

1 AMENDMENT TO HOUSE BILL 3091

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3091, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Criminal Code of 1961 is amended by  
6 adding Section 20-1.3 as follows:

7 (720 ILCS 5/20-1.3 new)

8 Sec. 20-1.3. Place of worship arson.

9 (a) A person commits the offense of place of worship  
10 arson when, in the course of committing an arson, he or she  
11 knowingly damages, partially or totally, any place of  
12 worship.

13 (b) Sentence. Place of worship arson is a Class 1  
14 felony.

15 Section 10. The Unified Code of Corrections is amended  
16 by changing Sections 5-5-3 and 5-8-1.1 and adding Section  
17 5-9-1.12 as follows:

18 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

19 Sec. 5-5-3. Disposition.

20 (a) Every person convicted of an offense shall be

1 sentenced as provided in this Section.

2 (b) The following options shall be appropriate  
3 dispositions, alone or in combination, for all felonies and  
4 misdemeanors other than those identified in subsection (c) of  
5 this Section:

6 (1) A period of probation.

7 (2) A term of periodic imprisonment.

8 (3) A term of conditional discharge.

9 (4) A term of imprisonment.

10 (5) An order directing the offender to clean up and  
11 repair the damage, if the offender was convicted under  
12 paragraph (h) of Section 21-1 of the Criminal Code of  
13 1961.

14 (6) A fine.

15 (7) An order directing the offender to make  
16 restitution to the victim under Section 5-5-6 of this  
17 Code.

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

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

1 residence. Programs providing treatment must be licensed  
2 under existing applicable alcoholism and drug treatment  
3 licensure standards.

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

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

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

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

1           (A) First degree murder where the death  
2 penalty is not imposed.

3           (B) Attempted first degree murder.

4           (C) A Class X felony.

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

11          (E) A violation of Section 5.1 or 9 of the  
12 Cannabis Control Act.

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

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

23          (H) Criminal sexual assault, except as  
24 otherwise provided in subsection (e) of this  
25 Section.

26          (I) Aggravated battery of a senior citizen.

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

29          Before July 1, 1994, for the purposes of this  
30 paragraph, "organized gang" means an association of  
31 5 or more persons, with an established hierarchy,  
32 that encourages members of the association to  
33 perpetrate crimes or provides support to the members  
34 of the association who do commit crimes.

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

5           (K) Vehicular hijacking.

6           (L) A second or subsequent conviction for the  
7 offense of hate crime when the underlying offense  
8 upon which the hate crime is based is felony  
9 aggravated assault or felony mob action.

10          (M) A second or subsequent conviction for the  
11 offense of institutional vandalism if the damage to  
12 the property exceeds \$300.

13          (N) A Class 3 felony violation of paragraph  
14 (1) of subsection (a) of Section 2 of the Firearm  
15 Owners Identification Card Act.

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

18          (P) A violation of paragraph (1), (2), (3),  
19 (4), (5), or (7) of subsection (a) of Section  
20 11-20.1 of the Criminal Code of 1961.

21          (Q) A violation of Section 20-1.2 or 20-1.3 of  
22 the Criminal Code of 1961.

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

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

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

1 Illinois Vehicle Code or a similar provision of a local  
2 ordinance, a minimum term of either 10 days of  
3 imprisonment or 60 days of community service shall be  
4 imposed.

5 (4) A minimum term of imprisonment of not less than  
6 10 consecutive days or 30 days of community service shall  
7 be imposed for a violation of paragraph (c) of Section  
8 6-303 of the Illinois Vehicle Code.

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

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

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

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

33 (4.5) A minimum term of imprisonment of 30 days  
34 shall be imposed for a third violation of subsection (c)

1 of Section 6-303 of the Illinois Vehicle Code.

2 (4.6) A minimum term of imprisonment of 180 days  
3 shall be imposed for a fourth or subsequent violation of  
4 subsection (c) of Section 6-303 of the Illinois Vehicle  
5 Code.

6 (5) The court may sentence an offender convicted of  
7 a business offense or a petty offense or a corporation or  
8 unincorporated association convicted of any offense to:

9 (A) a period of conditional discharge;

10 (B) a fine;

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

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

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

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

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

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

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

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

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



1           violating Section 11-501 of the Illinois Vehicle Code  
2           while transporting a child under the age of 16:

3                   (A) For a first violation of subsection (a) of  
4                   Section 11-501, in addition to any other penalty  
5                   that may be imposed under subsection (c) of Section  
6                   11-501: a mandatory minimum of 100 hours of  
7                   community service and a minimum fine of \$500.

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

13                   (C) For a third violation of subsection (a) of  
14                   Section 11-501, in addition to any other penalty  
15                   that may be imposed under subsection (c) of Section  
16                   11-501 within 20 years: a mandatory minimum of 90  
17                   days of imprisonment and a minimum fine of \$2,500.

18                   (D) For a fourth or subsequent violation of  
19                   subsection (a) of Section 11-501: ineligibility for  
20                   a sentence of probation or conditional discharge and  
21                   a minimum fine of \$2,500.

22           (d) In any case in which a sentence originally imposed  
23           is vacated, the case shall be remanded to the trial court.  
24           The trial court shall hold a hearing under Section 5-4-1 of  
25           the Unified Code of Corrections which may include evidence of  
26           the defendant's life, moral character and occupation during  
27           the time since the original sentence was passed. The trial  
28           court shall then impose sentence upon the defendant. The  
29           trial court may impose any sentence which could have been  
30           imposed at the original trial subject to Section 5-5-4 of the  
31           Unified Code of Corrections. If a sentence is vacated on  
32           appeal or on collateral attack due to the failure of the  
33           trier of fact at trial to determine beyond a reasonable doubt  
34           the existence of a fact (other than a prior conviction)

1 necessary to increase the punishment for the offense beyond  
2 the statutory maximum otherwise applicable, either the  
3 defendant may be re-sentenced to a term within the range  
4 otherwise provided or, if the State files notice of its  
5 intention to again seek the extended sentence, the defendant  
6 shall be afforded a new trial.

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

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

16 (A) the defendant is willing to undergo a  
17 court approved counseling program for a minimum  
18 duration of 2 years; or

19 (B) the defendant is willing to participate in  
20 a court approved plan including but not limited to  
21 the defendant's:

- 22 (i) removal from the household;
- 23 (ii) restricted contact with the victim;
- 24 (iii) continued financial support of the  
25 family;
- 26 (iv) restitution for harm done to the  
27 victim; and
- 28 (v) compliance with any other measures  
29 that the court may deem appropriate; and

30 (2) the court orders the defendant to pay for the  
31 victim's counseling services, to the extent that the  
32 court finds, after considering the defendant's income and  
33 assets, that the defendant is financially capable of  
34 paying for such services, if the victim was under 18

1 years of age at the time the offense was committed and  
2 requires counseling as a result of the offense.

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

10 For the purposes of this Section, "family member" and  
11 "victim" shall have the meanings ascribed to them in Section  
12 12-12 of the Criminal Code of 1961.

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

17 (g) Whenever a defendant is convicted of an offense  
18 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,  
19 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,  
20 12-15 or 12-16 of the Criminal Code of 1961, the defendant  
21 shall undergo medical testing to determine whether the  
22 defendant has any sexually transmissible disease, including a  
23 test for infection with human immunodeficiency virus (HIV) or  
24 any other identified causative agent of acquired  
25 immunodeficiency syndrome (AIDS). Any such medical test  
26 shall be performed only by appropriately licensed medical  
27 practitioners and may include an analysis of any bodily  
28 fluids as well as an examination of the defendant's person.  
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 victim

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

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

33 (h) Whenever a defendant is convicted of an offense  
34 under Section 1 or 2 of the Hypodermic Syringes and Needles

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

28 (i) All fines and penalties imposed under this Section  
29 for any violation of Chapters 3, 4, 6, and 11 of the Illinois  
30 Vehicle Code, or a similar provision of a local ordinance,  
31 and any violation of the Child Passenger Protection Act, or a  
32 similar provision of a local ordinance, shall be collected  
33 and disbursed by the circuit clerk as provided under Section  
34 27.5 of the Clerks of Courts Act.

1 (j) In cases when prosecution for any violation of  
2 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,  
3 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,  
4 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or  
5 12-16 of the Criminal Code of 1961, any violation of the  
6 Illinois Controlled Substances Act, or any violation of the  
7 Cannabis Control Act results in conviction, a disposition of  
8 court supervision, or an order of probation granted under  
9 Section 10 of the Cannabis Control Act or Section 410 of the  
10 Illinois Controlled Substance Act of a defendant, the court  
11 shall determine whether the defendant is employed by a  
12 facility or center as defined under the Child Care Act of  
13 1969, a public or private elementary or secondary school, or  
14 otherwise works with children under 18 years of age on a  
15 daily basis. When a defendant is so employed, the court  
16 shall order the Clerk of the Court to send a copy of the  
17 judgment of conviction or order of supervision or probation  
18 to the defendant's employer by certified mail. If the  
19 employer of the defendant is a school, the Clerk of the Court  
20 shall direct the mailing of a copy of the judgment of  
21 conviction or order of supervision or probation to the  
22 appropriate regional superintendent of schools. The regional  
23 superintendent of schools shall notify the State Board of  
24 Education of any notification under this subsection.

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

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

24 (k) A court may not impose a sentence or disposition for  
25 a felony or misdemeanor that requires the defendant to be  
26 implanted or injected with or to use any form of birth  
27 control.

28 (l) (A) Except as provided in paragraph (C) of  
29 subsection (l), whenever a defendant, who is an alien as  
30 defined by the Immigration and Nationality Act, is  
31 convicted of any felony or misdemeanor offense, the court  
32 after sentencing the defendant may, upon motion of the  
33 State's Attorney, hold sentence in abeyance and remand  
34 the defendant to the custody of the Attorney General of

1 the United States or his or her designated agent to be  
2 deported when:

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

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

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

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

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

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

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

30 (D) Upon motion of the State's Attorney, if a  
31 defendant sentenced under this Section returns to the  
32 jurisdiction of the United States, the defendant shall be  
33 recommitted to the custody of the county from which he or  
34 she was sentenced. Thereafter, the defendant shall be



1 brought before the sentencing court, which may impose any  
2 sentence that was available under Section 5-5-3 at the  
3 time of initial sentencing. In addition, the defendant  
4 shall not be eligible for additional good conduct credit  
5 for meritorious service as provided under Section 3-6-6.

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

12 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;  
13 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.  
14 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,  
15 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;  
16 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff.  
17 7-19-02.)

18 (730 ILCS 5/5-8-1.1) (from Ch. 38, par. 1005-8-1.1)

19 Sec. 5-8-1.1. Impact incarceration.

20 (a) The Department may establish and operate an impact  
21 incarceration program for eligible offenders. If the court  
22 finds under Section 5-4-1 that an offender sentenced to a  
23 term of imprisonment for a felony may meet the eligibility  
24 requirements of the Department, the court may in its  
25 sentencing order approve the offender for placement in the  
26 impact incarceration program conditioned upon his acceptance  
27 in the program by the Department. Notwithstanding the  
28 sentencing provisions of this Code, the sentencing order also  
29 shall provide that if the Department accepts the offender in  
30 the program and determines that the offender has successfully  
31 completed the impact incarceration program, the sentence  
32 shall be reduced to time considered served upon certification  
33 to the court by the Department that the offender has

1 successfully completed the program. In the event the  
2 offender is not accepted for placement in the impact  
3 incarceration program or the offender does not successfully  
4 complete the program, his term of imprisonment shall be as  
5 set forth by the court in its sentencing order.

6 (b) In order to be eligible to participate in the impact  
7 incarceration program, the committed person shall meet all of  
8 the following requirements:

9 (1) The person must be not less than 17 years of  
10 age nor more than 35 years of age.

11 (2) The person has not previously participated in  
12 the impact incarceration program and has not previously  
13 served more than one prior sentence of imprisonment for a  
14 felony in an adult correctional facility.

15 (3) The person has not been convicted of a Class X  
16 felony, first or second degree murder, armed violence,  
17 aggravated kidnapping, criminal sexual assault,  
18 aggravated criminal sexual abuse or a subsequent  
19 conviction for criminal sexual abuse, forcible detention,  
20 residential arson, place of worship arson, or arson and  
21 has not been convicted previously of any of those  
22 offenses.

23 (4) The person has been sentenced to a term of  
24 imprisonment of 8 years or less.

25 (5) The person must be physically able to  
26 participate in strenuous physical activities or labor.

27 (6) The person must not have any mental disorder or  
28 disability that would prevent participation in the impact  
29 incarceration program.

30 (7) The person has consented in writing to  
31 participation in the impact incarceration program and to  
32 the terms and conditions thereof.

33 (8) The person was recommended and approved for  
34 placement in the impact incarceration program in the

1 court's sentencing order.

2 The Department may also consider, among other matters,  
3 whether the committed person has any outstanding detainers or  
4 warrants, whether the committed person has a history of  
5 escaping or absconding, whether participation in the impact  
6 incarceration program may pose a risk to the safety or  
7 security of any person and whether space is available.

8 (c) The impact incarceration program shall include,  
9 among other matters, mandatory physical training and labor,  
10 military formation and drills, regimented activities,  
11 uniformity of dress and appearance, education and counseling,  
12 including drug counseling where appropriate.

13 (d) Privileges including visitation, commissary, receipt  
14 and retention of property and publications and access to  
15 television, radio and a library may be suspended or  
16 restricted, notwithstanding provisions to the contrary in  
17 this Code.

18 (e) Committed persons participating in the impact  
19 incarceration program shall adhere to all Department rules  
20 and all requirements of the program. Committed persons shall  
21 be informed of rules of behavior and conduct. Disciplinary  
22 procedures required by this Code or by Department rule are  
23 not applicable except in those instances in which the  
24 Department seeks to revoke good time.

25 (f) Participation in the impact incarceration program  
26 shall be for a period of 120 to 180 days. The period of time  
27 a committed person shall serve in the impact incarceration  
28 program shall not be reduced by the accumulation of good  
29 time.

30 (g) The committed person shall serve a term of mandatory  
31 supervised release as set forth in subsection (d) of Section  
32 5-8-1.

33 (h) A committed person may be removed from the program  
34 for a violation of the terms or conditions of the program or

1 in the event he is for any reason unable to participate. The  
2 Department shall promulgate rules and regulations governing  
3 conduct which could result in removal from the program or in  
4 a determination that the committed person has not  
5 successfully completed the program. Committed persons shall  
6 have access to such rules, which shall provide that a  
7 committed person shall receive notice and have the  
8 opportunity to appear before and address one or more hearing  
9 officers. A committed person may be transferred to any of  
10 the Department's facilities prior to the hearing.

11 (i) The Department may terminate the impact  
12 incarceration program at any time.

13 (j) The Department shall report to the Governor and the  
14 General Assembly on or before September 30th of each year on  
15 the impact incarceration program, including the composition  
16 of the program by the offenders, by county of commitment,  
17 sentence, age, offense and race.

18 (k) The Department of Corrections shall consider the  
19 affirmative action plan approved by the Department of Human  
20 Rights in hiring staff at the impact incarceration  
21 facilities. The Department shall report to the Director of  
22 Human Rights on or before April 1 of the year on the sex,  
23 race and national origin of persons employed at each impact  
24 incarceration facility.

25 (Source: P.A. 88-311; 88-674, eff. 12-14-94.)

26 (730 ILCS 5/5-9-1.12 new)

27 Sec. 5-9-1.12. Arson fines.

28 (a) In addition to any other penalty imposed, a fine of  
29 \$500 shall be imposed upon a person convicted of the offense  
30 of arson, residential arson, or aggravated arson.

31 (b) The additional fine shall be assessed by the  
32 court imposing sentence and shall be collected by the  
33 Circuit Clerk in addition to the fine, if any, and costs in

1 the case. Each such additional fine shall be remitted by the  
2 Circuit Clerk within one month after receipt to the State  
3 Treasurer for deposit into the Fire Prevention Fund.  
4 The Circuit Clerk shall retain 10% of such fine to cover  
5 the costs incurred in administering and enforcing this  
6 Section. The additional fine may not be considered a part of  
7 the fine for purposes of any reduction in the fine for  
8 time served either before or after sentencing.

9 (c) The moneys in the Fire Prevention Fund collected as  
10 additional fines under this Section shall be distributed by  
11 the Office of the State Fire Marshal to the fire department  
12 or fire protection district that suppressed or investigated  
13 the fire that was set by the defendant and for which the  
14 defendant was convicted of arson, residential arson, or  
15 aggravated arson. If more than one fire department or fire  
16 protection district suppressed or investigated the fire, the  
17 additional fine shall be distributed equally among those  
18 departments or districts.

19 (d) The moneys distributed to the fire departments or  
20 fire protection districts under this Section may only be used  
21 to purchase fire suppression or fire investigation equipment.

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law."