



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1289

Introduced 2/20/2007, by Rep. Sandra M. Pihos

SYNOPSIS AS INTRODUCED:

720 ILCS 5/16-1.3
730 ILCS 5/5-5-3

from Ch. 38, par. 16-1.3
from Ch. 38, par. 1005-5-3

Amends the Criminal Code of 1961 and the Unified Code of Corrections. Provides that a person convicted of financial exploitation of an elderly person or a person with a disability shall be sentenced to a minimum term of imprisonment of one year for a Class 4 felony violation, 2 years for a Class 3 felony violation, 3 years for a Class 2 felony violation, and 4 years for a Class 1 felony violation.

LRB095 03583 RLC 23589 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 5. The Criminal Code of 1961 is amended by changing
5 Section 16-1.3 as follows:

6 (720 ILCS 5/16-1.3) (from Ch. 38, par. 16-1.3)

7 Sec. 16-1.3. Financial exploitation of an elderly person or
8 a person with a disability.

9 (a) A person commits the offense of financial exploitation
10 of an elderly person or a person with a disability when he or
11 she stands in a position of trust or confidence with the
12 elderly person or a person with a disability and he or she
13 knowingly and by deception or intimidation obtains control over
14 the property of an elderly person or a person with a disability
15 or illegally uses the assets or resources of an elderly person
16 or a person with a disability. The illegal use of the assets or
17 resources of an elderly person or a person with a disability
18 includes, but is not limited to, the misappropriation of those
19 assets or resources by undue influence, breach of a fiduciary
20 relationship, fraud, deception, extortion, or use of the assets
21 or resources contrary to law.

22 Financial exploitation of an elderly person or a person
23 with a disability is a Class 4 felony for which the person

1 shall be sentenced to a minimum term of imprisonment of one
2 year if the value of the property is \$300 or less, a Class 3
3 felony for which the person shall be sentenced to a minimum
4 term of imprisonment of 2 years if the value of the property is
5 more than \$300 but less than \$5,000, a Class 2 felony for which
6 the person shall be sentenced to a minimum term of imprisonment
7 of 3 years if the value of the property is \$5,000 or more but
8 less than \$100,000 and a Class 1 felony for which the person
9 shall be sentenced to a minimum term of imprisonment of 4 years
10 if the value of the property is \$100,000 or more or if the
11 elderly person is over 70 years of age and the value of the
12 property is \$15,000 or more or if the elderly person is 80
13 years of age or older and the value of the property is \$5,000
14 or more.

15 (b) For purposes of this Section:

16 (1) "Elderly person" means a person 60 years of age or
17 older.

18 (2) "Person with a disability" means a person who
19 suffers from a permanent physical or mental impairment
20 resulting from disease, injury, functional disorder or
21 congenital condition that impairs the individual's mental
22 or physical ability to independently manage his or her
23 property or financial resources, or both.

24 (3) "Intimidation" means the communication to an
25 elderly person or a person with a disability that he or she
26 shall be deprived of food and nutrition, shelter,

1 prescribed medication or medical care and treatment.

2 (4) "Deception" means, in addition to its meaning as
3 defined in Section 15-4 of this Code, a misrepresentation
4 or concealment of material fact relating to the terms of a
5 contract or agreement entered into with the elderly person
6 or person with a disability or to the existing or
7 pre-existing condition of any of the property involved in
8 such contract or agreement; or the use or employment of any
9 misrepresentation, false pretense or false promise in
10 order to induce, encourage or solicit the elderly person or
11 person with a disability to enter into a contract or
12 agreement.

13 (c) For purposes of this Section, a person stands in a
14 position of trust and confidence with an elderly person or
15 person with a disability when he (1) is a parent, spouse, adult
16 child or other relative by blood or marriage of the elderly
17 person or person with a disability, (2) is a joint tenant or
18 tenant in common with the elderly person or person with a
19 disability, (3) has a legal or fiduciary relationship with the
20 elderly person or person with a disability, or (4) is a
21 financial planning or investment professional.

22 (d) Nothing in this Section shall be construed to limit the
23 remedies available to the victim under the Illinois Domestic
24 Violence Act of 1986.

25 (e) Nothing in this Section shall be construed to impose
26 criminal liability on a person who has made a good faith effort

1 to assist the elderly person or person with a disability in the
2 management of his or her property, but through no fault of his
3 or her own has been unable to provide such assistance.

4 (f) It shall not be a defense to financial exploitation of
5 an elderly person or person with a disability that the accused
6 reasonably believed that the victim was not an elderly person
7 or person with a disability.

8 (g) Civil Liability. A person who is charged by information
9 or indictment with the offense of financial exploitation of an
10 elderly person or person with a disability and who fails or
11 refuses to return the victim's property within 60 days
12 following a written demand from the victim or the victim's
13 legal representative shall be liable to the victim or to the
14 estate of the victim in damages of treble the amount of the
15 value of the property obtained, plus reasonable attorney fees
16 and court costs. The burden of proof that the defendant
17 unlawfully obtained the victim's property shall be by a
18 preponderance of the evidence. This subsection shall be
19 operative whether or not the defendant has been convicted of
20 the offense.

21 (Source: P.A. 92-808, eff. 8-21-02; 93-301, eff. 1-1-04.)

22 Section 10. The Unified Code of Corrections is amended by
23 changing Section 5-5-3 as follows:

24 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

1 Sec. 5-5-3. Disposition.

2 (a) Except as provided in Section 11-501 of the Illinois
3 Vehicle Code, every person convicted of an offense shall be
4 sentenced as provided in this Section.

5 (b) The following options shall be appropriate
6 dispositions, alone or in combination, for all felonies and
7 misdemeanors other than those identified in subsection (c) of
8 this Section:

9 (1) A period of probation.

10 (2) A term of periodic imprisonment.

11 (3) A term of conditional discharge.

12 (4) A term of imprisonment.

13 (5) An order directing the offender to clean up and
14 repair the damage, if the offender was convicted under
15 paragraph (h) of Section 21-1 of the Criminal Code of 1961
16 (now repealed).

17 (6) A fine.

18 (7) An order directing the offender to make restitution
19 to the victim under Section 5-5-6 of this Code.

20 (8) A sentence of participation in a county impact
21 incarceration program under Section 5-8-1.2 of this Code.

22 (9) A term of imprisonment in combination with a term
23 of probation when the offender has been admitted into a
24 drug court program under Section 20 of the Drug Court
25 Treatment Act.

26 Neither a fine nor restitution shall be the sole

1 disposition for a felony and either or both may be imposed only
2 in conjunction with another disposition.

3 (c) (1) When a defendant is found guilty of first degree
4 murder the State may either seek a sentence of imprisonment
5 under Section 5-8-1 of this Code, or where appropriate seek
6 a sentence of death under Section 9-1 of the Criminal Code
7 of 1961.

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

15 (A) First degree murder where the death penalty is
16 not 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
20 Illinois Controlled Substances Act, or a violation of
21 subdivision (c) (1) or (c) (2) of Section 401 of that Act
22 which relates to more than 5 grams of a substance
23 containing heroin or cocaine or an analog thereof.

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

26 (F) A Class 2 or greater felony if the offender had

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

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

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

12 (H) Criminal sexual assault.

13 (I) Aggravated battery of a senior citizen.

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

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

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

26 (K) Vehicular hijacking.

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

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

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

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

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

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

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

20 (S) (Blank).

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

23 (3) (Blank).

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

1 of the Illinois Vehicle Code.

2 (4.1) (Blank).

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

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

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

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

20 (4.6) A minimum term of imprisonment of 180 days shall
21 be imposed for a fourth or subsequent violation of
22 subsection (c) of Section 6-303 of the Illinois Vehicle
23 Code.

24 (4.7) A minimum term of imprisonment shall be imposed
25 for a violation of Section 16-1.3 of the Criminal Code of
26 1961 as provided in that Section.

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

4 (A) a period of conditional discharge;

5 (B) a fine;

6 (C) make restitution to the victim under Section
7 5-5-6 of this Code.

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

16 (5.2) In addition to any penalties imposed under
17 paragraph (5) of this subsection (c), and except as
18 provided in paragraph (5.3), a person convicted of
19 violating subsection (c) of Section 11-907 of the Illinois
20 Vehicle Code shall have his or her driver's license,
21 permit, or privileges suspended for at least 180 days but
22 not more than 2 years, if the violation resulted in injury
23 to another person.

24 (5.3) In addition to any penalties imposed under
25 paragraph (5) of this subsection (c), a person convicted of
26 violating subsection (c) of Section 11-907 of the Illinois

1 Vehicle Code shall have his or her driver's license,
2 permit, or privileges suspended for 2 years, if the
3 violation resulted in the death of another person.

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

10 (5.5) In addition to any penalties imposed under
11 paragraph (5) of this subsection (c), a person convicted of
12 violating Section 3-707 of the Illinois Vehicle Code during
13 a period in which his or her driver's license, permit, or
14 privileges were suspended for a previous violation of that
15 Section shall have his or her driver's license, permit, or
16 privileges suspended for an additional 6 months after the
17 expiration of the original 3-month suspension and until he
18 or she has paid a reinstatement fee of \$100.

19 (6) In no case shall an offender be eligible for a
20 disposition of probation or conditional discharge for a
21 Class 1 felony committed while he was serving a term of
22 probation or conditional discharge for a felony.

23 (7) When a defendant is adjudged a habitual criminal
24 under Article 33B of the Criminal Code of 1961, the court
25 shall sentence the defendant to a term of natural life
26 imprisonment.

1 (8) When a defendant, over the age of 21 years, is
2 convicted of a Class 1 or Class 2 felony, after having
3 twice been convicted in any state or federal court of an
4 offense that contains the same elements as an offense now
5 classified in Illinois as a Class 2 or greater Class felony
6 and such charges are separately brought and tried and arise
7 out of different series of acts, such defendant shall be
8 sentenced as a Class X offender. This paragraph shall not
9 apply unless (1) the first felony was committed after the
10 effective date of this amendatory Act of 1977; and (2) the
11 second felony was committed after conviction on the first;
12 and (3) the third felony was committed after conviction on
13 the second. A person sentenced as a Class X offender under
14 this paragraph is not eligible to apply for treatment as a
15 condition of probation as provided by Section 40-10 of the
16 Alcoholism and Other Drug Abuse and Dependency Act.

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

20 (10) (Blank).

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

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

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

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

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

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

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

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

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

22 (i) removal from the household;

23 (ii) restricted contact with the victim;

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

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

1 and

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

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

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

18 For the purposes of this Section, "family member" and
19 "victim" shall have the meanings ascribed to them in Section
20 12-12 of the Criminal Code of 1961.

21 (f) This Article shall not deprive a court in other
22 proceedings to order a forfeiture of property, to suspend or
23 cancel a license, to remove a person from office, or to impose
24 any other civil penalty.

25 (g) Whenever a defendant is convicted of an offense under
26 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,

1 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
2 of the Criminal Code of 1961, the defendant shall undergo
3 medical testing to determine whether the defendant has any
4 sexually transmissible disease, including a test for infection
5 with human immunodeficiency virus (HIV) or any other identified
6 causative agent of acquired immunodeficiency syndrome (AIDS).
7 Any such medical test shall be performed only by appropriately
8 licensed medical practitioners and may include an analysis of
9 any bodily fluids as well as an examination of the defendant's
10 person. Except as otherwise provided by law, the results of
11 such test shall be kept strictly confidential by all medical
12 personnel involved in the testing and must be personally
13 delivered in a sealed envelope to the judge of the court in
14 which the conviction was entered for the judge's inspection in
15 camera. Acting in accordance with the best interests of the
16 victim and the public, the judge shall have the discretion to
17 determine to whom, if anyone, the results of the testing may be
18 revealed. The court shall notify the defendant of the test
19 results. The court shall also notify the victim if requested by
20 the victim, and if the victim is under the age of 15 and if
21 requested by the victim's parents or legal guardian, the court
22 shall notify the victim's parents or legal guardian of the test
23 results. The court shall provide information on the
24 availability of HIV testing and counseling at Department of
25 Public Health facilities to all parties to whom the results of
26 the testing are revealed and shall direct the State's Attorney

1 to provide the information to the victim when possible. A
2 State's Attorney may petition the court to obtain the results
3 of any HIV test administered under this Section, and the court
4 shall grant the disclosure if the State's Attorney shows it is
5 relevant in order to prosecute a charge of criminal
6 transmission of HIV under Section 12-16.2 of the Criminal Code
7 of 1961 against the defendant. The court shall order that the
8 cost of any such test shall be paid by the county and may be
9 taxed as costs against 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 12-16.2 of
19 the Criminal Code of 1961 against the defendant. The court
20 shall order that the cost of any such test shall be paid by the
21 county and may be taxed as costs against the convicted
22 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 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
6 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
7 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
8 Code of 1961, any violation of the Illinois Controlled
9 Substances Act, any violation of the Cannabis Control Act, or
10 any violation of the Methamphetamine Control and Community
11 Protection Act results in conviction, a disposition of court
12 supervision, or an order of probation granted under Section 10
13 of the Cannabis Control Act, Section 410 of the Illinois
14 Controlled Substance Act, or Section 70 of the Methamphetamine
15 Control and Community Protection Act of a defendant, the court
16 shall determine whether the defendant is employed by a facility
17 or center as defined under the Child Care Act of 1969, a public
18 or private elementary or secondary school, or otherwise works
19 with children under 18 years of age on a daily basis. When a
20 defendant is so employed, the court shall order the Clerk of
21 the Court to send a copy of the judgment of conviction or order
22 of supervision or probation to the defendant's employer by
23 certified mail. If the employer of the defendant is a school,
24 the Clerk of the Court shall direct the mailing of a copy of
25 the judgment of conviction or order of supervision or probation
26 to the appropriate regional superintendent of schools. The

1 regional superintendent of schools shall notify the State Board
2 of Education of any notification under this subsection.

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

1 whose mandatory supervised release term has been revoked under
2 this subsection (j-5) as provided in Section 3-3-9. This
3 subsection (j-5) does not apply to a defendant who has a high
4 school diploma or has successfully passed the GED test. This
5 subsection (j-5) does not apply to a defendant who is
6 determined by the court to be developmentally disabled or
7 otherwise mentally incapable of completing the educational or
8 vocational program.

9 (k) A court may not impose a sentence or disposition for a
10 felony or misdemeanor that requires the defendant to be
11 implanted or injected with or to use any form of birth control.

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

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

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

1 provided in this Chapter V.

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

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

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

17 (C) This subsection (1) does not apply to offenders who
18 are subject to the provisions of paragraph (2) of
19 subsection (a) of 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
22 the United States, the defendant shall be recommitted to
23 the custody of the county from which he or she was
24 sentenced. Thereafter, the defendant shall be brought
25 before the sentencing court, which may impose any sentence
26 that was available under Section 5-5-3 at the time of

1 initial sentencing. In addition, the defendant shall not be
2 eligible for additional good conduct credit for
3 meritorious service as provided under Section 3-6-6.

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

10 (n) The court may sentence a person convicted of a
11 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
12 Code of 1961 (i) to an impact incarceration program if the
13 person is otherwise eligible for that program under Section
14 5-8-1.1, (ii) to community service, or (iii) if the person is
15 an addict or alcoholic, as defined in the Alcoholism and Other
16 Drug Abuse and Dependency Act, to a substance or alcohol abuse
17 program licensed under that Act.

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

23 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
24 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
25 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,
26 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,

1 eff. 9-11-05; 94-993, eff. 1-1-07; 94-1035, eff. 7-1-07;
2 revised 8-28-06.)