



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB4637**

Introduced 2/1/2012, by Rep. Emily McAsey

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.2  
730 ILCS 5/5-5-3

from Ch. 38, par. 12-3.2  
from Ch. 38, par. 1005-5-3

Amends the Criminal Code of 1961. Provides that domestic battery is a Class 4 felony if the defendant has one or 2 prior convictions under the Code for domestic battery. Provides that domestic battery is a Class 3 felony if the defendant had 3 prior convictions under the Code for domestic battery. Provides that domestic battery is a Class 2 felony if the defendant had 4 or more prior convictions under the Code for domestic battery. Amends the Unified Code of Corrections. Provides that a period of probation, a term of periodic imprisonment, or conditional discharge shall not be imposed upon an offender who has 4 or more prior convictions for domestic battery.

LRB097 17331 RLC 62532 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 12-3.2 as follows:

6 (720 ILCS 5/12-3.2) (from Ch. 38, par. 12-3.2)

7 Sec. 12-3.2. Domestic battery.

8 (a) A person commits domestic battery if he or she  
9 knowingly without legal justification by any means:

10 (1) Causes bodily harm to any family or household  
11 member;

12 (2) Makes physical contact of an insulting or provoking  
13 nature with any family or household member.

14 (b) Sentence. Domestic battery is a Class A misdemeanor.  
15 Domestic battery is a Class 4 felony if the defendant has any  
16 prior conviction under this Code for ~~domestic battery (Section~~  
17 ~~12-3.2)~~ or violation of an order of protection (Section 12-3.4  
18 or 12-30), or any prior conviction under the law of another  
19 jurisdiction for an offense which is substantially similar.  
20 Domestic battery is a Class 4 felony if the defendant has any  
21 prior conviction under this Code for first degree murder  
22 (Section 9-1), attempt to commit first degree murder (Section  
23 8-4), aggravated domestic battery (Section 12-3.3), aggravated

1 battery (Section 12-3.05 or 12-4), heinous battery (Section  
2 12-4.1), aggravated battery with a firearm (Section 12-4.2),  
3 aggravated battery with a machine gun or a firearm equipped  
4 with a silencer (Section 12-4.2-5), aggravated battery of a  
5 child (Section 12-4.3), aggravated battery of an unborn child  
6 (subsection (a-5) of Section 12-3.1, or Section 12-4.4),  
7 aggravated battery of a senior citizen (Section 12-4.6),  
8 stalking (Section 12-7.3), aggravated stalking (Section  
9 12-7.4), criminal sexual assault (Section 11-1.20 or 12-13),  
10 aggravated criminal sexual assault (Section 11-1.30 or 12-14),  
11 kidnapping (Section 10-1), aggravated kidnapping (Section  
12 10-2), predatory criminal sexual assault of a child (Section  
13 11-1.40 or 12-14.1), aggravated criminal sexual abuse (Section  
14 11-1.60 or 12-16), unlawful restraint (Section 10-3),  
15 aggravated unlawful restraint (Section 10-3.1), aggravated  
16 arson (Section 20-1.1), or aggravated discharge of a firearm  
17 (Section 24-1.2), or any prior conviction under the law of  
18 another jurisdiction for any offense that is substantially  
19 similar to the offenses listed in this Section, when any of  
20 these offenses have been committed against a family or  
21 household member. Domestic battery is a Class 4 felony if the  
22 defendant has one or 2 prior convictions under this Code for  
23 domestic battery (Section 12-3.2). Domestic battery is a Class  
24 3 felony if the defendant had 3 prior convictions under this  
25 Code for domestic battery (Section 12-3.2). Domestic battery is  
26 a Class 2 felony if the defendant had 4 or more prior

1 convictions under this Code for domestic battery (Section  
2 12-3.2). In addition to any other sentencing alternatives, for  
3 any second or subsequent conviction of violating this Section,  
4 the offender shall be mandatorily sentenced to a minimum of 72  
5 consecutive hours of imprisonment. The imprisonment shall not  
6 be subject to suspension, nor shall the person be eligible for  
7 probation in order to reduce the sentence.

8 (c) Domestic battery committed in the presence of a child.  
9 In addition to any other sentencing alternatives, a defendant  
10 who commits, in the presence of a child, a felony domestic  
11 battery (enhanced under subsection (b)), aggravated domestic  
12 battery (Section 12-3.3), aggravated battery (Section 12-3.05  
13 or 12-4), unlawful restraint (Section 10-3), or aggravated  
14 unlawful restraint (Section 10-3.1) against a family or  
15 household member shall be required to serve a mandatory minimum  
16 imprisonment of 10 days or perform 300 hours of community  
17 service, or both. The defendant shall further be liable for the  
18 cost of any counseling required for the child at the discretion  
19 of the court in accordance with subsection (b) of Section 5-5-6  
20 of the Unified Code of Corrections. For purposes of this  
21 Section, "child" means a person under 18 years of age who is  
22 the defendant's or victim's child or step-child or who is a  
23 minor child residing within or visiting the household of the  
24 defendant or victim.

25 (d) Upon conviction of domestic battery, the court shall  
26 advise the defendant orally or in writing, substantially as

1 follows: "An individual convicted of domestic battery may be  
2 subject to federal criminal penalties for possessing,  
3 transporting, shipping, or receiving any firearm or ammunition  
4 in violation of the federal Gun Control Act of 1968 (18 U.S.C.  
5 922(g) (8) and (9))." A notation shall be made in the court file  
6 that the admonition was given.

7 (Source: P.A. 96-287, eff. 8-11-09; 96-1551, Article 1, Section  
8 5, eff. 7-1-11; 96-1551, Article 2, Section 1035, eff. 7-1-11;  
9 revised 9-30-11.)

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

12 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

13 Sec. 5-5-3. Disposition.

14 (a) (Blank).

15 (b) (Blank).

16 (c) (1) (Blank).

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

1 not imposed.

2 (B) Attempted first degree murder.

3 (C) A Class X felony.

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

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

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

24 (F-5) A violation of Section 24-1, 24-1.1, or  
25 24-1.6 of the Criminal Code of 1961 for which  
26 imprisonment is prescribed in those Sections.

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

4 (H) Criminal sexual assault.

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

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

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

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

20 (K) Vehicular hijacking.

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

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

1 property exceeds \$300.

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

5 (O) A violation of Section 12-6.1 or 12-6.5 of the  
6 Criminal Code of 1961.

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

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

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

14 (S) (Blank).

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

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

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



1 (W) A violation of Section 24-3.5 of the Criminal  
2 Code of 1961.

3 (X) A violation of subsection (a) of Section 31-1a  
4 of the Criminal Code of 1961.

5 (Y) A conviction for unlawful possession of a  
6 firearm by a street gang member when the firearm was  
7 loaded or contained firearm ammunition.

8 (Z) A Class 1 felony committed while he or she was  
9 serving a term of probation or conditional discharge  
10 for a felony.

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

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

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

19 (DD) A conviction for aggravated assault under  
20 paragraph (6) of subsection (c) of Section 12-2 of the  
21 Criminal Code of 1961 if the firearm is aimed toward  
22 the person against whom the firearm is being used.

23 (EE) Four or more prior convictions for domestic  
24 battery under Section 12-3.2 of the Criminal Code of  
25 1961.

26 (3) (Blank).

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

5           (4.1) (Blank).

6           (4.2) Except as provided in paragraphs (4.3) and (4.8)  
7 of this subsection (c), a minimum of 100 hours of community  
8 service shall be imposed for a second violation of Section  
9 6-303 of the Illinois Vehicle Code.

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

14          (4.4) Except as provided in paragraphs (4.5), (4.6),  
15 and (4.9) of this subsection (c), a minimum term of  
16 imprisonment of 30 days or 300 hours of community service,  
17 as determined by the court, shall be imposed for a third or  
18 subsequent violation of Section 6-303 of the Illinois  
19 Vehicle Code.

20          (4.5) A minimum term of imprisonment of 30 days shall  
21 be imposed for a third violation of subsection (c) of  
22 Section 6-303 of the Illinois Vehicle Code.

23          (4.6) Except as provided in paragraph (4.10) of this  
24 subsection (c), a minimum term of imprisonment of 180 days  
25 shall be imposed for a fourth or subsequent violation of  
26 subsection (c) of Section 6-303 of the Illinois Vehicle

1 Code.

2 (4.7) A minimum term of imprisonment of not less than  
3 30 consecutive days, or 300 hours of community service,  
4 shall be imposed for a violation of subsection (a-5) of  
5 Section 6-303 of the Illinois Vehicle Code, as provided in  
6 subsection (b-5) of that Section.

7 (4.8) A mandatory prison sentence shall be imposed for  
8 a second violation of subsection (a-5) of Section 6-303 of  
9 the Illinois Vehicle Code, as provided in subsection (c-5)  
10 of that Section. The person's driving privileges shall be  
11 revoked for a period of not less than 5 years from the date  
12 of his or her release from prison.

13 (4.9) A mandatory prison sentence of not less than 4  
14 and not more than 15 years shall be imposed for a third  
15 violation of subsection (a-5) of Section 6-303 of the  
16 Illinois Vehicle Code, as provided in subsection (d-2.5) of  
17 that Section. The person's driving privileges shall be  
18 revoked for the remainder of his or her life.

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

26 (5) The court may sentence a corporation or

1 unincorporated association convicted of any offense to:

2 (A) a period of conditional discharge;

3 (B) a fine;

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

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

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

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

26 (5.4) In addition to any other penalties imposed, a

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

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

14 (6) (Blank).

15 (7) (Blank).

16 (8) (Blank).

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

20 (10) (Blank).

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

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

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

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

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

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

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

26                         (A) the defendant is willing to undergo a court

1 approved counseling program for a minimum duration of 2  
2 years; or

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

6 (i) removal from the household;

7 (ii) restricted contact with the victim;

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

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

11 and

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

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

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



1 impose a term of imprisonment.

2 For the purposes of this Section, "family member" and  
3 "victim" shall have the meanings ascribed to them in Section  
4 11-0.1 of the Criminal Code of 1961.

5 (f) (Blank).

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

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

20 (g-5) When an inmate is tested for an airborne communicable  
21 disease, as determined by the Illinois Department of Public  
22 Health including but not limited to tuberculosis, the results  
23 of the test shall be personally delivered by the warden or his  
24 or her designee in a sealed envelope to the judge of the court  
25 in which the inmate must appear for the judge's inspection in  
26 camera if requested by the judge. Acting in accordance with the

1 best interests of those in the courtroom, the judge shall have  
2 the discretion to determine what if any precautions need to be  
3 taken to prevent transmission of the disease in the courtroom.

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

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

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

14 (j) In cases when prosecution for any violation of Section  
15 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,  
16 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,  
17 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
18 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,  
19 12-15, or 12-16 of the Criminal Code of 1961, any violation of  
20 the Illinois Controlled Substances Act, any violation of the  
21 Cannabis Control Act, or any violation of the Methamphetamine  
22 Control and Community Protection Act results in conviction, a  
23 disposition of court supervision, or an order of probation  
24 granted under Section 10 of the Cannabis Control Act, Section  
25 410 of the Illinois Controlled Substance Act, or Section 70 of  
26 the Methamphetamine Control and Community Protection Act of a

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

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

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

21 (k) (Blank).

22 (l) (A) Except as provided in paragraph (C) of subsection  
23 (l), whenever a defendant, who is an alien as defined by  
24 the Immigration and Nationality Act, is convicted of any  
25 felony or misdemeanor offense, the court after sentencing  
26 the defendant may, upon motion of the State's Attorney,

1 hold sentence in abeyance and remand the defendant to the  
2 custody of the Attorney General of the United States or his  
3 or her designated agent to be deported when:

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

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

10 Otherwise, the defendant shall be sentenced as  
11 provided in this Chapter V.

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

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

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

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

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

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

20 (n) The court may sentence a person convicted of a  
21 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or  
22 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code  
23 of 1961 (i) to an impact incarceration program if the person is  
24 otherwise eligible for that program under Section 5-8-1.1, (ii)  
25 to community service, or (iii) if the person is an addict or  
26 alcoholic, as defined in the Alcoholism and Other Drug Abuse



1 and Dependency Act, to a substance or alcohol abuse program  
2 licensed under that Act.

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

8 (Source: P.A. 96-348, eff. 8-12-09; 96-400, eff. 8-13-09;  
9 96-829, eff. 12-3-09; 96-1200, eff. 7-22-10; 96-1551, Article  
10 1, Section 970, eff. 7-1-11; 96-1551, Article 2, Section 1065,  
11 eff. 7-1-11; 96-1551, Article 10, Section 10-150, eff. 7-1-11;  
12 97-159, eff. 7-21-11; revised 9-14-11.)