



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB3866

by Rep. Michelle Mussman

#### SYNOPSIS AS INTRODUCED:

20 ILCS 505/7	from Ch. 23, par. 5007
225 ILCS 10/4.2	from Ch. 23, par. 2214.2
720 ILCS 5/12-5.01	was 720 ILCS 5/12-16.2
725 ILCS 5/115-7	from Ch. 38, par. 115-7
725 ILCS 5/115-7.3	
730 ILCS 5/5-5-3	from Ch. 38, par. 1005-5-3

Amends the Criminal Code of 2012. Creates the offense of criminal transmission of a sexually transmissible disease. Provides that a person commits criminal transmission of a sexually transmissible disease when he or she, knowing that he or she is infected with a sexually transmissible disease, other than HIV, engages in sexual activity with another without the use of a condom knowing that he or she is infected with a sexually transmissible disease, other than HIV. Provides that a violation is a Class B misdemeanor. Defines "sexually transmissible disease". Amends the Children and Family Services Act, the Child Care Act of 1969, the Code of Criminal Procedure of 1963, and the Unified Code of Corrections to make conforming changes.

LRB100 06243 RLC 20326 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 Children and Family Services Act is amended  
5 by changing Section 7 as follows:

6 (20 ILCS 505/7) (from Ch. 23, par. 5007)

7 Sec. 7. Placement of children; considerations.

8 (a) In placing any child under this Act, the Department  
9 shall place the child, as far as possible, in the care and  
10 custody of some individual holding the same religious belief as  
11 the parents of the child, or with some child care facility  
12 which is operated by persons of like religious faith as the  
13 parents of such child.

14 (a-5) In placing a child under this Act, the Department  
15 shall place the child with the child's sibling or siblings  
16 under Section 7.4 of this Act unless the placement is not in  
17 each child's best interest, or is otherwise not possible under  
18 the Department's rules. If the child is not placed with a  
19 sibling under the Department's rules, the Department shall  
20 consider placements that are likely to develop, preserve,  
21 nurture, and support sibling relationships, where doing so is  
22 in each child's best interest.

23 (b) In placing a child under this Act, the Department may

1 place a child with a relative if the Department determines that  
2 the relative will be able to adequately provide for the child's  
3 safety and welfare based on the factors set forth in the  
4 Department's rules governing relative placements, and that the  
5 placement is consistent with the child's best interests, taking  
6 into consideration the factors set out in subsection (4.05) of  
7 Section 1-3 of the Juvenile Court Act of 1987.

8 When the Department first assumes custody of a child, in  
9 placing that child under this Act, the Department shall make  
10 reasonable efforts to identify, locate, and provide notice to  
11 all adult grandparents and other adult relatives of the child  
12 who are ready, willing, and able to care for the child. At a  
13 minimum, these efforts shall be renewed each time the child  
14 requires a placement change and it is appropriate for the child  
15 to be cared for in a home environment. The Department must  
16 document its efforts to identify, locate, and provide notice to  
17 such potential relative placements and maintain the  
18 documentation in the child's case file.

19 If the Department determines that a placement with any  
20 identified relative is not in the child's best interests or  
21 that the relative does not meet the requirements to be a  
22 relative caregiver, as set forth in Department rules or by  
23 statute, the Department must document the basis for that  
24 decision and maintain the documentation in the child's case  
25 file.

26 If, pursuant to the Department's rules, any person files an

1 administrative appeal of the Department's decision not to place  
2 a child with a relative, it is the Department's burden to prove  
3 that the decision is consistent with the child's best  
4 interests.

5 When the Department determines that the child requires  
6 placement in an environment, other than a home environment, the  
7 Department shall continue to make reasonable efforts to  
8 identify and locate relatives to serve as visitation resources  
9 for the child and potential future placement resources, except  
10 when the Department determines that those efforts would be  
11 futile or inconsistent with the child's best interests.

12 If the Department determines that efforts to identify and  
13 locate relatives would be futile or inconsistent with the  
14 child's best interests, the Department shall document the basis  
15 of its determination and maintain the documentation in the  
16 child's case file.

17 If the Department determines that an individual or a group  
18 of relatives are inappropriate to serve as visitation resources  
19 or possible placement resources, the Department shall document  
20 the basis of its determination and maintain the documentation  
21 in the child's case file.

22 When the Department determines that an individual or a  
23 group of relatives are appropriate to serve as visitation  
24 resources or possible future placement resources, the  
25 Department shall document the basis of its determination,  
26 maintain the documentation in the child's case file, create a

1 visitation or transition plan, or both, and incorporate the  
2 visitation or transition plan, or both, into the child's case  
3 plan. For the purpose of this subsection, any determination as  
4 to the child's best interests shall include consideration of  
5 the factors set out in subsection (4.05) of Section 1-3 of the  
6 Juvenile Court Act of 1987.

7 The Department may not place a child with a relative, with  
8 the exception of certain circumstances which may be waived as  
9 defined by the Department in rules, if the results of a check  
10 of the Law Enforcement Agencies Data System (LEADS) identifies  
11 a prior criminal conviction of the relative or any adult member  
12 of the relative's household for any of the following offenses  
13 under the Criminal Code of 1961 or the Criminal Code of 2012:

- 14 (1) murder;
- 15 (1.1) solicitation of murder;
- 16 (1.2) solicitation of murder for hire;
- 17 (1.3) intentional homicide of an unborn child;
- 18 (1.4) voluntary manslaughter of an unborn child;
- 19 (1.5) involuntary manslaughter;
- 20 (1.6) reckless homicide;
- 21 (1.7) concealment of a homicidal death;
- 22 (1.8) involuntary manslaughter of an unborn child;
- 23 (1.9) reckless homicide of an unborn child;
- 24 (1.10) drug-induced homicide;
- 25 (2) a sex offense under Article 11, except offenses  
26 described in Sections 11-7, 11-8, 11-12, 11-13, 11-35,

- 1 11-40, and 11-45;
- 2 (3) kidnapping;
- 3 (3.1) aggravated unlawful restraint;
- 4 (3.2) forcible detention;
- 5 (3.3) aiding and abetting child abduction;
- 6 (4) aggravated kidnapping;
- 7 (5) child abduction;
- 8 (6) aggravated battery of a child as described in
- 9 Section 12-4.3 or subdivision (b) (1) of Section 12-3.05;
- 10 (7) criminal sexual assault;
- 11 (8) aggravated criminal sexual assault;
- 12 (8.1) predatory criminal sexual assault of a child;
- 13 (9) criminal sexual abuse;
- 14 (10) aggravated sexual abuse;
- 15 (11) heinous battery as described in Section 12-4.1 or
- 16 subdivision (a) (2) of Section 12-3.05;
- 17 (12) aggravated battery with a firearm as described in
- 18 Section 12-4.2 or subdivision (e) (1), (e) (2), (e) (3), or
- 19 (e) (4) of Section 12-3.05;
- 20 (13) tampering with food, drugs, or cosmetics;
- 21 (14) drug-induced infliction of great bodily harm as
- 22 described in Section 12-4.7 or subdivision (g) (1) of
- 23 Section 12-3.05;
- 24 (15) aggravated stalking;
- 25 (16) home invasion;
- 26 (17) vehicular invasion;

1 (18) criminal transmission of HIV;

2 (18.1) criminal transmission of a sexually  
3 transmissible disease;

4 (19) criminal abuse or neglect of an elderly person or  
5 person with a disability as described in Section 12-21 or  
6 subsection (b) of Section 12-4.4a;

7 (20) child abandonment;

8 (21) endangering the life or health of a child;

9 (22) ritual mutilation;

10 (23) ritualized abuse of a child;

11 (24) an offense in any other state the elements of  
12 which are similar and bear a substantial relationship to  
13 any of the foregoing offenses.

14 For the purpose of this subsection, "relative" shall  
15 include any person, 21 years of age or over, other than the  
16 parent, who (i) is currently related to the child in any of the  
17 following ways by blood or adoption: grandparent, sibling,  
18 great-grandparent, uncle, aunt, nephew, niece, first cousin,  
19 second cousin, godparent, great-uncle, or great-aunt; or (ii)  
20 is the spouse of such a relative; or (iii) is the child's  
21 step-father, step-mother, or adult step-brother or  
22 step-sister; or (iv) is a fictive kin; "relative" also includes  
23 a person related in any of the foregoing ways to a sibling of a  
24 child, even though the person is not related to the child, when  
25 the child and its sibling are placed together with that person.  
26 For children who have been in the guardianship of the

1 Department, have been adopted, and are subsequently returned to  
2 the temporary custody or guardianship of the Department, a  
3 "relative" may also include any person who would have qualified  
4 as a relative under this paragraph prior to the adoption, but  
5 only if the Department determines, and documents, that it would  
6 be in the child's best interests to consider this person a  
7 relative, based upon the factors for determining best interests  
8 set forth in subsection (4.05) of Section 1-3 of the Juvenile  
9 Court Act of 1987. A relative with whom a child is placed  
10 pursuant to this subsection may, but is not required to, apply  
11 for licensure as a foster family home pursuant to the Child  
12 Care Act of 1969; provided, however, that as of July 1, 1995,  
13 foster care payments shall be made only to licensed foster  
14 family homes pursuant to the terms of Section 5 of this Act.

15 Notwithstanding any other provision under this subsection  
16 to the contrary, a fictive kin with whom a child is placed  
17 pursuant to this subsection shall apply for licensure as a  
18 foster family home pursuant to the Child Care Act of 1969  
19 within 6 months of the child's placement with the fictive kin.  
20 The Department shall not remove a child from the home of a  
21 fictive kin on the basis that the fictive kin fails to apply  
22 for licensure within 6 months of the child's placement with the  
23 fictive kin, or fails to meet the standard for licensure. All  
24 other requirements established under the rules and procedures  
25 of the Department concerning the placement of a child, for whom  
26 the Department is legally responsible, with a relative shall



1 apply. By June 1, 2015, the Department shall promulgate rules  
2 establishing criteria and standards for placement,  
3 identification, and licensure of fictive kin.

4 For purposes of this subsection, "fictive kin" means any  
5 individual, unrelated by birth or marriage, who:

6 (i) is shown to have close personal or emotional ties  
7 with the child or the child's family prior to the child's  
8 placement with the individual; or

9 (ii) is the current foster parent of a child in the  
10 custody or guardianship of the Department pursuant to this  
11 Act and the Juvenile Court Act of 1987, if the child has  
12 been placed in the home for at least one year and has  
13 established a significant and family-like relationship  
14 with the foster parent, and the foster parent has been  
15 identified by the Department as the child's permanent  
16 connection, as defined by Department rule.

17 The provisions added to this subsection (b) by Public Act  
18 98-846 shall become operative on and after June 1, 2015.

19 (c) In placing a child under this Act, the Department shall  
20 ensure that the child's health, safety, and best interests are  
21 met. In rejecting placement of a child with an identified  
22 relative, the Department shall ensure that the child's health,  
23 safety, and best interests are met. In evaluating the best  
24 interests of the child, the Department shall take into  
25 consideration the factors set forth in subsection (4.05) of  
26 Section 1-3 of the Juvenile Court Act of 1987.

1           The Department shall consider the individual needs of the  
2 child and the capacity of the prospective foster or adoptive  
3 parents to meet the needs of the child. When a child must be  
4 placed outside his or her home and cannot be immediately  
5 returned to his or her parents or guardian, a comprehensive,  
6 individualized assessment shall be performed of that child at  
7 which time the needs of the child shall be determined. Only if  
8 race, color, or national origin is identified as a legitimate  
9 factor in advancing the child's best interests shall it be  
10 considered. Race, color, or national origin shall not be  
11 routinely considered in making a placement decision. The  
12 Department shall make special efforts for the diligent  
13 recruitment of potential foster and adoptive families that  
14 reflect the ethnic and racial diversity of the children for  
15 whom foster and adoptive homes are needed. "Special efforts"  
16 shall include contacting and working with community  
17 organizations and religious organizations and may include  
18 contracting with those organizations, utilizing local media  
19 and other local resources, and conducting outreach activities.

20           (c-1) At the time of placement, the Department shall  
21 consider concurrent planning, as described in subsection (1-1)  
22 of Section 5, so that permanency may occur at the earliest  
23 opportunity. Consideration should be given so that if  
24 reunification fails or is delayed, the placement made is the  
25 best available placement to provide permanency for the child.  
26 To the extent that doing so is in the child's best interests as

1 set forth in subsection (4.05) of Section 1-3 of the Juvenile  
2 Court Act of 1987, the Department should consider placements  
3 that will permit the child to maintain a meaningful  
4 relationship with his or her parents.

5 (d) The Department may accept gifts, grants, offers of  
6 services, and other contributions to use in making special  
7 recruitment efforts.

8 (e) The Department in placing children in adoptive or  
9 foster care homes may not, in any policy or practice relating  
10 to the placement of children for adoption or foster care,  
11 discriminate against any child or prospective adoptive or  
12 foster parent on the basis of race.

13 (Source: P.A. 98-846, eff. 1-1-15; 99-143, eff. 7-27-15;  
14 99-340, eff. 1-1-16; 99-642, eff. 7-28-16; 99-836, eff.  
15 1-1-17.)

16 Section 10. The Child Care Act of 1969 is amended by  
17 changing Section 4.2 as follows:

18 (225 ILCS 10/4.2) (from Ch. 23, par. 2214.2)

19 Sec. 4.2. (a) No applicant may receive a license from the  
20 Department and no person may be employed by a licensed child  
21 care facility who refuses to authorize an investigation as  
22 required by Section 4.1.

23 (b) In addition to the other provisions of this Section, no  
24 applicant may receive a license from the Department and no

1 person may be employed by a child care facility licensed by the  
2 Department who has been declared a sexually dangerous person  
3 under "An Act in relation to sexually dangerous persons, and  
4 providing for their commitment, detention and supervision",  
5 approved July 6, 1938, as amended, or convicted of committing  
6 or attempting to commit any of the following offenses  
7 stipulated under the Criminal Code of 1961 or the Criminal Code  
8 of 2012:

9 (1) murder;

10 (1.1) solicitation of murder;

11 (1.2) solicitation of murder for hire;

12 (1.3) intentional homicide of an unborn child;

13 (1.4) voluntary manslaughter of an unborn child;

14 (1.5) involuntary manslaughter;

15 (1.6) reckless homicide;

16 (1.7) concealment of a homicidal death;

17 (1.8) involuntary manslaughter of an unborn child;

18 (1.9) reckless homicide of an unborn child;

19 (1.10) drug-induced homicide;

20 (2) a sex offense under Article 11, except offenses  
21 described in Sections 11-7, 11-8, 11-12, 11-13, 11-35,  
22 11-40, and 11-45;

23 (3) kidnapping;

24 (3.1) aggravated unlawful restraint;

25 (3.2) forcible detention;

26 (3.3) harboring a runaway;

- 1 (3.4) aiding and abetting child abduction;
- 2 (4) aggravated kidnapping;
- 3 (5) child abduction;
- 4 (6) aggravated battery of a child as described in
- 5 Section 12-4.3 or subdivision (b) (1) of Section 12-3.05;
- 6 (7) criminal sexual assault;
- 7 (8) aggravated criminal sexual assault;
- 8 (8.1) predatory criminal sexual assault of a child;
- 9 (9) criminal sexual abuse;
- 10 (10) aggravated sexual abuse;
- 11 (11) heinous battery as described in Section 12-4.1 or
- 12 subdivision (a) (2) of Section 12-3.05;
- 13 (12) aggravated battery with a firearm as described in
- 14 Section 12-4.2 or subdivision (e) (1), (e) (2), (e) (3), or
- 15 (e) (4) of Section 12-3.05;
- 16 (13) tampering with food, drugs, or cosmetics;
- 17 (14) drug induced infliction of great bodily harm as
- 18 described in Section 12-4.7 or subdivision (g) (1) of
- 19 Section 12-3.05;
- 20 (15) hate crime;
- 21 (16) stalking;
- 22 (17) aggravated stalking;
- 23 (18) threatening public officials;
- 24 (19) home invasion;
- 25 (20) vehicular invasion;
- 26 (21) criminal transmission of HIV;



- 1 (2) Vehicular endangerment.
- 2 (3) Felony domestic battery.
- 3 (4) Aggravated battery.
- 4 (5) Heinous battery.
- 5 (6) Aggravated battery with a firearm.
- 6 (7) Aggravated battery of an unborn child.
- 7 (8) Aggravated battery of a senior citizen.
- 8 (9) Intimidation.
- 9 (10) Compelling organization membership of persons.
- 10 (11) Abuse and criminal neglect of a long term care
- 11 facility resident.
- 12 (12) Felony violation of an order of protection.

13 (II) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- 14 (1) Felony unlawful use of weapons.
- 15 (2) Aggravated discharge of a firearm.
- 16 (3) Reckless discharge of a firearm.
- 17 (4) Unlawful use of metal piercing bullets.
- 18 (5) Unlawful sale or delivery of firearms on the
- 19 premises of any school.
- 20 (6) Disarming a police officer.
- 21 (7) Obstructing justice.
- 22 (8) Concealing or aiding a fugitive.
- 23 (9) Armed violence.
- 24 (10) Felony contributing to the criminal delinquency

1 of a juvenile.

2 (III) DRUG OFFENSES

3 (1) Possession of more than 30 grams of cannabis.

4 (2) Manufacture of more than 10 grams of cannabis.

5 (3) Cannabis trafficking.

6 (4) Delivery of cannabis on school grounds.

7 (5) Unauthorized production of more than 5 cannabis  
8 sativa plants.

9 (6) Calculated criminal cannabis conspiracy.

10 (7) Unauthorized manufacture or delivery of controlled  
11 substances.

12 (8) Controlled substance trafficking.

13 (9) Manufacture, distribution, or advertisement of  
14 look-alike substances.

15 (10) Calculated criminal drug conspiracy.

16 (11) Street gang criminal drug conspiracy.

17 (12) Permitting unlawful use of a building.

18 (13) Delivery of controlled, counterfeit, or  
19 look-alike substances to persons under age 18, or at truck  
20 stops, rest stops, or safety rest areas, or on school  
21 property.

22 (14) Using, engaging, or employing persons under 18 to  
23 deliver controlled, counterfeit, or look-alike substances.

24 (15) Delivery of controlled substances.



1 (16) Sale or delivery of drug paraphernalia.

2 (17) Felony possession, sale, or exchange of  
3 instruments adapted for use of a controlled substance,  
4 methamphetamine, or cannabis by subcutaneous injection.

5 (18) Felony possession of a controlled substance.

6 (19) Any violation of the Methamphetamine Control and  
7 Community Protection Act.

8 (b-1.5) In addition to any other provision of this Section,  
9 for applicants with access to confidential financial  
10 information or who submit documentation to support billing, no  
11 applicant whose initial application was considered after the  
12 effective date of this amendatory Act of the 97th General  
13 Assembly may receive a license from the Department or a child  
14 care facility licensed by the Department who has been convicted  
15 of committing or attempting to commit any of the following  
16 felony offenses:

17 (1) financial institution fraud under Section 17-10.6  
18 of the Criminal Code of 1961 or the Criminal Code of 2012;

19 (2) identity theft under Section 16-30 of the Criminal  
20 Code of 1961 or the Criminal Code of 2012;

21 (3) financial exploitation of an elderly person or a  
22 person with a disability under Section 17-56 of the  
23 Criminal Code of 1961 or the Criminal Code of 2012;

24 (4) computer tampering under Section 17-51 of the  
25 Criminal Code of 1961 or the Criminal Code of 2012;

26 (5) aggravated computer tampering under Section 17-52

1 of the Criminal Code of 1961 or the Criminal Code of 2012;

2 (6) computer fraud under Section 17-50 of the Criminal  
3 Code of 1961 or the Criminal Code of 2012;

4 (7) deceptive practices under Section 17-1 of the  
5 Criminal Code of 1961 or the Criminal Code of 2012;

6 (8) forgery under Section 17-3 of the Criminal Code of  
7 1961 or the Criminal Code of 2012;

8 (9) State benefits fraud under Section 17-6 of the  
9 Criminal Code of 1961 or the Criminal Code of 2012;

10 (10) mail fraud and wire fraud under Section 17-24 of  
11 the Criminal Code of 1961 or the Criminal Code of 2012;

12 (11) theft under paragraphs (1.1) through (11) of  
13 subsection (b) of Section 16-1 of the Criminal Code of 1961  
14 or the Criminal Code of 2012.

15 (b-2) Notwithstanding subsection (b-1), the Department may  
16 make an exception and, for child care facilities other than  
17 foster family homes, issue a new child care facility license to  
18 or renew the existing child care facility license of an  
19 applicant, a person employed by a child care facility, or an  
20 applicant who has an adult residing in a home child care  
21 facility who was convicted of an offense described in  
22 subsection (b-1), provided that all of the following  
23 requirements are met:

24 (1) The relevant criminal offense occurred more than 5  
25 years prior to the date of application or renewal, except  
26 for drug offenses. The relevant drug offense must have

1 occurred more than 10 years prior to the date of  
2 application or renewal, unless the applicant passed a drug  
3 test, arranged and paid for by the child care facility, no  
4 less than 5 years after the offense.

5 (2) The Department must conduct a background check and  
6 assess all convictions and recommendations of the child  
7 care facility to determine if hiring or licensing the  
8 applicant is in accordance with Department administrative  
9 rules and procedures.

10 (3) The applicant meets all other requirements and  
11 qualifications to be licensed as the pertinent type of  
12 child care facility under this Act and the Department's  
13 administrative rules.

14 (c) In addition to the other provisions of this Section, no  
15 applicant may receive a license from the Department to operate  
16 a foster family home, and no adult person may reside in a  
17 foster family home licensed by the Department, who has been  
18 convicted of committing or attempting to commit any of the  
19 following offenses stipulated under the Criminal Code of 1961,  
20 the Criminal Code of 2012, the Cannabis Control Act, the  
21 Methamphetamine Control and Community Protection Act, and the  
22 Illinois Controlled Substances Act:

23 (I) OFFENSES DIRECTED AGAINST THE PERSON

24 (A) KIDNAPPING AND RELATED OFFENSES

1 (1) Unlawful restraint.

2 (B) BODILY HARM

3 (2) Felony aggravated assault.

4 (3) Vehicular endangerment.

5 (4) Felony domestic battery.

6 (5) Aggravated battery.

7 (6) Heinous battery.

8 (7) Aggravated battery with a firearm.

9 (8) Aggravated battery of an unborn child.

10 (9) Aggravated battery of a senior citizen.

11 (10) Intimidation.

12 (11) Compelling organization membership of persons.

13 (12) Abuse and criminal neglect of a long term care  
14 facility resident.

15 (13) Felony violation of an order of protection.

16 (II) OFFENSES DIRECTED AGAINST PROPERTY

17 (14) Felony theft.

18 (15) Robbery.

19 (16) Armed robbery.

20 (17) Aggravated robbery.

21 (18) Vehicular hijacking.

22 (19) Aggravated vehicular hijacking.

23 (20) Burglary.

- 1 (21) Possession of burglary tools.  
2 (22) Residential burglary.  
3 (23) Criminal fortification of a residence or  
4 building.  
5 (24) Arson.  
6 (25) Aggravated arson.  
7 (26) Possession of explosive or explosive incendiary  
8 devices.

9 (III) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- 10 (27) Felony unlawful use of weapons.  
11 (28) Aggravated discharge of a firearm.  
12 (29) Reckless discharge of a firearm.  
13 (30) Unlawful use of metal piercing bullets.  
14 (31) Unlawful sale or delivery of firearms on the  
15 premises of any school.  
16 (32) Disarming a police officer.  
17 (33) Obstructing justice.  
18 (34) Concealing or aiding a fugitive.  
19 (35) Armed violence.  
20 (36) Felony contributing to the criminal delinquency  
21 of a juvenile.

22 (IV) DRUG OFFENSES

- 1 (37) Possession of more than 30 grams of cannabis.
- 2 (38) Manufacture of more than 10 grams of cannabis.
- 3 (39) Cannabis trafficking.
- 4 (40) Delivery of cannabis on school grounds.
- 5 (41) Unauthorized production of more than 5 cannabis  
6 sativa plants.
- 7 (42) Calculated criminal cannabis conspiracy.
- 8 (43) Unauthorized manufacture or delivery of  
9 controlled substances.
- 10 (44) Controlled substance trafficking.
- 11 (45) Manufacture, distribution, or advertisement of  
12 look-alike substances.
- 13 (46) Calculated criminal drug conspiracy.
- 14 (46.5) Streetgang criminal drug conspiracy.
- 15 (47) Permitting unlawful use of a building.
- 16 (48) Delivery of controlled, counterfeit, or  
17 look-alike substances to persons under age 18, or at truck  
18 stops, rest stops, or safety rest areas, or on school  
19 property.
- 20 (49) Using, engaging, or employing persons under 18 to  
21 deliver controlled, counterfeit, or look-alike substances.
- 22 (50) Delivery of controlled substances.
- 23 (51) Sale or delivery of drug paraphernalia.
- 24 (52) Felony possession, sale, or exchange of  
25 instruments adapted for use of a controlled substance,  
26 methamphetamine, or cannabis by subcutaneous injection.

1           (53) Any violation of the Methamphetamine Control and  
2           Community Protection Act.

3           (d) Notwithstanding subsection (c), the Department may  
4           make an exception and issue a new foster family home license or  
5           may renew an existing foster family home license of an  
6           applicant who was convicted of an offense described in  
7           subsection (c), provided all of the following requirements are  
8           met:

9           (1) The relevant criminal offense or offenses occurred  
10          more than 10 years prior to the date of application or  
11          renewal.

12          (2) The applicant had previously disclosed the  
13          conviction or convictions to the Department for purposes of  
14          a background check.

15          (3) After the disclosure, the Department either placed  
16          a child in the home or the foster family home license was  
17          issued.

18          (4) During the background check, the Department had  
19          assessed and waived the conviction in compliance with the  
20          existing statutes and rules in effect at the time of the  
21          hire or licensure.

22          (5) The applicant meets all other requirements and  
23          qualifications to be licensed as a foster family home under  
24          this Act and the Department's administrative rules.

25          (6) The applicant has a history of providing a safe,  
26          stable home environment and appears able to continue to

1 provide a safe, stable home environment.

2 (e) In evaluating the exception pursuant to subsections  
3 (b-2) and (d), the Department must carefully review any  
4 relevant documents to determine whether the applicant, despite  
5 the disqualifying convictions, poses a substantial risk to  
6 State resources or clients. In making such a determination, the  
7 following guidelines shall be used:

8 (1) the age of the applicant when the offense was  
9 committed;

10 (2) the circumstances surrounding the offense;

11 (3) the length of time since the conviction;

12 (4) the specific duties and responsibilities  
13 necessarily related to the license being applied for and  
14 the bearing, if any, that the applicant's conviction  
15 history may have on his or her fitness to perform these  
16 duties and responsibilities;

17 (5) the applicant's employment references;

18 (6) the applicant's character references and any  
19 certificates of achievement;

20 (7) an academic transcript showing educational  
21 attainment since the disqualifying conviction;

22 (8) a Certificate of Relief from Disabilities or  
23 Certificate of Good Conduct; and

24 (9) anything else that speaks to the applicant's  
25 character.

26 (Source: P.A. 99-143, eff. 7-27-15.)



1 Section 15. The Criminal Code of 2012 is amended by  
2 changing Section 12-5.01 as follows:

3 (720 ILCS 5/12-5.01) (was 720 ILCS 5/12-16.2)

4 Sec. 12-5.01. Criminal transmission of HIV; criminal  
5 transmission of a sexually transmissible disease.

6 (a) A person commits criminal transmission of HIV when he  
7 or she, with the specific intent to commit the offense:

8 (1) engages in sexual activity with another without the  
9 use of a condom knowing that he or she is infected with  
10 HIV;

11 (2) transfers, donates, or provides his or her blood,  
12 tissue, semen, organs, or other potentially infectious  
13 body fluids for transfusion, transplantation,  
14 insemination, or other administration to another knowing  
15 that he or she is infected with HIV; or

16 (3) dispenses, delivers, exchanges, sells, or in any  
17 other way transfers to another any nonsterile intravenous  
18 or intramuscular drug paraphernalia knowing that he or she  
19 is infected with HIV.

20 (a-5) A person commits criminal transmission of a sexually  
21 transmissible disease when he or she, knowing that he or she is  
22 infected with a sexually transmissible disease, other than HIV,  
23 engages in sexual activity with another without the use of a  
24 condom knowing that he or she is infected with a sexually

1 transmissible disease, other than HIV.

2 (b) For purposes of this Section:

3 "HIV" means the human immunodeficiency virus or any other  
4 identified causative agent of acquired immunodeficiency  
5 syndrome.

6 ~~"Sexual activity" means the insertive vaginal or anal  
7 intercourse on the part of an infected male, receptive  
8 consensual vaginal intercourse on the part of an infected woman  
9 with a male partner, or receptive consensual anal intercourse  
10 on the part of an infected man or woman with a male partner.~~

11 "Intravenous or intramuscular drug paraphernalia" means  
12 any equipment, product, or material of any kind which is  
13 peculiar to and marketed for use in injecting a substance into  
14 the human body.

15 "Sexual activity" means the insertive vaginal or anal  
16 intercourse on the part of an infected male, receptive  
17 consensual vaginal intercourse on the part of an infected woman  
18 with a male partner, or receptive consensual anal intercourse  
19 on the part of an infected man or woman with a male partner.

20 "Sexually transmissible disease" has the meaning ascribed  
21 to it in paragraph (3) of Section 3 of the Illinois Sexually  
22 Transmissible Disease Control Act.

23 (c) Nothing in this Section shall be construed to require  
24 that an infection with a sexually transmissible disease ~~HIV~~ has  
25 occurred in order for a person to have committed an offense  
26 under this Section ~~criminal transmission of HIV.~~

1 (d) It shall be an affirmative defense that the person  
2 exposed knew that the infected person was infected with a  
3 sexually transmissible disease HIV, knew that the action could  
4 result in infection with a sexually transmissible disease HIV,  
5 and consented to the action with that knowledge.

6 (d-5) A court, upon a finding of reasonable suspicion that  
7 an individual has committed the crime of criminal transmission  
8 of HIV or criminal transmission of a sexually transmissible  
9 disease, shall order the production of records of a person  
10 accused of the offense of criminal transmission of HIV or  
11 criminal transmission of a sexually transmissible disease or  
12 the attendance of a person with relevant knowledge thereof so  
13 long as the return of the records or attendance of the person  
14 pursuant to the subpoena is submitted initially to the court  
15 for an in camera inspection. Only upon a finding by the court  
16 that the records or proffered testimony are relevant to the  
17 pending offense, the information produced pursuant to the  
18 court's order shall be disclosed to the prosecuting entity and  
19 admissible if otherwise permitted by law.

20 (e) Sentence. A person who commits criminal transmission of  
21 a sexually transmissible disease commits a Class B misdemeanor.  
22 A person who commits criminal transmission of HIV commits a  
23 Class 2 felony.

24 (Source: P.A. 96-1551, eff. 7-1-11; 97-1046, eff. 8-21-12.)

25 Section 20. The Code of Criminal Procedure of 1963 is

1 amended by changing Sections 115-7 and 115-7.3 as follows:

2 (725 ILCS 5/115-7) (from Ch. 38, par. 115-7)

3 Sec. 115-7. a. In prosecutions for predatory criminal  
4 sexual assault of a child, aggravated criminal sexual assault,  
5 criminal sexual assault, aggravated criminal sexual abuse,  
6 criminal sexual abuse, ~~or~~ criminal transmission of HIV, or  
7 criminal transmission of a sexually transmissible disease; and  
8 in prosecutions for battery and aggravated battery, when the  
9 commission of the offense involves sexual penetration or sexual  
10 conduct as defined in Section 11-0.1 of the Criminal Code of  
11 2012; and with the trial or retrial of the offenses formerly  
12 known as rape, deviate sexual assault, indecent liberties with  
13 a child, and aggravated indecent liberties with a child, the  
14 prior sexual activity or the reputation of the alleged victim  
15 or corroborating witness under Section 115-7.3 of this Code is  
16 inadmissible except (1) as evidence concerning the past sexual  
17 conduct of the alleged victim or corroborating witness under  
18 Section 115-7.3 of this Code with the accused when this  
19 evidence is offered by the accused upon the issue of whether  
20 the alleged victim or corroborating witness under Section  
21 115-7.3 of this Code consented to the sexual conduct with  
22 respect to which the offense is alleged; or (2) when  
23 constitutionally required to be admitted.

24 b. No evidence admissible under this Section shall be  
25 introduced unless ruled admissible by the trial judge after an

1 offer of proof has been made at a hearing to be held in camera  
2 in order to determine whether the defense has evidence to  
3 impeach the witness in the event that prior sexual activity  
4 with the defendant is denied. Such offer of proof shall include  
5 reasonably specific information as to the date, time and place  
6 of the past sexual conduct between the alleged victim or  
7 corroborating witness under Section 115-7.3 of this Code and  
8 the defendant. Unless the court finds that reasonably specific  
9 information as to date, time or place, or some combination  
10 thereof, has been offered as to prior sexual activity with the  
11 defendant, counsel for the defendant shall be ordered to  
12 refrain from inquiring into prior sexual activity between the  
13 alleged victim or corroborating witness under Section 115-7.3  
14 of this Code and the defendant. The court shall not admit  
15 evidence under this Section unless it determines at the hearing  
16 that the evidence is relevant and the probative value of the  
17 evidence outweighs the danger of unfair prejudice. The evidence  
18 shall be admissible at trial to the extent an order made by the  
19 court specifies the evidence that may be admitted and areas  
20 with respect to which the alleged victim or corroborating  
21 witness under Section 115-7.3 of this Code may be examined or  
22 cross examined.

23 (Source: P.A. 96-1551, eff. 7-1-11; 97-1150, eff. 1-25-13.)

24 (725 ILCS 5/115-7.3)

25 Sec. 115-7.3. Evidence in certain cases.

1 (a) This Section applies to criminal cases in which:

2 (1) the defendant is accused of predatory criminal  
3 sexual assault of a child, aggravated criminal sexual  
4 assault, criminal sexual assault, aggravated criminal  
5 sexual abuse, criminal sexual abuse, child pornography,  
6 aggravated child pornography, criminal transmission of  
7 HIV, criminal transmission of a sexually transmissible  
8 disease, or child abduction as defined in paragraph (10) of  
9 subsection (b) of Section 10-5 of the Criminal Code of 1961  
10 or the Criminal Code of 2012;

11 (2) the defendant is accused of battery, aggravated  
12 battery, first degree murder, or second degree murder when  
13 the commission of the offense involves sexual penetration  
14 or sexual conduct as defined in Section 11-0.1 of the  
15 Criminal Code of 2012; or

16 (3) the defendant is tried or retried for any of the  
17 offenses formerly known as rape, deviate sexual assault,  
18 indecent liberties with a child, or aggravated indecent  
19 liberties with a child.

20 (b) If the defendant is accused of an offense set forth in  
21 paragraph (1) or (2) of subsection (a) or the defendant is  
22 tried or retried for any of the offenses set forth in paragraph  
23 (3) of subsection (a), evidence of the defendant's commission  
24 of another offense or offenses set forth in paragraph (1), (2),  
25 or (3) of subsection (a), or evidence to rebut that proof or an  
26 inference from that proof, may be admissible (if that evidence

1 is otherwise admissible under the rules of evidence) and may be  
2 considered for its bearing on any matter to which it is  
3 relevant.

4 (c) In weighing the probative value of the evidence against  
5 undue prejudice to the defendant, the court may consider:

6 (1) the proximity in time to the charged or predicate  
7 offense;

8 (2) the degree of factual similarity to the charged or  
9 predicate offense; or

10 (3) other relevant facts and circumstances.

11 (d) In a criminal case in which the prosecution intends to  
12 offer evidence under this Section, it must disclose the  
13 evidence, including statements of witnesses or a summary of the  
14 substance of any testimony, at a reasonable time in advance of  
15 trial, or during trial if the court excuses pretrial notice on  
16 good cause shown.

17 (e) In a criminal case in which evidence is offered under  
18 this Section, proof may be made by specific instances of  
19 conduct, testimony as to reputation, or testimony in the form  
20 of an expert opinion, except that the prosecution may offer  
21 reputation testimony only after the opposing party has offered  
22 that testimony.

23 (f) In prosecutions for a violation of Section 10-2,  
24 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-3.05, 12-4,  
25 12-13, 12-14, 12-14.1, 12-15, 12-16, or 18-5 of the Criminal  
26 Code of 1961 or the Criminal Code of 2012, involving the

1 involuntary delivery of a controlled substance to a victim, no  
2 inference may be made about the fact that a victim did not  
3 consent to a test for the presence of controlled substances.  
4 (Source: P.A. 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13;  
5 98-160, eff. 1-1-14.)

6 Section 25. The Unified Code of Corrections is amended by  
7 changing Section 5-5-3 as follows:

8 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

9 Sec. 5-5-3. Disposition.

10 (a) (Blank).

11 (b) (Blank).

12 (c) (1) (Blank).

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

19 (A) First degree murder where the death penalty is not  
20 imposed.

21 (B) Attempted first degree murder.

22 (C) A Class X felony.

23 (D) A violation of Section 401.1 or 407 of the Illinois  
24 Controlled Substances Act, or a violation of subdivision



1 (c) (1.5) or (c) (2) of Section 401 of that Act which relates  
2 to more than 5 grams of a substance containing cocaine,  
3 fentanyl, or an analog thereof.

4 (D-5) A violation of subdivision (c) (1) of Section 401  
5 of the Illinois Controlled Substances Act which relates to  
6 3 or more grams of a substance containing heroin 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, including  
12 any state or federal conviction for an offense that  
13 contained, at the time it was committed, the same elements  
14 as an offense now (the date of the offense committed after  
15 the prior Class 2 or greater felony) classified as a Class  
16 2 or greater felony, within 10 years of the date on which  
17 the offender committed the offense for which he or she is  
18 being sentenced, except as otherwise provided in Section  
19 40-10 of the Alcoholism and Other Drug Abuse and Dependency  
20 Act.

21 (F-5) A violation of Section 24-1, 24-1.1, or 24-1.6 of  
22 the Criminal Code of 1961 or the Criminal Code of 2012 for  
23 which imprisonment is prescribed in those Sections.

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

1 (H) Criminal sexual assault.

2 (I) Aggravated battery of a senior citizen as described  
3 in Section 12-4.6 or subdivision (a)(4) of Section 12-3.05  
4 of the Criminal Code of 1961 or the Criminal Code of 2012.

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

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

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

17 (K) Vehicular hijacking.

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

22 (M) A second or subsequent conviction for the offense  
23 of institutional vandalism if the damage to the property  
24 exceeds \$300.

25 (N) A Class 3 felony violation of paragraph (1) of  
26 subsection (a) of Section 2 of the Firearm Owners

1 Identification Card Act.

2 (O) A violation of Section 12-6.1 or 12-6.5 of the  
3 Criminal Code of 1961 or the Criminal Code of 2012.

4 (P) A violation of paragraph (1), (2), (3), (4), (5),  
5 or (7) of subsection (a) of Section 11-20.1 of the Criminal  
6 Code of 1961 or the Criminal Code of 2012.

7 (Q) A violation of subsection (b) or (b-5) of Section  
8 20-1, Section 20-1.2, or Section 20-1.3 of the Criminal  
9 Code of 1961 or the Criminal Code of 2012.

10 (R) A violation of Section 24-3A of the Criminal Code  
11 of 1961 or the Criminal Code of 2012.

12 (S) (Blank).

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

15 (U) A second or subsequent violation of Section 6-303  
16 of the Illinois Vehicle Code committed while his or her  
17 driver's license, permit, or privilege was revoked because  
18 of a violation of Section 9-3 of the Criminal Code of 1961  
19 or the Criminal Code of 2012, relating to the offense of  
20 reckless homicide, or a similar provision of a law of  
21 another state.

22 (V) A violation of paragraph (4) of subsection (c) of  
23 Section 11-20.1B or paragraph (4) of subsection (c) of  
24 Section 11-20.3 of the Criminal Code of 1961, or paragraph  
25 (6) of subsection (a) of Section 11-20.1 of the Criminal  
26 Code of 2012 when the victim is under 13 years of age and

1 the defendant has previously been convicted under the laws  
2 of this State or any other state of the offense of child  
3 pornography, aggravated child pornography, aggravated  
4 criminal sexual abuse, aggravated criminal sexual assault,  
5 predatory criminal sexual assault of a child, or any of the  
6 offenses formerly known as rape, deviate sexual assault,  
7 indecent liberties with a child, or aggravated indecent  
8 liberties with a child where the victim was under the age  
9 of 18 years or an offense that is substantially equivalent  
10 to those offenses.

11 (W) A violation of Section 24-3.5 of the Criminal Code  
12 of 1961 or the Criminal Code of 2012.

13 (X) A violation of subsection (a) of Section 31-1a of  
14 the Criminal Code of 1961 or the Criminal Code of 2012.

15 (Y) A conviction for unlawful possession of a firearm  
16 by a street gang member when the firearm was loaded or  
17 contained firearm ammunition.

18 (Z) A Class 1 felony committed while he or she was  
19 serving a term of probation or conditional discharge for a  
20 felony.

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

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

25 (CC) Knowingly selling, offering for sale, holding for  
26 sale, or using 2,000 or more counterfeit items or

1 counterfeit items having a retail value in the aggregate of  
2 \$500,000 or more.

3 (DD) A conviction for aggravated assault under  
4 paragraph (6) of subsection (c) of Section 12-2 of the  
5 Criminal Code of 1961 or the Criminal Code of 2012 if the  
6 firearm is aimed toward the person against whom the firearm  
7 is being used.

8 (EE) A conviction for a violation of paragraph (2) of  
9 subsection (a) of Section 24-3B of the Criminal Code of  
10 2012.

11 (3) (Blank).

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

16 (4.1) (Blank).

17 (4.2) Except as provided in paragraphs (4.3) and (4.8) of  
18 this subsection (c), a minimum of 100 hours of community  
19 service shall be imposed for a second violation of Section  
20 6-303 of the Illinois Vehicle Code.

21 (4.3) A minimum term of imprisonment of 30 days or 300  
22 hours of community service, as determined by the court, shall  
23 be imposed for a second violation of subsection (c) of Section  
24 6-303 of the Illinois Vehicle Code.

25 (4.4) Except as provided in paragraphs (4.5), (4.6), and  
26 (4.9) of this subsection (c), a minimum term of imprisonment of

1 30 days or 300 hours of community service, as determined by the  
2 court, shall be imposed for a third or subsequent violation of  
3 Section 6-303 of the Illinois Vehicle Code.

4 (4.5) A minimum term of imprisonment of 30 days shall be  
5 imposed for a third violation of subsection (c) of Section  
6 6-303 of the Illinois Vehicle Code.

7 (4.6) Except as provided in paragraph (4.10) of this  
8 subsection (c), a minimum term of imprisonment of 180 days  
9 shall be imposed for a fourth or subsequent violation of  
10 subsection (c) of Section 6-303 of the Illinois Vehicle Code.

11 (4.7) A minimum term of imprisonment of not less than 30  
12 consecutive days, or 300 hours of community service, shall be  
13 imposed for a violation of subsection (a-5) of Section 6-303 of  
14 the Illinois Vehicle Code, as provided in subsection (b-5) of  
15 that Section.

16 (4.8) A mandatory prison sentence shall be imposed for a  
17 second violation of subsection (a-5) of Section 6-303 of the  
18 Illinois Vehicle Code, as provided in subsection (c-5) of that  
19 Section. The person's driving privileges shall be revoked for a  
20 period of not less than 5 years from the date of his or her  
21 release from prison.

22 (4.9) A mandatory prison sentence of not less than 4 and  
23 not more than 15 years shall be imposed for a third violation  
24 of subsection (a-5) of Section 6-303 of the Illinois Vehicle  
25 Code, as provided in subsection (d-2.5) of that Section. The  
26 person's driving privileges shall be revoked for the remainder

1 of his or her life.

2 (4.10) A mandatory prison sentence for a Class 1 felony  
3 shall be imposed, and the person shall be eligible for an  
4 extended term sentence, for a fourth or subsequent violation of  
5 subsection (a-5) of Section 6-303 of the Illinois Vehicle Code,  
6 as provided in subsection (d-3.5) of that Section. The person's  
7 driving privileges shall be revoked for the remainder of his or  
8 her life.

9 (5) The court may sentence a corporation or unincorporated  
10 association convicted of any offense to:

11 (A) a period of conditional discharge;

12 (B) a fine;

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

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

22 (5.2) In addition to any other penalties imposed, and  
23 except as provided in paragraph (5.3), a person convicted of  
24 violating subsection (c) of Section 11-907 of the Illinois  
25 Vehicle Code shall have his or her driver's license, permit, or  
26 privileges suspended for at least 180 days but not more than 2

1 years, if the violation resulted in injury to another person.

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

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

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

20 (6) (Blank).

21 (7) (Blank).

22 (8) (Blank).

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

26 (10) (Blank).



1           (11) The court shall impose a minimum fine of \$1,000 for a  
2 first offense and \$2,000 for a second or subsequent offense  
3 upon a person convicted of or placed on supervision for battery  
4 when the individual harmed was a sports official or coach at  
5 any level of competition and the act causing harm to the sports  
6 official or coach occurred within an athletic facility or  
7 within the immediate vicinity of the athletic facility at which  
8 the sports official or coach was an active participant of the  
9 athletic contest held at the athletic facility. For the  
10 purposes of this paragraph (11), "sports official" means a  
11 person at an athletic contest who enforces the rules of the  
12 contest, such as an umpire or referee; "athletic facility"  
13 means an indoor or outdoor playing field or recreational area  
14 where sports activities are conducted; and "coach" means a  
15 person recognized as a coach by the sanctioning authority that  
16 conducted the sporting event.

17           (12) A person may not receive a disposition of court  
18 supervision for a violation of Section 5-16 of the Boat  
19 Registration and Safety Act if that person has previously  
20 received a disposition of court supervision for a violation of  
21 that Section.

22           (13) A person convicted of or placed on court supervision  
23 for an assault or aggravated assault when the victim and the  
24 offender are family or household members as defined in Section  
25 103 of the Illinois Domestic Violence Act of 1986 or convicted  
26 of domestic battery or aggravated domestic battery may be

1 required to attend a Partner Abuse Intervention Program under  
2 protocols set forth by the Illinois Department of Human  
3 Services under such terms and conditions imposed by the court.  
4 The costs of such classes shall be paid by the offender.

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

23 (e) In cases where prosecution for aggravated criminal  
24 sexual abuse under Section 11-1.60 or 12-16 of the Criminal  
25 Code of 1961 or the Criminal Code of 2012 results in conviction  
26 of a defendant who was a family member of the victim at the

1 time of the commission of the offense, the court shall consider  
2 the safety and welfare of the victim and may impose a sentence  
3 of probation only where:

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

5 (A) the defendant is willing to undergo a court  
6 approved counseling program for a minimum duration of 2  
7 years; or

8 (B) the defendant is willing to participate in a  
9 court approved plan including but not limited to the  
10 defendant's:

11 (i) removal from the household;

12 (ii) restricted contact with the victim;

13 (iii) continued financial support of the  
14 family;

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

16 and

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

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

26 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 or  
4 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 11-0.1 of the Criminal Code of 2012.

10 (f) (Blank).

11 (g) Whenever a defendant is convicted of an offense under  
12 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,  
13 11-14.3, 11-14.4 except for an offense that involves keeping a  
14 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,  
15 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,  
16 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the  
17 Criminal Code of 2012, the defendant shall undergo medical  
18 testing to determine whether the defendant has any sexually  
19 transmissible disease, including a test for infection with  
20 human immunodeficiency virus (HIV) or any other identified  
21 causative agent of acquired immunodeficiency syndrome (AIDS).  
22 Any such medical test shall be performed only by appropriately  
23 licensed medical practitioners and may include an analysis of  
24 any bodily fluids as well as an examination of the defendant's  
25 person. Except as otherwise provided by law, the results of  
26 such test shall be kept strictly confidential by all medical

1 personnel involved in the testing and must be personally  
2 delivered in a sealed envelope to the judge of the court in  
3 which the conviction was entered for the judge's inspection in  
4 camera. Acting in accordance with the best interests of the  
5 victim and the public, the judge shall have the discretion to  
6 determine to whom, if anyone, the results of the testing may be  
7 revealed. The court shall notify the defendant of the test  
8 results. The court shall also notify the victim if requested by  
9 the victim, and if the victim is under the age of 15 and if  
10 requested by the victim's parents or legal guardian, the court  
11 shall notify the victim's parents or legal guardian of the test  
12 results. The court shall provide information on the  
13 availability of HIV testing and counseling at Department of  
14 Public Health facilities to all parties to whom the results of  
15 the testing are revealed and shall direct the State's Attorney  
16 to provide the information to the victim when possible. A  
17 State's Attorney may petition the court to obtain the results  
18 of any HIV test administered under this Section, and the court  
19 shall grant the disclosure if the State's Attorney shows it is  
20 relevant in order to prosecute a charge of criminal  
21 transmission of HIV under Section 12-5.01 or 12-16.2 of the  
22 Criminal Code of 1961 or the Criminal Code of 2012 or criminal  
23 transmission of a sexually transmissible disease under Section  
24 12-5.01 of the Criminal Code of 2012 against the defendant. The  
25 court shall order that the cost of any such test shall be paid  
26 by the county and may be taxed as costs against the convicted

1 defendant.

2 (g-5) When an inmate is tested for an airborne communicable  
3 disease, as determined by the Illinois Department of Public  
4 Health including but not limited to tuberculosis, the results  
5 of the test shall be personally delivered by the warden or his  
6 or her designee in a sealed envelope to the judge of the court  
7 in which the inmate must appear for the judge's inspection in  
8 camera if requested by the judge. Acting in accordance with the  
9 best interests of those in the courtroom, the judge shall have  
10 the discretion to determine what if any precautions need to be  
11 taken to prevent transmission of the disease in the courtroom.

12 (h) Whenever a defendant is convicted of an offense under  
13 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the  
14 defendant shall undergo medical testing to determine whether  
15 the defendant has been exposed to human immunodeficiency virus  
16 (HIV) or any other identified causative agent of acquired  
17 immunodeficiency syndrome (AIDS). Except as otherwise provided  
18 by law, the results of such test shall be kept strictly  
19 confidential by all medical personnel involved in the testing  
20 and must be personally delivered in a sealed envelope to the  
21 judge of the court in which the conviction was entered for the  
22 judge's inspection in camera. Acting in accordance with the  
23 best interests of the public, the judge shall have the  
24 discretion to determine to whom, if anyone, the results of the  
25 testing may be revealed. The court shall notify the defendant  
26 of a positive test showing an infection with the human

1 immunodeficiency virus (HIV). The court shall provide  
2 information on the availability of HIV testing and counseling  
3 at Department of Public Health facilities to all parties to  
4 whom the results of the testing are revealed and shall direct  
5 the State's Attorney to provide the information to the victim  
6 when possible. A State's Attorney may petition the court to  
7 obtain the results of any HIV test administered under this  
8 Section, and the court shall grant the disclosure if the  
9 State's Attorney shows it is relevant in order to prosecute a  
10 charge of criminal transmission of HIV under Section 12-5.01 or  
11 12-16.2 of the Criminal Code of 1961 or the Criminal Code of  
12 2012 or criminal transmission of a sexually transmissible  
13 disease under Section 12-5.01 of the Criminal Code of 2012  
14 against the defendant. The court shall order that the cost of  
15 any such test shall be paid by the county and may be taxed as  
16 costs against the convicted defendant.

17 (i) All fines and penalties imposed under this Section for  
18 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
19 Vehicle Code, or a similar provision of a local ordinance, and  
20 any violation of the Child Passenger Protection Act, or a  
21 similar provision of a local ordinance, shall be collected and  
22 disbursed by the circuit clerk as provided under Section 27.5  
23 of the Clerks of Courts Act.

24 (j) In cases when prosecution for any violation of Section  
25 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,  
26 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,

1 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
2 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,  
3 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal  
4 Code of 2012, any violation of the Illinois Controlled  
5 Substances Act, any violation of the Cannabis Control Act, or  
6 any violation of the Methamphetamine Control and Community  
7 Protection Act results in conviction, a disposition of court  
8 supervision, or an order of probation granted under Section 10  
9 of the Cannabis Control Act, Section 410 of the Illinois  
10 Controlled Substances Act, or Section 70 of the Methamphetamine  
11 Control and Community Protection Act of a defendant, the court  
12 shall determine whether the defendant is employed by a facility  
13 or center as defined under the Child Care Act of 1969, a public  
14 or private elementary or secondary school, or otherwise works  
15 with children under 18 years of age on a daily basis. When a  
16 defendant is so employed, the court shall order the Clerk of  
17 the Court to send a copy of the judgment of conviction or order  
18 of supervision or probation to the defendant's employer by  
19 certified mail. If the employer of the defendant is a school,  
20 the Clerk of the Court shall direct the mailing of a copy of  
21 the judgment of conviction or order of supervision or probation  
22 to the appropriate regional superintendent of schools. The  
23 regional superintendent of schools shall notify the State Board  
24 of Education of any notification under this subsection.

25 (j-5) A defendant at least 17 years of age who is convicted  
26 of a felony and who has not been previously convicted of a



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

1 equivalency testing. This subsection (j-5) does not apply to a  
2 defendant who is determined by the court to be a person with a  
3 developmental disability or otherwise mentally incapable of  
4 completing the educational or vocational program.

5 (k) (Blank).

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

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

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

20 Otherwise, the defendant shall be sentenced as provided in  
21 this Chapter V.

22 (B) If the defendant has already been sentenced for a  
23 felony or misdemeanor offense, or has been placed on probation  
24 under Section 10 of the Cannabis Control Act, Section 410 of  
25 the Illinois Controlled Substances Act, or Section 70 of the  
26 Methamphetamine Control and Community Protection Act, the

1 court may, upon motion of the State's Attorney to suspend the  
2 sentence imposed, commit the defendant to the custody of the  
3 Attorney General of the United States or his or her designated  
4 agent when:

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

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

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

14 (D) Upon motion of the State's Attorney, if a defendant  
15 sentenced under this Section returns to the jurisdiction of the  
16 United States, the defendant shall be recommitted to the  
17 custody of the county from which he or she was sentenced.  
18 Thereafter, the defendant shall be brought before the  
19 sentencing court, which may impose any sentence that was  
20 available under Section 5-5-3 at the time of initial  
21 sentencing. In addition, the defendant shall not be eligible  
22 for additional sentence credit for good conduct as provided  
23 under Section 3-6-3.

24 (m) A person convicted of criminal defacement of property  
25 under Section 21-1.3 of the Criminal Code of 1961 or the  
26 Criminal Code of 2012, in which the property damage exceeds

1 \$300 and the property damaged is a school building, shall be  
2 ordered to perform community service that may include cleanup,  
3 removal, or painting over the defacement.

4 (n) The court may sentence a person convicted of a  
5 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or  
6 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code  
7 of 1961 or the Criminal Code of 2012 (i) to an impact  
8 incarceration program if the person is otherwise eligible for  
9 that program under Section 5-8-1.1, (ii) to community service,  
10 or (iii) if the person is an addict or alcoholic, as defined in  
11 the Alcoholism and Other Drug Abuse and Dependency Act, to a  
12 substance or alcohol abuse program licensed under that Act.

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

18 (Source: P.A. 98-718, eff. 1-1-15; 98-756, eff. 7-16-14;  
19 99-143, eff. 7-27-15; 99-885, eff. 8-23-16.)