

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 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) Every person convicted of an offense shall be  
9 sentenced as provided in this Section.

10 (b) The following options shall be appropriate  
11 dispositions, alone or in combination, for all felonies and  
12 misdemeanors other than those identified in subsection (c) of  
13 this Section:

14 (1) A period of probation.

15 (2) A term of periodic imprisonment.

16 (3) A term of conditional discharge.

17 (4) A term of imprisonment.

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

22 (6) A fine.

23 (7) An order directing the offender to make  
24 restitution to the victim under Section 5-5-6 of this  
25 Code.

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

28 Whenever an individual is sentenced for an offense based  
29 upon an arrest for a violation of Section 11-501 of the  
30 Illinois Vehicle Code, or a similar provision of a local  
31 ordinance, and the professional evaluation recommends

1 remedial or rehabilitative treatment or education, neither  
2 the treatment nor the education shall be the sole disposition  
3 and either or both may be imposed only in conjunction with  
4 another disposition. The court shall monitor compliance with  
5 any remedial education or treatment recommendations contained  
6 in the professional evaluation. Programs conducting alcohol  
7 or other drug evaluation or remedial education must be  
8 licensed by the Department of Human Services. However, if  
9 the individual is not a resident of Illinois, the court may  
10 accept an alcohol or other drug evaluation or remedial  
11 education program in the state of such individual's  
12 residence. Programs providing treatment must be licensed  
13 under existing applicable alcoholism and drug treatment  
14 licensure standards.

15 In addition to any other fine or penalty required by law,  
16 any individual convicted of a violation of Section 11-501 of  
17 the Illinois Vehicle Code or a similar provision of local  
18 ordinance, whose operation of a motor vehicle while in  
19 violation of Section 11-501 or such ordinance proximately  
20 caused an incident resulting in an appropriate emergency  
21 response, shall be required to make restitution to a public  
22 agency for the costs of that emergency response. Such  
23 restitution shall not exceed \$500 per public agency for each  
24 such emergency response. For the purpose of this paragraph,  
25 emergency response shall mean any incident requiring a  
26 response by: a police officer as defined under Section 1-162  
27 of the Illinois Vehicle Code; a fireman carried on the rolls  
28 of a regularly constituted fire department; and an ambulance  
29 as defined under Section 4.05 of the Emergency Medical  
30 Services (EMS) Systems Act.

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

34 (c) (1) When a defendant is found guilty of first degree

1 murder the State may either seek a sentence of  
2 imprisonment under Section 5-8-1 of this Code, or where  
3 appropriate seek a sentence of death under Section 9-1 of  
4 the Criminal Code of 1961.

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

12 (A) First degree murder where the death  
13 penalty is not imposed.

14 (B) Attempted first degree murder.

15 (C) A Class X felony.

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

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

24 (F) A Class 2 or greater felony if the  
25 offender had been convicted of a Class 2 or greater  
26 felony within 10 years of the date on which the  
27 offender committed the offense for which he or she  
28 is being sentenced, except as otherwise provided in  
29 Section 40-10 of the Alcoholism and Other Drug Abuse  
30 and Dependency Act.

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

34 (H) Criminal sexual assault, except as

1 otherwise provided in subsection (e) of this  
2 Section.

3 (I) Aggravated battery of a senior citizen.

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

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

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

16 (K) Vehicular hijacking.

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

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

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

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

29 (P) A violation of paragraph (1), (2), (3),  
30 (4), (5), or (7) of subsection (a) of Section  
31 11-20.1 of the Criminal Code of 1961.

32 (Q) A violation of Section 20-1.2 of the  
33 Criminal Code of 1961.

34 (R) A violation of Section 24-3A of the

1 Criminal Code of 1961.

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

4 (3) A minimum term of imprisonment of not less than  
5 5 days or 30 days of community service as may be  
6 determined by the court shall be imposed for a second  
7 violation committed within 5 years of a previous  
8 violation of Section 11-501 of the Illinois Vehicle Code  
9 or a similar provision of a local ordinance. In the case  
10 of a third or subsequent violation committed within 5  
11 years of a previous violation of Section 11-501 of the  
12 Illinois Vehicle Code or a similar provision of a local  
13 ordinance, a minimum term of either 10 days of  
14 imprisonment or 60 days of community service shall be  
15 imposed.

16 (4) A minimum term of imprisonment of not less than  
17 10 consecutive days or 30 days of community service shall  
18 be imposed for a violation of paragraph (c) of Section  
19 6-303 of the Illinois Vehicle Code.

20 (4.1) A minimum term of 30 consecutive days of  
21 imprisonment, 40 days of 24 hour periodic imprisonment or  
22 720 hours of community service, as may be determined by  
23 the court, shall be imposed for a violation of Section  
24 11-501 of the Illinois Vehicle Code during a period in  
25 which the defendant's driving privileges are revoked or  
26 suspended, where the revocation or suspension was for a  
27 violation of Section 11-501 or Section 11-501.1 of that  
28 Code.

29 (4.2) Except as provided in paragraph (4.3) of this  
30 subsection (c), a minimum of 100 hours of community  
31 service shall be imposed for a second violation of  
32 Section 6-303 of the Illinois Vehicle Code.

33 (4.3) A minimum term of imprisonment of 30 days or  
34 300 hours of community service, as determined by the

1 court, shall be imposed for a second violation of  
2 subsection (c) of Section 6-303 of the Illinois Vehicle  
3 Code.

4 (4.4) Except as provided in paragraph (4.5) and  
5 paragraph (4.6) of this subsection (c), a minimum term of  
6 imprisonment of 30 days or 300 hours of community  
7 service, as determined by the court, shall be imposed for  
8 a third or subsequent violation of Section 6-303 of the  
9 Illinois Vehicle Code.

10 (4.5) A minimum term of imprisonment of 30 days  
11 shall be imposed for a third violation of subsection (c)  
12 of Section 6-303 of the Illinois Vehicle Code.

13 (4.6) A minimum term of imprisonment of 180 days  
14 shall be imposed for a fourth or subsequent violation of  
15 subsection (c) of Section 6-303 of the Illinois Vehicle  
16 Code.

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

20 (A) a period of conditional discharge;

21 (B) a fine;

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

24 (5.1) In addition to any penalties imposed under  
25 paragraph (5) of this subsection (c), and except as  
26 provided in paragraph (5.2) or (5.3), 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 at least 90  
30 days but not more than one year, if the violation  
31 resulted in damage to the property of another person.

32 (5.2) In addition to any penalties imposed under  
33 paragraph (5) of this subsection (c), and except as  
34 provided in paragraph (5.3), a person convicted of

1       violating subsection (c) of Section 11-907 of the  
2 Illinois Vehicle Code shall have his or her driver's  
3 license, permit, or privileges suspended for at least 180  
4 days but not more than 2 years, if the violation resulted  
5 in injury to another person.

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

12       (6) In no case shall an offender be eligible for a  
13 disposition of probation or conditional discharge for a  
14 Class 1 felony committed while he was serving a term of  
15 probation or conditional discharge for a felony.

16       (7) When a defendant is adjudged a habitual  
17 criminal under Article 33B of the Criminal Code of 1961,  
18 the court shall sentence the defendant to a term of  
19 natural life imprisonment.

20       (8) When a defendant, over the age of 21 years, is  
21 convicted of a Class 1 or Class 2 felony, after having  
22 twice been convicted in any state or federal court of an  
23 offense that contains the same elements as an offense now  
24 classified in Illinois as a Class 2 or greater Class  
25 felony and such charges are separately brought and tried  
26 and arise out of different series of acts, such defendant  
27 shall be sentenced as a Class X offender. This paragraph  
28 shall not apply unless (1) the first felony was committed  
29 after the effective date of this amendatory Act of 1977;  
30 and (2) the second felony was committed after conviction  
31 on the first; and (3) the third felony was committed  
32 after conviction on the second. A person sentenced as a  
33 Class X offender under this paragraph is not eligible to  
34 apply for treatment as a condition of probation as

1 provided by Section 40-10 of the Alcoholism and Other  
2 Drug Abuse and Dependency Act.

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

6 (10) When a person is convicted of violating  
7 Section 11-501 of the Illinois Vehicle Code or a similar  
8 provision of a local ordinance, the following penalties  
9 apply when his or her blood, breath, or urine was .16 or  
10 more based on the definition of blood, breath, or urine  
11 units in Section 11-501.2 or that person is convicted of  
12 violating Section 11-501 of the Illinois Vehicle Code  
13 while transporting a child under the age of 16:

14 (A) For a first violation of subsection (a) of  
15 Section 11-501, in addition to any other penalty  
16 that may be imposed under subsection (c) of Section  
17 11-501: a mandatory minimum of 100 hours of  
18 community service and a minimum fine of \$500.

19 (B) For a second violation of subsection (a)  
20 of Section 11-501, in addition to any other penalty  
21 that may be imposed under subsection (c) of Section  
22 11-501 within 10 years: a mandatory minimum of 2  
23 days of imprisonment and a minimum fine of \$1,250.

24 (C) For a third violation of subsection (a) of  
25 Section 11-501, in addition to any other penalty  
26 that may be imposed under subsection (c) of Section  
27 11-501 within 20 years: a mandatory minimum of 90  
28 days of imprisonment and a minimum fine of \$2,500.

29 (D) For a fourth or subsequent violation of  
30 subsection (a) of Section 11-501: ineligibility for  
31 a sentence of probation or conditional discharge and  
32 a minimum fine of \$2,500.

33 (11) The court shall impose a minimum fine of  
34 \$1,000 for a first offense and \$2,000 for a second or

1 subsequent offense upon a person convicted of or placed  
2 on supervision for battery when the individual harmed was  
3 a sports official at any level of competition and the act  
4 causing harm to the sports official occurred within an  
5 athletic facility or within the immediate vicinity of the  
6 athletic facility at which the sports official was an  
7 active participant of the athletic contest held at the  
8 athletic facility. For the purposes of this paragraph  
9 (11), "sports official" means a person at an athletic  
10 contest who enforces the rules of the contest, such as an  
11 umpire or referee.

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

31 (e) In cases where prosecution for criminal sexual  
32 assault or aggravated criminal sexual abuse under Section  
33 12-13 or 12-16 of the Criminal Code of 1961 results in  
34 conviction of a defendant who was a family member of the

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

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

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

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

12 (i) removal from the household;

13 (ii) restricted contact with the victim;

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

16 (iv) restitution for harm done to the  
17 victim; and

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

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

27 Probation may be revoked or modified pursuant to Section  
28 5-6-4; except where the court determines at the hearing that  
29 the defendant violated a condition of his or her probation  
30 restricting contact with the victim or other family members  
31 or commits another offense with the victim or other family  
32 members, the court shall revoke the defendant's probation and  
33 impose a term of imprisonment.

34 For the purposes of this Section, "family member" and

1 "victim" shall have the meanings ascribed to them in Section  
2 12-12 of the Criminal Code of 1961.

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

7 (g) Whenever a defendant is convicted of an offense  
8 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,  
9 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,  
10 12-15 or 12-16 of the Criminal Code of 1961, the defendant  
11 shall undergo medical testing to determine whether the  
12 defendant has any sexually transmissible disease, including a  
13 test for infection with human immunodeficiency virus (HIV) or  
14 any other identified causative agent of acquired  
15 immunodeficiency syndrome (AIDS). Any such medical test  
16 shall be performed only by appropriately licensed medical  
17 practitioners and may include an analysis of any bodily  
18 fluids as well as an examination of the defendant's person.  
19 Except as otherwise provided by law, the results of such test  
20 shall be kept strictly confidential by all medical personnel  
21 involved in the testing and must be personally delivered in a  
22 sealed envelope to the judge of the court in which the  
23 conviction was entered for the judge's inspection in camera.  
24 Acting in accordance with the best interests of the victim  
25 and the public, the judge shall have the discretion to  
26 determine to whom, if anyone, the results of the testing may  
27 be revealed. The court shall notify the defendant of the test  
28 results. The court shall also notify the victim if requested  
29 by the victim, and if the victim is under the age of 15 and  
30 if requested by the victim's parents or legal guardian, the  
31 court shall notify the victim's parents or legal guardian of  
32 the test results. The court shall provide information on the  
33 availability of HIV testing and counseling at Department of  
34 Public Health facilities to all parties to whom the results

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

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

23 (h) Whenever a defendant is convicted of an offense  
24 under Section 1 or 2 of the Hypodermic Syringes and Needles  
25 Act, the defendant shall undergo medical testing to determine  
26 whether the defendant has been exposed to human  
27 immunodeficiency virus (HIV) or any other identified  
28 causative agent of acquired immunodeficiency syndrome (AIDS).  
29 Except as otherwise provided by law, the results of such test  
30 shall be kept strictly confidential by all medical personnel  
31 involved in the testing and must be personally delivered in a  
32 sealed envelope to the judge of the court in which the  
33 conviction was entered for the judge's inspection in camera.  
34 Acting in accordance with the best interests of the public,

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

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

25 (j) In cases when prosecution for any violation of  
26 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,  
27 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,  
28 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or  
29 12-16 of the Criminal Code of 1961, any violation of the  
30 Illinois Controlled Substances Act, or any violation of the  
31 Cannabis Control Act results in conviction, a disposition of  
32 court supervision, or an order of probation granted under  
33 Section 10 of the Cannabis Control Act or Section 410 of the  
34 Illinois Controlled Substance Act of a defendant, the court

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

15 (j-5) A defendant at least 17 years of age who is  
16 convicted of a felony and who has not been previously  
17 convicted of a misdemeanor or felony and who is sentenced to  
18 a term of imprisonment in the Illinois Department of  
19 Corrections shall as a condition of his or her sentence be  
20 required by the court to attend educational courses designed  
21 to prepare the defendant for a high school diploma and to  
22 work toward a high school diploma or to work toward passing  
23 the high school level Test of General Educational Development  
24 (GED) or to work toward completing a vocational training  
25 program offered by the Department of Corrections. If a  
26 defendant fails to complete the educational training required  
27 by his or her sentence during the term of incarceration, the  
28 Prisoner Review Board shall, as a condition of mandatory  
29 supervised release, require the defendant, at his or her own  
30 expense, to pursue a course of study toward a high school  
31 diploma or passage of the GED test. The Prisoner Review  
32 Board shall revoke the mandatory supervised release of a  
33 defendant who wilfully fails to comply with this subsection  
34 (j-5) upon his or her release from confinement in a penal

1 institution while serving a mandatory supervised release  
2 term; however, the inability of the defendant after making a  
3 good faith effort to obtain financial aid or pay for the  
4 educational training shall not be deemed a wilful failure to  
5 comply. The Prisoner Review Board shall recommit the  
6 defendant whose mandatory supervised release term has been  
7 revoked under this subsection (j-5) as provided in Section  
8 3-3-9. This subsection (j-5) does not apply to a defendant  
9 who has a high school diploma or has successfully passed the  
10 GED test. This subsection (j-5) does not apply to a defendant  
11 who is determined by the court to be developmentally disabled  
12 or otherwise mentally incapable of completing the educational  
13 or vocational program.

14 (k) A court may not impose a sentence or disposition for  
15 a felony or misdemeanor that requires the defendant to be  
16 implanted or injected with or to use any form of birth  
17 control.

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

27 (1) a final order of deportation has been  
28 issued against the defendant pursuant to proceedings  
29 under the Immigration and Nationality Act, and

30 (2) the deportation of the defendant would not  
31 deprecate the seriousness of the defendant's conduct  
32 and would not be inconsistent with the ends of  
33 justice.

34 Otherwise, the defendant shall be sentenced as

1 provided in this Chapter V.

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

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

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

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

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

30 (m) A person convicted of criminal defacement of  
31 property under Section 21-1.3 of the Criminal Code of 1961,  
32 in which the property damage exceeds \$300 and the property  
33 damaged is a school building, shall be ordered to perform  
34 community service that may include cleanup, removal, or

1 painting over the defacement.

2 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;  
3 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.  
4 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,  
5 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;  
6 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff.  
7 7-19-02.)