

1 AN ACT in relation to criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by  
5 changing Section 21-1.3 as follows:

6 (720 ILCS 5/21-1.3)

7 Sec. 21-1.3. Criminal defacement of property.

8 (a) A person commits criminal defacement of property  
9 when the person knowingly damages the property of another  
10 without his or her consent by defacing, deforming, or  
11 otherwise damaging the property by the use of paint or any  
12 other similar substance, or by the use of a writing  
13 instrument, etching tool, or any other similar device.

14 (b) Criminal defacement of property is a Class A  
15 misdemeanor for a first offense if the damage to the property  
16 does not exceed \$300. Criminal defacement of property is a  
17 Class 4 felony if the damage to property does not exceed \$300  
18 and the property damaged is a school building or place of  
19 worship. Criminal defacement of property is a Class 4 felony  
20 for a second or subsequent conviction or if the damage to the  
21 property exceeds \$300. Criminal defacement of property is a  
22 Class 3 felony if the damage to property exceeds \$300 and the  
23 property damaged is a school building or place of worship. In  
24 addition to any other sentence that may be imposed for a  
25 violation of this Section that is chargeable as a Class 3 or  
26 Class 4 felony, a person convicted of criminal defacement of  
27 property shall be subject to a mandatory minimum fine of \$500  
28 plus the actual costs incurred by the property owner or the  
29 unit of government to abate, remediate, repair, or remove the  
30 effect of the damage to the property. To the extent  
31 permitted by law, reimbursement for the costs of abatement,

1 remediation, repair, or removal shall be payable to the  
2 person who incurred the costs. In addition to any other  
3 sentence that may be imposed, a court shall order any person  
4 convicted of criminal defacement of property to perform  
5 community service for not less than 30 and not more than 120  
6 hours, if community service is available in the jurisdiction.  
7 The community service shall include, but need not be limited  
8 to, the cleanup and repair of the damage to property that was  
9 caused by the offense, or similar damage to property located  
10 in the municipality or county in which the offense occurred.  
11 If the property damaged is a school building, the community  
12 service may include cleanup, removal, or painting over the  
13 defacement. In addition, whenever any person is placed on  
14 supervision for an alleged offense under this Section, the  
15 supervision shall be conditioned upon the performance of the  
16 community service. The parent, legal guardian, or other  
17 person having custody of a child under 18 years of age who  
18 has been convicted of a violation of this Section shall be  
19 ordered by the court to perform community service  
20 simultaneously with the child to cleanup and repair the  
21 damage to the property defaced by the child.

22 (Source: P.A. 90-685, eff. 1-1-99; 91-360, eff. 7-29-99;  
23 91-931, eff. 6-1-01.)

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

26 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

27 Sec. 5-5-3. Disposition.

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

30 (b) The following options shall be appropriate  
31 dispositions, alone or in combination, for all felonies and  
32 misdemeanors other than those identified in subsection (c) of

1 this Section:

2 (1) A period of probation.

3 (2) A term of periodic imprisonment.

4 (3) A term of conditional discharge.

5 (4) A term of imprisonment.

6 (5) An order directing the offender to clean up and  
7 repair the damage, if the offender was convicted under  
8 paragraph (h) of Section 21-1 of the Criminal Code of  
9 1961.

10 (6) A fine.

11 (7) An order directing the offender to make  
12 restitution to the victim under Section 5-5-6 of this  
13 Code.

14 (8) A sentence of participation in a county impact  
15 incarceration program under Section 5-8-1.2 of this Code.

16 Whenever an individual is sentenced for an offense based  
17 upon an arrest for a violation of Section 11-501 of the  
18 Illinois Vehicle Code, or a similar provision of a local  
19 ordinance, and the professional evaluation recommends  
20 remedial or rehabilitative treatment or education, neither  
21 the treatment nor the education shall be the sole disposition  
22 and either or both may be imposed only in conjunction with  
23 another disposition. The court shall monitor compliance with  
24 any remedial education or treatment recommendations contained  
25 in the professional evaluation. Programs conducting alcohol  
26 or other drug evaluation or remedial education must be  
27 licensed by the Department of Human Services. However, if  
28 the individual is not a resident of Illinois, the court may  
29 accept an alcohol or other drug evaluation or remedial  
30 education program in the state of such individual's  
31 residence. Programs providing treatment must be licensed  
32 under existing applicable alcoholism and drug treatment  
33 licensure standards.

34 In addition to any other fine or penalty required by law,

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

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

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

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

31 (A) First degree murder where the death  
32 penalty is not imposed.

33 (B) Attempted first degree murder.

34 (C) A Class X felony.

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

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

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

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

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

22           (I) Aggravated battery of a senior citizen.

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

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

31           Beginning July 1, 1994, for the purposes of  
32 this paragraph, "organized gang" has the meaning  
33 ascribed to it in Section 10 of the Illinois  
34 Streetgang Terrorism Omnibus Prevention Act.

1 (K) Vehicular hijacking.

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

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

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

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

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

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

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

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

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

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

5           (4.1) A minimum term of 30 consecutive days of  
6 imprisonment, 40 days of 24 hour periodic imprisonment or  
7 720 hours of community service, as may be determined by  
8 the court, shall be imposed for a violation of Section  
9 11-501 of the Illinois Vehicle Code during a period in  
10 which the defendant's driving privileges are revoked or  
11 suspended, where the revocation or suspension was for a  
12 violation of Section 11-501 or Section 11-501.1 of that  
13 Code.

14           (4.2) Except as provided in paragraph (4.3) of this  
15 subsection (c), a minimum of 100 hours of community  
16 service shall be imposed for a second violation of  
17 Section 6-303 of the Illinois Vehicle Code.

18           (4.3) A minimum term of imprisonment of 30 days or  
19 300 hours of community service, as determined by the  
20 court, shall be imposed for a second violation of  
21 subsection (c) of Section 6-303 of the Illinois Vehicle  
22 Code.

23           (4.4) Except as provided in paragraph (4.5) and  
24 paragraph (4.6) of this subsection (c), a minimum term of  
25 imprisonment of 30 days or 300 hours of community  
26 service, as determined by the court, shall be imposed for  
27 a third or subsequent violation of Section 6-303 of the  
28 Illinois Vehicle Code.

29           (4.5) A minimum term of imprisonment of 30 days  
30 shall be imposed for a third violation of subsection (c)  
31 of Section 6-303 of the Illinois Vehicle Code.

32           (4.6) A minimum term of imprisonment of 180 days  
33 shall be imposed for a fourth or subsequent violation of  
34 subsection (c) of Section 6-303 of the Illinois Vehicle

1 Code.

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

5 (A) a period of conditional discharge;

6 (B) a fine;

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

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

17 (5.2) In addition to any penalties imposed under  
18 paragraph (5) of this subsection (c), and except as  
19 provided in paragraph (5.3), a person convicted of  
20 violating subsection (c) of Section 11-907 of the  
21 Illinois Vehicle Code shall have his or her driver's  
22 license, permit, or privileges suspended for at least 180  
23 days but not more than 2 years, if the violation resulted  
24 in injury to another person.

25 (5.3) In addition to any penalties imposed under  
26 paragraph (5) of this subsection (c), a person convicted  
27 of violating subsection (c) of Section 11-907 of the  
28 Illinois Vehicle Code shall have his or her driver's  
29 license, permit, or privileges suspended for 2 years, if  
30 the violation resulted in the death of another person.

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



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

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

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

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

33           (A) For a first violation of subsection (a) of  
34 Section 11-501, in addition to any other penalty

1           that may be imposed under subsection (c) of Section  
2           11-501: a mandatory minimum of 100 hours of  
3           community service and a minimum fine of \$500.

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

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

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

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

1 intention to again seek the extended sentence, the defendant  
2 shall be afforded a new trial.

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

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

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

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

18 (i) removal from the household;

19 (ii) restricted contact with the victim;

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

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

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

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

33 Probation may be revoked or modified pursuant to Section  
34 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  
3 or 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 12-12 of the Criminal Code of 1961.

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

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

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

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

29 (h) Whenever a defendant is convicted of an offense  
30 under Section 1 or 2 of the Hypodermic Syringes and Needles  
31 Act, the defendant shall undergo medical testing to determine  
32 whether the defendant has been exposed to human  
33 immunodeficiency virus (HIV) or any other identified  
34 causative agent of acquired immunodeficiency syndrome (AIDS).

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

24 (i) All fines and penalties imposed under this Section  
25 for any violation of Chapters 3, 4, 6, and 11 of the Illinois  
26 Vehicle Code, or a similar provision of a local ordinance,  
27 and any violation of the Child Passenger Protection Act, or a  
28 similar provision of a local ordinance, shall be collected  
29 and disbursed by the circuit clerk as provided under Section  
30 27.5 of the Clerks of Courts Act.

31 (j) In cases when prosecution for any violation of  
32 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,  
33 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,  
34 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or

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

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

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

20 (k) A court may not impose a sentence or disposition for  
21 a felony or misdemeanor that requires the defendant to be  
22 implanted or injected with or to use any form of birth  
23 control.

24 (l) (A) Except as provided in paragraph (C) of  
25 subsection (l), whenever a defendant, who is an alien as  
26 defined by the Immigration and Nationality Act, is  
27 convicted of any felony or misdemeanor offense, the court  
28 after sentencing the defendant may, upon motion of the  
29 State's Attorney, hold sentence in abeyance and remand  
30 the defendant to the custody of the Attorney General of  
31 the United States or his or her designated agent to be  
32 deported when:

33 (1) a final order of deportation has been  
34 issued against the defendant pursuant to proceedings



1 under the Immigration and Nationality Act, and

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

6 Otherwise, the defendant shall be sentenced as  
7 provided in this Chapter V.

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

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

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

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

26 (D) Upon motion of the State's Attorney, if a  
27 defendant sentenced under this Section returns to the  
28 jurisdiction of the United States, the defendant shall be  
29 recommitted to the custody of the county from which he or  
30 she was sentenced. Thereafter, the defendant shall be  
31 brought before the sentencing court, which may impose any  
32 sentence that was available under Section 5-5-3 at the  
33 time of initial sentencing. In addition, the defendant  
34 shall not be eligible for additional good conduct credit

1 for meritorious service as provided under Section 3-6-6.

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

8 (n) If a child under 18 years of age is convicted of or  
9 placed on supervision for criminal defacement of property  
10 under Section 21-1.3 of the Criminal Code of 1961, the  
11 parent, legal guardian, or other person having legal custody  
12 of that child, shall be ordered by the court to perform  
13 community service that includes cleanup, removal, or painting  
14 over the defacement. The parent and child shall perform the  
15 community service simultaneously.

16 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;  
17 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.  
18 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,  
19 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;  
20 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff.  
21 7-19-02.)