



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2955

by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-3

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

Amends the Unified Code of Corrections. Eliminates provisions that a period of probation, a term of periodic imprisonment or conditional discharge shall not be imposed for: (1) the manufacture, delivery, or possession with intent to deliver more than 5 grams but less than 15 grams of a substance containing cocaine, fentanyl, or an analog thereof; (2) 3 or more grams but less than 15 grams of a substance containing heroin or an analog thereof; (3) a Class 2 or greater felony if the offender had been convicted of a Class 2 or greater felony, including any state or federal conviction for an offense that contained, at the time it was committed, the same elements as an offense now (the date of the offense committed after the prior Class 2 or greater felony) classified as a Class 2 or greater felony, within 10 years of the date on which the offender committed the offense for which he or she is being sentenced; or (4) residential burglary.

LRB100 08491 RLC 18611 b

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

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

7 Sec. 5-5-3. Disposition.

8 (a) (Blank).

9 (b) (Blank).

10 (c) (1) (Blank).

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

17 (A) First degree murder where the death penalty is not
18 imposed.

19 (B) Attempted first degree murder.

20 (C) A Class X felony.

21 (D) (Blank). ~~A violation of Section 401.1 or 407 of the~~
22 ~~Illinois Controlled Substances Act, or a violation of~~
23 ~~subdivision (c) (1.5) or (c) (2) of Section 401 of that Act~~

1 ~~which relates to more than 5 grams of a substance~~
2 ~~containing cocaine, fentanyl, or an analog thereof.~~

3 (D-5) (Blank). ~~A violation of subdivision (c)(1) of~~
4 ~~Section 401 of the Illinois Controlled Substances Act which~~
5 ~~relates to 3 or more grams of a substance containing heroin~~
6 ~~or an analog thereof.~~

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

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

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

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

26 (H) Criminal sexual assault.

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

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

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

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

16 (K) Vehicular hijacking.

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

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

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

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

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

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

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

11 (S) (Blank).

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

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

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

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

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

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

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

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

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

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

24 (CC) Knowingly selling, offering for sale, holding for
25 sale, or using 2,000 or more counterfeit items or
26 counterfeit items having a retail value in the aggregate of

1 \$500,000 or more.

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

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

10 (3) (Blank).

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

15 (4.1) (Blank).

16 (4.2) Except as provided in paragraphs (4.3) and (4.8) of
17 this subsection (c), a minimum of 100 hours of community
18 service shall be imposed for a second violation of Section
19 6-303 of the Illinois Vehicle Code.

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

24 (4.4) Except as provided in paragraphs (4.5), (4.6), and
25 (4.9) of this subsection (c), a minimum term of imprisonment of
26 30 days or 300 hours of community service, as determined by the

1 court, shall be imposed for a third or subsequent violation of
2 Section 6-303 of the Illinois Vehicle Code.

3 (4.5) A minimum term of imprisonment of 30 days shall be
4 imposed for a third violation of subsection (c) of Section
5 6-303 of the Illinois Vehicle Code.

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

10 (4.7) A minimum term of imprisonment of not less than 30
11 consecutive days, or 300 hours of community service, shall be
12 imposed for a violation of subsection (a-5) of Section 6-303 of
13 the Illinois Vehicle Code, as provided in subsection (b-5) of
14 that Section.

15 (4.8) A mandatory prison sentence shall be imposed for a
16 second violation of subsection (a-5) of Section 6-303 of the
17 Illinois Vehicle Code, as provided in subsection (c-5) of that
18 Section. The person's driving privileges shall be revoked for a
19 period of not less than 5 years from the date of his or her
20 release from prison.

21 (4.9) A mandatory prison sentence of not less than 4 and
22 not more than 15 years shall be imposed for a third violation
23 of subsection (a-5) of Section 6-303 of the Illinois Vehicle
24 Code, as provided in subsection (d-2.5) of that Section. The
25 person's driving privileges shall be revoked for the remainder
26 of his or her life.

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

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

10 (A) a period of conditional discharge;

11 (B) a fine;

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

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

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

1 (5.3) In addition to any other penalties imposed, a person
2 convicted of violating subsection (c) of Section 11-907 of the
3 Illinois Vehicle Code shall have his or her driver's license,
4 permit, or privileges suspended for 2 years, if the violation
5 resulted in the death of another person.

6 (5.4) In addition to any other penalties imposed, a person
7 convicted of violating Section 3-707 of the Illinois Vehicle
8 Code shall have his or her driver's license, permit, or
9 privileges suspended for 3 months and until he or she has paid
10 a reinstatement fee of \$100.

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

19 (6) (Blank).

20 (7) (Blank).

21 (8) (Blank).

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

25 (10) (Blank).

26 (11) The court shall impose a minimum fine of \$1,000 for a

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

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

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

1 protocols set forth by the Illinois Department of Human
2 Services under such terms and conditions imposed by the court.
3 The costs of such classes shall be paid by the offender.

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

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

1 the safety and welfare of the victim and may impose a sentence
2 of probation only where:

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

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

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

10 (i) removal from the household;

11 (ii) restricted contact with the victim;

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

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

15 and

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

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

25 Probation may be revoked or modified pursuant to Section
26 5-6-4; except where the court determines at the hearing that

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

6 For the purposes of this Section, "family member" and
7 "victim" shall have the meanings ascribed to them in Section
8 11-0.1 of the Criminal Code of 2012.

9 (f) (Blank).

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

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

25 (g-5) When an inmate is tested for an airborne communicable
26 disease, as determined by the Illinois Department of Public

1 Health including but not limited to tuberculosis, the results
2 of the test shall be personally delivered by the warden or his
3 or her designee in a sealed envelope to the judge of the court
4 in which the inmate must appear for the judge's inspection in
5 camera if requested by the judge. Acting in accordance with the
6 best interests of those in the courtroom, the judge shall have
7 the discretion to determine what if any precautions need to be
8 taken to prevent transmission of the disease in the courtroom.

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

1 whom the results of the testing are revealed and shall direct
2 the State's Attorney to provide the information to the victim
3 when possible. A State's Attorney may petition the court to
4 obtain the results of any HIV test administered under this
5 Section, and the court shall grant the disclosure if the
6 State's Attorney shows it is relevant in order to prosecute a
7 charge of criminal transmission of HIV under Section 12-5.01 or
8 12-16.2 of the Criminal Code of 1961 or the Criminal Code of
9 2012 against the defendant. The court shall order that the cost
10 of any such test shall be paid by the county and may be taxed as
11 costs against the convicted defendant.

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

19 (j) In cases when prosecution for any violation of Section
20 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,
21 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,
22 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
23 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,
24 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal
25 Code of 2012, any violation of the Illinois Controlled
26 Substances Act, any violation of the Cannabis Control Act, or

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

20 (j-5) A defendant at least 17 years of age who is convicted
21 of a felony and who has not been previously convicted of a
22 misdemeanor or felony and who is sentenced to a term of
23 imprisonment in the Illinois Department of Corrections shall as
24 a condition of his or her sentence be required by the court to
25 attend educational courses designed to prepare the defendant
26 for a high school diploma and to work toward a high school

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

26 (k) (Blank).

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

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

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

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

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

26 (1) a final order of deportation has been issued

1 against the defendant pursuant to proceedings under the
2 Immigration and Nationality Act, and

3 (2) the deportation of the defendant would not
4 deprecate the seriousness of the defendant's conduct and
5 would not be inconsistent with the ends of justice.

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

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

19 (m) A person convicted of criminal defacement of property
20 under Section 21-1.3 of the Criminal Code of 1961 or the
21 Criminal Code of 2012, in which the property damage exceeds
22 \$300 and the property damaged is a school building, shall be
23 ordered to perform community service that may include cleanup,
24 removal, or painting over the defacement.

25 (n) The court may sentence a person convicted of a
26 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or

1 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
2 of 1961 or the Criminal Code of 2012 (i) to an impact
3 incarceration program if the person is otherwise eligible for
4 that program under Section 5-8-1.1, (ii) to community service,
5 or (iii) if the person is an addict or alcoholic, as defined in
6 the Alcoholism and Other Drug Abuse and Dependency Act, to a
7 substance or alcohol abuse program licensed under that Act.

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

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