

1 AN ACT in relation to driving offenses.

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

4 Section 5. The Illinois Vehicle Code is amended by
5 changing Section 11-501 as follows:

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

7 Sec. 11-501. Driving while under the influence of
8 alcohol, other drug or drugs, intoxicating compound or
9 compounds or any combination thereof.

10 (a) A person shall not drive or be in actual physical
11 control of any vehicle within this State while:

12 (1) the alcohol concentration in the person's blood
13 or breath is 0.08 or more based on the definition of
14 blood and breath units in Section 11-501.2;

15 (2) under the influence of alcohol;

16 (3) under the influence of any intoxicating
17 compound or combination of intoxicating compounds to a
18 degree that renders the person incapable of driving
19 safely;

20 (4) under the influence of any other drug or
21 combination of drugs to a degree that renders the person
22 incapable of safely driving;

23 (5) under the combined influence of alcohol, other
24 drug or drugs, or intoxicating compound or compounds to a
25 degree that renders the person incapable of safely
26 driving; or

27 (6) there is any amount of a drug, substance, or
28 compound in the person's breath, blood, or urine
29 resulting from the unlawful use or consumption of
30 cannabis listed in the Cannabis Control Act, a controlled
31 substance listed in the Illinois Controlled Substances

1 Act, or an intoxicating compound listed in the Use of
2 Intoxicating Compounds Act.

3 (b) The fact that any person charged with violating this
4 Section is or has been legally entitled to use alcohol, other
5 drug or drugs, or intoxicating compound or compounds, or any
6 combination thereof, shall not constitute a defense against
7 any charge of violating this Section.

8 (c) Except as provided under paragraphs ~~(c-3)~~, (c-4),
9 (c-5), and (d) of this Section, every person convicted of
10 violating this Section or a similar provision of a local
11 ordinance, shall be guilty of a Class A misdemeanor and, in
12 addition to any other criminal or administrative action, for
13 any second conviction of violating this Section or a similar
14 provision of a law of another state or local ordinance
15 committed within 5 years of a previous violation of this
16 Section or a similar provision of a local ordinance shall be
17 mandatorily sentenced to a minimum of 5 days of imprisonment
18 or assigned to a minimum of 30 days of community service as
19 may be determined by the court. Every person convicted of
20 violating this Section or a similar provision of a local
21 ordinance shall be subject to an additional mandatory minimum
22 fine of \$500 and an additional mandatory 5 days of community
23 service in a program benefiting children if the person
24 committed a violation of paragraph (a) or a similar provision
25 of a local ordinance while transporting a person under age
26 16. Every person convicted a second time for violating this
27 Section or a similar provision of a local ordinance within 5
28 years of a previous violation of this Section or a similar
29 provision of a law of another state or local ordinance shall
30 be subject to an additional mandatory minimum fine of \$500
31 and an additional 10 days of mandatory community service in a
32 program benefiting children if the current offense was
33 committed while transporting a person under age 16. The
34 imprisonment or assignment under this subsection shall not be

1 subject to suspension nor shall the person be eligible for
2 probation in order to reduce the sentence or assignment.

3 (c-1) (1) A person who violates this Section during a
4 period in which his or her driving privileges are revoked
5 or suspended, where the revocation or suspension was for
6 a violation of this Section, Section 11-501.1, paragraph
7 (b) of Section 11-401, or Section 9-3 of the Criminal
8 Code of 1961 is guilty of a Class 4 felony.

9 (2) A person who violates this Section a third time
10 during a period in which his or her driving privileges
11 are revoked or suspended where the revocation or
12 suspension was for a violation of this Section, Section
13 11-501.1, paragraph (b) of Section 11-401, or Section 9-3
14 of the Criminal Code of 1961 is guilty of a Class 3
15 felony.

16 (3) A person who violates this Section a fourth or
17 subsequent time during a period in which his or her
18 driving privileges are revoked or suspended where the
19 revocation or suspension was for a violation of this
20 Section, Section 11-501.1, paragraph (b) of Section
21 11-401, or Section 9-3 of the Criminal Code of 1961 is
22 guilty of a Class 2 felony.

23 (c-2) (Blank).

24 (c-3) (Blank). ~~Every person convicted of violating this~~
25 ~~Section or a similar provision of a local ordinance who had a~~
26 ~~child under age 16 in the vehicle at the time of the offense~~
27 ~~shall have his or her punishment under this Act enhanced by 2~~
28 ~~days of imprisonment for a first offense, 10 days of~~
29 ~~imprisonment for a second offense, 30 days of imprisonment~~
30 ~~for a third offense, and 90 days of imprisonment for a fourth~~
31 ~~or subsequent offense, in addition to the fine and community~~
32 ~~service required under subsection (c) and the possible~~
33 ~~imprisonment required under subsection (d). The imprisonment~~
34 ~~or assignment under this subsection shall not be subject to~~

1 ~~suspension nor shall the person be eligible for probation--in~~
2 ~~order to reduce the sentence or assignment.~~

3 (c-4) When a person is convicted of violating Section
4 11-501 of this Code or a similar provision of a local
5 ordinance, the following penalties apply when his or her
6 blood, breath, or urine was .16 or more based on the
7 definition of blood, breath, or urine units in Section
8 11-501.2 ~~or when that person is convicted of--violating--this~~
9 ~~Section while transporting a child under the age of 16:~~

10 (1) A person who is convicted of violating
11 subsection (a) of Section 11-501 of this Code a first
12 time, in addition to any other penalty that may be
13 imposed under subsection (c), is subject to a mandatory
14 minimum of 100 hours of community service and a minimum
15 fine of \$500.

16 (2) A person who is convicted of violating
17 subsection (a) of Section 11-501 of this Code a second
18 time within 10 years, in addition to any other penalty
19 that may be imposed under subsection (c), is subject to a
20 mandatory minimum of 2 days of imprisonment and a minimum
21 fine of \$1,250.

22 (3) A person who is convicted of violating
23 subsection (a) of Section 11-501 of this Code a third
24 time within 20 years is guilty of a Class 4 felony and,
25 in addition to any other penalty that may be imposed
26 under subsection (c), is subject to a mandatory minimum
27 of 90 days of imprisonment and a minimum fine of \$2,500.

28 (4) A person who is convicted of violating this
29 subsection (c-4) a fourth or subsequent time is guilty of
30 a Class 2 felony and, in addition to any other penalty
31 that may be imposed under subsection (c), is not eligible
32 for a sentence of probation or conditional discharge and
33 is subject to a minimum fine of \$2,500.

34 (c-5) When a person is convicted of violating this

1 Section or a similar provision of a local ordinance, the
2 following penalties apply when that person is convicted of
3 violating this Section while transporting a child under the
4 age of 16:

5 (1) A person who is convicted of violating
6 subsection (a) of this Section a first time, in addition
7 to any other penalty that may be imposed under subsection
8 (c), is subject to a mandatory minimum of 6 months of
9 imprisonment and a minimum fine of \$500.

10 (2) A person who is convicted of violating
11 subsection (a) of this Section a second time within 10
12 years, in addition to any other penalty that may be
13 imposed under subsection (c), is subject to a mandatory
14 minimum of one year of imprisonment and a minimum fine of
15 \$1,250.

16 (3) A person who is convicted of violating
17 subsection (a) of this Section a third time within 20
18 years is guilty of a Class 4 felony and, in addition to
19 any other penalty that may be imposed under subsection
20 (c), is subject to a mandatory minimum of 18 months of
21 imprisonment and a minimum fine of \$2,500.

22 (4) A person who is convicted of violating
23 subsection (a) of this Section a fourth or subsequent
24 time is guilty of a Class 2 felony and, in addition to
25 any other penalty that may be imposed under subsection
26 (c), is subject to a mandatory minimum of 2 years of
27 imprisonment and a minimum fine of \$2,500.

28 (d) (1) Every person convicted of committing a violation
29 of this Section shall be guilty of aggravated driving
30 under the influence of alcohol, other drug or drugs, or
31 intoxicating compound or compounds, or any combination
32 thereof if:

33 (A) the person committed a violation of this
34 Section, or a similar provision of a law of another

1 state or a local ordinance when the cause of action
2 is the same as or substantially similar to this
3 Section, for the third or subsequent time;

4 (B) the person committed a violation of
5 paragraph (a) while driving a school bus with
6 children on board;

7 (C) the person in committing a violation of
8 paragraph (a) was involved in a motor vehicle
9 accident that resulted in great bodily harm or
10 permanent disability or disfigurement to another,
11 when the violation was a proximate cause of the
12 injuries;

13 (D) the person committed a violation of
14 paragraph (a) for a second time and has been
15 previously convicted of violating Section 9-3 of the
16 Criminal Code of 1961 relating to reckless homicide
17 in which the person was determined to have been
18 under the influence of alcohol, other drug or drugs,
19 or intoxicating compound or compounds as an element
20 of the offense or the person has previously been
21 convicted under subparagraph (C) of this paragraph
22 (1); or

23 (E) the person, in committing a violation of
24 paragraph (a) while driving at any speed in a school
25 speed zone at a time when a speed limit of 20 miles
26 per hour was in effect under subsection (a) of
27 Section 11-605 of this Code, was involved in a motor
28 vehicle accident that resulted in bodily harm, other
29 than great bodily harm or permanent disability or
30 disfigurement, to another person, when the violation
31 of paragraph (a) was a proximate cause of the bodily
32 harm.

33 (2) Aggravated driving under the influence of
34 alcohol, other drug or drugs, or intoxicating compound or

1 compounds, or any combination thereof is a Class 4
2 felony. For a violation of subparagraph (C) of paragraph
3 (1) of this subsection (d), the defendant, if sentenced
4 to a term of imprisonment, shall be sentenced to not less
5 than one year nor more than 12 years. For any
6 prosecution under this subsection (d), a certified copy
7 of the driving abstract of the defendant shall be
8 admitted as proof of any prior conviction.

9 (e) After a finding of guilt and prior to any final
10 sentencing, or an order for supervision, for an offense based
11 upon an arrest for a violation of this Section or a similar
12 provision of a local ordinance, individuals shall be required
13 to undergo a professional evaluation to determine if an
14 alcohol, drug, or intoxicating compound abuse problem exists
15 and the extent of the problem, and undergo the imposition of
16 treatment as appropriate. Programs conducting these
17 evaluations shall be licensed by the Department of Human
18 Services. The cost of any professional evaluation shall be
19 paid for by the individual required to undergo the
20 professional evaluation.

21 (f) Every person found guilty of violating this Section,
22 whose operation of a motor vehicle while in violation of this
23 Section proximately caused any incident resulting in an
24 appropriate emergency response, shall be liable for the
25 expense of an emergency response as provided under Section
26 5-5-3 of the Unified Code of Corrections.

27 (g) The Secretary of State shall revoke the driving
28 privileges of any person convicted under this Section or a
29 similar provision of a local ordinance.

30 (h) Every person sentenced under paragraph (2) or (3) of
31 subsection (c-1) of this Section or subsection (d) of this
32 Section and who receives a term of probation or conditional
33 discharge shall be required to serve a minimum term of either
34 60 days community service or 10 days of imprisonment as a

1 condition of the probation or conditional discharge. This
2 mandatory minimum term of imprisonment or assignment of
3 community service shall not be suspended and shall not be
4 subject to reduction by the court.

5 (i) The Secretary of State shall require the use of
6 ignition interlock devices on all vehicles owned by an
7 individual who has been convicted of a second or subsequent
8 offense of this Section or a similar provision of a local
9 ordinance. The Secretary shall establish by rule and
10 regulation the procedures for certification and use of the
11 interlock system.

12 (j) In addition to any other penalties and liabilities,
13 a person who is found guilty of or pleads guilty to violating
14 this Section, including any person placed on court
15 supervision for violating this Section, shall be fined \$100,
16 payable to the circuit clerk, who shall distribute the money
17 to the law enforcement agency that made the arrest. If the
18 person has been previously convicted of violating this
19 Section or a similar provision of a local ordinance, the fine
20 shall be \$200. In the event that more than one agency is
21 responsible for the arrest, the \$100 or \$200 shall be shared
22 equally. Any moneys received by a law enforcement agency
23 under this subsection (j) shall be used to purchase law
24 enforcement equipment that will assist in the prevention of
25 alcohol related criminal violence throughout the State. This
26 shall include, but is not limited to, in-car video cameras,
27 radar and laser speed detection devices, and alcohol breath
28 testers. Any moneys received by the Department of State
29 Police under this subsection (j) shall be deposited into the
30 State Police DUI Fund and shall be used to purchase law
31 enforcement equipment that will assist in the prevention of
32 alcohol related criminal violence throughout the State.

33 (Source: P.A. 91-126, eff. 7-16-99; 91-357, eff. 7-29-99;
34 91-692, eff. 4-13-00; 91-822, eff. 6-13-00; 92-248, eff.

1 8-3-01; 92-418, eff. 8-17-01; 92-420, eff. 8-17-01; 92-429,
2 eff. 1-1-02; 92-431, eff. 1-1-02; 92-651, eff. 7-11-02.)

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

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

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

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

13 (1) A period of probation.

14 (2) A term of periodic imprisonment.

15 (3) A term of conditional discharge.

16 (4) A term of imprisonment.

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

21 (6) A fine.

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

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

27 Whenever an individual is sentenced for an offense based
28 upon an arrest for a violation of Section 11-501 of the
29 Illinois Vehicle Code, or a similar provision of a local
30 ordinance, and the professional evaluation recommends
31 remedial or rehabilitative treatment or education, neither
32 the treatment nor the education shall be the sole disposition

1 and either or both may be imposed only in conjunction with
2 another disposition. The court shall monitor compliance with
3 any remedial education or treatment recommendations contained
4 in the professional evaluation. Programs conducting alcohol
5 or other drug evaluation or remedial education must be
6 licensed by the Department of Human Services. However, if
7 the individual is not a resident of Illinois, the court may
8 accept an alcohol or other drug evaluation or remedial
9 education program in the state of such individual's
10 residence. Programs providing treatment must be licensed
11 under existing applicable alcoholism and drug treatment
12 licensure standards.

13 In addition to any other fine or penalty required by law,
14 any individual convicted of a violation of Section 11-501 of
15 the Illinois Vehicle Code or a similar provision of local
16 ordinance, whose operation of a motor vehicle while in
17 violation of Section 11-501 or such ordinance proximately
18 caused an incident resulting in an appropriate emergency
19 response, shall be required to make restitution to a public
20 agency for the costs of that emergency response. Such
21 restitution shall not exceed \$500 per public agency for each
22 such emergency response. For the purpose of this paragraph,
23 emergency response shall mean any incident requiring a
24 response by: a police officer as defined under Section 1-162
25 of the Illinois Vehicle Code; a fireman carried on the rolls
26 of a regularly constituted fire department; and an ambulance
27 as defined under Section 3.85 4-05 of the Emergency Medical
28 Services (EMS) Systems Act.

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

32 (c) (1) When a defendant is found guilty of first degree
33 murder the State may either seek a sentence of
34 imprisonment under Section 5-8-1 of this Code, or where

1 appropriate seek a sentence of death under Section 9-1 of
2 the Criminal Code of 1961.

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

10 (A) First degree murder where the death
11 penalty is not imposed.

12 (B) Attempted first degree murder.

13 (C) A Class X felony.

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

20 (E) A violation of Section 5.1 or 9 of the
21 Cannabis Control Act.

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

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

32 (H) Criminal sexual assault, except as
33 otherwise provided in subsection (e) of this
34 Section.

1 (I) Aggravated battery of a senior citizen.

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

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

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

14 (K) Vehicular hijacking.

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

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

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

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

27 (P) A violation of paragraph (1), (2), (3),
28 (4), (5), or (7) of subsection (a) of Section
29 11-20.1 of the Criminal Code of 1961.

30 (Q) A violation of Section 20-1.2 of the
31 Criminal Code of 1961.

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

34 (S) A violation of Section 11-501(c-1)(3) of

1 the Illinois Vehicle Code.

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

14 (4) A minimum term of imprisonment of not less than
15 10 consecutive days or 30 days of community service shall
16 be imposed for a violation of paragraph (c) of Section
17 6-303 of the Illinois Vehicle Code.

18 (4.1) A minimum term of 30 consecutive days of
19 imprisonment, 40 days of 24 hour periodic imprisonment or
20 720 hours of community service, as may be determined by
21 the court, shall be imposed for a violation of Section
22 11-501 of the Illinois Vehicle Code during a period in
23 which the defendant's driving privileges are revoked or
24 suspended, where the revocation or suspension was for a
25 violation of Section 11-501 or Section 11-501.1 of that
26 Code.

27 (4.2) Except as provided in paragraph (4.3) of this
28 subsection (c), a minimum of 100 hours of community
29 service shall be imposed for a second violation of
30 Section 6-303 of the Illinois Vehicle Code.

31 (4.3) A minimum term of imprisonment of 30 days or
32 300 hours of community service, as determined by the
33 court, shall be imposed for a second violation of
34 subsection (c) of Section 6-303 of the Illinois Vehicle

1 Code.

2 (4.4) Except as provided in paragraph (4.5) and
3 paragraph (4.6) of this subsection (c), a minimum term of
4 imprisonment of 30 days or 300 hours of community
5 service, as determined by the court, shall be imposed for
6 a third or subsequent violation of Section 6-303 of the
7 Illinois Vehicle Code.

8 (4.5) A minimum term of imprisonment of 30 days
9 shall be imposed for a third violation of subsection (c)
10 of Section 6-303 of the Illinois Vehicle Code.

11 (4.6) A minimum term of imprisonment of 180 days
12 shall be imposed for a fourth or subsequent violation of
13 subsection (c) of Section 6-303 of the Illinois Vehicle
14 Code.

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

18 (A) a period of conditional discharge;

19 (B) a fine;

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

22 (5.1) In addition to any penalties imposed under
23 paragraph (5) of this subsection (c), and except as
24 provided in paragraph (5.2) or (5.3), a person convicted
25 of violating subsection (c) of Section 11-907 of the
26 Illinois Vehicle Code shall have his or her driver's
27 license, permit, or privileges suspended for at least 90
28 days but not more than one year, if the violation
29 resulted in damage to the property of another person.

30 (5.2) In addition to any penalties imposed under
31 paragraph (5) of this subsection (c), and except as
32 provided in paragraph (5.3), a person convicted of
33 violating subsection (c) of Section 11-907 of the
34 Illinois Vehicle Code shall have his or her driver's

1 license, permit, or privileges suspended for at least 180
2 days but not more than 2 years, if the violation resulted
3 in injury to another person.

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

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

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

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

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

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

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

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

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

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

31 (11) When a person is convicted of violating
32 Section 11-501 of the Illinois Vehicle Code or a similar
33 provision of a local ordinance, the following penalties
34 apply when that person is convicted of violating Section

1 11-501 of the Illinois Vehicle Code while transporting a
2 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 6 months of
7 imprisonment and a minimum fine of \$500.

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

14 (C) For a third violation of subsection (a) of
15 Section 11-501 within 20 years, in addition to any
16 other penalty that may be imposed under subsection
17 (c) of Section 11-501: a mandatory minimum of 18
18 months of imprisonment and a minimum fine of \$2,500.

19 (D) For a fourth or subsequent violation of
20 subsection (a) of Section 11-501, in addition to any
21 penalty that may be imposed under subsection (c) of
22 Section 11-501: a mandatory minimum of 2 years of
23 imprisonment and a minimum fine of \$2,500.

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

1 trier of fact at trial to determine beyond a reasonable doubt
2 the existence of a fact (other than a prior conviction)
3 necessary to increase the punishment for the offense beyond
4 the statutory maximum otherwise applicable, either the
5 defendant may be re-sentenced to a term within the range
6 otherwise provided or, if the State files notice of its
7 intention to again seek the extended sentence, the defendant
8 shall be afforded a new trial.

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

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

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

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

24 (i) removal from the household;

25 (ii) restricted contact with the victim;

26 (iii) continued financial support of the
27 family;

28 (iv) restitution for harm done to the
29 victim; and

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

32 (2) the court orders the defendant to pay for the
33 victim's counseling services, to the extent that the
34 court finds, after considering the defendant's income and

1 assets, that the defendant is financially capable of
2 paying for such services, if the victim was under 18
3 years of age at the time the offense was committed and
4 requires counseling as a result of the offense.

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

12 For the purposes of this Section, "family member" and
13 "victim" shall have the meanings ascribed to them in Section
14 12-12 of the Criminal Code of 1961.

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

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

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

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

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

30 (i) All fines and penalties imposed under this Section
31 for any violation of Chapters 3, 4, 6, and 11 of the Illinois
32 Vehicle Code, or a similar provision of a local ordinance,
33 and any violation of the Child Passenger Protection Act, or a
34 similar provision of a local ordinance, shall be collected

1 and disbursed by the circuit clerk as provided under Section
2 27.5 of the Clerks of Courts Act.

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

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

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

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

30 (l) (A) Except as provided in paragraph (C) of
31 subsection (l), whenever a defendant, who is an alien as
32 defined by the Immigration and Nationality Act, is
33 convicted of any felony or misdemeanor offense, the court
34 after sentencing the defendant may, upon motion of the

1 State's Attorney, hold sentence in abeyance and remand
2 the defendant to the custody of the Attorney General of
3 the United States or his or her designated agent to be
4 deported when:

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

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

12 Otherwise, the defendant shall be sentenced as
13 provided in this Chapter V.

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

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

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

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

32 (D) Upon motion of the State's Attorney, if a
33 defendant sentenced under this Section returns to the
34 jurisdiction of the United States, the defendant shall be

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

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

14 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;
15 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.
16 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,
17 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;
18 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff.
19 7-19-02; revised 2-17-03.)