



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2227

by Rep. Dwight Kay

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-3

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

Amends the Unified Code of Corrections. Provides that a period of probation, a term of periodic imprisonment, or conditional discharge may not be imposed if the defendant is convicted of a Class 3 felony or higher violation of an offense involving the corruption of a public official when the offense consists of theft, fraud, extortion, or deception relating to certification of disadvantaged business enterprises or a violation of the Official Misconduct or Public Contracts Article of the Criminal Code of 2012 and either: (1) the defendant was an elected official at the time of the offense, or (2) the offense involved more than \$10,000 in money or property, based on either the value of any payments or the value of the item that was the object of the offense. Provides that this provision does not apply if the prosecutor certifies to the court at the time of sentencing that the defendant has provided substantial assistance in the case or another prosecution of substantial public importance.

LRB098 05611 RLC 35649 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 5. 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 (c)(1.5) or (c)(2) of Section 401 of that
2 Act which relates to more than 5 grams of a substance
3 containing cocaine, fentanyl, or an analog thereof.

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

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

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

22 (F-5) A violation of Section 24-1, 24-1.1, or
23 24-1.6 of the Criminal Code of 1961 or the Criminal
24 Code of 2012 for which imprisonment is prescribed in
25 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 of the Criminal Code of 1961 or the
7 Criminal Code of 2012.

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

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

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

20 (K) Vehicular hijacking.

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

25 (M) A second or subsequent conviction for the
26 offense of institutional vandalism if the damage to the

1 property exceeds \$300.

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

5 (O) A violation of Section 12-6.1 or 12-6.5 of the
6 Criminal Code of 1961 or the Criminal Code of 2012.

7 (P) A violation of paragraph (1), (2), (3), (4),
8 (5), or (7) of subsection (a) of Section 11-20.1 of the
9 Criminal Code of 1961 or the Criminal Code of 2012.

10 (Q) A violation of subsection (b) or (b-5) of
11 Section 20-1, Section 20-1.2, or Section 20-1.3 of the
12 Criminal Code of 1961 or the Criminal Code of 2012.

13 (R) A violation of Section 24-3A of the Criminal
14 Code of 1961 or the Criminal Code of 2012.

15 (S) (Blank).

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

18 (U) A second or subsequent violation of Section
19 6-303 of the Illinois Vehicle Code committed while his
20 or her driver's license, permit, or privilege was
21 revoked because of a violation of Section 9-3 of the
22 Criminal Code of 1961 or the Criminal Code of 2012,
23 relating to the offense of reckless homicide, or a
24 similar provision of a law of another state.

25 (V) A violation of paragraph (4) of subsection (c)
26 of Section 11-20.1B or paragraph (4) of subsection (c)

1 of Section 11-20.3 of the Criminal Code of 1961, or
2 paragraph (6) of subsection (a) of Section 11-20.1 of
3 the Criminal Code of 2012 when the victim is under 13
4 years of age and the defendant has previously been
5 convicted under the laws of this State or any other
6 state of the offense of child pornography, aggravated
7 child pornography, aggravated criminal sexual abuse,
8 aggravated criminal sexual assault, predatory criminal
9 sexual assault of a child, or any of the offenses
10 formerly known as rape, deviate sexual assault,
11 indecent liberties with a child, or aggravated
12 indecent liberties with a child where the victim was
13 under the age of 18 years or an offense that is
14 substantially equivalent to those offenses.

15 (W) A violation of Section 24-3.5 of the Criminal
16 Code of 1961 or the Criminal Code of 2012.

17 (X) A violation of subsection (a) of Section 31-1a
18 of the Criminal Code of 1961 or the Criminal Code of
19 2012.

20 (Y) A conviction for unlawful possession of a
21 firearm by a street gang member when the firearm was
22 loaded or contained firearm ammunition.

23 (Z) A Class 1 felony committed while he or she was
24 serving a term of probation or conditional discharge
25 for a felony.

26 (AA) Theft of property exceeding \$500,000 and not

1 exceeding \$1,000,000 in value.

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

4 (CC) Knowingly selling, offering for sale, holding
5 for sale, or using 2,000 or more counterfeit items or
6 counterfeit items having a retail value in the
7 aggregate of \$500,000 or more.

8 (DD) A conviction for aggravated assault under
9 paragraph (6) of subsection (c) of Section 12-2 of the
10 Criminal Code of 1961 or the Criminal Code of 2012 if
11 the firearm is aimed toward the person against whom the
12 firearm is being used.

13 (EE) A Class 3 felony or higher violation of an
14 offense involving the corruption of a public official
15 when the offense consists of theft, fraud, or extortion
16 or a violation of Section 17-10.3 or Article 33 or 33E
17 of the Criminal Code of 2012 and either: (1) the
18 defendant was an elected official at the time of the
19 offense, or (2) the offense involved more than \$10,000
20 in money or property, based on either the value of any
21 payments or the value of the item that was the object
22 of the offense. However, if the prosecutor certifies to
23 the court at the time of sentencing that the defendant
24 has provided substantial assistance in the case or
25 another prosecution of substantial public importance,
26 this paragraph (EE) does not apply.

1 (3) (Blank).

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

6 (4.1) (Blank).

7 (4.2) Except as provided in paragraphs (4.3) and (4.8)
8 of this subsection (c), a minimum of 100 hours of community
9 service shall be imposed for a second violation of Section
10 6-303 of the Illinois Vehicle Code.

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

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

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

24 (4.6) Except as provided in paragraph (4.10) of this
25 subsection (c), a minimum term of imprisonment of 180 days
26 shall be imposed for a fourth or subsequent violation of

1 subsection (c) of Section 6-303 of the Illinois Vehicle
2 Code.

3 (4.7) A minimum term of imprisonment of not less than
4 30 consecutive days, or 300 hours of community service,
5 shall be imposed for a violation of subsection (a-5) of
6 Section 6-303 of the Illinois Vehicle Code, as provided in
7 subsection (b-5) of that Section.

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

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

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

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

3 (A) a period of conditional discharge;

4 (B) a fine;

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

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

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

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

1 (5.4) In addition to any other penalties imposed, a
2 person convicted of violating Section 3-707 of the Illinois
3 Vehicle Code shall have his or her driver's license,
4 permit, or privileges suspended for 3 months and until he
5 or she has paid a reinstatement fee of \$100.

6 (5.5) In addition to any other penalties imposed, a
7 person convicted of violating Section 3-707 of the Illinois
8 Vehicle Code during a period in which his or her driver's
9 license, permit, or privileges were suspended for a
10 previous violation of that Section shall have his or her
11 driver's license, permit, or privileges suspended for an
12 additional 6 months after the expiration of the original
13 3-month suspension and until he or she has paid a
14 reinstatement fee of \$100.

15 (6) (Blank).

16 (7) (Blank).

17 (8) (Blank).

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

21 (10) (Blank).

22 (11) The court shall impose a minimum fine of \$1,000
23 for a first offense and \$2,000 for a second or subsequent
24 offense upon a person convicted of or placed on supervision
25 for battery when the individual harmed was a sports
26 official or coach at any level of competition and the act

1 causing harm to the sports official or coach occurred
2 within an athletic facility or within the immediate
3 vicinity of the athletic facility at which the sports
4 official or coach was an active participant of the athletic
5 contest held at the athletic facility. For the purposes of
6 this paragraph (11), "sports official" means a person at an
7 athletic contest who enforces the rules of the contest,
8 such as an umpire or referee; "athletic facility" means an
9 indoor or outdoor playing field or recreational area where
10 sports activities are conducted; and "coach" means a person
11 recognized as a coach by the sanctioning authority that
12 conducted the sporting event.

13 (12) A person may not receive a disposition of court
14 supervision for a violation of Section 5-16 of the Boat
15 Registration and Safety Act if that person has previously
16 received a disposition of court supervision for a violation
17 of that Section.

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

1 shall be paid by the offender.

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

20 (e) In cases where prosecution for aggravated criminal
21 sexual abuse under Section 11-1.60 or 12-16 of the Criminal
22 Code of 1961 or the Criminal Code of 2012 results in conviction
23 of a defendant who was a family member of the victim at the
24 time of the commission of the offense, the court shall consider
25 the safety and welfare of the victim and may impose a sentence
26 of probation only where:

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

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

5 (B) the defendant is willing to participate in a
6 court approved plan including but not limited to the
7 defendant's:

8 (i) removal from the household;

9 (ii) restricted contact with the victim;

10 (iii) continued financial support of the
11 family;

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

13 and

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

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

23 Probation may be revoked or modified pursuant to Section
24 5-6-4; except where the court determines at the hearing that
25 the defendant violated a condition of his or her probation
26 restricting contact with the victim or other family members or

1 commits another offense with the victim or other family
2 members, the court shall revoke the defendant's probation and
3 impose a term of imprisonment.

4 For the purposes of this Section, "family member" and
5 "victim" shall have the meanings ascribed to them in Section
6 11-0.1 of the Criminal Code of 2012 ~~1961~~.

7 (f) (Blank).

8 (g) Whenever a defendant is convicted of an offense under
9 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,
10 11-14.3, 11-14.4 except for an offense that involves keeping a
11 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,
12 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,
13 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the
14 Criminal Code of 2012, the defendant shall undergo medical
15 testing to determine whether the defendant has any sexually
16 transmissible disease, including a test for infection with
17 human immunodeficiency virus (HIV) or any other identified
18 causative agent of acquired immunodeficiency syndrome (AIDS).
19 Any such medical test shall be performed only by appropriately
20 licensed medical practitioners and may include an analysis of
21 any bodily fluids as well as an examination of the defendant's
22 person. Except as otherwise provided by law, the results of
23 such test shall be kept strictly confidential by all medical
24 personnel involved in the testing and must be personally
25 delivered in a sealed envelope to the judge of the court in
26 which the conviction was entered for the judge's inspection in

1 camera. Acting in accordance with the best interests of the
2 victim and the public, the judge shall have the discretion to
3 determine to whom, if anyone, the results of the testing may be
4 revealed. The court shall notify the defendant of the test
5 results. The court shall also notify the victim if requested by
6 the victim, and if the victim is under the age of 15 and if
7 requested by the victim's parents or legal guardian, the court
8 shall notify the victim's parents or legal guardian of the test
9 results. The court shall provide information on the
10 availability of HIV testing and counseling at Department of
11 Public Health facilities to all parties to whom the results of
12 the testing are revealed and shall direct the State's Attorney
13 to provide the information to the victim when possible. A
14 State's Attorney may petition the court to obtain the results
15 of any HIV test administered under this Section, and the court
16 shall grant the disclosure if the State's Attorney shows it is
17 relevant in order to prosecute a charge of criminal
18 transmission of HIV under Section 12-5.01 or 12-16.2 of the
19 Criminal Code of 1961 or the Criminal Code of 2012 against the
20 defendant. The court shall order that the cost of any such test
21 shall be paid by the county and may be taxed as costs against
22 the convicted defendant.

23 (g-5) When an inmate is tested for an airborne communicable
24 disease, as determined by the Illinois Department of Public
25 Health including but not limited to tuberculosis, the results
26 of the test shall be personally delivered by the warden or his

1 or her designee in a sealed envelope to the judge of the court
2 in which the inmate must appear for the judge's inspection in
3 camera if requested by the judge. Acting in accordance with the
4 best interests of those in the courtroom, the judge shall have
5 the discretion to determine what if any precautions need to be
6 taken to prevent transmission of the disease in the courtroom.

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

1 when possible. A State's Attorney may petition the court to
2 obtain the results of any HIV test administered under this
3 Section, and the court shall grant the disclosure if the
4 State's Attorney shows it is relevant in order to prosecute a
5 charge of criminal transmission of HIV under Section 12-5.01 or
6 12-16.2 of the Criminal Code of 1961 or the Criminal Code of
7 2012 against the defendant. The court shall order that the cost
8 of any such test shall be paid by the county and may be taxed as
9 costs against the convicted defendant.

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

17 (j) In cases when prosecution for any violation of Section
18 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,
19 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,
20 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
21 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,
22 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal
23 Code of 2012, any violation of the Illinois Controlled
24 Substances Act, any violation of the Cannabis Control Act, or
25 any violation of the Methamphetamine Control and Community
26 Protection Act results in conviction, a disposition of court

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

18 (j-5) A defendant at least 17 years of age who is convicted
19 of a felony and who has not been previously convicted of a
20 misdemeanor or felony and who is sentenced to a term of
21 imprisonment in the Illinois Department of Corrections shall as
22 a condition of his or her sentence be required by the court to
23 attend educational courses designed to prepare the defendant
24 for a high school diploma and to work toward a high school
25 diploma or to work toward passing the high school level Test of
26 General Educational Development (GED) or to work toward

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

24 (k) (Blank).

25 (l) (A) Except as provided in paragraph (C) of subsection

26 (l), whenever a defendant, who is an alien as defined by

1 the Immigration and Nationality Act, is convicted of any
2 felony or misdemeanor offense, the court after sentencing
3 the defendant may, upon motion of the State's Attorney,
4 hold sentence in abeyance and remand the defendant to the
5 custody of the Attorney General of the United States or his
6 or her designated agent to be deported when:

7 (1) a final order of deportation has been issued
8 against the defendant pursuant to proceedings under
9 the Immigration and Nationality Act, and

10 (2) the deportation of the defendant would not
11 deprecate the seriousness of the defendant's conduct
12 and would not be inconsistent with the ends of justice.

13 Otherwise, the defendant shall be sentenced as
14 provided in this Chapter V.

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

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

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

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

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

17 (m) A person convicted of criminal defacement of property
18 under Section 21-1.3 of the Criminal Code of 1961 or the
19 Criminal Code of 2012, in which the property damage exceeds
20 \$300 and the property damaged is a school building, shall be
21 ordered to perform community service that may include cleanup,
22 removal, or painting over the defacement.

23 (n) The court may sentence a person convicted of a
24 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or
25 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
26 of 1961 or the Criminal Code of 2012 (i) to an impact

1 incarceration program if the person is otherwise eligible for
2 that program under Section 5-8-1.1, (ii) to community service,
3 or (iii) if the person is an addict or alcoholic, as defined in
4 the Alcoholism and Other Drug Abuse and Dependency Act, to a
5 substance or alcohol abuse program licensed under that Act.

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

11 (Source: P.A. 96-348, eff. 8-12-09; 96-400, eff. 8-13-09;
12 96-829, eff. 12-3-09; 96-1200, eff. 7-22-10; 96-1551, Article
13 1, Section 970, eff. 7-1-11; 96-1551, Article 2, Section 1065,
14 eff. 7-1-11; 96-1551, Article 10, Section 10-150, eff. 7-1-11;
15 97-159, eff. 7-21-11; 97-697, eff. 6-22-12; 97-917, eff.
16 8-9-12; 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; revised
17 9-20-12.)