

SB1892



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1892

Introduced 2/26/2021, by Sen. John F. Curran

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-3

Amends the Unified Code of Corrections. Provides that a period of probation, a term of periodic imprisonment or conditional discharge shall not be imposed for a violation of child pornography when the person possesses any film, videotape, photograph, or other similar visual reproduction or depiction by computer of any child or person with a severe or profound intellectual disability whom the person knows or reasonably should know to be under the age of 18 or to be a person with a severe or profound intellectual disability engaged in sexual activity if the victim is a household or family member of the defendant.

LRB102 10310 RLC 15637 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

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

6 (730 ILCS 5/5-5-3)

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
13 following offenses. The court shall sentence the offender to
14 not less than the minimum term of imprisonment set forth in
15 this Code for the following offenses, and may order a fine or
16 restitution or both in conjunction with such term of
17 imprisonment:

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

20 (B) Attempted first degree murder.

21 (C) A Class X felony.

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

1 subdivision (c)(1.5) of Section 401 of that Act which
2 relates to more than 5 grams of a substance containing
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) (Blank).

9 (F) A Class 1 or greater felony if the offender had
10 been convicted of a Class 1 or greater felony, including
11 any state or federal conviction for an offense that
12 contained, at the time it was committed, the same elements
13 as an offense now (the date of the offense committed after
14 the prior Class 1 or greater felony) classified as a Class
15 1 or greater felony, within 10 years of the date on which
16 the offender committed the offense for which he or she is
17 being sentenced, except as otherwise provided in Section
18 40-10 of the Substance Use Disorder Act.

19 (F-3) A Class 2 or greater felony sex offense or
20 felony firearm offense if the offender had been convicted
21 of a Class 2 or greater felony, including any state or
22 federal conviction for an offense that contained, at the
23 time it was committed, the same elements as an offense now
24 (the date of the offense committed after the prior Class 2
25 or greater felony) classified as a Class 2 or greater
26 felony, within 10 years of the date on which the offender

1 committed the offense for which he or she is being
2 sentenced, except as otherwise provided in Section 40-10
3 of the Substance Use Disorder Act.

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

7 (G) Residential burglary, except as otherwise provided
8 in Section 40-10 of the Substance Use Disorder Act.

9 (H) Criminal sexual assault.

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

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

16 Before July 1, 1994, for the purposes of this
17 paragraph, "organized gang" means an association of 5 or
18 more persons, with an established hierarchy, that
19 encourages members of the association to perpetrate crimes
20 or provides support to the members of the association who
21 do commit crimes.

22 Beginning July 1, 1994, for the purposes of this
23 paragraph, "organized gang" has the meaning ascribed to it
24 in Section 10 of the Illinois Streetgang Terrorism Omnibus
25 Prevention Act.

26 (K) Vehicular hijacking.

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

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

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

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

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

16 (P-5) A violation of paragraph (6) of subsection (a)
17 of Section 11-20.1 of the Criminal Code of 1961 or the
18 Criminal Code of 2012 if the victim is a household or
19 family member of the defendant.

20 (Q) A violation of subsection (b) or (b-5) of Section
21 20-1, Section 20-1.2, or Section 20-1.3 of the Criminal
22 Code of 1961 or the Criminal Code of 2012.

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

25 (S) (Blank).

26 (T) (Blank).

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

8 (V) A violation of paragraph (4) of subsection (c) of
9 Section 11-20.1B or paragraph (4) of subsection (c) of
10 Section 11-20.3 of the Criminal Code of 1961, or paragraph
11 (6) of subsection (a) of Section 11-20.1 of the Criminal
12 Code of 2012 when the victim is under 13 years of age and
13 the defendant has previously been convicted under the laws
14 of this State or any other state of the offense of child
15 pornography, aggravated child pornography, aggravated
16 criminal sexual abuse, aggravated criminal sexual assault,
17 predatory criminal sexual assault of a child, or any of
18 the offenses formerly known as rape, deviate sexual
19 assault, indecent liberties with a child, or aggravated
20 indecent liberties with a child where the victim was under
21 the age of 18 years or an offense that is substantially
22 equivalent to those offenses.

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

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

1 (Y) A conviction for unlawful possession of a firearm
2 by a street gang member when the firearm was loaded or
3 contained firearm ammunition.

4 (Z) A Class 1 felony committed while he or she was
5 serving a term of probation or conditional discharge for a
6 felony.

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

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

11 (CC) Knowingly selling, offering for sale, holding for
12 sale, or using 2,000 or more counterfeit items or
13 counterfeit items having a retail value in the aggregate
14 of \$500,000 or more.

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

20 (EE) A conviction for a violation of paragraph (2) of
21 subsection (a) of Section 24-3B of the Criminal Code of
22 2012.

23 (3) (Blank).

24 (4) A minimum term of imprisonment of not less than 10
25 consecutive days or 30 days of community service shall be
26 imposed for a violation of paragraph (c) of Section 6-303 of

1 the Illinois Vehicle Code.

2 (4.1) (Blank).

3 (4.2) Except as provided in paragraphs (4.3) and (4.8) of
4 this subsection (c), a minimum of 100 hours of community
5 service shall be imposed for a second violation of Section
6 6-303 of the Illinois Vehicle Code.

7 (4.3) A minimum term of imprisonment of 30 days or 300
8 hours of community service, as determined by the court, shall
9 be imposed for a second violation of subsection (c) of Section
10 6-303 of the Illinois Vehicle Code.

11 (4.4) Except as provided in paragraphs (4.5), (4.6), and
12 (4.9) of this subsection (c), a minimum term of imprisonment
13 of 30 days or 300 hours of community service, as determined by
14 the court, shall be imposed for a third or subsequent
15 violation of Section 6-303 of the Illinois Vehicle Code. The
16 court may give credit toward the fulfillment of community
17 service hours for participation in activities and treatment as
18 determined by court services.

19 (4.5) A minimum term of imprisonment of 30 days shall be
20 imposed for a third violation of subsection (c) of Section
21 6-303 of the Illinois Vehicle Code.

22 (4.6) Except as provided in paragraph (4.10) of this
23 subsection (c), a minimum term of imprisonment of 180 days
24 shall be imposed for a fourth or subsequent violation of
25 subsection (c) of Section 6-303 of the Illinois Vehicle Code.

26 (4.7) A minimum term of imprisonment of not less than 30

1 consecutive days, or 300 hours of community service, shall be
2 imposed for a violation of subsection (a-5) of Section 6-303
3 of the Illinois Vehicle Code, as provided in subsection (b-5)
4 of that Section.

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

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

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

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

26 (A) a period of conditional discharge;

1 (B) a fine;

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

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

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

18 (5.3) In addition to any other penalties imposed, a person
19 convicted of violating subsection (c) of Section 11-907 of the
20 Illinois Vehicle Code shall have his or her driver's license,
21 permit, or privileges suspended for 2 years, if the violation
22 resulted in the death of another person.

23 (5.4) In addition to any other penalties imposed, a person
24 convicted of violating Section 3-707 of the Illinois Vehicle
25 Code shall have his or her driver's license, permit, or
26 privileges suspended for 3 months and until he or she has paid

1 a reinstatement fee of \$100.

2 (5.5) In addition to any other penalties imposed, a person
3 convicted of violating Section 3-707 of the Illinois Vehicle
4 Code during a period in which his or her driver's license,
5 permit, or privileges were suspended for a previous violation
6 of that Section shall have his or her driver's license,
7 permit, or privileges suspended for an additional 6 months
8 after the expiration of the original 3-month suspension and
9 until he or she has paid a reinstatement fee of \$100.

10 (6) (Blank).

11 (7) (Blank).

12 (8) (Blank).

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

16 (10) (Blank).

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

1 official" means a person at an athletic contest who enforces
2 the rules of the contest, such as an umpire or referee;
3 "athletic facility" means an indoor or outdoor playing field
4 or recreational area where sports activities are conducted;
5 and "coach" means a person recognized as a coach by the
6 sanctioning authority that conducted the sporting event.

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

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

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

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

13 (e) In cases where prosecution for aggravated criminal
14 sexual abuse under Section 11-1.60 or 12-16 of the Criminal
15 Code of 1961 or the Criminal Code of 2012 results in conviction
16 of a defendant who was a family member of the victim at the
17 time of the commission of the offense, the court shall
18 consider the safety and welfare of the victim and may impose a
19 sentence of probation only where:

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

22 (A) the defendant is willing to undergo a court
23 approved counseling program for a minimum duration of
24 2 years; or

25 (B) the defendant is willing to participate in a
26 court approved plan including but not limited to the

1 defendant's:

2 (i) removal from the household;

3 (ii) restricted contact with the victim;

4 (iii) continued financial support of the
5 family;

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

7 and

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

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

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

24 For the purposes of this Section, "family member" and
25 "victim" shall have the meanings ascribed to them in Section
26 11-0.1 of the Criminal Code of 2012.

1 (f) (Blank).

2 (g) Whenever a defendant is convicted of an offense under
3 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,
4 11-14.3, 11-14.4 except for an offense that involves keeping a
5 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,
6 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,
7 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the
8 Criminal Code of 2012, the defendant shall undergo medical
9 testing to determine whether the defendant has any sexually
10 transmissible disease, including a test for infection with
11 human immunodeficiency virus (HIV) or any other identified
12 causative agent of acquired immunodeficiency syndrome (AIDS).
13 Any such medical test shall be performed only by appropriately
14 licensed medical practitioners and may include an analysis of
15 any bodily fluids as well as an examination of the defendant's
16 person. Except as otherwise provided by law, the results of
17 such test shall be kept strictly confidential by all medical
18 personnel involved in the testing and must be personally
19 delivered in a sealed envelope to the judge of the court in
20 which the conviction was entered for the judge's inspection in
21 camera. Acting in accordance with the best interests of the
22 victim and the public, the judge shall have the discretion to
23 determine to whom, if anyone, the results of the testing may be
24 revealed. The court shall notify the defendant of the test
25 results. The court shall also notify the victim if requested
26 by the victim, and if the victim is under the age of 15 and if

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

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

1 disease in the courtroom.

2 (h) Whenever a defendant is convicted of an offense under
3 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
4 defendant shall undergo medical testing to determine whether
5 the defendant has been exposed to human immunodeficiency virus
6 (HIV) or any other identified causative agent of acquired
7 immunodeficiency syndrome (AIDS). Except as otherwise provided
8 by law, the results of such test shall be kept strictly
9 confidential by all medical personnel involved in the testing
10 and must be personally delivered in a sealed envelope to the
11 judge of the court in which the conviction was entered for the
12 judge's inspection in camera. Acting in accordance with the
13 best interests of the public, the judge shall have the
14 discretion to determine to whom, if anyone, the results of the
15 testing may be revealed. The court shall notify the defendant
16 of a positive test showing an infection with the human
17 immunodeficiency virus (HIV). The court shall provide
18 information on the availability of HIV testing and counseling
19 at Department of Public Health facilities to all parties to
20 whom the results of the testing are revealed and shall direct
21 the State's Attorney to provide the information to the victim
22 when possible. A State's Attorney may petition the court to
23 obtain the results of any HIV test administered under this
24 Section, and the court shall grant the disclosure if the
25 State's Attorney shows it is relevant in order to prosecute a
26 charge of criminal transmission of HIV under Section 12-5.01

1 or 12-16.2 of the Criminal Code of 1961 or the Criminal Code of
2 2012 against the defendant. The court shall order that the
3 cost of any such test shall be paid by the county and may be
4 taxed as costs against the convicted defendant.

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

12 (j) In cases when prosecution for any violation of Section
13 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,
14 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,
15 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
16 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,
17 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal
18 Code of 2012, any violation of the Illinois Controlled
19 Substances Act, any violation of the Cannabis Control Act, or
20 any violation of the Methamphetamine Control and Community
21 Protection Act results in conviction, a disposition of court
22 supervision, or an order of probation granted under Section 10
23 of the Cannabis Control Act, Section 410 of the Illinois
24 Controlled Substances Act, or Section 70 of the
25 Methamphetamine Control and Community Protection Act of a
26 defendant, the court shall determine whether the defendant is

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

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

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

21 (k) (Blank).

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

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

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

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

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

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

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

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

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

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

14 (m) A person convicted of criminal defacement of property
15 under Section 21-1.3 of the Criminal Code of 1961 or the
16 Criminal Code of 2012, in which the property damage exceeds
17 \$300 and the property damaged is a school building, shall be
18 ordered to perform community service that may include cleanup,
19 removal, or painting over the defacement.

20 (n) The court may sentence a person convicted of a
21 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or
22 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
23 of 1961 or the Criminal Code of 2012 (i) to an impact
24 incarceration program if the person is otherwise eligible for
25 that program under Section 5-8-1.1, (ii) to community service,
26 or (iii) if the person has a substance use disorder, as defined

1 in the Substance Use Disorder Act, to a treatment program
2 licensed under that Act.

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

8 (Source: P.A. 100-575, eff. 1-8-18; 100-759, eff. 1-1-19;
9 100-987, eff. 7-1-19; 101-81, eff. 7-12-19.)