

# HB5463



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB5463**

Introduced 2/15/2012, by Rep. Dennis M. Reboletti

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-3

from Ch. 38, par. 1005-5-3

Amends the Unified Code of Corrections. Provides that the offense of knowingly manufacturing or delivering heroin, or possessing heroin with intent to manufacture or deliver, is not eligible for probation, conditional discharge, or periodic imprisonment if the amount of the heroin is 3 (rather than over 5) grams or more.

LRB097 17974 RLC 63197 b

CORRECTIONAL  
BUDGET AND  
IMPACT 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 10. The Unified Code of Corrections is amended by  
5 changing Section 5-5-3 as follows:

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

7 Sec. 5-5-3. Disposition.

8 (a) (Blank).

9 (b) (Blank).

10 (c) (1) (Blank).

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

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

20 (B) Attempted first degree murder.

21 (C) A Class X felony.

22 (D) A violation of Section 401.1 or 407 of the  
23 Illinois Controlled Substances Act, or a violation of

1 subdivision ~~(e)(1)~~, (c)(1.5)~~7~~ or (c)(2) of Section 401  
2 of that Act which relates to more than 5 grams of a  
3 substance containing ~~heroin~~, cocaine, fentanyl, or an  
4 analog thereof.

5 (D-5) A violation of subdivision (c)(1) of Section  
6 401 of the Illinois Controlled Substances Act which  
7 relates to 3 or more grams of a substance containing  
8 heroin or an analog thereof.

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

11 (F) A Class 2 or greater felony if the offender had  
12 been convicted of a Class 2 or greater felony,  
13 including any state or federal conviction for an  
14 offense that contained, at the time it was committed,  
15 the same elements as an offense now (the date of the  
16 offense committed after the prior Class 2 or greater  
17 felony) classified as a Class 2 or greater felony,  
18 within 10 years of the date on which the offender  
19 committed the offense for which he or she is being  
20 sentenced, except as otherwise provided in Section  
21 40-10 of the Alcoholism and Other Drug Abuse and  
22 Dependency Act.

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

26 (G) Residential burglary, except as otherwise

1 provided in Section 40-10 of the Alcoholism and Other  
2 Drug Abuse and Dependency Act.

3 (H) Criminal sexual assault.

4 (I) Aggravated battery of a senior citizen as  
5 described in Section 12-4.6 or subdivision (a)(4) of  
6 Section 12-3.05.

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

9 Before July 1, 1994, for the purposes of this  
10 paragraph, "organized gang" means an association of 5  
11 or more persons, with an established hierarchy, that  
12 encourages members of the association to perpetrate  
13 crimes or provides support to the members of the  
14 association who do commit crimes.

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

19 (K) Vehicular hijacking.

20 (L) A second or subsequent conviction for the  
21 offense of hate crime when the underlying offense upon  
22 which the hate crime is based is felony aggravated  
23 assault or felony mob action.

24 (M) A second or subsequent conviction for the  
25 offense of institutional vandalism if the damage to the  
26 property exceeds \$300.

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

4 (O) A violation of Section 12-6.1 or 12-6.5 of the  
5 Criminal Code of 1961.

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

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

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

13 (S) (Blank).

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

16 (U) A second or subsequent violation of Section  
17 6-303 of the Illinois Vehicle Code committed while his  
18 or her driver's license, permit, or privilege was  
19 revoked because of a violation of Section 9-3 of the  
20 Criminal Code of 1961, relating to the offense of  
21 reckless homicide, or a similar provision of a law of  
22 another state.

23 (V) A violation of paragraph (4) of subsection (c)  
24 of Section 11-20.1B or paragraph (4) of subsection (c)  
25 of Section 11-20.3 of the Criminal Code of 1961.

26 (W) A violation of Section 24-3.5 of the Criminal

1 Code of 1961.

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

4 (Y) A conviction for unlawful possession of a  
5 firearm by a street gang member when the firearm was  
6 loaded or contained firearm ammunition.

7 (Z) A Class 1 felony committed while he or she was  
8 serving a term of probation or conditional discharge  
9 for a felony.

10 (AA) Theft of property exceeding \$500,000 and not  
11 exceeding \$1,000,000 in value.

12 (BB) Laundering of criminally derived property of  
13 a value exceeding \$500,000.

14 (CC) Knowingly selling, offering for sale, holding  
15 for sale, or using 2,000 or more counterfeit items or  
16 counterfeit items having a retail value in the  
17 aggregate of \$500,000 or more.

18 (DD) A conviction for aggravated assault under  
19 paragraph (6) of subsection (c) of Section 12-2 of the  
20 Criminal Code of 1961 if the firearm is aimed toward  
21 the person against whom the firearm is being used.

22 (3) (Blank).

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

1 (4.1) (Blank).

2 (4.2) Except as provided in paragraphs (4.3) and (4.8)  
3 of this subsection (c), a minimum of 100 hours of community  
4 service shall be imposed for a second violation of Section  
5 6-303 of the Illinois Vehicle Code.

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

10 (4.4) Except as provided in paragraphs (4.5), (4.6),  
11 and (4.9) of this subsection (c), a minimum term of  
12 imprisonment of 30 days or 300 hours of community service,  
13 as determined by the court, shall be imposed for a third or  
14 subsequent violation of Section 6-303 of the Illinois  
15 Vehicle Code.

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

19 (4.6) Except as provided in paragraph (4.10) of this  
20 subsection (c), a minimum term of imprisonment of 180 days  
21 shall be imposed for a fourth or subsequent violation of  
22 subsection (c) of Section 6-303 of the Illinois Vehicle  
23 Code.

24 (4.7) A minimum term of imprisonment of not less than  
25 30 consecutive days, or 300 hours of community service,  
26 shall be imposed for a violation of subsection (a-5) of

1 Section 6-303 of the Illinois Vehicle Code, as provided in  
2 subsection (b-5) of that Section.

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

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

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

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

24 (A) a period of conditional discharge;

25 (B) a fine;

26 (C) make restitution to the victim under Section



1           5-5-6 of this Code.

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

9           (5.2) In addition to any other penalties imposed, and  
10          except as provided in paragraph (5.3), a person convicted  
11          of violating subsection (c) of Section 11-907 of the  
12          Illinois Vehicle Code shall have his or her driver's  
13          license, permit, or privileges suspended for at least 180  
14          days but not more than 2 years, if the violation resulted  
15          in injury to another person.

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

22          (5.4) In addition to any other penalties imposed, a  
23          person convicted of violating Section 3-707 of the Illinois  
24          Vehicle Code shall have his or her driver's license,  
25          permit, or privileges suspended for 3 months and until he  
26          or she has paid a reinstatement fee of \$100.

1           (5.5) In addition to any other penalties imposed, a  
2 person convicted of violating Section 3-707 of the Illinois  
3 Vehicle Code during a period in which his or her driver's  
4 license, permit, or privileges were suspended for a  
5 previous violation of that Section shall have his or her  
6 driver's license, permit, or privileges suspended for an  
7 additional 6 months after the expiration of the original  
8 3-month suspension and until he or she has paid a  
9 reinstatement fee of \$100.

10           (6) (Blank).

11           (7) (Blank).

12           (8) (Blank).

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

16           (10) (Blank).

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

1           this paragraph (11), "sports official" means a person at an  
2           athletic contest who enforces the rules of the contest,  
3           such as an umpire or referee; "athletic facility" means an  
4           indoor or outdoor playing field or recreational area where  
5           sports activities are conducted; and "coach" means a person  
6           recognized as a coach by the sanctioning authority that  
7           conducted the sporting event.

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

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

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

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

15 (e) In cases where prosecution for aggravated criminal  
16 sexual abuse under Section 11-1.60 or 12-16 of the Criminal  
17 Code of 1961 results in conviction of a defendant who was a  
18 family member of the victim at the time of the commission of  
19 the offense, the court shall consider the safety and welfare of  
20 the victim and may impose a sentence of probation only where:

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

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

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

1 defendant's:

2 (i) removal from the household;

3 (ii) restricted contact with the victim;

4 (iii) continued financial support of the  
5 family;

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

7 and

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

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

17 Probation may be revoked or modified pursuant to Section  
18 5-6-4; except where the court determines at the hearing that  
19 the defendant violated a condition of his or her probation  
20 restricting contact with the victim or other family members or  
21 commits another offense with the victim or other family  
22 members, the court shall revoke the defendant's probation and  
23 impose a term of imprisonment.

24 For the purposes of this Section, "family member" and  
25 "victim" shall have the meanings ascribed to them in Section  
26 11-0.1 of the Criminal Code of 1961.

1 (f) (Blank).

2 (g) Whenever a defendant is convicted of an offense under  
3 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,  
4 11-14.3, 11-14.4 except for an offense that involves keeping a  
5 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,  
6 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,  
7 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, the  
8 defendant shall undergo medical testing to determine whether  
9 the defendant has any sexually transmissible disease,  
10 including a test for infection with human immunodeficiency  
11 virus (HIV) or any other identified causative agent of acquired  
12 immunodeficiency syndrome (AIDS). Any such medical test shall  
13 be performed only by appropriately licensed medical  
14 practitioners and may include an analysis of any bodily fluids  
15 as well as an examination of the defendant's person. Except as  
16 otherwise provided by law, the results of such test shall be  
17 kept strictly confidential by all medical personnel involved in  
18 the testing and must be personally delivered in a sealed  
19 envelope to the judge of the court in which the conviction was  
20 entered for the judge's inspection in camera. Acting in  
21 accordance with the best interests of the victim and the  
22 public, the judge shall have the discretion to determine to  
23 whom, if anyone, the results of the testing may be revealed.  
24 The court shall notify the defendant of the test results. The  
25 court shall also notify the victim if requested by the victim,  
26 and if the victim is under the age of 15 and if requested by the

1 victim's parents or legal guardian, the court shall notify the  
2 victim's parents or legal guardian of the test results. The  
3 court shall provide information on the availability of HIV  
4 testing and counseling at Department of Public Health  
5 facilities to all parties to whom the results of the testing  
6 are revealed and shall direct the State's Attorney to provide  
7 the information to the victim when possible. A State's Attorney  
8 may petition the court to obtain the results of any HIV test  
9 administered under this Section, and the court shall grant the  
10 disclosure if the State's Attorney shows it is relevant in  
11 order to prosecute a charge of criminal transmission of HIV  
12 under Section 12-5.01 or 12-16.2 of the Criminal Code of 1961  
13 against the defendant. The court shall order that the cost of  
14 any such test shall be paid by the county and may be taxed as  
15 costs against the convicted defendant.

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

26 (h) Whenever a defendant is convicted of an offense under

1 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the  
2 defendant shall undergo medical testing to determine whether  
3 the defendant has been exposed to human immunodeficiency virus  
4 (HIV) or any other identified causative agent of acquired  
5 immunodeficiency syndrome (AIDS). Except as otherwise provided  
6 by law, the results of such test shall be kept strictly  
7 confidential by all medical personnel involved in the testing  
8 and must be personally delivered in a sealed envelope to the  
9 judge of the court in which the conviction was entered for the  
10 judge's inspection in camera. Acting in accordance with the  
11 best interests of the public, the judge shall have the  
12 discretion to determine to whom, if anyone, the results of the  
13 testing may be revealed. The court shall notify the defendant  
14 of a positive test showing an infection with the human  
15 immunodeficiency virus (HIV). The court shall provide  
16 information on the availability of HIV testing and counseling  
17 at Department of Public Health facilities to all parties to  
18 whom the results of the testing are revealed and shall direct  
19 the State's Attorney to provide the information to the victim  
20 when possible. A State's Attorney may petition the court to  
21 obtain the results of any HIV test administered under this  
22 Section, and the court shall grant the disclosure if the  
23 State's Attorney shows it is relevant in order to prosecute a  
24 charge of criminal transmission of HIV under Section 12-5.01 or  
25 12-16.2 of the Criminal Code of 1961 against the defendant. The  
26 court shall order that the cost of any such test shall be paid



1 by the county and may be taxed as costs against the convicted  
2 defendant.

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

10 (j) In cases when prosecution for any violation of Section  
11 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,  
12 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,  
13 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
14 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,  
15 12-15, or 12-16 of the Criminal Code of 1961, any violation of  
16 the Illinois Controlled Substances Act, any violation of the  
17 Cannabis Control Act, or any violation of the Methamphetamine  
18 Control and Community Protection Act results in conviction, a  
19 disposition of court supervision, or an order of probation  
20 granted under Section 10 of the Cannabis Control Act, Section  
21 410 of the Illinois Controlled Substance Act, or Section 70 of  
22 the Methamphetamine Control and Community Protection Act of a  
23 defendant, the court shall determine whether the defendant is  
24 employed by a facility or center as defined under the Child  
25 Care Act of 1969, a public or private elementary or secondary  
26 school, or otherwise works with children under 18 years of age

1 on a daily basis. When a defendant is so employed, the court  
2 shall order the Clerk of the Court to send a copy of the  
3 judgment of conviction or order of supervision or probation to  
4 the defendant's employer by certified mail. If the employer of  
5 the defendant is a school, the Clerk of the Court shall direct  
6 the mailing of a copy of the judgment of conviction or order of  
7 supervision or probation to the appropriate regional  
8 superintendent of schools. The regional superintendent of  
9 schools shall notify the State Board of Education of any  
10 notification under this subsection.

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

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

17 (k) (Blank).

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

26 (1) a final order of deportation has been issued

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

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

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

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

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

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

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

26          (D) Upon motion of the State's Attorney, if a defendant

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

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

16 (n) The court may sentence a person convicted of a  
17 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or  
18 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code  
19 of 1961 (i) to an impact incarceration program if the person is  
20 otherwise eligible for that program under Section 5-8-1.1, (ii)  
21 to community service, or (iii) if the person is an addict or  
22 alcoholic, as defined in the Alcoholism and Other Drug Abuse  
23 and Dependency Act, to a substance or alcohol abuse program  
24 licensed under that Act.

25 (o) Whenever a person is convicted of a sex offense as  
26 defined in Section 2 of the Sex Offender Registration Act, the

1 defendant's driver's license or permit shall be subject to  
2 renewal on an annual basis in accordance with the provisions of  
3 license renewal established by the Secretary of State.

4 (Source: P.A. 96-348, eff. 8-12-09; 96-400, eff. 8-13-09;  
5 96-829, eff. 12-3-09; 96-1200, eff. 7-22-10; 96-1551, Article  
6 1, Section 970, eff. 7-1-11; 96-1551, Article 2, Section 1065,  
7 eff. 7-1-11; 96-1551, Article 10, Section 10-150, eff. 7-1-11;  
8 97-159, eff. 7-21-11; revised 9-14-11.)