

# SB0219



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB0219

Introduced 1/31/2019, by Sen. Thomas Cullerton

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-3

Amends the Unified Code of Corrections. Provides that a period of probation, a term of periodic imprisonment or conditional discharge shall not be imposed for a violation of child pornography if the child is a household or family member of the defendant. Provides that the court shall sentence the offender to not less than the minimum term of imprisonment for this offense, and may order a fine or restitution or both in conjunction with the term of imprisonment.

LRB101 07050 SLF 52086 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)

7 (Text of Section before amendment by P.A. 100-987)

8 Sec. 5-5-3. Disposition.

9 (a) (Blank).

10 (b) (Blank).

11 (c) (1) (Blank).

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

18 (A) First degree murder where the death penalty is not  
19 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 Illinois  
23 Controlled Substances Act, or a violation of subdivision

1 (c)(1.5) of Section 401 of that Act which relates to more  
2 than 5 grams of a substance containing fentanyl or an  
3 analog thereof.

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

8 (E) (Blank).

9 (F) A Class 1 or greater felony if the offender had  
10 been convicted of a Class 1 or greater felony, including  
11 any state or federal conviction for an offense that  
12 contained, at the time it was committed, the same elements  
13 as an offense now (the date of the offense committed after  
14 the prior Class 1 or greater felony) classified as a Class  
15 1 or greater felony, within 10 years of the date on which  
16 the offender committed the offense for which he or she is  
17 being sentenced, except as otherwise provided in Section  
18 40-10 of the Substance Use Disorder Act.

19 (F-3) A Class 2 or greater felony sex offense or felony  
20 firearm offense if the offender had been convicted of a  
21 Class 2 or greater felony, including any state or federal  
22 conviction for an offense that contained, at the time it  
23 was committed, the same elements as an offense now (the  
24 date of the offense committed after the prior Class 2 or  
25 greater felony) classified as a Class 2 or greater felony,  
26 within 10 years of the date on which the offender committed

1 the offense for which he or she is being sentenced, except  
2 as otherwise provided in Section 40-10 of the Substance Use  
3 Disorder Act.

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

7 (G) Residential burglary, except as otherwise provided  
8 in Section 40-10 of the Substance Use Disorder Act.

9 (H) Criminal sexual assault.

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

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

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

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

25 (K) Vehicular hijacking.

26 (L) A second or subsequent conviction for the offense

1 of hate crime when the underlying offense upon which the  
2 hate crime is based is felony aggravated assault or felony  
3 mob action.

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

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

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

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

15 (Q) A violation of subsection (b) or (b-5) of Section  
16 20-1, Section 20-1.2, or Section 20-1.3 of the Criminal  
17 Code of 1961 or the Criminal Code of 2012.

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

20 (S) (Blank).

21 (T) (Blank).

22 (U) A second or subsequent violation of Section 6-303  
23 of the Illinois Vehicle Code committed while his or her  
24 driver's license, permit, or privilege was revoked because  
25 of a violation of Section 9-3 of the Criminal Code of 1961  
26 or the Criminal Code of 2012, relating to the offense of

1 reckless homicide, or a similar provision of a law of  
2 another state.

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

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

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

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

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

1 felony.

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

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

6 (CC) Knowingly selling, offering for sale, holding for  
7 sale, or using 2,000 or more counterfeit items or  
8 counterfeit items having a retail value in the aggregate of  
9 \$500,000 or more.

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

15 (EE) A conviction for a violation of paragraph (2) of  
16 subsection (a) of Section 24-3B of the Criminal Code of  
17 2012.

18 (3) (Blank).

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

23 (4.1) (Blank).

24 (4.2) Except as provided in paragraphs (4.3) and (4.8) of  
25 this subsection (c), a minimum of 100 hours of community  
26 service shall be imposed for a second violation of Section

1 6-303 of the Illinois Vehicle Code.

2 (4.3) A minimum term of imprisonment of 30 days or 300  
3 hours of community service, as determined by the court, shall  
4 be imposed for a second violation of subsection (c) of Section  
5 6-303 of the Illinois Vehicle Code.

6 (4.4) Except as provided in paragraphs (4.5), (4.6), and  
7 (4.9) of this subsection (c), a minimum term of imprisonment of  
8 30 days or 300 hours of community service, as determined by the  
9 court, shall be imposed for a third or subsequent violation of  
10 Section 6-303 of the Illinois Vehicle Code. The court may give  
11 credit toward the fulfillment of community service hours for  
12 participation in activities and treatment as determined by  
13 court services.

14 (4.5) A minimum term of imprisonment of 30 days shall be  
15 imposed for a third violation of subsection (c) of Section  
16 6-303 of the Illinois Vehicle Code.

17 (4.6) Except as provided in paragraph (4.10) of this  
18 subsection (c), a minimum term of imprisonment of 180 days  
19 shall be imposed for a fourth or subsequent violation of  
20 subsection (c) of Section 6-303 of the Illinois Vehicle Code.

21 (4.7) A minimum term of imprisonment of not less than 30  
22 consecutive days, or 300 hours of community service, shall be  
23 imposed for a violation of subsection (a-5) of Section 6-303 of  
24 the Illinois Vehicle Code, as provided in subsection (b-5) of  
25 that Section.

26 (4.8) A mandatory prison sentence shall be imposed for a



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

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

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

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

21 (A) a period of conditional discharge;

22 (B) a fine;

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

25 (5.1) In addition to any other penalties imposed, and  
26 except as provided in paragraph (5.2) or (5.3), a person

1 convicted of violating subsection (c) of Section 11-907 of the  
2 Illinois Vehicle Code shall have his or her driver's license,  
3 permit, or privileges suspended for at least 90 days but not  
4 more than one year, if the violation resulted in damage to the  
5 property of another person.

6 (5.2) In addition to any other penalties imposed, and  
7 except as provided in paragraph (5.3), a person convicted of  
8 violating subsection (c) of Section 11-907 of the Illinois  
9 Vehicle Code shall have his or her driver's license, permit, or  
10 privileges suspended for at least 180 days but not more than 2  
11 years, if the violation resulted in injury to another person.

12 (5.3) In addition to any other penalties imposed, 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 2 years, if the violation  
16 resulted in the death of another person.

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

22 (5.5) In addition to any other penalties imposed, a person  
23 convicted of violating Section 3-707 of the Illinois Vehicle  
24 Code during a period in which his or her driver's license,  
25 permit, or privileges were suspended for a previous violation  
26 of that Section shall have his or her driver's license, permit,

1 or privileges suspended for an additional 6 months after the  
2 expiration of the original 3-month suspension and until he or  
3 she has paid a reinstatement fee of \$100.

4 (6) (Blank).

5 (7) (Blank).

6 (8) (Blank).

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

10 (10) (Blank).

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

1           (12) A person may not receive a disposition of court  
2 supervision for a violation of Section 5-16 of the Boat  
3 Registration and Safety Act if that person has previously  
4 received a disposition of court supervision for a violation of  
5 that Section.

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

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

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

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

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

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

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

21 (i) removal from the household;

22 (ii) restricted contact with the victim;

23 (iii) continued financial support of the  
24 family;

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

26 and

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

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

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

17 For the purposes of this Section, "family member" and  
18 "victim" shall have the meanings ascribed to them in Section  
19 11-0.1 of the Criminal Code of 2012.

20 (f) (Blank).

21 (g) Whenever a defendant is convicted of an offense under  
22 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,  
23 11-14.3, 11-14.4 except for an offense that involves keeping a  
24 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,  
25 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,  
26 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the

1 Criminal Code of 2012, the defendant shall undergo medical  
2 testing to determine whether the defendant has any sexually  
3 transmissible disease, including a test for infection with  
4 human immunodeficiency virus (HIV) or any other identified  
5 causative agent of acquired immunodeficiency syndrome (AIDS).  
6 Any such medical test shall be performed only by appropriately  
7 licensed medical practitioners and may include an analysis of  
8 any bodily fluids as well as an examination of the defendant's  
9 person. Except as otherwise provided by law, the results of  
10 such test shall be kept strictly confidential by all medical  
11 personnel involved in the testing and must be personally  
12 delivered in a sealed envelope to the judge of the court in  
13 which the conviction was entered for the judge's inspection in  
14 camera. Acting in accordance with the best interests of the  
15 victim and the public, the judge shall have the discretion to  
16 determine to whom, if anyone, the results of the testing may be  
17 revealed. The court shall notify the defendant of the test  
18 results. The court shall also notify the victim if requested by  
19 the victim, and if the victim is under the age of 15 and if  
20 requested by the victim's parents or legal guardian, the court  
21 shall notify the victim's parents or legal guardian of the test  
22 results. The court shall provide information on the  
23 availability of HIV testing and counseling at Department of  
24 Public Health facilities to all parties to whom the results of  
25 the testing are revealed and shall direct the State's Attorney  
26 to provide the information to the victim when possible. A

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

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

20 (h) Whenever a defendant is convicted of an offense under  
21 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the  
22 defendant shall undergo medical testing to determine whether  
23 the defendant has been exposed to human immunodeficiency virus  
24 (HIV) or any other identified causative agent of acquired  
25 immunodeficiency syndrome (AIDS). Except as otherwise provided  
26 by law, the results of such test shall be kept strictly



1 confidential by all medical personnel involved in the testing  
2 and must be personally delivered in a sealed envelope to the  
3 judge of the court in which the conviction was entered for the  
4 judge's inspection in camera. Acting in accordance with the  
5 best interests of the public, the judge shall have the  
6 discretion to determine to whom, if anyone, the results of the  
7 testing may be revealed. The court shall notify the defendant  
8 of a positive test showing an infection with the human  
9 immunodeficiency virus (HIV). The court shall provide  
10 information on the availability of HIV testing and counseling  
11 at Department of Public Health facilities to all parties to  
12 whom the results of the testing are revealed and shall direct  
13 the State's Attorney to provide the information to the victim  
14 when possible. A State's Attorney may petition the court to  
15 obtain the results of any HIV test administered under this  
16 Section, and the court shall grant the disclosure if the  
17 State's Attorney shows it is relevant in order to prosecute a  
18 charge of criminal transmission of HIV under Section 12-5.01 or  
19 12-16.2 of the Criminal Code of 1961 or the Criminal Code of  
20 2012 against the defendant. The court shall order that the cost  
21 of any such test shall be paid by the county and may be taxed as  
22 costs against the convicted defendant.

23 (i) All fines and penalties imposed under this Section for  
24 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
25 Vehicle Code, or a similar provision of a local ordinance, and  
26 any violation of the Child Passenger Protection Act, or a

1 similar provision of a local ordinance, shall be collected and  
2 disbursed by the circuit clerk as provided under Section 27.5  
3 of the Clerks of Courts Act.

4 (j) In cases when prosecution for any violation of Section  
5 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,  
6 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,  
7 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
8 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,  
9 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal  
10 Code of 2012, any violation of the Illinois Controlled  
11 Substances Act, any violation of the Cannabis Control Act, or  
12 any violation of the Methamphetamine Control and Community  
13 Protection Act results in conviction, a disposition of court  
14 supervision, or an order of probation granted under Section 10  
15 of the Cannabis Control Act, Section 410 of the Illinois  
16 Controlled Substances Act, or Section 70 of the Methamphetamine  
17 Control and Community Protection Act of a defendant, the court  
18 shall determine whether the defendant is employed by a facility  
19 or center as defined under the Child Care Act of 1969, a public  
20 or private elementary or secondary school, or otherwise works  
21 with children under 18 years of age on a daily basis. When a  
22 defendant is so employed, the court shall order the Clerk of  
23 the Court to send a copy of the judgment of conviction or order  
24 of supervision or probation to the defendant's employer by  
25 certified mail. If the employer of the defendant is a school,  
26 the Clerk of the Court shall direct the mailing of a copy of

1 the judgment of conviction or order of supervision or probation  
2 to the appropriate regional superintendent of schools. The  
3 regional superintendent of schools shall notify the State Board  
4 of Education of any notification under this subsection.

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

1 educational training shall not be deemed a wilful failure to  
2 comply. The Prisoner Review Board shall recommit the defendant  
3 whose mandatory supervised release term has been revoked under  
4 this subsection (j-5) as provided in Section 3-3-9. This  
5 subsection (j-5) does not apply to a defendant who has a high  
6 school diploma or has successfully passed high school  
7 equivalency testing. This subsection (j-5) does not apply to a  
8 defendant who is determined by the court to be a person with a  
9 developmental disability or otherwise mentally incapable of  
10 completing the educational or vocational program.

11 (k) (Blank).

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

20 (1) a final order of deportation has been issued  
21 against the defendant pursuant to proceedings under the  
22 Immigration and Nationality Act, and

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

26 Otherwise, the defendant shall be sentenced as provided in

1 this Chapter V.

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

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

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

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

20 (D) Upon motion of the State's Attorney, if a defendant  
21 sentenced under this Section returns to the jurisdiction of the  
22 United States, the defendant shall be recommitted to the  
23 custody of the county from which he or she was sentenced.  
24 Thereafter, the defendant shall be brought before the  
25 sentencing court, which may impose any sentence that was  
26 available under Section 5-5-3 at the time of initial

1 sentencing. In addition, the defendant shall not be eligible  
2 for additional earned sentence credit as provided under Section  
3 3-6-3.

4 (m) A person convicted of criminal defacement of property  
5 under Section 21-1.3 of the Criminal Code of 1961 or the  
6 Criminal Code of 2012, in which the property damage exceeds  
7 \$300 and the property damaged is a school building, shall be  
8 ordered to perform community service that may include cleanup,  
9 removal, or painting over the defacement.

10 (n) The court may sentence a person convicted of a  
11 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or  
12 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code  
13 of 1961 or the Criminal Code of 2012 (i) to an impact  
14 incarceration program if the person is otherwise eligible for  
15 that program under Section 5-8-1.1, (ii) to community service,  
16 or (iii) if the person has a substance use disorder, as defined  
17 in the Substance Use Disorder Act, to a treatment program  
18 licensed under that Act.

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

24 (Source: P.A. 99-143, eff. 7-27-15; 99-885, eff. 8-23-16;  
25 99-938, eff. 1-1-18; 100-575, eff. 1-8-18; 100-759, eff.  
26 1-1-19; revised 10-12-18.)

1 (Text of Section after amendment by P.A. 100-987)

2 Sec. 5-5-3. Disposition.

3 (a) (Blank).

4 (b) (Blank).

5 (c) (1) (Blank).

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

12 (A) First degree murder where the death penalty is not  
13 imposed.

14 (B) Attempted first degree murder.

15 (C) A Class X felony.

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

21 (D-5) A violation of subdivision (c)(1) of Section 401  
22 of the Illinois Controlled Substances Act which relates to  
23 3 or more grams of a substance containing heroin or an  
24 analog thereof.

25 (E) (Blank).

1           (E-5) A violation of subsection (a) of Section 11-20.1  
2           of the Criminal Code of 2012 if the child is a household or  
3           family member of the defendant.

4           (F) A Class 1 or greater felony if the offender had  
5           been convicted of a Class 1 or greater felony, including  
6           any state or federal conviction for an offense that  
7           contained, at the time it was committed, the same elements  
8           as an offense now (the date of the offense committed after  
9           the prior Class 1 or greater felony) classified as a Class  
10          1 or greater felony, within 10 years of the date on which  
11          the offender committed the offense for which he or she is  
12          being sentenced, except as otherwise provided in Section  
13          40-10 of the Substance Use Disorder Act.

14          (F-3) A Class 2 or greater felony sex offense or felony  
15          firearm offense if the offender had been convicted of a  
16          Class 2 or greater felony, including any state or federal  
17          conviction for an offense that contained, at the time it  
18          was committed, the same elements as an offense now (the  
19          date of the offense committed after the prior Class 2 or  
20          greater felony) classified as a Class 2 or greater felony,  
21          within 10 years of the date on which the offender committed  
22          the offense for which he or she is being sentenced, except  
23          as otherwise provided in Section 40-10 of the Substance Use  
24          Disorder Act.

25          (F-5) A violation of Section 24-1, 24-1.1, or 24-1.6 of  
26          the Criminal Code of 1961 or the Criminal Code of 2012 for



1 which imprisonment is prescribed in those Sections.

2 (G) Residential burglary, except as otherwise provided  
3 in Section 40-10 of the Substance Use Disorder Act.

4 (H) Criminal sexual assault.

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

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

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

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

20 (K) Vehicular hijacking.

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

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

1 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), (5),  
8 or (7) of subsection (a) of Section 11-20.1 of the Criminal  
9 Code of 1961 or the Criminal Code of 2012.

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

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

15 (S) (Blank).

16 (T) (Blank).

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

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

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

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

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

17 (Y) A conviction for unlawful possession of a firearm  
18 by a street gang member when the firearm was loaded or  
19 contained firearm ammunition.

20 (Z) A Class 1 felony committed while he or she was  
21 serving a term of probation or conditional discharge for a  
22 felony.

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

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

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

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

10 (EE) A conviction for a violation of paragraph (2) of  
11 subsection (a) of Section 24-3B of the Criminal Code of  
12 2012.

13 (3) (Blank).

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

18 (4.1) (Blank).

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

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

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

9           (4.5) A minimum term of imprisonment of 30 days shall be  
10          imposed for a third violation of subsection (c) of Section  
11          6-303 of the Illinois Vehicle Code.

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

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

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

1           (4.9) A mandatory prison sentence of not less than 4 and  
2 not more than 15 years shall be imposed for a third violation  
3 of subsection (a-5) of Section 6-303 of the Illinois Vehicle  
4 Code, as provided in subsection (d-2.5) of that Section. The  
5 person's driving privileges shall be revoked for the remainder  
6 of his or her life.

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

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

16                   (A) a period of conditional discharge;

17                   (B) a fine;

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

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

1           (5.2) In addition to any other penalties imposed, and  
2 except as provided in paragraph (5.3), a person convicted of  
3 violating subsection (c) of Section 11-907 of the Illinois  
4 Vehicle Code shall have his or her driver's license, permit, or  
5 privileges suspended for at least 180 days but not more than 2  
6 years, if the violation resulted in injury to another person.

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

12           (5.4) In addition to any other penalties imposed, a person  
13 convicted of violating Section 3-707 of the Illinois Vehicle  
14 Code shall have his or her driver's license, permit, or  
15 privileges suspended for 3 months and until he or she has paid  
16 a reinstatement fee of \$100.

17           (5.5) In addition to any other penalties imposed, a person  
18 convicted of violating Section 3-707 of the Illinois Vehicle  
19 Code during a period in which his or her driver's license,  
20 permit, or privileges were suspended for a previous violation  
21 of that Section shall have his or her driver's license, permit,  
22 or privileges suspended for an additional 6 months after the  
23 expiration of the original 3-month suspension and until he or  
24 she has paid a reinstatement fee of \$100.

25           (6) (Blank).

26           (7) (Blank).

1 (8) (Blank).

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

5 (10) (Blank).

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

22 (12) A person may not receive a disposition of court  
23 supervision for a violation of Section 5-16 of the Boat  
24 Registration and Safety Act if that person has previously  
25 received a disposition of court supervision for a violation of  
26 that Section.



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

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

1 sentence, the defendant shall be afforded a new trial.

2 (e) In cases where prosecution for aggravated criminal  
3 sexual abuse under Section 11-1.60 or 12-16 of the Criminal  
4 Code of 1961 or the Criminal Code of 2012 results in conviction  
5 of a defendant who was a family member of the victim at the  
6 time of the commission of the offense, the court shall consider  
7 the safety and welfare of the victim and may impose a sentence  
8 of probation only where:

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

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

13 (B) the defendant is willing to participate in a  
14 court approved plan including but not limited to the  
15 defendant's:

16 (i) removal from the household;

17 (ii) restricted contact with the victim;

18 (iii) continued financial support of the  
19 family;

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

21 and

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

24 (2) the court orders the defendant to pay for the  
25 victim's counseling services, to the extent that the court  
26 finds, after considering the defendant's income and

1 assets, that the defendant is financially capable of paying  
2 for such services, if the victim was under 18 years of age  
3 at the time the offense was committed and requires  
4 counseling as a result of the offense.

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

12 For the purposes of this Section, "family member" and  
13 "victim" shall have the meanings ascribed to them in Section  
14 11-0.1 of the Criminal Code of 2012.

15 (f) (Blank).

16 (g) Whenever a defendant is convicted of an offense under  
17 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,  
18 11-14.3, 11-14.4 except for an offense that involves keeping a  
19 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,  
20 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,  
21 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the  
22 Criminal Code of 2012, the defendant shall undergo medical  
23 testing to determine whether the defendant has any sexually  
24 transmissible disease, including a test for infection with  
25 human immunodeficiency virus (HIV) or any other identified  
26 causative agent of acquired immunodeficiency syndrome (AIDS).

1 Any such medical test shall be performed only by appropriately  
2 licensed medical practitioners and may include an analysis of  
3 any bodily fluids as well as an examination of the defendant's  
4 person. Except as otherwise provided by law, the results of  
5 such test shall be kept strictly confidential by all medical  
6 personnel involved in the testing and must be personally  
7 delivered in a sealed envelope to the judge of the court in  
8 which the conviction was entered for the judge's inspection in  
9 camera. Acting in accordance with the best interests of the  
10 victim and the public, the judge shall have the discretion to  
11 determine to whom, if anyone, the results of the testing may be  
12 revealed. The court shall notify the defendant of the test  
13 results. The court shall also notify the victim if requested by  
14 the victim, and if the victim is under the age of 15 and if  
15 requested by the victim's parents or legal guardian, the court  
16 shall notify the victim's parents or legal guardian of the test  
17 results. The court shall provide information on the  
18 availability of HIV testing and counseling at Department of  
19 Public Health facilities to all parties to whom the results of  
20 the testing are revealed and shall direct the State's Attorney  
21 to provide the information to the victim when possible. A  
22 State's Attorney may petition the court to obtain the results  
23 of any HIV test administered under this Section, and the court  
24 shall grant the disclosure if the State's Attorney shows it is  
25 relevant in order to prosecute a charge of criminal  
26 transmission of HIV under Section 12-5.01 or 12-16.2 of the

1 Criminal Code of 1961 or the Criminal Code of 2012 against the  
2 defendant. The court shall order that the cost of any such test  
3 shall be paid by the county and may be taxed as costs against  
4 the convicted defendant.

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

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

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

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

25 (j) In cases when prosecution for any violation of Section  
26 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,

1 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,  
2 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
3 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,  
4 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal  
5 Code of 2012, any violation of the Illinois Controlled  
6 Substances Act, any violation of the Cannabis Control Act, or  
7 any violation of the Methamphetamine Control and Community  
8 Protection Act results in conviction, a disposition of court  
9 supervision, or an order of probation granted under Section 10  
10 of the Cannabis Control Act, Section 410 of the Illinois  
11 Controlled Substances Act, or Section 70 of the Methamphetamine  
12 Control and Community Protection Act of a defendant, the court  
13 shall determine whether the defendant is employed by a facility  
14 or center as defined under the Child Care Act of 1969, a public  
15 or private elementary or secondary school, or otherwise works  
16 with children under 18 years of age on a daily basis. When a  
17 defendant is so employed, the court shall order the Clerk of  
18 the Court to send a copy of the judgment of conviction or order  
19 of supervision or probation to the defendant's employer by  
20 certified mail. If the employer of the defendant is a school,  
21 the Clerk of the Court shall direct the mailing of a copy of  
22 the judgment of conviction or order of supervision or probation  
23 to the appropriate regional superintendent of schools. The  
24 regional superintendent of schools shall notify the State Board  
25 of Education of any notification under this subsection.

26 (j-5) A defendant at least 17 years of age who is convicted

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



1 school diploma or has successfully passed high school  
2 equivalency testing. This subsection (j-5) does not apply to a  
3 defendant who is determined by the court to be a person with a  
4 developmental disability or otherwise mentally incapable of  
5 completing the educational or vocational program.

6 (k) (Blank).

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

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

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

21 Otherwise, the defendant shall be sentenced as provided in  
22 this Chapter V.

23 (B) If the defendant has already been sentenced for a  
24 felony or misdemeanor offense, or has been placed on probation  
25 under Section 10 of the Cannabis Control Act, Section 410 of  
26 the Illinois Controlled Substances Act, or Section 70 of the

1 Methamphetamine Control and Community Protection Act, the  
2 court may, upon motion of the State's Attorney to suspend the  
3 sentence imposed, commit the defendant to the custody of the  
4 Attorney General of the United States or his or her designated  
5 agent 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 (C) This subsection (1) does not apply to offenders who are  
13 subject to the provisions of paragraph (2) of subsection (a) of  
14 Section 3-6-3.

15 (D) Upon motion of the State's Attorney, if a defendant  
16 sentenced under this Section returns to the jurisdiction of the  
17 United States, the defendant shall be recommitted to the  
18 custody of the county from which he or she was sentenced.  
19 Thereafter, the defendant shall be brought before the  
20 sentencing court, which may impose any sentence that was  
21 available under Section 5-5-3 at the time of initial  
22 sentencing. In addition, the defendant shall not be eligible  
23 for additional earned sentence credit as provided under Section  
24 3-6-3.

25 (m) A person convicted of criminal defacement of property  
26 under Section 21-1.3 of the Criminal Code of 1961 or the

1 Criminal Code of 2012, in which the property damage exceeds  
2 \$300 and the property damaged is a school building, shall be  
3 ordered to perform community service that may include cleanup,  
4 removal, or painting over the defacement.

5 (n) The court may sentence a person convicted of a  
6 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or  
7 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code  
8 of 1961 or the Criminal Code of 2012 (i) to an impact  
9 incarceration program if the person is otherwise eligible for  
10 that program under Section 5-8-1.1, (ii) to community service,  
11 or (iii) if the person has a substance use disorder, as defined  
12 in the Substance Use Disorder Act, to a treatment program  
13 licensed under that Act.

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

19 (Source: P.A. 99-143, eff. 7-27-15; 99-885, eff. 8-23-16;  
20 99-938, eff. 1-1-18; 100-575, eff. 1-8-18; 100-759, eff.  
21 1-1-19; 100-987, eff. 7-1-19; revised 10-12-18.)

22 Section 95. No acceleration or delay. Where this Act makes  
23 changes in a statute that is represented in this Act by text  
24 that is not yet or no longer in effect (for example, a Section  
25 represented by multiple versions), the use of that text does

1 not accelerate or delay the taking effect of (i) the changes  
2 made by this Act or (ii) provisions derived from any other  
3 Public Act.