



Rep. Michael J. Madigan

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1 AMENDMENT TO HOUSE BILL 3650

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3650, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Unified Code of Corrections is amended by  
6 changing Sections 3-6-2, 3-6-3, and 5-5-3 as follows:

7 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

8 Sec. 3-6-2. Institutions and Facility Administration.

9 (a) Each institution and facility of the Department shall  
10 be administered by a chief administrative officer appointed by  
11 the Director. A chief administrative officer shall be  
12 responsible for all persons assigned to the institution or  
13 facility. The chief administrative officer shall administer  
14 the programs of the Department for the custody and treatment of  
15 such persons.

16 (b) The chief administrative officer shall have such

1 assistants as the Department may assign.

2 (c) The Director or Assistant Director shall have the  
3 emergency powers to temporarily transfer individuals without  
4 formal procedures to any State, county, municipal or regional  
5 correctional or detention institution or facility in the State,  
6 subject to the acceptance of such receiving institution or  
7 facility, or to designate any reasonably secure place in the  
8 State as such an institution or facility and to make transfers  
9 thereto. However, transfers made under emergency powers shall  
10 be reviewed as soon as practicable under Article 8, and shall  
11 be subject to Section 5-905 of the Juvenile Court Act of 1987.  
12 This Section shall not apply to transfers to the Department of  
13 Human Services which are provided for under Section 3-8-5 or  
14 Section 3-10-5.

15 (d) Subject to appropriation, the ~~The~~ Department shall  
16 provide educational programs for all committed persons so that  
17 all persons have an opportunity to attain the achievement level  
18 equivalent to the completion of an associate, baccalaureate, or  
19 higher degree from a community college, college, or university  
20 located in Illinois ~~the twelfth grade in the public school~~  
21 ~~system in this State.~~ Professional ~~Other higher levels of~~  
22 ~~attainment shall be encouraged and professional~~ instruction  
23 shall be maintained wherever possible. The Department may  
24 establish programs of mandatory education and may establish  
25 rules and regulations for the administration of such programs.  
26 Subject to appropriation, the costs of such educational

1 programs shall be paid by the Department ~~A person committed to~~  
2 ~~the Department who, during the period of his or her~~  
3 ~~incarceration, participates in an educational program provided~~  
4 ~~by or through the Department and through that program is~~  
5 ~~awarded or earns the number of hours of credit required for the~~  
6 ~~award of an associate, baccalaureate, or higher degree from a~~  
7 ~~community college, college, or university located in Illinois~~  
8 ~~shall reimburse the State, through the Department, for the~~  
9 ~~costs incurred by the State in providing that person during his~~  
10 ~~or her incarceration with the education that qualifies him or~~  
11 ~~her for the award of that degree. The costs for which~~  
12 ~~reimbursement is required under this subsection shall be~~  
13 ~~determined and computed by the Department under rules and~~  
14 ~~regulations that it shall establish for that purpose. However,~~  
15 ~~interest at the rate of 6% per annum shall be charged on the~~  
16 ~~balance of those costs from time to time remaining unpaid, from~~  
17 ~~the date of the person's parole, mandatory supervised release,~~  
18 ~~or release constituting a final termination of his or her~~  
19 ~~commitment to the Department until paid.~~

20 (d-5) A person committed to the Department is entitled to  
21 confidential testing for infection with human immunodeficiency  
22 virus (HIV) and to counseling in connection with such testing,  
23 with no copay to the committed person. A person committed to  
24 the Department who has tested positive for infection with HIV  
25 is entitled to medical care while incarcerated, counseling, and  
26 referrals to support services, in connection with that positive

1 test result. Implementation of this subsection (d-5) is subject  
2 to appropriation.

3 (e) A person committed to the Department who becomes in  
4 need of medical or surgical treatment but is incapable of  
5 giving consent thereto shall receive such medical or surgical  
6 treatment by the chief administrative officer consenting on the  
7 person's behalf. Before the chief administrative officer  
8 consents, he or she shall obtain the advice of one or more  
9 physicians licensed to practice medicine in all its branches in  
10 this State. If such physician or physicians advise:

11 (1) that immediate medical or surgical treatment is  
12 required relative to a condition threatening to cause  
13 death, damage or impairment to bodily functions, or  
14 disfigurement; and

15 (2) that the person is not capable of giving consent to  
16 such treatment; the chief administrative officer may give  
17 consent for such medical or surgical treatment, and such  
18 consent shall be deemed to be the consent of the person for  
19 all purposes, including, but not limited to, the authority  
20 of a physician to give such treatment.

21 (e-5) If a physician providing medical care to a committed  
22 person on behalf of the Department advises the chief  
23 administrative officer that the committed person's mental or  
24 physical health has deteriorated as a result of the cessation  
25 of ingestion of food or liquid to the point where medical or  
26 surgical treatment is required to prevent death, damage, or

1 impairment to bodily functions, the chief administrative  
2 officer may authorize such medical or surgical treatment.

3 (f) In the event that the person requires medical care and  
4 treatment at a place other than the institution or facility,  
5 the person may be removed therefrom under conditions prescribed  
6 by the Department. The Department shall require the committed  
7 person receiving medical or dental services on a non-emergency  
8 basis to pay a \$2 co-payment to the Department for each visit  
9 for medical or dental services. The amount of each co-payment  
10 shall be deducted from the committed person's individual  
11 account. A committed person who has a chronic illness, as  
12 defined by Department rules and regulations, shall be exempt  
13 from the \$2 co-payment for treatment of the chronic illness. A  
14 committed person shall not be subject to a \$2 co-payment for  
15 follow-up visits ordered by a physician, who is employed by, or  
16 contracts with, the Department. A committed person who is  
17 indigent is exempt from the \$2 co-payment and is entitled to  
18 receive medical or dental services on the same basis as a  
19 committed person who is financially able to afford the  
20 co-payment. Notwithstanding any other provision in this  
21 subsection (f) to the contrary, any person committed to any  
22 facility operated by the Department of Juvenile Justice, as set  
23 forth in Section 3-2.5-15 of this Code, is exempt from the  
24 co-payment requirement for the duration of confinement in those  
25 facilities.

26 (g) Any person having sole custody of a child at the time

1 of commitment or any woman giving birth to a child after her  
2 commitment, may arrange through the Department of Children and  
3 Family Services for suitable placement of the child outside of  
4 the Department of Corrections. The Director of the Department  
5 of Corrections may determine that there are special reasons why  
6 the child should continue in the custody of the mother until  
7 the child is 6 years old.

8 (h) The Department may provide Family Responsibility  
9 Services which may consist of, but not be limited to the  
10 following:

11 (1) family advocacy counseling;

12 (2) parent self-help group;

13 (3) parenting skills training;

14 (4) parent and child overnight program;

15 (5) parent and child reunification counseling, either  
16 separately or together, preceding the inmate's release;  
17 and

18 (6) a prerelease reunification staffing involving the  
19 family advocate, the inmate and the child's counselor, or  
20 both and the inmate.

21 (i) Prior to the release of any inmate who has a documented  
22 history of intravenous drug use, and upon the receipt of that  
23 inmate's written informed consent, the Department shall  
24 provide for the testing of such inmate for infection with human  
25 immunodeficiency virus (HIV) and any other identified  
26 causative agent of acquired immunodeficiency syndrome (AIDS).

1 The testing provided under this subsection shall consist of an  
2 enzyme-linked immunosorbent assay (ELISA) test or such other  
3 test as may be approved by the Illinois Department of Public  
4 Health. If the test result is positive, the Western Blot Assay  
5 or more reliable confirmatory test shall be administered. All  
6 inmates tested in accordance with the provisions of this  
7 subsection shall be provided with pre-test and post-test  
8 counseling. Notwithstanding any provision of this subsection  
9 to the contrary, the Department shall not be required to  
10 conduct the testing and counseling required by this subsection  
11 unless sufficient funds to cover all costs of such testing and  
12 counseling are appropriated for that purpose by the General  
13 Assembly.

14 (j) Any person convicted of a sex offense as defined in the  
15 Sex Offender Management Board Act shall be required to receive  
16 a sex offender evaluation prior to release into the community  
17 from the Department of Corrections. The sex offender evaluation  
18 shall be conducted in conformance with the standards and  
19 guidelines developed under the Sex Offender Management Board  
20 Act and by an evaluator approved by the Board.

21 (k) Any minor committed to the Department of Juvenile  
22 Justice for a sex offense as defined by the Sex Offender  
23 Management Board Act shall be required to undergo sex offender  
24 treatment by a treatment provider approved by the Board and  
25 conducted in conformance with the Sex Offender Management Board  
26 Act.

1 (1) Prior to the release of any inmate, the Department must  
2 provide the inmate with the option of testing for infection  
3 with human immunodeficiency virus (HIV), as well as counseling  
4 in connection with such testing, with no copayment for the  
5 test. At the same time, the Department shall require each such  
6 inmate to sign a form stating that the inmate has been informed  
7 of his or her rights with respect to the testing required to be  
8 offered under this subsection (1) and providing the inmate with  
9 an opportunity to indicate either that he or she wants to be  
10 tested or that he or she does not want to be tested. The  
11 Department, in consultation with the Department of Public  
12 Health, shall prescribe the contents of the form. The testing  
13 provided under this subsection (1) shall consist of an  
14 enzyme-linked immunosorbent assay (ELISA) test or any other  
15 test approved by the Department of Public Health. If the test  
16 result is positive, the Western Blot Assay or more reliable  
17 confirmatory test shall be administered.

18 Prior to the release of an inmate who the Department knows  
19 has tested positive for infection with HIV, the Department in a  
20 timely manner shall offer the inmate transitional case  
21 management, including referrals to other support services.

22 Implementation of this subsection (1) is subject to  
23 appropriation.

24 (Source: P.A. 93-616, eff. 1-1-04; 93-928, eff. 1-1-05; 94-629,  
25 eff. 1-1-06; 94-696, eff. 6-1-06.)



1 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

2 Sec. 3-6-3. Rules and Regulations for Early Release.

3 (a) (1) The Department of Corrections shall prescribe  
4 rules and regulations for the early release on account of  
5 good conduct of persons committed to the Department which  
6 shall be subject to review by the Prisoner Review Board.

7 (2) The rules and regulations on early release shall  
8 provide, with respect to offenses listed in clause (i),  
9 (ii), or (iii) of this paragraph (2) committed on or after  
10 June 19, 1998 or with respect to the offense listed in  
11 clause (iv) of this paragraph (2) committed on or after  
12 June 23, 2005 (the effective date of Public Act 94-71) or  
13 with respect to the offense of being an armed habitual  
14 criminal committed on or after August 2, 2005 (the  
15 effective date of Public Act 94-398), the following:

16 (i) that a prisoner who is serving a term of  
17 imprisonment for first degree murder or for the offense  
18 of terrorism shall receive no good conduct credit and  
19 shall serve the entire sentence imposed by the court;

20 (ii) that a prisoner serving a sentence for attempt  
21 to commit first degree murder, solicitation of murder,  
22 solicitation of murder for hire, intentional homicide  
23 of an unborn child, predatory criminal sexual assault  
24 of a child, aggravated criminal sexual assault,  
25 criminal sexual assault, aggravated kidnapping,  
26 aggravated battery with a firearm, heinous battery,

1 being an armed habitual criminal, aggravated battery  
2 of a senior citizen, or aggravated battery of a child  
3 shall receive no more than 4.5 days of good conduct  
4 credit for each month of his or her sentence of  
5 imprisonment;

6 (iii) that a prisoner serving a sentence for home  
7 invasion, armed robbery, aggravated vehicular  
8 hijacking, aggravated discharge of a firearm, or armed  
9 violence with a category I weapon or category II  
10 weapon, when the court has made and entered a finding,  
11 pursuant to subsection (c-1) of Section 5-4-1 of this  
12 Code, that the conduct leading to conviction for the  
13 enumerated offense resulted in great bodily harm to a  
14 victim, shall receive no more than 4.5 days of good  
15 conduct credit for each month of his or her sentence of  
16 imprisonment; and

17 (iv) that a prisoner serving a sentence for  
18 aggravated discharge of a firearm, whether or not the  
19 conduct leading to conviction for the offense resulted  
20 in great bodily harm to the victim, shall receive no  
21 more than 4.5 days of good conduct credit for each  
22 month of his or her sentence of imprisonment.

23 (2.1) For all offenses, other than those enumerated in  
24 subdivision (a)(2)(i), (ii), or (iii) committed on or after  
25 June 19, 1998 or subdivision (a)(2)(iv) committed on or  
26 after June 23, 2005 (the effective date of Public Act

1 94-71), and other than the offense of reckless homicide as  
2 defined in subsection (e) of Section 9-3 of the Criminal  
3 Code of 1961 committed on or after January 1, 1999, or  
4 aggravated driving under the influence of alcohol, other  
5 drug or drugs, or intoxicating compound or compounds, or  
6 any combination thereof as defined in subparagraph (F) of  
7 paragraph (1) of subsection (d) of Section 11-501 of the  
8 Illinois Vehicle Code, the rules and regulations shall  
9 provide that a prisoner who is serving a term of  
10 imprisonment shall receive one day of good conduct credit  
11 for each day of his or her sentence of imprisonment or  
12 recommitment under Section 3-3-9. Each day of good conduct  
13 credit shall reduce by one day the prisoner's period of  
14 imprisonment or recommitment under Section 3-3-9.

15 (2.2) A prisoner serving a term of natural life  
16 imprisonment or a prisoner who has been sentenced to death  
17 shall receive no good conduct credit.

18 (2.3) The rules and regulations on early release shall  
19 provide that a prisoner who is serving a sentence for  
20 reckless homicide as defined in subsection (e) of Section  
21 9-3 of the Criminal Code of 1961 committed on or after  
22 January 1, 1999, or aggravated driving under the influence  
23 of alcohol, other drug or drugs, or intoxicating compound  
24 or compounds, or any combination thereof as defined in  
25 subparagraph (F) of paragraph (1) of subsection (d) of  
26 Section 11-501 of the Illinois Vehicle Code, shall receive

1 no more than 4.5 days of good conduct credit for each month  
2 of his or her sentence of imprisonment.

3 (2.4) The rules and regulations on early release shall  
4 provide with respect to the offenses of aggravated battery  
5 with a machine gun or a firearm equipped with any device or  
6 attachment designed or used for silencing the report of a  
7 firearm or aggravated discharge of a machine gun or a  
8 firearm equipped with any device or attachment designed or  
9 used for silencing the report of a firearm, committed on or  
10 after July 15, 1999 (the effective date of Public Act  
11 91-121), that a prisoner serving a sentence for any of  
12 these offenses shall receive no more than 4.5 days of good  
13 conduct credit for each month of his or her sentence of  
14 imprisonment.

15 (2.5) The rules and regulations on early release shall  
16 provide that a prisoner who is serving a sentence for  
17 aggravated arson committed on or after July 27, 2001 (the  
18 effective date of Public Act 92-176) shall receive no more  
19 than 4.5 days of good conduct credit for each month of his  
20 or her sentence of imprisonment.

21 (3) The rules and regulations shall also provide that  
22 the Director may award up to 180 days additional good  
23 conduct credit for meritorious service in specific  
24 instances as the Director deems proper; except that no more  
25 than 90 days of good conduct credit for meritorious service  
26 shall be awarded to any prisoner who is serving a sentence

1 for conviction of first degree murder, reckless homicide  
2 while under the influence of alcohol or any other drug, or  
3 aggravated driving under the influence of alcohol, other  
4 drug or drugs, or intoxicating compound or compounds, or  
5 any combination thereof as defined in subparagraph (F) of  
6 paragraph (1) of subsection (d) of Section 11-501 of the  
7 Illinois Vehicle Code, aggravated kidnapping, kidnapping,  
8 predatory criminal sexual assault of a child, aggravated  
9 criminal sexual assault, criminal sexual assault, deviate  
10 sexual assault, aggravated criminal sexual abuse,  
11 aggravated indecent liberties with a child, indecent  
12 liberties with a child, child pornography, heinous  
13 battery, aggravated battery of a spouse, aggravated  
14 battery of a spouse with a firearm, stalking, aggravated  
15 stalking, aggravated battery of a child, endangering the  
16 life or health of a child, cruelty to a child, or narcotic  
17 racketeering. Notwithstanding the foregoing, good conduct  
18 credit for meritorious service shall not be awarded on a  
19 sentence of imprisonment imposed for conviction of: (i) one  
20 of the offenses enumerated in subdivision (a)(2)(i), (ii),  
21 or (iii) when the offense is committed on or after June 19,  
22 1998 or subdivision (a)(2)(iv) when the offense is  
23 committed on or after June 23, 2005 (the effective date of  
24 Public Act 94-71), (ii) reckless homicide as defined in  
25 subsection (e) of Section 9-3 of the Criminal Code of 1961  
26 when the offense is committed on or after January 1, 1999,

1 or aggravated driving under the influence of alcohol, other  
2 drug or drugs, or intoxicating compound or compounds, or  
3 any combination thereof as defined in subparagraph (F) of  
4 paragraph (1) of subsection (d) of Section 11-501 of the  
5 Illinois Vehicle Code, (iii) one of the offenses enumerated  
6 in subdivision (a)(2.4) when the offense is committed on or  
7 after July 15, 1999 (the effective date of Public Act  
8 91-121), or (iv) aggravated arson when the offense is  
9 committed on or after July 27, 2001 (the effective date of  
10 Public Act 92-176).

11 (4) The rules and regulations shall also provide that  
12 the good conduct credit accumulated and retained under  
13 paragraph (2.1) of subsection (a) of this Section by any  
14 inmate during specific periods of time in which such inmate  
15 is engaged full-time in substance abuse programs,  
16 correctional industry assignments, or educational programs  
17 provided by the Department under this paragraph (4) and  
18 satisfactorily completes the assigned program as  
19 determined by the standards of the Department, shall be  
20 multiplied by a factor of 1.25 for program participation  
21 before August 11, 1993 and 1.50 for program participation  
22 on or after that date. However, no inmate shall be eligible  
23 for the additional good conduct credit under this paragraph  
24 (4) or (4.1) of this subsection (a) while assigned to a  
25 boot camp or electronic detention, or if convicted of an  
26 offense enumerated in subdivision (a)(2)(i), (ii), or

1 (iii) of this Section that is committed on or after June  
2 19, 1998 or subdivision (a) (2) (iv) of this Section that is  
3 committed on or after June 23, 2005 (the effective date of  
4 Public Act 94-71), or if convicted of reckless homicide as  
5 defined in subsection (e) of Section 9-3 of the Criminal  
6 Code of 1961 if the offense is committed on or after  
7 January 1, 1999, or aggravated driving under the influence  
8 of alcohol, other drug or drugs, or intoxicating compound  
9 or compounds, or any combination thereof as defined in  
10 subparagraph (F) of paragraph (1) of subsection (d) of  
11 Section 11-501 of the Illinois Vehicle Code, or if  
12 convicted of an offense enumerated in paragraph (a) (2.4) of  
13 this Section that is committed on or after July 15, 1999  
14 (the effective date of Public Act 91-121), or first degree  
15 murder, a Class X felony, criminal sexual assault, felony  
16 criminal sexual abuse, aggravated criminal sexual abuse,  
17 aggravated battery with a firearm, or any predecessor or  
18 successor offenses with the same or substantially the same  
19 elements, or any inchoate offenses relating to the  
20 foregoing offenses. No inmate shall be eligible for the  
21 additional good conduct credit under this paragraph (4) who  
22 (i) has previously received increased good conduct credit  
23 under this paragraph (4) and has subsequently been  
24 convicted of a felony, or (ii) has previously served more  
25 than one prior sentence of imprisonment for a felony in an  
26 adult correctional facility.

1 Educational, vocational, substance abuse and  
2 correctional industry programs under which good conduct  
3 credit may be increased under this paragraph (4) and  
4 paragraph (4.1) of this subsection (a) shall be evaluated  
5 by the Department on the basis of documented standards. The  
6 Department shall report the results of these evaluations to  
7 the Governor and the General Assembly by September 30th of  
8 each year. The reports shall include data relating to the  
9 recidivism rate among program participants.

10 Availability of these programs shall be subject to the  
11 limits of fiscal resources appropriated by the General  
12 Assembly for these purposes. Eligible inmates who are  
13 denied immediate admission shall be placed on a waiting  
14 list under criteria established by the Department. The  
15 inability of any inmate to become engaged in any such  
16 programs by reason of insufficient program resources or for  
17 any other reason established under the rules and  
18 regulations of the Department shall not be deemed a cause  
19 of action under which the Department or any employee or  
20 agent of the Department shall be liable for damages to the  
21 inmate.

22 (4.1) The rules and regulations shall also provide that  
23 an additional 180 ~~60~~ days of good conduct credit shall be  
24 awarded to any prisoner who passes the high school level  
25 Test of General Educational Development (GED) while the  
26 prisoner is incarcerated. The good conduct credit awarded



1 under this paragraph (4.1) shall be in addition to, and  
2 shall not affect, the award of good conduct under any other  
3 paragraph of this Section, but shall also be pursuant to  
4 the guidelines and restrictions set forth in paragraph (4)  
5 of subsection (a) of this Section. The good conduct credit  
6 provided for in this paragraph shall be available only to  
7 those prisoners who have not previously earned a high  
8 school diploma or a GED. If, after an award of the GED good  
9 conduct credit has been made and the Department determines  
10 that the prisoner was not eligible, then the award shall be  
11 revoked.

12 (4.5) The rules and regulations on early release shall  
13 also provide that when the court's sentencing order  
14 recommends a prisoner for substance abuse treatment and the  
15 crime was committed on or after September 1, 2003 (the  
16 effective date of Public Act 93-354), the prisoner shall  
17 receive no good conduct credit awarded under clause (3) of  
18 this subsection (a) unless he or she participates in and  
19 completes a substance abuse treatment program. The  
20 Director may waive the requirement to participate in or  
21 complete a substance abuse treatment program and award the  
22 good conduct credit in specific instances if the prisoner  
23 is not a good candidate for a substance abuse treatment  
24 program for medical, programming, or operational reasons.  
25 Availability of substance abuse treatment shall be subject  
26 to the limits of fiscal resources appropriated by the

1 General Assembly for these purposes. If treatment is not  
2 available and the requirement to participate and complete  
3 the treatment has not been waived by the Director, the  
4 prisoner shall be placed on a waiting list under criteria  
5 established by the Department. The Director may allow a  
6 prisoner placed on a waiting list to participate in and  
7 complete a substance abuse education class or attend  
8 substance abuse self-help meetings in lieu of a substance  
9 abuse treatment program. A prisoner on a waiting list who  
10 is not placed in a substance abuse program prior to release  
11 may be eligible for a waiver and receive good conduct  
12 credit under clause (3) of this subsection (a) at the  
13 discretion of the Director.

14 (4.6) Due to the importance of education on recidivism,  
15 the rules and regulations shall also provide that 90 days  
16 of early release from parole shall be awarded to any  
17 parolee who passes the high school level Test of General  
18 Educational Development (GED) while the parolee is on  
19 parole. The early release from parole awarded under this  
20 paragraph (4.6) shall be in addition to, and shall not be  
21 affected by, the award of good conduct under any other  
22 paragraph of this Section, but shall not be pursuant to the  
23 guidelines and restrictions set forth in paragraph (4) of  
24 this subsection (a). The early release from parole provided  
25 for in this paragraph shall be available only to parolees  
26 who have not yet previously earned a high school diploma or

1           a GED.

2           (5) Whenever the Department is to release any inmate  
3 earlier than it otherwise would because of a grant of good  
4 conduct credit for meritorious service given at any time  
5 during the term, the Department shall give reasonable  
6 advance notice of the impending release to the State's  
7 Attorney of the county where the prosecution of the inmate  
8 took place.

9           (b) Whenever a person is or has been committed under  
10 several convictions, with separate sentences, the sentences  
11 shall be construed under Section 5-8-4 in granting and  
12 forfeiting of good time.

13           (c) The Department shall prescribe rules and regulations  
14 for revoking good conduct credit, or suspending or reducing the  
15 rate of accumulation of good conduct credit for specific rule  
16 violations, during imprisonment. These rules and regulations  
17 shall provide that no inmate may be penalized more than one  
18 year of good conduct credit for any one infraction.

19           When the Department seeks to revoke, suspend or reduce the  
20 rate of accumulation of any good conduct credits for an alleged  
21 infraction of its rules, it shall bring charges therefor  
22 against the prisoner sought to be so deprived of good conduct  
23 credits before the Prisoner Review Board as provided in  
24 subparagraph (a)(4) of Section 3-3-2 of this Code, if the  
25 amount of credit at issue exceeds 30 days or when during any 12  
26 month period, the cumulative amount of credit revoked exceeds

1 30 days except where the infraction is committed or discovered  
2 within 60 days of scheduled release. In those cases, the  
3 Department of Corrections may revoke up to 30 days of good  
4 conduct credit. The Board may subsequently approve the  
5 revocation of additional good conduct credit, if the Department  
6 seeks to revoke good conduct credit in excess of 30 days.  
7 However, the Board shall not be empowered to review the  
8 Department's decision with respect to the loss of 30 days of  
9 good conduct credit within any calendar year for any prisoner  
10 or to increase any penalty beyond the length requested by the  
11 Department.

12 The Director of the Department of Corrections, in  
13 appropriate cases, may restore up to 30 days good conduct  
14 credits which have been revoked, suspended or reduced. Any  
15 restoration of good conduct credits in excess of 30 days shall  
16 be subject to review by the Prisoner Review Board. However, the  
17 Board may not restore good conduct credit in excess of the  
18 amount requested by the Director.

19 Nothing contained in this Section shall prohibit the  
20 Prisoner Review Board from ordering, pursuant to Section  
21 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the  
22 sentence imposed by the court that was not served due to the  
23 accumulation of good conduct credit.

24 (d) If a lawsuit is filed by a prisoner in an Illinois or  
25 federal court against the State, the Department of Corrections,  
26 or the Prisoner Review Board, or against any of their officers

1 or employees, and the court makes a specific finding that a  
2 pleading, motion, or other paper filed by the prisoner is  
3 frivolous, the Department of Corrections shall conduct a  
4 hearing to revoke up to 180 days of good conduct credit by  
5 bringing charges against the prisoner sought to be deprived of  
6 the good conduct credits before the Prisoner Review Board as  
7 provided in subparagraph (a) (8) of Section 3-3-2 of this Code.  
8 If the prisoner has not accumulated 180 days of good conduct  
9 credit at the time of the finding, then the Prisoner Review  
10 Board may revoke all good conduct credit accumulated by the  
11 prisoner.

12 For purposes of this subsection (d):

13 (1) "Frivolous" means that a pleading, motion, or other  
14 filing which purports to be a legal document filed by a  
15 prisoner in his or her lawsuit meets any or all of the  
16 following criteria:

17 (A) it lacks an arguable basis either in law or in  
18 fact;

19 (B) it is being presented for any improper purpose,  
20 such as to harass or to cause unnecessary delay or  
21 needless increase in the cost of litigation;

22 (C) the claims, defenses, and other legal  
23 contentions therein are not warranted by existing law  
24 or by a nonfrivolous argument for the extension,  
25 modification, or reversal of existing law or the  
26 establishment of new law;

1 (D) the allegations and other factual contentions  
2 do not have evidentiary support or, if specifically so  
3 identified, are not likely to have evidentiary support  
4 after a reasonable opportunity for further  
5 investigation or discovery; or

6 (E) the denials of factual contentions are not  
7 warranted on the evidence, or if specifically so  
8 identified, are not reasonably based on a lack of  
9 information or belief.

10 (2) "Lawsuit" means a petition for post-conviction  
11 relief under Article 122 of the Code of Criminal Procedure  
12 of 1963, a motion pursuant to Section 116-3 of the Code of  
13 Criminal Procedure of 1963, a habeas corpus action under  
14 Article X of the Code of Civil Procedure or under federal  
15 law (28 U.S.C. 2254), a petition for claim under the Court  
16 of Claims Act or an action under the federal Civil Rights  
17 Act (42 U.S.C. 1983).

18 (e) Nothing in Public Act 90-592 or 90-593 affects the  
19 validity of Public Act 89-404.

20 (Source: P.A. 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; 94-71,  
21 eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398,  
22 eff. 8-2-05; 94-491, eff. 8-8-05; 94-744, eff. 5-8-06.)

23 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

24 Sec. 5-5-3. Disposition.

25 (a) Except as provided in Section 11-501 of the Illinois

1 Vehicle Code, every person convicted of an offense shall be  
2 sentenced as provided in this Section.

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

7 (1) A period of probation.

8 (2) A term of periodic imprisonment.

9 (3) A term of conditional discharge.

10 (4) A term of imprisonment.

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

15 (6) A fine.

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

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

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

24 Neither a fine nor restitution shall be the sole  
25 disposition for a felony and either or both may be imposed only  
26 in conjunction with another disposition.

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

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

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

15 (B) Attempted first degree murder.

16 (C) A Class X felony.

17 (D) A violation of Section 401.1 or 407 of the  
18 Illinois Controlled Substances Act, or a violation of  
19 subdivision (c) (1) or (c) (2) of Section 401 of that Act  
20 which relates to more than 5 grams of a substance  
21 containing heroin or cocaine or an analog thereof.

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

24 (F) A Class 2 or greater felony if the offender had  
25 been convicted of a Class 2 or greater felony within 10  
26 years of the date on which the offender committed the



1 offense for which he or she is being sentenced, except  
2 as otherwise provided in Section 40-10 of the  
3 Alcoholism and Other Drug Abuse and Dependency Act.

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

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

10 (H) Criminal sexual assault.

11 (I) Aggravated battery of a senior citizen.

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

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

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

24 (K) Vehicular hijacking.

25 (L) A second or subsequent conviction for the  
26 offense of hate crime when the underlying offense upon

1           which the hate crime is based is felony aggravated  
2           assault or felony mob action.

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

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

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

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

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

16          (R) A violation of Section 24-3A of the Criminal  
17          Code of 1961.

18          (S) (Blank).

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

21          (3) (Blank).

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

26          (4.1) (Blank).

1           (4.2) Except as provided in paragraph (4.3) of this  
2 subsection (c), a minimum of 100 hours of community service  
3 shall be imposed for a second violation of Section 6-303 of  
4 the Illinois Vehicle Code.

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

9           (4.4) Except as provided in paragraph (4.5) and  
10 paragraph (4.6) of this subsection (c), a minimum term of  
11 imprisonment of 30 days or 300 hours of community service,  
12 as determined by the court, shall be imposed for a third or  
13 subsequent violation of Section 6-303 of the Illinois  
14 Vehicle Code.

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

18           (4.6) A minimum term of imprisonment of 180 days shall  
19 be imposed for a fourth or subsequent violation of  
20 subsection (c) of Section 6-303 of the Illinois Vehicle  
21 Code.

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

25                   (A) a period of conditional discharge;

26                   (B) a fine;

1 (C) make restitution to the victim under Section  
2 5-5-6 of this Code.

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

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

19 (5.3) In addition to any penalties imposed under  
20 paragraph (5) of this subsection (c), a person convicted of  
21 violating subsection (c) of Section 11-907 of the Illinois  
22 Vehicle Code shall have his or her driver's license,  
23 permit, or privileges suspended for 2 years, if the  
24 violation resulted in the death of another person.

25 (5.4) In addition to any penalties imposed under  
26 paragraph (5) of this subsection (c), a person convicted of

1           violating Section 3-707 of the Illinois Vehicle Code shall  
2           have his or her driver's license, permit, or privileges  
3           suspended for 3 months and until he or she has paid a  
4           reinstatement fee of \$100.

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

14          (6) In no case shall an offender be eligible for a  
15          disposition of probation or conditional discharge for a  
16          Class 1 felony committed while he was serving a term of  
17          probation or conditional discharge for a felony.

18          (7) When a defendant is adjudged a habitual criminal  
19          under Article 33B of the Criminal Code of 1961, the court  
20          shall sentence the defendant to a term of natural life  
21          imprisonment.

22          (8) When a defendant, over the age of 21 years, is  
23          convicted of a Class 1 or Class 2 felony, after having  
24          twice been convicted in any state or federal court of an  
25          offense that contains the same elements as an offense now  
26          classified in Illinois as a Class 2 or greater Class felony

1 and such charges are separately brought and tried and arise  
2 out of different series of acts, such defendant shall be  
3 sentenced as a Class X offender. This paragraph shall not  
4 apply unless (1) the first felony was committed after the  
5 effective date of this amendatory Act of 1977; and (2) the  
6 second felony was committed after conviction on the first;  
7 and (3) the third felony was committed after conviction on  
8 the second. A person sentenced as a Class X offender under  
9 this paragraph is not eligible to apply for treatment as a  
10 condition of probation as provided by Section 40-10 of the  
11 Alcoholism and Other Drug Abuse and Dependency Act.

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

15 (10) (Blank).

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

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

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

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

1 to a term within the range otherwise provided or, if the State  
2 files notice of its intention to again seek the extended  
3 sentence, the defendant shall be afforded a new trial.

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

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

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

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

17 (i) removal from the household;

18 (ii) restricted contact with the victim;

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

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

22 and

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

25 (2) the court orders the defendant to pay for the  
26 victim's counseling services, to the extent that the court



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

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

13 For the purposes of this Section, "family member" and  
14 "victim" shall have the meanings ascribed to them in Section  
15 12-12 of the Criminal Code of 1961.

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

20 (g) Whenever a defendant is convicted of an offense under  
21 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,  
22 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16  
23 of the Criminal Code of 1961, the defendant shall undergo  
24 medical testing to determine whether the defendant has any  
25 sexually transmissible disease, including a test for infection  
26 with human immunodeficiency virus (HIV) or any other identified

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

1 transmission of HIV under Section 12-16.2 of the Criminal Code  
2 of 1961 against the defendant. The court shall order that the  
3 cost of any such test shall be paid by the county and may be  
4 taxed as costs against 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 12-16.2 of  
14 the Criminal Code of 1961 against the defendant. The court  
15 shall order that the cost of any such test shall be paid by the  
16 county and may be taxed as costs against the convicted  
17 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 Section 27.5  
24 of the Clerks of Courts Act.

25 (j) In cases when prosecution for any violation of Section  
26 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,

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

24 (j-5) A defendant at least 17 years of age who is convicted  
25 of a felony ~~and who has not been previously convicted of a~~  
26 ~~misdemeanor or felony~~ and who is sentenced to a term of

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

1 successfully passed the GED test. This subsection (j-5) does  
2 not apply to a defendant who is determined by the court to be  
3 developmentally disabled or otherwise mentally incapable of  
4 completing the educational or vocational program.

5 (j-6) Subject to appropriation, a defendant at least 17  
6 years of age who has a high school diploma or who has passed  
7 the high school level Test of General Educational Development  
8 (GED) and who is convicted of a felony and who is sentenced to  
9 a term of imprisonment in the Illinois Department of  
10 Corrections shall be provided with an educational program that  
11 leads to the completion of an associate, baccalaureate, or  
12 higher degree as provided in subsection (d) of Section 3-6-2.

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

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

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

1           (2) the deportation of the defendant would not  
2           deprecate the seriousness of the defendant's conduct  
3           and would not be inconsistent with the ends of justice.  
4           Otherwise, the defendant shall be sentenced as  
5           provided in this Chapter V.

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

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

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

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

24          (D) Upon motion of the State's Attorney, if a defendant  
25          sentenced under this Section returns to the jurisdiction of  
26          the United States, the defendant shall be recommitted to



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

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

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

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

1 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,  
2 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,  
3 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,  
4 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,  
5 eff. 9-11-05; 94-993, eff. 1-1-07; 94-1035, eff. 7-1-07;  
6 revised 8-28-06.)".