



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4235

Introduced 2/27/2009, by Rep. Dennis M. Reboletti

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-3

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

730 ILCS 5/5-6-1

from Ch. 38, par. 1005-6-1

Amends the Unified Code of Corrections. Provides that a person charged with the offense of fleeing or attempting to elude a peace officer may not receive a disposition of supervision. Provides that a period of probation, a term of periodic imprisonment, or conditional discharge shall not be imposed for the offense of fleeing or attempting to elude a peace officer or for the offense of aggravated fleeing or attempting to elude a peace officer.

LRB096 02006 RLC 12017 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by
5 changing Sections 5-5-3 and 5-6-1 as follows:

6 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)
7 Sec. 5-5-3. Disposition.

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

11 (b) The following options shall be appropriate
12 dispositions, alone or in combination, for all felonies and
13 misdemeanors other than those identified in subsection (c) of
14 this Section:

15 (1) A period of probation.

16 (2) A term of periodic imprisonment.

17 (3) A term of conditional discharge.

18 (4) A term of imprisonment.

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22 (now repealed).

23 (6) A fine.

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

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

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

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

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

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

24 (A) First degree murder where the death penalty is
25 not imposed.

26 (B) Attempted first degree murder.

1 (C) A Class X felony.

2 (D) A violation of Section 401.1 or 407 of the
3 Illinois Controlled Substances Act, or a violation of
4 subdivision (c) (1), (c) (1.5), or (c) (2) of Section 401
5 of that Act which relates to more than 5 grams of a
6 substance containing heroin, cocaine, fentanyl, or an
7 analog thereof.

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

10 (F) A Class 2 or greater felony if the offender had
11 been convicted of a Class 2 or greater felony within 10
12 years of the date on which the offender committed the
13 offense for which he or she is being sentenced, except
14 as otherwise provided in Section 40-10 of the
15 Alcoholism and Other Drug Abuse and Dependency Act.

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

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

22 (H) Criminal sexual assault.

23 (I) Aggravated battery of a senior citizen.

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

26 Before July 1, 1994, for the purposes of this

1 paragraph, "organized gang" means an association of 5
2 or more persons, with an established hierarchy, that
3 encourages members of the association to perpetrate
4 crimes or provides support to the members of the
5 association who do commit crimes.

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

10 (K) Vehicular hijacking.

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

15 (M) A second or subsequent conviction for the
16 offense of institutional vandalism if the damage to the
17 property exceeds \$300.

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

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

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

26 (Q) A violation of Section 20-1.2 or 20-1.3 of the

1 Criminal Code of 1961.

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

4 (S) (Blank).

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

7 (U) A second or subsequent violation of Section
8 6-303 of the Illinois Vehicle Code committed while his
9 or her driver's license, permit, or privilege was
10 revoked because of a violation of Section 9-3 of the
11 Criminal Code of 1961, relating to the offense of
12 reckless homicide, or a similar provision of a law of
13 another state.

14 (V) A violation of paragraph (4) of subsection (c)
15 of Section 11-20.3 of the Criminal Code of 1961.

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

18 (X) A violation of Section 11-204 or 11-204.1 of
19 the Illinois Vehicle Code.

20 (3) (Blank).

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

25 (4.1) (Blank).

26 (4.2) Except as provided in paragraphs (4.3) and (4.8)

1 of this subsection (c), a minimum of 100 hours of community
2 service shall be imposed for a second violation of Section
3 6-303 of the Illinois Vehicle Code.

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

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

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

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

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

1 (4.8) A mandatory prison sentence shall be imposed for
2 a second violation of subsection (a-5) of Section 6-303 of
3 the Illinois Vehicle Code, as provided in subsection (c-5)
4 of that Section. The person's driving privileges shall be
5 revoked for a period of not less than 5 years from the date
6 of his or her release from prison.

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

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

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

23 (A) a period of conditional discharge;

24 (B) a fine;

25 (C) make restitution to the victim under Section
26 5-5-6 of this Code.

1 (5.1) In addition to any penalties imposed under
2 paragraph (5) of this subsection (c), and except as
3 provided in paragraph (5.2) or (5.3), a person convicted of
4 violating subsection (c) of Section 11-907 of the Illinois
5 Vehicle Code shall have his or her driver's license,
6 permit, or privileges suspended for at least 90 days but
7 not more than one year, if the violation resulted in damage
8 to the property of another person.

9 (5.2) In addition to any penalties imposed under
10 paragraph (5) of this subsection (c), and except as
11 provided in paragraph (5.3), a person convicted of
12 violating subsection (c) of Section 11-907 of the Illinois
13 Vehicle Code shall have his or her driver's license,
14 permit, or privileges suspended for at least 180 days but
15 not more than 2 years, if the violation resulted in injury
16 to another person.

17 (5.3) In addition to any penalties imposed under
18 paragraph (5) of this subsection (c), 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 2 years, if the
22 violation resulted in the death of another person.

23 (5.4) In addition to any penalties imposed under
24 paragraph (5) of this subsection (c), a person convicted of
25 violating Section 3-707 of the Illinois Vehicle Code shall
26 have his or her driver's license, permit, or privileges

1 suspended for 3 months and until he or she has paid a
2 reinstatement fee of \$100.

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

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

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

20 (8) When a defendant, over the age of 21 years, is
21 convicted of a Class 1 or Class 2 felony, after having
22 twice been convicted in any state or federal court of an
23 offense that contains the same elements as an offense now
24 classified in Illinois as a Class 2 or greater Class felony
25 and such charges are separately brought and tried and arise
26 out of different series of acts, such defendant shall be

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

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

13 (10) (Blank).

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

1 indoor or outdoor playing field or recreational area where
2 sports activities are conducted; and "coach" means a person
3 recognized as a coach by the sanctioning authority that
4 conducted the sporting event.

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

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

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

1 may impose any sentence which could have been imposed at the
2 original trial subject to Section 5-5-4 of the Unified Code of
3 Corrections. If a sentence is vacated on appeal or on
4 collateral attack due to the failure of the trier of fact at
5 trial to determine beyond a reasonable doubt the existence of a
6 fact (other than a prior conviction) necessary to increase the
7 punishment for the offense beyond the statutory maximum
8 otherwise applicable, either the defendant may be re-sentenced
9 to a term within the range otherwise provided or, if the State
10 files notice of its intention to again seek the extended
11 sentence, the defendant shall be afforded a new trial.

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

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

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

22 (B) the defendant is willing to participate in a
23 court approved plan including but not limited to the
24 defendant's:

25 (i) removal from the household;

26 (ii) restricted contact with the victim;

1 (iii) continued financial support of the
2 family;

3 (iv) restitution for harm done to the victim;
4 and

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

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

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

21 For the purposes of this Section, "family member" and
22 "victim" shall have the meanings ascribed to them in Section
23 12-12 of the Criminal Code of 1961.

24 (f) This Article shall not deprive a court in other
25 proceedings to order a forfeiture of property, to suspend or
26 cancel a license, to remove a person from office, or to impose

1 any other civil penalty.

2 (g) Whenever a defendant is convicted of an offense under
3 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
4 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
5 of the Criminal Code of 1961, the defendant shall undergo
6 medical testing to determine whether the defendant has any
7 sexually transmissible disease, including a test for infection
8 with human immunodeficiency virus (HIV) or any other identified
9 causative agent of acquired immunodeficiency syndrome (AIDS).
10 Any such medical test shall be performed only by appropriately
11 licensed medical practitioners and may include an analysis of
12 any bodily fluids as well as an examination of the defendant's
13 person. Except as otherwise provided by law, the results of
14 such test shall be kept strictly confidential by all medical
15 personnel involved in the testing and must be personally
16 delivered in a sealed envelope to the judge of the court in
17 which the conviction was entered for the judge's inspection in
18 camera. Acting in accordance with the best interests of the
19 victim and the public, the judge shall have the discretion to
20 determine to whom, if anyone, the results of the testing may be
21 revealed. The court shall notify the defendant of the test
22 results. The court shall also notify the victim if requested by
23 the victim, and if the victim is under the age of 15 and if
24 requested by the victim's parents or legal guardian, the court
25 shall notify the victim's parents or legal guardian of the test
26 results. The court shall provide information on the

1 availability of HIV testing and counseling at Department of
2 Public Health facilities to all parties to whom the results of
3 the testing are revealed and shall direct the State's Attorney
4 to provide the information to the victim when possible. A
5 State's Attorney may petition the court to obtain the results
6 of any HIV test administered under this Section, and the court
7 shall grant the disclosure if the State's Attorney shows it is
8 relevant in order to prosecute a charge of criminal
9 transmission of HIV under Section 12-16.2 of the Criminal Code
10 of 1961 against the defendant. The court shall order that the
11 cost of any such test shall be paid by the county and may be
12 taxed as costs against the convicted defendant.

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

23 (h) Whenever a defendant is convicted of an offense under
24 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
25 defendant shall undergo medical testing to determine whether
26 the defendant has been exposed to human immunodeficiency virus

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

26 (i) All fines and penalties imposed under this Section for

1 any violation of Chapters 3, 4, 6, and 11 of the Illinois
2 Vehicle Code, or a similar provision of a local ordinance, and
3 any violation of the Child Passenger Protection Act, or a
4 similar provision of a local ordinance, shall be collected and
5 disbursed by the circuit clerk as provided under Section 27.5
6 of the Clerks of Courts Act.

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

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

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

1 good faith effort to obtain financial aid or pay for the
2 educational training shall not be deemed a wilful failure to
3 comply. The Prisoner Review Board shall recommit the defendant
4 whose mandatory supervised release term has been revoked under
5 this subsection (j-5) as provided in Section 3-3-9. This
6 subsection (j-5) does not apply to a defendant who has a high
7 school diploma or has successfully passed the GED test. This
8 subsection (j-5) does not apply to a defendant who is
9 determined by the court to be developmentally disabled or
10 otherwise mentally incapable of completing the educational or
11 vocational program.

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

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

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

26 (2) the deportation of the defendant would not

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

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

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

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

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

23 (D) Upon motion of the State's Attorney, if a defendant
24 sentenced under this Section returns to the jurisdiction of
25 the United States, the defendant shall be recommitted to
26 the custody of the county from which he or she was

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

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

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

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

26 (Source: P.A. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993,

1 eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07;
2 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff.
3 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff.
4 1-1-09.)

5 (730 ILCS 5/5-6-1) (from Ch. 38, par. 1005-6-1)

6 Sec. 5-6-1. Sentences of Probation and of Conditional
7 Discharge and Disposition of Supervision. The General Assembly
8 finds that in order to protect the public, the criminal justice
9 system must compel compliance with the conditions of probation
10 by responding to violations with swift, certain and fair
11 punishments and intermediate sanctions. The Chief Judge of each
12 circuit shall adopt a system of structured, intermediate
13 sanctions for violations of the terms and conditions of a
14 sentence of probation, conditional discharge or disposition of
15 supervision.

16 (a) Except where specifically prohibited by other
17 provisions of this Code, the court shall impose a sentence of
18 probation or conditional discharge upon an offender unless,
19 having regard to the nature and circumstance of the offense,
20 and to the history, character and condition of the offender,
21 the court is of the opinion that:

22 (1) his imprisonment or periodic imprisonment is
23 necessary for the protection of the public; or

24 (2) probation or conditional discharge would deprecate
25 the seriousness of the offender's conduct and would be

1 inconsistent with the ends of justice; or

2 (3) a combination of imprisonment with concurrent or
3 consecutive probation when an offender has been admitted
4 into a drug court program under Section 20 of the Drug
5 Court Treatment Act is necessary for the protection of the
6 public and for the rehabilitation of the offender.

7 The court shall impose as a condition of a sentence of
8 probation, conditional discharge, or supervision, that the
9 probation agency may invoke any sanction from the list of
10 intermediate sanctions adopted by the chief judge of the
11 circuit court for violations of the terms and conditions of the
12 sentence of probation, conditional discharge, or supervision,
13 subject to the provisions of Section 5-6-4 of this Act.

14 (b) The court may impose a sentence of conditional
15 discharge for an offense if the court is of the opinion that
16 neither a sentence of imprisonment nor of periodic imprisonment
17 nor of probation supervision is appropriate.

18 (b-1) Subsections (a) and (b) of this Section do not apply
19 to a defendant charged with a misdemeanor or felony under the
20 Illinois Vehicle Code or reckless homicide under Section 9-3 of
21 the Criminal Code of 1961 if the defendant within the past 12
22 months has been convicted of or pleaded guilty to a misdemeanor
23 or felony under the Illinois Vehicle Code or reckless homicide
24 under Section 9-3 of the Criminal Code of 1961.

25 (c) The court may, upon a plea of guilty or a stipulation
26 by the defendant of the facts supporting the charge or a

1 finding of guilt, defer further proceedings and the imposition
2 of a sentence, and enter an order for supervision of the
3 defendant, if the defendant is not charged with: (i) a Class A
4 misdemeanor, as defined by the following provisions of the
5 Criminal Code of 1961: Sections 11-9.1; 12-3.2; 12-15; 26-5;
6 31-1; 31-6; 31-7; subsections (b) and (c) of Section 21-1;
7 paragraph (1) through (5), (8), (10), and (11) of subsection
8 (a) of Section 24-1; (ii) a Class A misdemeanor violation of
9 Section 3.01, 3.03-1, or 4.01 of the Humane Care for Animals
10 Act; ~~or~~ (iii) a Class A misdemeanor violation of Section 11-204
11 of the Illinois Vehicle Code; or (iv) a felony. If the
12 defendant is not barred from receiving an order for supervision
13 as provided in this subsection, the court may enter an order
14 for supervision after considering the circumstances of the
15 offense, and the history, character and condition of the
16 offender, if the court is of the opinion that:

17 (1) the offender is not likely to commit further
18 crimes;

19 (2) the defendant and the public would be best served
20 if the defendant were not to receive a criminal record; and

21 (3) in the best interests of justice an order of
22 supervision is more appropriate than a sentence otherwise
23 permitted under this Code.

24 (c-5) Subsections (a), (b), and (c) of this Section do not
25 apply to a defendant charged with a second or subsequent
26 violation of Section 6-303 of the Illinois Vehicle Code

1 committed while his or her driver's license, permit or
2 privileges were revoked because of a violation of Section 9-3
3 of the Criminal Code of 1961, relating to the offense of
4 reckless homicide, or a similar provision of a law of another
5 state.

6 (d) The provisions of paragraph (c) shall not apply to a
7 defendant charged with violating Section 11-501 of the Illinois
8 Vehicle Code or a similar provision of a local ordinance when
9 the defendant has previously been:

10 (1) convicted for a violation of Section 11-501 of the
11 Illinois Vehicle Code or a similar provision of a local
12 ordinance or any similar law or ordinance of another state;
13 or

14 (2) assigned supervision for a violation of Section
15 11-501 of the Illinois Vehicle Code or a similar provision
16 of a local ordinance or any similar law or ordinance of
17 another state; or

18 (3) pleaded guilty to or stipulated to the facts
19 supporting a charge or a finding of guilty to a violation
20 of Section 11-503 of the Illinois Vehicle Code or a similar
21 provision of a local ordinance or any similar law or
22 ordinance of another state, and the plea or stipulation was
23 the result of a plea agreement.

24 The court shall consider the statement of the prosecuting
25 authority with regard to the standards set forth in this
26 Section.

1 (e) The provisions of paragraph (c) shall not apply to a
2 defendant charged with violating Section 16A-3 of the Criminal
3 Code of 1961 if said defendant has within the last 5 years
4 been:

5 (1) convicted for a violation of Section 16A-3 of the
6 Criminal Code of 1961; or

7 (2) assigned supervision for a violation of Section
8 16A-3 of the Criminal Code of 1961.

9 The court shall consider the statement of the prosecuting
10 authority with regard to the standards set forth in this
11 Section.

12 (f) The provisions of paragraph (c) shall not apply to a
13 defendant charged with violating Sections 15-111, 15-112,
14 15-301, paragraph (b) of Section 6-104, Section 11-605, Section
15 11-1002.5, or Section 11-1414 of the Illinois Vehicle Code or a
16 similar provision of a local ordinance.

17 (g) Except as otherwise provided in paragraph (i) of this
18 Section, the provisions of paragraph (c) shall not apply to a
19 defendant charged with violating Section 3-707, 3-708, 3-710,
20 or 5-401.3 of the Illinois Vehicle Code or a similar provision
21 of a local ordinance if the defendant has within the last 5
22 years been:

23 (1) convicted for a violation of Section 3-707, 3-708,
24 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar
25 provision of a local ordinance; or

26 (2) assigned supervision for a violation of Section

1 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle
2 Code or a similar provision of a local ordinance.

3 The court shall consider the statement of the prosecuting
4 authority with regard to the standards set forth in this
5 Section.

6 (h) The provisions of paragraph (c) shall not apply to a
7 defendant under the age of 21 years charged with violating a
8 serious traffic offense as defined in Section 1-187.001 of the
9 Illinois Vehicle Code:

10 (1) unless the defendant, upon payment of the fines,
11 penalties, and costs provided by law, agrees to attend and
12 successfully complete a traffic safety program approved by
13 the court under standards set by the Conference of Chief
14 Circuit Judges. The accused shall be responsible for
15 payment of any traffic safety program fees. If the accused
16 fails to file a certificate of successful completion on or
17 before the termination date of the supervision order, the
18 supervision shall be summarily revoked and conviction
19 entered. The provisions of Supreme Court Rule 402 relating
20 to pleas of guilty do not apply in cases when a defendant
21 enters a guilty plea under this provision; or

22 (2) if the defendant has previously been sentenced
23 under the provisions of paragraph (c) on or after January
24 1, 1998 for any serious traffic offense as defined in
25 Section 1-187.001 of the Illinois Vehicle Code.

26 (h-1) The provisions of paragraph (c) shall not apply to a

1 defendant under the age of 21 years charged with an offense
2 against traffic regulations governing the movement of vehicles
3 or any violation of Section 6-107 or Section 12-603.1 of the
4 Illinois Vehicle Code, unless the defendant, upon payment of
5 the fines, penalties, and costs provided by law, agrees to
6 attend and successfully complete a traffic safety program
7 approved by the court under standards set by the Conference of
8 Chief Circuit Judges. The accused shall be responsible for
9 payment of any traffic safety program fees. If the accused
10 fails to file a certificate of successful completion on or
11 before the termination date of the supervision order, the
12 supervision shall be summarily revoked and conviction entered.
13 The provisions of Supreme Court Rule 402 relating to pleas of
14 guilty do not apply in cases when a defendant enters a guilty
15 plea under this provision.

16 (i) The provisions of paragraph (c) shall not apply to a
17 defendant charged with violating Section 3-707 of the Illinois
18 Vehicle Code or a similar provision of a local ordinance if the
19 defendant has been assigned supervision for a violation of
20 Section 3-707 of the Illinois Vehicle Code or a similar
21 provision of a local ordinance.

22 (j) The provisions of paragraph (c) shall not apply to a
23 defendant charged with violating Section 6-303 of the Illinois
24 Vehicle Code or a similar provision of a local ordinance when
25 the revocation or suspension was for a violation of Section
26 11-501 or a similar provision of a local ordinance or a

1 violation of Section 11-501.1 or paragraph (b) of Section
2 11-401 of the Illinois Vehicle Code if the defendant has within
3 the last 10 years been:

4 (1) convicted for a violation of Section 6-303 of the
5 Illinois Vehicle Code or a similar provision of a local
6 ordinance; or

7 (2) assigned supervision for a violation of Section
8 6-303 of the Illinois Vehicle Code or a similar provision
9 of a local ordinance.

10 (k) The provisions of paragraph (c) shall not apply to a
11 defendant charged with violating any provision of the Illinois
12 Vehicle Code or a similar provision of a local ordinance that
13 governs the movement of vehicles if, within the 12 months
14 preceding the date of the defendant's arrest, the defendant has
15 been assigned court supervision on 2 occasions for a violation
16 that governs the movement of vehicles under the Illinois
17 Vehicle Code or a similar provision of a local ordinance.

18 (l) A defendant charged with violating any provision of the
19 Illinois Vehicle Code or a similar provision of a local
20 ordinance who, after a court appearance in the same matter,
21 receives a disposition of supervision under subsection (c)
22 shall pay an additional fee of \$20, to be collected as provided
23 in Sections 27.5 and 27.6 of the Clerks of Courts Act. In
24 addition to the \$20 fee, the person shall also pay a fee of \$5,
25 which, if not waived by the court, shall be collected as
26 provided in Sections 27.5 and 27.6 of the Clerks of Courts Act.

1 The \$20 fee shall be disbursed as provided in Section 16-104c
2 of the Illinois Vehicle Code. If the \$5 fee is collected, \$4.50
3 of the fee shall be deposited into the Circuit Court Clerk
4 Operation and Administrative Fund created by the Clerk of the
5 Circuit Court and 50 cents of the fee shall be deposited into
6 the Prisoner Review Board Vehicle and Equipment Fund in the
7 State treasury.

8 (m) Any person convicted of or pleading guilty to a serious
9 traffic violation, as defined in Section 1-187.001 of the
10 Illinois Vehicle Code, shall pay an additional fee of \$20, to
11 be disbursed as provided in Section 16-104d of that Code.

12 This subsection (m) becomes inoperative 7 years after
13 October 13, 2007 (the effective date of Public Act 95-154).

14 (n) The provisions of paragraph (c) shall not apply to any
15 person under the age of 18 who commits an offense against
16 traffic regulations governing the movement of vehicles or any
17 violation of Section 6-107 or Section 12-603.1 of the Illinois
18 Vehicle Code, except upon personal appearance of the defendant
19 in court and upon the written consent of the defendant's parent
20 or legal guardian, executed before the presiding judge. The
21 presiding judge shall have the authority to waive this
22 requirement upon the showing of good cause by the defendant.

23 (o) The provisions of paragraph (c) shall not apply to a
24 defendant charged with violating Section 6-303 of the Illinois
25 Vehicle Code or a similar provision of a local ordinance when
26 the suspension was for a violation of Section 11-501.1 of the

1 Illinois Vehicle Code and when:

2 (1) at the time of the violation of Section 11-501.1 of
3 the Illinois Vehicle Code, the defendant was a first
4 offender pursuant to Section 11-500 of the Illinois Vehicle
5 Code and the defendant failed to obtain a monitoring device
6 driving permit; or

7 (2) at the time of the violation of Section 11-501.1 of
8 the Illinois Vehicle Code, the defendant was a first
9 offender pursuant to Section 11-500 of the Illinois Vehicle
10 Code, had subsequently obtained a monitoring device
11 driving permit, but was driving a vehicle not equipped with
12 a breath alcohol ignition interlock device as defined in
13 Section 1-129.1 of the Illinois Vehicle Code.

14 (Source: P.A. 94-169, eff. 1-1-06; 94-330, eff. 1-1-06; 94-375,
15 eff. 1-1-06; 94-1009, eff. 1-1-07; 95-154, eff. 10-13-07;
16 95-302, eff. 1-1-08; 95-310, eff. 1-1-08; 95-377, eff. 1-1-08;
17 95-400, eff. 1-1-09; 95-428, 8-24-07; 95-876, eff. 8-21-08.)