



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB1394

by Rep. Monique D. Davis

SYNOPSIS AS INTRODUCED:

New Act
730 ILCS 5/5-5-3

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

Creates the Peace Officer Chokehold Prohibition Act. Provides that a peace officer may not apply a chokehold to effect the arrest of a person, unless faced with a situation in which the use of deadly force is justified under the Justifiable Use of Force; Exoneration Article of the Criminal Code of 2012. Provides that a peace officer who violates this provision is guilty of a Class 1 felony for which he or she shall serve a minimum term of imprisonment of 5 years and be fined a minimum of \$5,000. Amends the Unified Code of Corrections to make conforming changes.

LRB099 06218 RLC 26283 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 1. Short title. This Act may be cited as the Peace
5 Officer Chokehold Prohibition Act.

6 Section 5. Definitions. In this Act:

7 "Chokehold" means a method by which a person holds another
8 person by putting his or her arm around the other person's neck
9 with sufficient pressure to make breathing difficult or
10 impossible and includes, but is not limited to, any pressure to
11 the throat or windpipe, which may prevent or hinder breathing
12 or reduce intake of air.

13 "Peace officer" has the meaning ascribed to it in Section
14 2-13 of the Criminal Code of 2012.

15 Section 10. Chokeholds prohibited; exception. A peace
16 officer may not apply a chokehold to effect the arrest of a
17 person, unless faced with a situation in which the use of
18 deadly force is justified under Article 7 of the Criminal Code
19 of 2012.

20 Section 15. Sentence. A violation of this Act is a Class 1
21 felony for which the person shall be sentenced to a minimum

1 term of imprisonment of 5 years and fined a minimum of \$5,000.

2 Section 105. The Unified Code of Corrections is amended by
3 changing Section 5-5-3 as follows:

4 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

5 Sec. 5-5-3. Disposition.

6 (a) (Blank).

7 (b) (Blank).

8 (c) (1) (Blank).

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

15 (A) First degree murder where the death penalty is not
16 imposed.

17 (B) Attempted first degree murder.

18 (C) A Class X felony.

19 (D) A violation of Section 401.1 or 407 of the Illinois
20 Controlled Substances Act, or a violation of subdivision
21 (c) (1.5) or (c) (2) of Section 401 of that Act which relates
22 to more than 5 grams of a substance containing cocaine,
23 fentanyl, or an analog thereof.

24 (D-5) A violation of subdivision (c) (1) of Section 401

1 of the Illinois Controlled Substances Act which relates to
2 3 or more grams of a substance containing heroin or an
3 analog thereof.

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

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

17 (F-5) A violation of Section 24-1, 24-1.1, or 24-1.6 of
18 the Criminal Code of 1961 or the Criminal Code of 2012 for
19 which imprisonment is prescribed in those Sections.

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

23 (H) Criminal sexual assault.

24 (I) Aggravated battery of a senior citizen as described
25 in Section 12-4.6 or subdivision (a)(4) of Section 12-3.05
26 of the Criminal Code of 1961 or the Criminal Code of 2012.

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

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

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

13 (K) Vehicular hijacking.

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

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

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

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

26 (P) A violation of paragraph (1), (2), (3), (4), (5),

1 or (7) of subsection (a) of Section 11-20.1 of the Criminal
2 Code of 1961 or the Criminal Code of 2012.

3 (Q) A violation of subsection (b) or (b-5) of Section
4 20-1, Section 20-1.2, or Section 20-1.3 of the Criminal
5 Code of 1961 or the Criminal Code of 2012.

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

8 (S) (Blank).

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

11 (U) A second or subsequent violation of Section 6-303
12 of the Illinois Vehicle Code committed while his or her
13 driver's license, permit, or privilege was revoked because
14 of a violation of Section 9-3 of the Criminal Code of 1961
15 or the Criminal Code of 2012, relating to the offense of
16 reckless homicide, or a similar provision of a law of
17 another state.

18 (V) A violation of paragraph (4) of subsection (c) of
19 Section 11-20.1B or paragraph (4) of subsection (c) of
20 Section 11-20.3 of the Criminal Code of 1961, or paragraph
21 (6) of subsection (a) of Section 11-20.1 of the Criminal
22 Code of 2012 when the victim is under 13 years of age and
23 the defendant has previously been convicted under the laws
24 of this State or any other state of the offense of child
25 pornography, aggravated child pornography, aggravated
26 criminal sexual abuse, aggravated criminal sexual assault,

1 predatory criminal sexual assault of a child, or any of the
2 offenses formerly known as rape, deviate sexual assault,
3 indecent liberties with a child, or aggravated indecent
4 liberties with a child where the victim was under the age
5 of 18 years or an offense that is substantially equivalent
6 to those offenses.

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

9 (X) A violation of subsection (a) of Section 31-1a of
10 the Criminal Code of 1961 or the Criminal Code of 2012.

11 (Y) A conviction for unlawful possession of a firearm
12 by a street gang member when the firearm was loaded or
13 contained firearm ammunition.

14 (Z) A Class 1 felony committed while he or she was
15 serving a term of probation or conditional discharge for a
16 felony.

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

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

21 (CC) Knowingly selling, offering for sale, holding for
22 sale, or using 2,000 or more counterfeit items or
23 counterfeit items having a retail value in the aggregate of
24 \$500,000 or more.

25 (DD) A conviction for aggravated assault under
26 paragraph (6) of subsection (c) of Section 12-2 of the

1 Criminal Code of 1961 or the Criminal Code of 2012 if the
2 firearm is aimed toward the person against whom the firearm
3 is being used.

4 (3) (Blank).

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

9 (4.1) (Blank).

10 (4.2) Except as provided in paragraphs (4.3) and (4.8) of
11 this subsection (c), a minimum of 100 hours of community
12 service shall be imposed for a second violation of Section
13 6-303 of the Illinois Vehicle Code.

14 (4.3) A minimum term of imprisonment of 30 days or 300
15 hours of community service, as determined by the court, shall
16 be imposed for a second violation of subsection (c) of Section
17 6-303 of the Illinois Vehicle Code.

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

23 (4.5) A minimum term of imprisonment of 30 days shall be
24 imposed for a third violation of subsection (c) of Section
25 6-303 of the Illinois Vehicle Code.

26 (4.6) Except as provided in paragraph (4.10) of this

1 subsection (c), a minimum term of imprisonment of 180 days
2 shall be imposed for a fourth or subsequent violation of
3 subsection (c) of Section 6-303 of the Illinois Vehicle Code.

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

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

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

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

1 her life.

2 (4.11) A minimum term of imprisonment of 5 years and a
3 mandatory minimum fine of \$5,000 shall be imposed for a
4 violation of the Peace Officer Chokehold Prohibition Act.

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

7 (A) a period of conditional discharge;

8 (B) a fine;

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

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

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

24 (5.3) In addition to any other penalties imposed, a person
25 convicted of violating subsection (c) of Section 11-907 of the
26 Illinois Vehicle Code shall have his or her driver's license,

1 permit, or privileges suspended for 2 years, if the violation
2 resulted in the death of another person.

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

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

16 (6) (Blank).

17 (7) (Blank).

18 (8) (Blank).

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

22 (10) (Blank).

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

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

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

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

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

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

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

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

7 (i) removal from the household;

8 (ii) restricted contact with the victim;

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

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

12 and

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

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

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

1 members, the court shall revoke the defendant's probation and
2 impose a term of imprisonment.

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

6 (f) (Blank).

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

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

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

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

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

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

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

16 (j) In cases when prosecution for any violation of Section
17 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,
18 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,
19 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
20 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,
21 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal
22 Code of 2012, any violation of the Illinois Controlled
23 Substances Act, any violation of the Cannabis Control Act, or
24 any violation of the Methamphetamine Control and Community
25 Protection Act results in conviction, a disposition of court
26 supervision, or an order of probation granted under Section 10

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

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

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

23 (k) (Blank).

24 (l) (A) Except as provided in paragraph (C) of subsection
25 (l), whenever a defendant, who is an alien as defined by the
26 Immigration and Nationality Act, is convicted of any felony or

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

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

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

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

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

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

26 (2) the deportation of the defendant would not

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

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

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

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

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

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

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

10 (Source: P.A. 97-159, eff. 7-21-11; 97-697, eff. 6-22-12;
11 97-917, eff. 8-9-12; 97-1108, eff. 1-1-13; 97-1109, eff.
12 1-1-13; 97-1150, eff. 1-25-13; 98-718, eff. 1-1-15; 98-756,
13 eff. 7-16-14.)