

1 AN ACT in relation to criminal law.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Section 5-750 as follows:

6 (705 ILCS 405/5-750)

7 Sec. 5-750. Commitment to the Department of Corrections,
8 Juvenile Division.

9 (1) Except as provided in subsection (2) of this
10 Section, when any delinquent has been adjudged a ward of the
11 court under this Act, the court may commit him or her to the
12 Department of Corrections, Juvenile Division, if it finds
13 that (a) his or her parents, guardian or legal custodian are
14 unfit or are unable, for some reason other than financial
15 circumstances alone, to care for, protect, train or
16 discipline the minor, or are unwilling to do so, and the best
17 interests of the minor and the public will not be served by
18 placement under Section 5-740 or; (b) it is necessary to
19 ensure the protection of the public from the consequences of
20 criminal activity of the delinquent.

21 (2) When a minor of the age of at least 13 years is
22 adjudged delinquent for the offense of first degree murder,
23 the court shall declare the minor a ward of the court and
24 order the minor committed to the Department of Corrections,
25 Juvenile Division, until the minor's 21st birthday, without
26 the possibility of parole, furlough, or non-emergency
27 authorized absence for a period of 5 years from the date the
28 minor was committed to the Department of Corrections, except
29 that the time that a minor spent in custody for the instant
30 offense before being committed to the Department shall be
31 considered as time credited towards that 5 year period.

1 Nothing in this subsection (2) shall preclude the State's
2 Attorney from seeking to prosecute a minor as an adult as an
3 alternative to proceeding under this Act.

4 (3) Except as provided in subsection (2), the commitment
5 of a delinquent to the Department of Corrections shall be for
6 an indeterminate term which shall automatically terminate
7 upon the delinquent attaining the age of 21 years unless the
8 delinquent is sooner discharged from parole or custodianship
9 is otherwise terminated in accordance with this Act or as
10 otherwise provided for by law.

11 (4) When the court commits a minor to the Department of
12 Corrections, it shall order him or her conveyed forthwith to
13 the appropriate reception station or other place designated
14 by the Department of Corrections, and shall appoint the
15 Assistant Director of Corrections, Juvenile Division, legal
16 custodian of the minor. The clerk of the court shall issue
17 to the Assistant Director of Corrections, Juvenile Division,
18 a certified copy of the order, which constitutes proof of the
19 Director's authority. No other process need issue to warrant
20 the keeping of the minor.

21 (5) If a minor is committed to the Department of
22 Corrections, Juvenile Division, the clerk of the court shall
23 forward to the Department:

- 24 (a) the disposition ordered;
- 25 (b) all reports;
- 26 (c) the court's statement of the basis for ordering
27 the disposition; and
- 28 (d) all additional matters which the court directs
29 the clerk to transmit.

30 (6) Whenever the Department of Corrections lawfully
31 discharges from its custody and control a minor committed to
32 it, the Assistant Director of Corrections, Juvenile Division,
33 shall petition the court for an order terminating his or her
34 custodianship. The custodianship shall terminate

1 automatically 30 days after receipt of the petition unless
2 the court orders otherwise.

3 (7) The provisions of subsections (j), (k), and (l) of
4 Section 3-6-2 and the provisions of subsections (d-4) and
5 (d-5) of Section 3-14-1 of the Unified Code of Corrections
6 apply to minors committed to the Department of Corrections,
7 Juvenile Division.

8 (Source: P.A. 90-590, eff. 1-1-99.)

9 Section 10. The Unified Code of Corrections is amended
10 by changing Sections 3-6-2, 3-14-1, and 5-5-3 as follows:

11 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

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

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

20 (b) The chief administrative officer shall have such
21 assistants as the Department may assign.

22 (c) The Director or Assistant Director shall have the
23 emergency powers to temporarily transfer individuals without
24 formal procedures to any State, county, municipal or regional
25 correctional or detention institution or facility in the
26 State, subject to the acceptance of such receiving
27 institution or facility, or to designate any reasonably
28 secure place in the State as such an institution or facility
29 and to make transfers thereto. However, transfers made under
30 emergency powers shall be reviewed as soon as practicable
31 under Article 8, and shall be subject to Section 5-905 of the
32 Juvenile Court Act of 1987. This Section shall not apply to

1 transfers to the Department of Human Services which are
2 provided for under Section 3-8-5 or Section 3-10-5.

3 (d) The Department shall provide educational programs
4 for all committed persons so that all persons have an
5 opportunity to attain the achievement level equivalent to the
6 completion of the twelfth grade in the public school system
7 in this State. Other higher levels of attainment shall be
8 encouraged and professional instruction shall be maintained
9 wherever possible. The Department may establish programs of
10 mandatory education and may establish rules and regulations
11 for the administration of such programs. A person committed
12 to the Department who, during the period of his or her
13 incarceration, participates in an educational program
14 provided by or through the Department and through that
15 program is awarded or earns the number of hours of credit
16 required for the award of an associate, baccalaureate, or
17 higher degree from a community college, college, or
18 university located in Illinois shall reimburse the State,
19 through the Department, for the costs incurred by the State
20 in providing that person during his or her incarceration with
21 the education that qualifies him or her for the award of that
22 degree. The costs for which reimbursement is required under
23 this subsection shall be determined and computed by the
24 Department under rules and regulations that it shall
25 establish for that purpose. However, interest at the rate of
26 6% per annum shall be charged on the balance of those costs
27 from time to time remaining unpaid, from the date of the
28 person's parole, mandatory supervised release, or release
29 constituting a final termination of his or her commitment to
30 the Department until paid.

31 (e) A person committed to the Department who becomes in
32 need of medical or surgical treatment but is incapable of
33 giving consent thereto shall receive such medical or surgical
34 treatment by the chief administrative officer consenting on

1 the person's behalf. Before the chief administrative officer
2 consents, he or she shall obtain the advice of one or more
3 physicians licensed to practice medicine in all its branches
4 in this State. If such physician or physicians advise:

5 (1) that immediate medical or surgical treatment is
6 required relative to a condition threatening to cause
7 death, damage or impairment to bodily functions, or
8 disfigurement; and

9 (2) that the person is not capable of giving
10 consent to such treatment; the chief administrative
11 officer may give consent for such medical or surgical
12 treatment, and such consent shall be deemed to be the
13 consent of the person for all purposes, including, but
14 not limited to, the authority of a physician to give such
15 treatment.

16 (f) In the event that the person requires medical care
17 and treatment at a place other than the institution or
18 facility, the person may be removed therefrom under
19 conditions prescribed by the Department. The Department shall
20 require the committed person receiving medical or dental
21 services on a non-emergency basis to pay a \$2 co-payment to
22 the Department for each visit for medical or dental services.
23 The amount of each co-payment shall be deducted from the
24 committed person's individual account. A committed person who
25 has a chronic illness, as defined by Department rules and
26 regulations, shall be exempt from the \$2 co-payment for
27 treatment of the chronic illness. A committed person shall
28 not be subject to a \$2 co-payment for follow-up visits
29 ordered by a physician, who is employed by, or contracts
30 with, the Department. A committed person who is indigent is
31 exempt from the \$2 co-payment and is entitled to receive
32 medical or dental services on the same basis as a committed
33 person who is financially able to afford the co-payment.
34 Notwithstanding any other provision in this subsection (f) to

1 the contrary, any person committed to any facility operated
2 by the Juvenile Division, as set forth in subsection (b) of
3 Section 3-2-5 of this Code, is exempt from the co-payment
4 requirement for the duration of confinement in those
5 facilities.

6 (g) Any person having sole custody of a child at the
7 time of commitment or any woman giving birth to a child after
8 her commitment, may arrange through the Department of
9 Children and Family Services for suitable placement of the
10 child outside of the Department of Corrections. The Director
11 of the Department of Corrections may determine that there are
12 special reasons why the child should continue in the custody
13 of the mother until the child is 6 years old.

14 (h) The Department may provide Family Responsibility
15 Services which may consist of, but not be limited to the
16 following:

- 17 (1) family advocacy counseling;
- 18 (2) parent self-help group;
- 19 (3) parenting skills training;
- 20 (4) parent and child overnight program;
- 21 (5) parent and child reunification counseling,
22 either separately or together, preceding the inmate's
23 release; and
- 24 (6) a prerelease reunification staffing involving
25 the family advocate, the inmate and the child's
26 counselor, or both and the inmate.

27 (i) Prior to the release of any inmate who has a
28 documented history of intravenous drug use, and upon the
29 receipt of that inmate's written informed consent, the
30 Department shall provide for the testing of such inmate for
31 infection with human immunodeficiency virus (HIV) and any
32 other identified causative agent of acquired immunodeficiency
33 syndrome (AIDS). The testing provided under this subsection
34 shall consist of an enzyme-linked immunosorbent assay (ELISA)

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

12 (j) Each person committed to the Department shall
13 receive written information on the causes and effects of
14 acquired immunodeficiency syndrome (AIDS), the means of
15 detecting AIDS and preventing its transmission, the
16 availability of counseling and medical treatment for AIDS,
17 the right of a committed person infected with AIDS to medical
18 treatment, and such other information on AIDS as the
19 Department deems appropriate. The Department may consult the
20 Department of Public Health in preparing information to be
21 provided to committed persons under this subsection (j).

22 (k) Each person committed to the Department shall, upon
23 admission to a Department facility, undergo medical testing
24 to determine whether the person is infected with human
25 immunodeficiency virus (HIV) or any other identified
26 causative agent of acquired immunodeficiency syndrome (AIDS).
27 Any such medical test shall be performed only by
28 appropriately licensed medical practitioners and may include
29 an analysis of any bodily fluids as well as an examination of
30 the committed person. Any bodily fluids or other biological
31 material taken from a committed person for the purpose of
32 conducting the test for (HIV) or (AIDS) may not be used for
33 DNA profiling or any other purpose. Except as otherwise
34 provided by law, the results of the test shall be kept

1 strictly confidential by all medical personnel involved in
2 the testing and must be personally delivered in a sealed
3 envelope to the chief administrative officer of the
4 institution to which the committed person is admitted. The
5 Department may require committed persons who have been tested
6 for infection with human immunodeficiency virus (HIV) or any
7 other identified causative agent of acquired immunodeficiency
8 syndrome (AIDS) under subsection (g) or (h) of Section 5-5-3
9 of this Code prior to their admission to Department
10 facilities and whose test results are negative to be retested
11 upon their admission to Department facilities if the
12 Department, in consultation with the Department of Public
13 Health, determines that retesting is appropriate. A committed
14 person who has tested positive for infection with human
15 immunodeficiency virus (HIV) or any other identified
16 causative agent of acquired immunodeficiency syndrome (AIDS)
17 under subsection (g) or (h) of Section 5-5-3 of this Code
18 prior to his or her admission to a Department facility does
19 not have to be tested upon admission to a Department
20 facility. The test results of a person who has been tested
21 under subsection (g) or (h) of Section 5-5-3 for infection
22 with human immunodeficiency virus (HIV) or any other
23 identified causative agent of acquired immunodeficiency
24 syndrome (AIDS) shall be transmitted to the chief
25 administrative officer of the institution to which the
26 committed person is admitted.

27 (1) A committed person who tests positive for infection
28 with human immunodeficiency virus (HIV) or any other
29 identified causative agent of acquired immunodeficiency
30 syndrome (AIDS) shall receive medications for alleviating the
31 symptoms of the virus and educational materials relating to
32 the virus.

33 (Source: P.A. 91-912, eff. 7-7-00; 92-292, eff. 8-9-01.)

1 (730 ILCS 5/3-14-1) (from Ch. 38, par. 1003-14-1)

2 Sec. 3-14-1. Release from the Institution.

3 (a) Upon release of a person on parole, mandatory
4 release, final discharge or pardon the Department shall
5 return all property held for him, provide him with suitable
6 clothing and procure necessary transportation for him to his
7 designated place of residence and employment. It may provide
8 such person with a grant of money for travel and expenses
9 which may be paid in installments. The amount of the money
10 grant shall be determined by the Department.

11 The Department of Corrections may establish and maintain,
12 in any institution it administers, revolving funds to be
13 known as "Travel and Allowances Revolving Funds". These
14 revolving funds shall be used for advancing travel and
15 expense allowances to committed, paroled, and discharged
16 prisoners. The moneys paid into such revolving funds shall
17 be from appropriations to the Department for Committed,
18 Paroled, and Discharged Prisoners.

19 (b) (Blank).

20 (c) Except as otherwise provided in this Code, the
21 Department shall establish procedures to provide written
22 notification of any release of any person who has been
23 convicted of a felony to the State's Attorney and sheriff of
24 the county from which the offender was committed, and the
25 State's Attorney and sheriff of the county into which the
26 offender is to be paroled or released. Except as otherwise
27 provided in this Code, the Department shall establish
28 procedures to provide written notification to the proper law
29 enforcement agency for any municipality of any release of any
30 person who has been convicted of a felony if the arrest of
31 the offender or the commission of the offense took place in
32 the municipality, if the offender is to be paroled or
33 released into the municipality, or if the offender resided in
34 the municipality at the time of the commission of the

1 offense. If a person convicted of a felony who is in the
2 custody of the Department of Corrections or on parole or
3 mandatory supervised release informs the Department that he
4 or she has resided, resides, or will reside at an address
5 that is a housing facility owned, managed, operated, or
6 leased by a public housing agency, the Department must send
7 written notification of that information to the public
8 housing agency that owns, manages, operates, or leases the
9 housing facility. The written notification shall, when
10 possible, be given at least 14 days before release of the
11 person from custody, or as soon thereafter as possible.

12 (c-1) (Blank).

13 (d) Upon the release of a committed person on parole,
14 mandatory supervised release, final discharge or pardon, the
15 Department shall provide such person with information
16 concerning programs and services of the Illinois Department
17 of Public Health to ascertain whether such person has been
18 exposed to the human immunodeficiency virus (HIV) or any
19 identified causative agent of Acquired Immunodeficiency
20 Syndrome (AIDS).

21 (d-4) The written information under subsection (d) shall
22 include a list of toll free telephone numbers that a person
23 released from a Department facility may call to obtain
24 information about local health facilities that test for and
25 treat persons infected with human immunodeficiency virus
26 (HIV) or any other identified causative agent of acquired
27 immunodeficiency syndrome (AIDS). If the parole officer is
28 aware that a person released from a Department facility is
29 infected with human immunodeficiency virus (HIV) or any
30 other identified causative agent of acquired immunodeficiency
31 syndrome (AIDS), the parole officer shall monitor the person
32 released to determine whether the person released is taking
33 prescribed medications for human immunodeficiency virus (HIV)
34 or any other identified causative agent of acquired

1 immunodeficiency syndrome (AIDS) and whether the person
2 released is engaging in conduct that could expose or infect
3 other persons with human immunodeficiency virus (HIV) or any
4 other identified causative agent of acquired immunodeficiency
5 syndrome (AIDS).

6 (d-5) Each person committed to the Department shall,
7 within 90 days of release on parole, mandatory supervised
8 release, final discharge, or pardon, undergo medical testing
9 to determine whether the person is infected with human
10 immunodeficiency virus (HIV) or any other identified
11 causative agent of acquired immunodeficiency syndrome (AIDS).
12 Any such medical test shall be performed only by
13 appropriately licensed medical practitioners and may include
14 an analysis of any bodily fluids as well as an examination of
15 the committed person. Except as otherwise provided by law,
16 the results of the test shall be kept strictly confidential
17 by all medical personnel involved in the testing and must be
18 personally delivered in a sealed envelope to the chief
19 administrative officer of the institution to which the
20 committed person has been committed and to the committed
21 person. A committed person who tests positive for human
22 immunodeficiency virus (HIV) or any other identified
23 causative agent of acquired immunodeficiency syndrome (AIDS)
24 shall receive from the Department prescription medications
25 for treatment of the virus or syndrome, if available.

26 (e) Upon the release of a committed person on parole,
27 mandatory supervised release, final discharge, or pardon, the
28 Department shall provide the person who has met the criteria
29 established by the Department with an identification card
30 identifying the person as being on parole, mandatory
31 supervised release, final discharge, or pardon, as the case
32 may be. The Department, in consultation with the Office of
33 the Secretary of State, shall prescribe the form of the
34 identification card, which may be similar to the form of the

1 standard Illinois Identification Card. The Department shall
2 inform the committed person that he or she may present the
3 identification card to the Office of the Secretary of State
4 upon application for a standard Illinois Identification Card
5 in accordance with the Illinois Identification Card Act. The
6 Department shall require the committed person to pay a \$1 fee
7 for the identification card.

8 For purposes of a committed person receiving an
9 identification card issued by the Department under this
10 subsection, the Department shall establish criteria that the
11 committed person must meet before the card is issued. It is
12 the sole responsibility of the committed person requesting
13 the identification card issued by the Department to meet the
14 established criteria. The person's failure to meet the
15 criteria is sufficient reason to deny the committed person
16 the identification card. An identification card issued by
17 the Department under this subsection shall be valid for a
18 period of time not to exceed 30 calendar days from the date
19 the card is issued. The Department shall not be held civilly
20 or criminally liable to anyone because of any act of any
21 person utilizing a card issued by the Department under this
22 subsection.

23 The Department shall adopt rules governing the issuance
24 of identification cards to committed persons being released
25 on parole, mandatory supervised release, final discharge, or
26 pardon.

27 (Source: P.A. 91-506, eff. 8-13-99; 91-695, eff. 4-13-00;
28 92-240, eff. 1-1-02.)

29 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)
30 Sec. 5-5-3. Disposition.

31 (a) Every person convicted of an offense shall be
32 sentenced as provided in this Section.

33 (b) The following options shall be appropriate

1 dispositions, alone or in combination, for all felonies and
2 misdemeanors other than those identified in subsection (c) of
3 this Section:

- 4 (1) A period of probation.
 - 5 (2) A term of periodic imprisonment.
 - 6 (3) A term of conditional discharge.
 - 7 (4) A term of imprisonment.
 - 8 (5) An order directing the offender to clean up and
9 repair the damage, if the offender was convicted under
10 paragraph (h) of Section 21-1 of the Criminal Code of
11 1961.
 - 12 (6) A fine.
 - 13 (7) An order directing the offender to make
14 restitution to the victim under Section 5-5-6 of this
15 Code.
 - 16 (8) A sentence of participation in a county impact
17 incarceration program under Section 5-8-1.2 of this Code.
- 18 Whenever an individual is sentenced for an offense based
19 upon an arrest for a violation of Section 11-501 of the
20 Illinois Vehicle Code, or a similar provision of a local
21 ordinance, and the professional evaluation recommends
22 remedial or rehabilitative treatment or education, neither
23 the treatment nor the education shall be the sole disposition
24 and either or both may be imposed only in conjunction with
25 another disposition. The court shall monitor compliance with
26 any remedial education or treatment recommendations contained
27 in the professional evaluation. Programs conducting alcohol
28 or other drug evaluation or remedial education must be
29 licensed by the Department of Human Services. However, if
30 the individual is not a resident of Illinois, the court may
31 accept an alcohol or other drug evaluation or remedial
32 education program in the state of such individual's
33 residence. Programs providing treatment must be licensed
34 under existing applicable alcoholism and drug treatment

1 licensure standards.

2 In addition to any other fine or penalty required by law,
3 any individual convicted of a violation of Section 11-501 of
4 the Illinois Vehicle Code or a similar provision of local
5 ordinance, whose operation of a motor vehicle while in
6 violation of Section 11-501 or such ordinance proximately
7 caused an incident resulting in an appropriate emergency
8 response, shall be required to make restitution to a public
9 agency for the costs of that emergency response. Such
10 restitution shall not exceed \$500 per public agency for each
11 such emergency response. For the purpose of this paragraph,
12 emergency response shall mean any incident requiring a
13 response by: a police officer as defined under Section 1-162
14 of the Illinois Vehicle Code; a fireman carried on the rolls
15 of a regularly constituted fire department; and an ambulance
16 as defined under Section 4.05 of the Emergency Medical
17 Services (EMS) Systems Act.

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

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

26 (2) A period of probation, a term of periodic
27 imprisonment or conditional discharge shall not be
28 imposed for the following offenses. The court shall
29 sentence the offender to not less than the minimum term
30 of imprisonment set forth in this Code for the following
31 offenses, and may order a fine or restitution or both in
32 conjunction with such term of imprisonment:

33 (A) First degree murder where the death
34 penalty is not imposed.

1 (B) Attempted first degree murder.

2 (C) A Class X felony.

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

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

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

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

20 (H) Criminal sexual assault, except as
21 otherwise provided in subsection (e) of this
22 Section.

23 (I) Aggravated battery of a senior citizen.

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

26 Before July 1, 1994, for the purposes of this
27 paragraph, "organized gang" means an association of
28 5 or more persons, with an established hierarchy,
29 that encourages members of the association to
30 perpetrate crimes or provides support to the members
31 of the association who do commit crimes.

32 Beginning July 1, 1994, for the purposes of
33 this paragraph, "organized gang" has the meaning
34 ascribed to it in Section 10 of the Illinois

1 Streetgang Terrorism Omnibus Prevention Act.

2 (K) Vehicular hijacking.

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

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

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

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

15 (P) A violation of paragraph (1), (2), (3),
16 (4), (5), or (7) of subsection (a) of Section
17 11-20.1 of the Criminal Code of 1961.

18 (Q) A violation of Section 20-1.2 of the
19 Criminal Code of 1961.

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

22 (S) A violation of Section 11-501(c-1)(3) of
23 the Illinois Vehicle Code.

24 (3) A minimum term of imprisonment of not less than
25 5 days or 30 days of community service as may be
26 determined by the court shall be imposed for a second
27 violation committed within 5 years of a previous
28 violation of Section 11-501 of the Illinois Vehicle Code
29 or a similar provision of a local ordinance. In the case
30 of a third or subsequent violation committed within 5
31 years of a previous violation of Section 11-501 of the
32 Illinois Vehicle Code or a similar provision of a local
33 ordinance, a minimum term of either 10 days of
34 imprisonment or 60 days of community service shall be

1 imposed.

2 (4) A minimum term of imprisonment of not less than
3 10 consecutive days or 30 days of community service shall
4 be imposed for a violation of paragraph (c) of Section
5 6-303 of the Illinois Vehicle Code.

6 (4.1) A minimum term of 30 consecutive days of
7 imprisonment, 40 days of 24 hour periodic imprisonment or
8 720 hours of community service, as may be determined by
9 the court, shall be imposed for a violation of Section
10 11-501 of the Illinois Vehicle Code during a period in
11 which the defendant's driving privileges are revoked or
12 suspended, where the revocation or suspension was for a
13 violation of Section 11-501 or Section 11-501.1 of that
14 Code.

15 (4.2) Except as provided in paragraph (4.3) of this
16 subsection (c), a minimum of 100 hours of community
17 service shall be imposed for a second violation of
18 Section 6-303 of the Illinois Vehicle Code.

19 (4.3) A minimum term of imprisonment of 30 days or
20 300 hours of community service, as determined by the
21 court, shall be imposed for a second violation of
22 subsection (c) of Section 6-303 of the Illinois Vehicle
23 Code.

24 (4.4) Except as provided in paragraph (4.5) and
25 paragraph (4.6) of this subsection (c), a minimum term of
26 imprisonment of 30 days or 300 hours of community
27 service, as determined by the court, shall be imposed for
28 a third or subsequent violation of Section 6-303 of the
29 Illinois Vehicle Code.

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

33 (4.6) A minimum term of imprisonment of 180 days
34 shall be imposed for a fourth or subsequent violation of

1 subsection (c) of Section 6-303 of the Illinois Vehicle
2 Code.

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

6 (A) a period of conditional discharge;

7 (B) a fine;

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

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

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

26 (5.3) In addition to any penalties imposed under
27 paragraph (5) of this subsection (c), a person convicted
28 of violating subsection (c) of Section 11-907 of the
29 Illinois Vehicle Code shall have his or her driver's
30 license, permit, or privileges suspended for 2 years, if
31 the violation resulted in the death of another person.

32 (6) In no case shall an offender be eligible for a
33 disposition of probation or conditional discharge for a
34 Class 1 felony committed while he was serving a term of

1 probation or conditional discharge for a felony.

2 (7) When a defendant is adjudged a habitual
3 criminal under Article 33B of the Criminal Code of 1961,
4 the court shall sentence the defendant to a term of
5 natural life imprisonment.

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

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

26 (10) When a person is convicted of violating
27 Section 11-501 of the Illinois Vehicle Code or a similar
28 provision of a local ordinance, the following penalties
29 apply when his or her blood, breath, or urine was .16 or
30 more based on the definition of blood, breath, or urine
31 units in Section 11-501.2 or that person is convicted of
32 violating Section 11-501 of the Illinois Vehicle Code
33 while transporting a child under the age of 16:

34 (A) For a first violation of subsection (a) of

1 Section 11-501, in addition to any other penalty
2 that may be imposed under subsection (c) of Section
3 11-501: a mandatory minimum of 100 hours of
4 community service and a minimum fine of \$500.

5 (B) For a second violation of subsection (a)
6 of Section 11-501, in addition to any other penalty
7 that may be imposed under subsection (c) of Section
8 11-501 within 10 years: a mandatory minimum of 2
9 days of imprisonment and a minimum fine of \$1,250.

10 (C) For a third violation of subsection (a) of
11 Section 11-501, in addition to any other penalty
12 that may be imposed under subsection (c) of Section
13 11-501 within 20 years: a mandatory minimum of 90
14 days of imprisonment and a minimum fine of \$2,500.

15 (D) For a fourth or subsequent violation of
16 subsection (a) of Section 11-501: ineligibility for
17 a sentence of probation or conditional discharge and
18 a minimum fine of \$2,500.

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

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

4 (e) In cases where prosecution for criminal sexual
5 assault or aggravated criminal sexual abuse under Section
6 12-13 or 12-16 of the Criminal Code of 1961 results in
7 conviction of a defendant who was a family member of the
8 victim at the time of the commission of the offense, the
9 court shall consider the safety and welfare of the victim and
10 may impose a sentence of probation only where:

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

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

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

19 (i) removal from the household;

20 (ii) restricted contact with the victim;

21 (iii) continued financial support of the
22 family;

23 (iv) restitution for harm done to the
24 victim; and

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

27 (2) the court orders the defendant to pay for the
28 victim's counseling services, to the extent that the
29 court finds, after considering the defendant's income and
30 assets, that the defendant is financially capable of
31 paying for such services, if the victim was under 18
32 years of age at the time the offense was committed and
33 requires counseling as a result of the offense.

34 Probation may be revoked or modified pursuant to Section

1 5-6-4; except where the court determines at the hearing that
2 the defendant violated a condition of his or her probation
3 restricting contact with the victim or other family members
4 or commits another offense with the victim or other family
5 members, the court shall revoke the defendant's probation and
6 impose a term of imprisonment.

7 For the purposes of this Section, "family member" and
8 "victim" shall have the meanings ascribed to them in Section
9 12-12 of the Criminal Code of 1961.

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

14 (g) Whenever a defendant is convicted of an offense
15 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,
16 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,
17 12-15 or 12-16 of the Criminal Code of 1961, the defendant
18 shall undergo medical testing to determine whether the
19 defendant has any sexually transmissible disease, including a
20 test for infection with human immunodeficiency virus (HIV) or
21 any other identified causative agent of acquired
22 immunodeficiency syndrome (AIDS). Any such medical test
23 shall be performed only by appropriately licensed medical
24 practitioners and may include an analysis of any bodily
25 fluids as well as an examination of the defendant's person.
26 Except as otherwise provided by law, the results of such test
27 shall be kept strictly confidential by all medical personnel
28 involved in the testing and must be personally delivered in a
29 sealed envelope to the judge of the court in which the
30 conviction was entered for the judge's inspection in camera
31 and to the chief administrative officer of the correctional
32 institution to which the defendant is assigned upon
33 commitment if the defendant is sentenced to a Department of
34 Corrections facility. Acting in accordance with the best

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

22 (g-5) When an inmate is tested for an airborne
23 communicable disease, as determined by the Illinois
24 Department of Public Health including but not limited to
25 tuberculosis, the results of the test shall be personally
26 delivered by the warden or his or her designee in a sealed
27 envelope to the judge of the court in which the inmate must
28 appear for the judge's inspection in camera if requested by
29 the judge. Acting in accordance with the best interests of
30 those in the courtroom, the judge shall have the discretion
31 to determine what if any precautions need to be taken to
32 prevent transmission of the disease in the courtroom.

33 (h) Whenever a defendant is convicted of an offense
34 under Section 1 or 2 of the Hypodermic Syringes and Needles

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

32 (i) All fines and penalties imposed under this Section
33 for any violation of Chapters 3, 4, 6, and 11 of the Illinois
34 Vehicle Code, or a similar provision of a local ordinance,

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

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

29 (j-5) A defendant at least 17 years of age who is
30 convicted of a felony and who has not been previously
31 convicted of a misdemeanor or felony and who is sentenced to
32 a term of imprisonment in the Illinois Department of
33 Corrections shall as a condition of his or her sentence be
34 required by the court to attend educational courses designed

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

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

32 (l) (A) Except as provided in paragraph (C) of
33 subsection (l), whenever a defendant, who is an alien as
34 defined by the Immigration and Nationality Act, is

1 convicted of any felony or misdemeanor offense, the court
2 after sentencing the defendant may, upon motion of the
3 State's Attorney, hold sentence in abeyance and remand
4 the defendant to the custody of the Attorney General of
5 the United States or his or her designated agent to be
6 deported when:

7 (1) a final order of deportation has been
8 issued against the defendant pursuant to proceedings
9 under the Immigration and Nationality Act, and

10 (2) the deportation of the defendant would not
11 deprecate the seriousness of the defendant's conduct
12 and would not be inconsistent with the ends of
13 justice.

14 Otherwise, the defendant shall be sentenced as
15 provided in this Chapter V.

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

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

27 (2) the deportation of the defendant would not
28 deprecate the seriousness of the defendant's conduct
29 and would not be inconsistent with the ends of
30 justice.

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

34 (D) Upon motion of the State's Attorney, if a

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

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

16 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;
17 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.
18 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,
19 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;
20 92-422, eff. 8-17-01; revised 8-28-01.)