4 of this Act.

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

7 (b-1) Subsections (a) and (b) of this Section do not apply
8 to a defendant charged with a misdemeanor or felony under the
9 Illinois Vehicle Code or reckless homicide under Section 9-3 of
10 the Criminal Code of 1961 if the defendant within the past 12
11 months has been convicted of or pleaded guilty to a misdemeanor
12 or felony under the Illinois Vehicle Code or reckless homicide
13 under Section 9-3 of the Criminal Code of 1961.

14 (c) The court may, upon a plea of guilty or a stipulation
15 by the defendant of the facts supporting the charge or a
16 finding of guilt, defer further proceedings and the imposition
17 of a sentence, and enter an order for supervision of the
18 defendant, if the defendant is not charged with: (i) a Class A
19 misdemeanor, as defined by the following provisions of the
20 Criminal Code of 1961: Sections 11-9.1; 12-3.2; 12-15; 26-5;
21 31-1; 31-6; 31-7; subsections (b) and (c) of Section 21-1;
22 paragraph (1) through (5), (8), (10), and (11) of subsection
23 (a) of Section 24-1; (ii) a Class A misdemeanor violation of
24 Section 3.01, 3.03-1, or 4.01 of the Humane Care for Animals
25 Act; or (iii) a felony. If the defendant is not barred from
26 receiving an order for supervision as provided in this

1 subsection, the court may enter an order for supervision after
2 considering the circumstances of the offense, and the history,
3 character and condition of the offender, if the court is of the
4 opinion that:

5 (1) the offender is not likely to commit further
6 crimes;

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

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

12 (c-5) Subsections (a), (b), and (c) of this Section do not
13 apply to a defendant charged with a second or subsequent
14 violation of Section 6-303 of the Illinois Vehicle Code
15 committed while his or her driver's license, permit or
16 privileges were revoked because of a violation of Section 9-3
17 of the Criminal Code of 1961, relating to the offense of
18 reckless homicide, or a similar provision of a law of another
19 state.

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

24 (1) convicted for a violation of Section 11-501 of the
25 Illinois Vehicle Code or a similar provision of a local
26 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

1 defendant charged with violating Sections 15-111, 15-112,
2 15-301, paragraph (b) of Section 6-104, Section 11-605, Section
3 11-1002.5, or Section 11-1414 of the Illinois Vehicle Code or a
4 similar provision of a local ordinance.

5 (g) Except as otherwise provided in paragraph (i) of this
6 Section, the provisions of paragraph (c) shall not apply to a
7 defendant charged with violating Section 3-707, 3-708, 3-710,
8 or 5-401.3 of the Illinois Vehicle Code or a similar provision
9 of a local ordinance if the defendant has within the last 5
10 years been:

11 (1) convicted for a violation of Section 3-707, 3-708,
12 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar
13 provision of a local ordinance; or

14 (2) assigned supervision for a violation of Section
15 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle
16 Code or a similar provision of a local ordinance.

17 The court shall consider the statement of the prosecuting
18 authority with regard to the standards set forth in this
19 Section.

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

24 (1) unless the defendant, upon payment of the fines,
25 penalties, and costs provided by law, agrees to attend and
26 successfully complete a traffic safety program approved by

1 the court under standards set by the Conference of Chief
2 Circuit Judges. The accused shall be responsible for
3 payment of any traffic safety program fees. If the accused
4 fails to file a certificate of successful completion on or
5 before the termination date of the supervision order, the
6 supervision shall be summarily revoked and conviction
7 entered. The provisions of Supreme Court Rule 402 relating
8 to pleas of guilty do not apply in cases when a defendant
9 enters a guilty plea under this provision; or

10 (2) if the defendant has previously been sentenced
11 under the provisions of paragraph (c) on or after January
12 1, 1998 for any serious traffic offense as defined in
13 Section 1-187.001 of the Illinois Vehicle Code.

14 (h-1) The provisions of paragraph (c) shall not apply to a
15 defendant under the age of 21 years charged with an offense
16 against traffic regulations governing the movement of vehicles
17 or any violation of Section 6-107 or Section 12-603.1 of the
18 Illinois Vehicle Code, unless the defendant, upon payment of
19 the fines, penalties, and costs provided by law, agrees to
20 attend and successfully complete a traffic safety program
21 approved by the court under standards set by the Conference of
22 Chief Circuit Judges. The accused shall be responsible for
23 payment of any traffic safety program fees. If the accused
24 fails to file a certificate of successful completion on or
25 before the termination date of the supervision order, the
26 supervision shall be summarily revoked and conviction entered.

1 The provisions of Supreme Court Rule 402 relating to pleas of
2 guilty do not apply in cases when a defendant enters a guilty
3 plea under this provision.

4 (i) The provisions of paragraph (c) shall not apply to a
5 defendant charged with violating Section 3-707 of the Illinois
6 Vehicle Code or a similar provision of a local ordinance if the
7 defendant has been assigned supervision for a violation of
8 Section 3-707 of the Illinois Vehicle Code or a similar
9 provision of a local ordinance.

10 (j) The provisions of paragraph (c) shall not apply to a
11 defendant charged with violating Section 6-303 of the Illinois
12 Vehicle Code or a similar provision of a local ordinance when
13 the revocation or suspension was for a violation of Section
14 11-501 or a similar provision of a local ordinance or a
15 violation of Section 11-501.1 or paragraph (b) of Section
16 11-401 of the Illinois Vehicle Code if the defendant has within
17 the last 10 years been:

18 (1) convicted for a violation of Section 6-303 of the
19 Illinois Vehicle Code or a similar provision of a local
20 ordinance; or

21 (2) assigned supervision for a violation of Section
22 6-303 of the Illinois Vehicle Code or a similar provision
23 of a local ordinance.

24 (k) The provisions of paragraph (c) shall not apply to a
25 defendant charged with violating any provision of the Illinois
26 Vehicle Code or a similar provision of a local ordinance that

1 governs the movement of vehicles if, within the 12 months
2 preceding the date of the defendant's arrest, the defendant has
3 been assigned court supervision on 2 occasions for a violation
4 that governs the movement of vehicles under the Illinois
5 Vehicle Code or a similar provision of a local ordinance. The
6 provisions of this paragraph (k) do not apply to a defendant
7 charged with violating Section 11-501 of the Illinois Vehicle
8 Code or a similar provision of a local ordinance.

9 (l) A defendant charged with violating any provision of the
10 Illinois Vehicle Code or a similar provision of a local
11 ordinance who receives a disposition of supervision under
12 subsection (c) shall pay an additional fee of \$29, to be
13 collected as provided in Sections 27.5 and 27.6 of the Clerks
14 of Courts Act. In addition to the \$29 fee, the person shall
15 also pay a fee of \$6, which, if not waived by the court, shall
16 be collected as provided in Sections 27.5 and 27.6 of the
17 Clerks of Courts Act. The \$29 fee shall be disbursed as
18 provided in Section 16-104c of the Illinois Vehicle Code. If
19 the \$6 fee is collected, \$5.50 of the fee shall be deposited
20 into the Circuit Court Clerk Operation and Administrative Fund
21 created by the Clerk of the Circuit Court and 50 cents of the
22 fee shall be deposited into the Prisoner Review Board Vehicle
23 and Equipment Fund in the State treasury.

24 (m) Any person convicted of, pleading guilty to, or placed
25 on supervision for a serious traffic violation, as defined in
26 Section 1-187.001 of the Illinois Vehicle Code, a violation of

1 Section 11-501 of the Illinois Vehicle Code, or a violation of
2 a similar provision of a local ordinance shall pay an
3 additional fee of \$20, to be disbursed as provided in Section
4 16-104d of that Code.

5 This subsection (m) becomes inoperative 7 years after
6 October 13, 2007 (the effective date of Public Act 95-154).

7 (n) The provisions of paragraph (c) shall not apply to any
8 person under the age of 18 who commits an offense against
9 traffic regulations governing the movement of vehicles or any
10 violation of Section 6-107 or Section 12-603.1 of the Illinois
11 Vehicle Code, except upon personal appearance of the defendant
12 in court and upon the written consent of the defendant's parent
13 or legal guardian, executed before the presiding judge. The
14 presiding judge shall have the authority to waive this
15 requirement upon the showing of good cause by the defendant.

16 (o) The provisions of paragraph (c) shall not apply to a
17 defendant charged with violating Section 6-303 of the Illinois
18 Vehicle Code or a similar provision of a local ordinance when
19 the suspension was for a violation of Section 11-501.1 of the
20 Illinois Vehicle Code and when:

21 (1) at the time of the violation of Section 11-501.1 of
22 the Illinois Vehicle Code, the defendant was a first
23 offender pursuant to Section 11-500 of the Illinois Vehicle
24 Code and the defendant failed to obtain a monitoring device
25 driving permit; or

26 (2) at the time of the violation of Section 11-501.1 of

1 the Illinois Vehicle Code, the defendant was a first
2 offender pursuant to Section 11-500 of the Illinois Vehicle
3 Code, had subsequently obtained a monitoring device
4 driving permit, but was driving a vehicle not equipped with
5 a breath alcohol ignition interlock device as defined in
6 Section 1-129.1 of the Illinois Vehicle Code.

7 (p) The provisions of paragraph (c) shall not apply to a
8 defendant charged with violating subsection (a), (b), or (c) of
9 Section 4 of the Cannabis Control Act or for a violation of
10 subsection (d) of Section 402 of the Illinois Controlled
11 Substances Act.

12 (Source: P.A. 95-154, eff. 10-13-07; 95-302, eff. 1-1-08;
13 95-310, eff. 1-1-08; 95-377, eff. 1-1-08; 95-400, eff. 1-1-09;
14 95-428, 8-24-07; 95-876, eff. 8-21-08; 96-253, eff. 8-11-09;
15 96-286, eff. 8-11-09; 96-328, eff. 8-11-09; 96-625, eff.
16 1-1-10; revised 10-1-09.)

17 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

18 Sec. 5-6-3. Conditions of Probation and of Conditional
19 Discharge.

20 (a) The conditions of probation and of conditional
21 discharge shall be that the person:

22 (1) not violate any criminal statute of any
23 jurisdiction;

24 (2) report to or appear in person before such person or
25 agency as directed by the court;

1 (3) refrain from possessing a firearm or other
2 dangerous weapon where the offense is a felony or, if a
3 misdemeanor, the offense involved the intentional or
4 knowing infliction of bodily harm or threat of bodily harm;

5 (4) not leave the State without the consent of the
6 court or, in circumstances in which the reason for the
7 absence is of such an emergency nature that prior consent
8 by the court is not possible, without the prior
9 notification and approval of the person's probation
10 officer. Transfer of a person's probation or conditional
11 discharge supervision to another state is subject to
12 acceptance by the other state pursuant to the Interstate
13 Compact for Adult Offender Supervision;

14 (5) permit the probation officer to visit him at his
15 home or elsewhere to the extent necessary to discharge his
16 duties;

17 (6) perform no less than 30 hours of community service
18 and not more than 120 hours of community service, if
19 community service is available in the jurisdiction and is
20 funded and approved by the county board where the offense
21 was committed, where the offense was related to or in
22 furtherance of the criminal activities of an organized gang
23 and was motivated by the offender's membership in or
24 allegiance to an organized gang. The community service
25 shall include, but not be limited to, the cleanup and
26 repair of any damage caused by a violation of Section

1 21-1.3 of the Criminal Code of 1961 and similar damage to
2 property located within the municipality or county in which
3 the violation occurred. When possible and reasonable, the
4 community service should be performed in the offender's
5 neighborhood. For purposes of this Section, "organized
6 gang" has the meaning ascribed to it in Section 10 of the
7 Illinois Streetgang Terrorism Omnibus Prevention Act;

8 (7) if he or she is at least 17 years of age and has
9 been sentenced to probation or conditional discharge for a
10 misdemeanor or felony in a county of 3,000,000 or more
11 inhabitants and has not been previously convicted of a
12 misdemeanor or felony, may be required by the sentencing
13 court to attend educational courses designed to prepare the
14 defendant for a high school diploma and to work toward a
15 high school diploma or to work toward passing the high
16 school level Test of General Educational Development (GED)
17 or to work toward completing a vocational training program
18 approved by the court. The person on probation or
19 conditional discharge must attend a public institution of
20 education to obtain the educational or vocational training
21 required by this clause (7). The court shall revoke the
22 probation or conditional discharge of a person who wilfully
23 fails to comply with this clause (7). The person on
24 probation or conditional discharge shall be required to pay
25 for the cost of the educational courses or GED test, if a
26 fee is charged for those courses or test. The court shall

1 resentence the offender whose probation or conditional
2 discharge has been revoked as provided in Section 5-6-4.
3 This clause (7) does not apply to a person who has a high
4 school diploma or has successfully passed the GED test.
5 This clause (7) does not apply to a person who is
6 determined by the court to be developmentally disabled or
7 otherwise mentally incapable of completing the educational
8 or vocational program;

9 (8) if convicted of possession of a substance
10 prohibited by the Cannabis Control Act, the Illinois
11 Controlled Substances Act, or the Methamphetamine Control
12 and Community Protection Act after a previous conviction or
13 disposition of supervision for possession of a substance
14 prohibited by the Cannabis Control Act or Illinois
15 Controlled Substances Act or after a sentence of probation
16 under Section 10 of the Cannabis Control Act, Section 410
17 of the Illinois Controlled Substances Act, or Section 70 of
18 the Methamphetamine Control and Community Protection Act
19 and upon a finding by the court that the person is
20 addicted, undergo treatment at a substance abuse program
21 approved by the court;

22 (8.5) if convicted of a felony sex offense as defined
23 in the Sex Offender Management Board Act, the person shall
24 undergo and successfully complete sex offender treatment
25 by a treatment provider approved by the Board and conducted
26 in conformance with the standards developed under the Sex

1 Offender Management Board Act;

2 (8.6) if convicted of a sex offense as defined in the
3 Sex Offender Management Board Act, refrain from residing at
4 the same address or in the same condominium unit or
5 apartment unit or in the same condominium complex or
6 apartment complex with another person he or she knows or
7 reasonably should know is a convicted sex offender or has
8 been placed on supervision for a sex offense; the
9 provisions of this paragraph do not apply to a person
10 convicted of a sex offense who is placed in a Department of
11 Corrections licensed transitional housing facility for sex
12 offenders;

13 (8.7) if convicted for an offense committed on or after
14 June 1, 2008 (the effective date of Public Act 95-464) that
15 would qualify the accused as a child sex offender as
16 defined in Section 11-9.3 or 11-9.4 of the Criminal Code of
17 1961, refrain from communicating with or contacting, by
18 means of the Internet, a person who is not related to the
19 accused and whom the accused reasonably believes to be
20 under 18 years of age; for purposes of this paragraph
21 (8.7), "Internet" has the meaning ascribed to it in Section
22 16J-5 of the Criminal Code of 1961; and a person is not
23 related to the accused if the person is not: (i) the
24 spouse, brother, or sister of the accused; (ii) a
25 descendant of the accused; (iii) a first or second cousin
26 of the accused; or (iv) a step-child or adopted child of

1 the accused;

2 (8.8) if convicted for an offense under Section 11-6,
3 11-9.1, 11-15.1, 11-20.1, 11-20.3, or 11-21 of the Criminal
4 Code of 1961, or any attempt to commit any of these
5 offenses, committed on or after June 1, 2009 (the effective
6 date of Public Act 95-983):

7 (i) not access or use a computer or any other
8 device with Internet capability without the prior
9 written approval of the offender's probation officer,
10 except in connection with the offender's employment or
11 search for employment with the prior approval of the
12 offender's probation officer;

13 (ii) submit to periodic unannounced examinations
14 of the offender's computer or any other device with
15 Internet capability by the offender's probation
16 officer, a law enforcement officer, or assigned
17 computer or information technology specialist,
18 including the retrieval and copying of all data from
19 the computer or device and any internal or external
20 peripherals and removal of such information,
21 equipment, or device to conduct a more thorough
22 inspection;

23 (iii) submit to the installation on the offender's
24 computer or device with Internet capability, at the
25 offender's expense, of one or more hardware or software
26 systems to monitor the Internet use; and

1 (iv) submit to any other appropriate restrictions
2 concerning the offender's use of or access to a
3 computer or any other device with Internet capability
4 imposed by the offender's probation officer;

5 (8.9) if convicted of a sex offense as defined in the
6 Sex Offender Registration Act committed on or after January
7 1, 2010 (the effective date of Public Act 96-262) ~~this~~
8 ~~amendatory Act of the 96th General Assembly~~, refrain from
9 accessing or using a social networking website as defined
10 in Section 16D-2 of the Criminal Code of 1961;

11 (9) if convicted of a felony, physically surrender at a
12 time and place designated by the court, his or her Firearm
13 Owner's Identification Card and any and all firearms in his
14 or her possession;

15 (10) if convicted of a sex offense as defined in
16 subsection (a-5) of Section 3-1-2 of this Code, unless the
17 offender is a parent or guardian of the person under 18
18 years of age present in the home and no non-familial minors
19 are present, not participate in a holiday event involving
20 children under 18 years of age, such as distributing candy
21 or other items to children on Halloween, wearing a Santa
22 Claus costume on or preceding Christmas, being employed as
23 a department store Santa Claus, or wearing an Easter Bunny
24 costume on or preceding Easter; ~~and~~

25 (11) if convicted of a sex offense as defined in
26 Section 2 of the Sex Offender Registration Act committed on

1 or after January 1, 2010 (the effective date of Public Act
2 96-362) ~~this amendatory Act of the 96th General Assembly~~
3 that requires the person to register as a sex offender
4 under that Act, may not knowingly use any computer scrub
5 software on any computer that the sex offender uses; and -

6 (12) if convicted of a violation of Section 4 of the
7 Cannabis Control Act, Section 402 of the Illinois
8 Controlled Substances Act, subsection (c) of Section 404 of
9 the Illinois Controlled Substances Act, or Section 60 of
10 the Methamphetamine Control and Community Protection Act,
11 submit to treatment under the supervision of a designated
12 program as provided in the Alcoholism and Other Drug Abuse
13 and Dependency Act for the duration of the person's
14 probation.

15 (b) The Court may in addition to other reasonable
16 conditions relating to the nature of the offense or the
17 rehabilitation of the defendant as determined for each
18 defendant in the proper discretion of the Court require that
19 the person:

20 (1) serve a term of periodic imprisonment under Article
21 7 for a period not to exceed that specified in paragraph
22 (d) of Section 5-7-1;

23 (2) pay a fine and costs;

24 (3) work or pursue a course of study or vocational
25 training;

26 (4) undergo medical, psychological or psychiatric

1 treatment; or treatment for drug addiction or alcoholism;

2 (5) attend or reside in a facility established for the
3 instruction or residence of defendants on probation;

4 (6) support his dependents;

5 (7) and in addition, if a minor:

6 (i) reside with his parents or in a foster home;

7 (ii) attend school;

8 (iii) attend a non-residential program for youth;

9 (iv) contribute to his own support at home or in a
10 foster home;

11 (v) with the consent of the superintendent of the
12 facility, attend an educational program at a facility
13 other than the school in which the offense was
14 committed if he or she is convicted of a crime of
15 violence as defined in Section 2 of the Crime Victims
16 Compensation Act committed in a school, on the real
17 property comprising a school, or within 1,000 feet of
18 the real property comprising a school;

19 (8) make restitution as provided in Section 5-5-6 of
20 this Code;

21 (9) perform some reasonable public or community
22 service;

23 (10) serve a term of home confinement. In addition to
24 any other applicable condition of probation or conditional
25 discharge, the conditions of home confinement shall be that
26 the offender:

1 (i) remain within the interior premises of the
2 place designated for his confinement during the hours
3 designated by the court;

4 (ii) admit any person or agent designated by the
5 court into the offender's place of confinement at any
6 time for purposes of verifying the offender's
7 compliance with the conditions of his confinement; and

8 (iii) if further deemed necessary by the court or
9 the Probation or Court Services Department, be placed
10 on an approved electronic monitoring device, subject
11 to Article 8A of Chapter V;

12 (iv) for persons convicted of any alcohol,
13 cannabis or controlled substance violation who are
14 placed on an approved monitoring device as a condition
15 of probation or conditional discharge, the court shall
16 impose a reasonable fee for each day of the use of the
17 device, as established by the county board in
18 subsection (g) of this Section, unless after
19 determining the inability of the offender to pay the
20 fee, the court assesses a lesser fee or no fee as the
21 case may be. This fee shall be imposed in addition to
22 the fees imposed under subsections (g) and (i) of this
23 Section. The fee shall be collected by the clerk of the
24 circuit court. The clerk of the circuit court shall pay
25 all monies collected from this fee to the county
26 treasurer for deposit in the substance abuse services

1 fund under Section 5-1086.1 of the Counties Code; and

2 (v) for persons convicted of offenses other than
3 those referenced in clause (iv) above and who are
4 placed on an approved monitoring device as a condition
5 of probation or conditional discharge, the court shall
6 impose a reasonable fee for each day of the use of the
7 device, as established by the county board in
8 subsection (g) of this Section, unless after
9 determining the inability of the defendant to pay the
10 fee, the court assesses a lesser fee or no fee as the
11 case may be. This fee shall be imposed in addition to
12 the fees imposed under subsections (g) and (i) of this
13 Section. The fee shall be collected by the clerk of the
14 circuit court. The clerk of the circuit court shall pay
15 all monies collected from this fee to the county
16 treasurer who shall use the monies collected to defray
17 the costs of corrections. The county treasurer shall
18 deposit the fee collected in the county working cash
19 fund under Section 6-27001 or Section 6-29002 of the
20 Counties Code, as the case may be.

21 (11) comply with the terms and conditions of an order
22 of protection issued by the court pursuant to the Illinois
23 Domestic Violence Act of 1986, as now or hereafter amended,
24 or an order of protection issued by the court of another
25 state, tribe, or United States territory. A copy of the
26 order of protection shall be transmitted to the probation

1 officer or agency having responsibility for the case;

2 (12) reimburse any "local anti-crime program" as
3 defined in Section 7 of the Anti-Crime Advisory Council Act
4 for any reasonable expenses incurred by the program on the
5 offender's case, not to exceed the maximum amount of the
6 fine authorized for the offense for which the defendant was
7 sentenced;

8 (13) contribute a reasonable sum of money, not to
9 exceed the maximum amount of the fine authorized for the
10 offense for which the defendant was sentenced, (i) to a
11 "local anti-crime program", as defined in Section 7 of the
12 Anti-Crime Advisory Council Act, or (ii) for offenses under
13 the jurisdiction of the Department of Natural Resources, to
14 the fund established by the Department of Natural Resources
15 for the purchase of evidence for investigation purposes and
16 to conduct investigations as outlined in Section 805-105 of
17 the Department of Natural Resources (Conservation) Law;

18 (14) refrain from entering into a designated
19 geographic area except upon such terms as the court finds
20 appropriate. Such terms may include consideration of the
21 purpose of the entry, the time of day, other persons
22 accompanying the defendant, and advance approval by a
23 probation officer, if the defendant has been placed on
24 probation or advance approval by the court, if the
25 defendant was placed on conditional discharge;

26 (15) refrain from having any contact, directly or

1 indirectly, with certain specified persons or particular
2 types of persons, including but not limited to members of
3 street gangs and drug users or dealers;

4 (16) refrain from having in his or her body the
5 presence of any illicit drug prohibited by the Cannabis
6 Control Act, the Illinois Controlled Substances Act, or the
7 Methamphetamine Control and Community Protection Act,
8 unless prescribed by a physician, and submit samples of his
9 or her blood or urine or both for tests to determine the
10 presence of any illicit drug;

11 (17) if convicted for an offense committed on or after
12 June 1, 2008 (the effective date of Public Act 95-464) that
13 would qualify the accused as a child sex offender as
14 defined in Section 11-9.3 or 11-9.4 of the Criminal Code of
15 1961, refrain from communicating with or contacting, by
16 means of the Internet, a person who is related to the
17 accused and whom the accused reasonably believes to be
18 under 18 years of age; for purposes of this paragraph (17),
19 "Internet" has the meaning ascribed to it in Section 16J-5
20 of the Criminal Code of 1961; and a person is related to
21 the accused if the person is: (i) the spouse, brother, or
22 sister of the accused; (ii) a descendant of the accused;
23 (iii) a first or second cousin of the accused; or (iv) a
24 step-child or adopted child of the accused;

25 (18) if convicted for an offense committed on or after
26 June 1, 2009 (the effective date of Public Act 95-983) that

1 would qualify as a sex offense as defined in the Sex
2 Offender Registration Act:

3 (i) not access or use a computer or any other
4 device with Internet capability without the prior
5 written approval of the offender's probation officer,
6 except in connection with the offender's employment or
7 search for employment with the prior approval of the
8 offender's probation officer;

9 (ii) submit to periodic unannounced examinations
10 of the offender's computer or any other device with
11 Internet capability by the offender's probation
12 officer, a law enforcement officer, or assigned
13 computer or information technology specialist,
14 including the retrieval and copying of all data from
15 the computer or device and any internal or external
16 peripherals and removal of such information,
17 equipment, or device to conduct a more thorough
18 inspection;

19 (iii) submit to the installation on the offender's
20 computer or device with Internet capability, at the
21 subject's expense, of one or more hardware or software
22 systems to monitor the Internet use; and

23 (iv) submit to any other appropriate restrictions
24 concerning the offender's use of or access to a
25 computer or any other device with Internet capability
26 imposed by the offender's probation officer; and

1 (19) refrain from possessing a firearm or other
2 dangerous weapon where the offense is a misdemeanor that
3 did not involve the intentional or knowing infliction of
4 bodily harm or threat of bodily harm.

5 (c) The court may as a condition of probation or of
6 conditional discharge require that a person under 18 years of
7 age found guilty of any alcohol, cannabis or controlled
8 substance violation, refrain from acquiring a driver's license
9 during the period of probation or conditional discharge. If
10 such person is in possession of a permit or license, the court
11 may require that the minor refrain from driving or operating
12 any motor vehicle during the period of probation or conditional
13 discharge, except as may be necessary in the course of the
14 minor's lawful employment.

15 (d) An offender sentenced to probation or to conditional
16 discharge shall be given a certificate setting forth the
17 conditions thereof.

18 (e) Except where the offender has committed a fourth or
19 subsequent violation of subsection (c) of Section 6-303 of the
20 Illinois Vehicle Code, the court shall not require as a
21 condition of the sentence of probation or conditional discharge
22 that the offender be committed to a period of imprisonment in
23 excess of 6 months. This 6 month limit shall not include
24 periods of confinement given pursuant to a sentence of county
25 impact incarceration under Section 5-8-1.2.

26 Persons committed to imprisonment as a condition of

1 probation or conditional discharge shall not be committed to
2 the Department of Corrections.

3 (f) The court may combine a sentence of periodic
4 imprisonment under Article 7 or a sentence to a county impact
5 incarceration program under Article 8 with a sentence of
6 probation or conditional discharge.

7 (g) An offender sentenced to probation or to conditional
8 discharge and who during the term of either undergoes mandatory
9 drug or alcohol testing, or both, or is assigned to be placed
10 on an approved electronic monitoring device, shall be ordered
11 to pay all costs incidental to such mandatory drug or alcohol
12 testing, or both, and all costs incidental to such approved
13 electronic monitoring in accordance with the defendant's
14 ability to pay those costs. The county board with the
15 concurrence of the Chief Judge of the judicial circuit in which
16 the county is located shall establish reasonable fees for the
17 cost of maintenance, testing, and incidental expenses related
18 to the mandatory drug or alcohol testing, or both, and all
19 costs incidental to approved electronic monitoring, involved
20 in a successful probation program for the county. The
21 concurrence of the Chief Judge shall be in the form of an
22 administrative order. The fees shall be collected by the clerk
23 of the circuit court. The clerk of the circuit court shall pay
24 all moneys collected from these fees to the county treasurer
25 who shall use the moneys collected to defray the costs of drug
26 testing, alcohol testing, and electronic monitoring. The

1 county treasurer shall deposit the fees collected in the county
2 working cash fund under Section 6-27001 or Section 6-29002 of
3 the Counties Code, as the case may be.

4 (h) Jurisdiction over an offender may be transferred from
5 the sentencing court to the court of another circuit with the
6 concurrence of both courts. Further transfers or retransfers of
7 jurisdiction are also authorized in the same manner. The court
8 to which jurisdiction has been transferred shall have the same
9 powers as the sentencing court.

10 (i) The court shall impose upon an offender sentenced to
11 probation after January 1, 1989 or to conditional discharge
12 after January 1, 1992 or to community service under the
13 supervision of a probation or court services department after
14 January 1, 2004, as a condition of such probation or
15 conditional discharge or supervised community service, a fee of
16 \$50 for each month of probation or conditional discharge
17 supervision or supervised community service ordered by the
18 court, unless after determining the inability of the person
19 sentenced to probation or conditional discharge or supervised
20 community service to pay the fee, the court assesses a lesser
21 fee. The court may not impose the fee on a minor who is made a
22 ward of the State under the Juvenile Court Act of 1987 while
23 the minor is in placement. The fee shall be imposed only upon
24 an offender who is actively supervised by the probation and
25 court services department. The fee shall be collected by the
26 clerk of the circuit court. The clerk of the circuit court

1 shall pay all monies collected from this fee to the county
2 treasurer for deposit in the probation and court services fund
3 under Section 15.1 of the Probation and Probation Officers Act.

4 A circuit court may not impose a probation fee under this
5 subsection (i) in excess of \$25 per month unless: (1) the
6 circuit court has adopted, by administrative order issued by
7 the chief judge, a standard probation fee guide determining an
8 offender's ability to pay, under guidelines developed by the
9 Administrative Office of the Illinois Courts; and (2) the
10 circuit court has authorized, by administrative order issued by
11 the chief judge, the creation of a Crime Victim's Services
12 Fund, to be administered by the Chief Judge or his or her
13 designee, for services to crime victims and their families. Of
14 the amount collected as a probation fee, up to \$5 of that fee
15 collected per month may be used to provide services to crime
16 victims and their families.

17 This amendatory Act of the 93rd General Assembly deletes
18 the \$10 increase in the fee under this subsection that was
19 imposed by Public Act 93-616. This deletion is intended to
20 control over any other Act of the 93rd General Assembly that
21 retains or incorporates that fee increase.

22 (i-5) In addition to the fees imposed under subsection (i)
23 of this Section, in the case of an offender convicted of a
24 felony sex offense (as defined in the Sex Offender Management
25 Board Act) or an offense that the court or probation department
26 has determined to be sexually motivated (as defined in the Sex

1 Offender Management Board Act), the court or the probation
2 department shall assess additional fees to pay for all costs of
3 treatment, assessment, evaluation for risk and treatment, and
4 monitoring the offender, based on that offender's ability to
5 pay those costs either as they occur or under a payment plan.

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

13 (k) Any offender who is sentenced to probation or
14 conditional discharge for a felony sex offense as defined in
15 the Sex Offender Management Board Act or any offense that the
16 court or probation department has determined to be sexually
17 motivated as defined in the Sex Offender Management Board Act
18 shall be required to refrain from any contact, directly or
19 indirectly, with any persons specified by the court and shall
20 be available for all evaluations and treatment programs
21 required by the court or the probation department.

22 (l) The court may order an offender who is sentenced to
23 probation or conditional discharge for a violation of an order
24 of protection be placed under electronic surveillance as
25 provided in Section 5-8A-7 of this Code.

26 (Source: P.A. 95-331, eff. 8-21-07; 95-464, eff. 6-1-08;

1 95-578, eff. 6-1-08; 95-696, eff. 6-1-08; 95-773, eff. 1-1-09;
2 95-876, eff. 8-21-08; 95-983, eff. 6-1-09; 96-262, eff. 1-1-10;
3 96-328, eff. 8-11-09; 96-362, eff. 1-1-10; 96-695, eff.
4 8-25-09; revised 9-25-09.)

1 INDEX

2 Statutes amended in order of appearance

3 20 ILCS 301/40-5

4 20 ILCS 301/40-10

5 720 ILCS 550/4 from Ch. 56 1/2, par. 704

6 720 ILCS 550/10 from Ch. 56 1/2, par. 710

7 720 ILCS 570/402 from Ch. 56 1/2, par. 1402

8 720 ILCS 570/404 from Ch. 56 1/2, par. 1404

9 720 ILCS 570/410 from Ch. 56 1/2, par. 1410

10 720 ILCS 646/60

11 720 ILCS 646/70 rep.

12 730 ILCS 5/5-5-3 from Ch. 38, par. 1005-5-3

13 730 ILCS 5/5-6-1 from Ch. 38, par. 1005-6-1

14 730 ILCS 5/5-6-3 from Ch. 38, par. 1005-6-3