



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4467

Introduced 02/03/04, by Frank J. Mautino

SYNOPSIS AS INTRODUCED:

720 ILCS 570/401	from Ch. 56 1/2, par. 1401
720 ILCS 570/402	from Ch. 56 1/2, par. 1402
730 ILCS 5/5-5-3	from Ch. 38, par. 1005-5-3

Amends the Illinois Controlled Substances Act. Provides that a person who illegally manufactures or delivers or possesses with the intent to manufacture or deliver less than one gram of a substance containing heroin or an analog of heroin is guilty of a Class 1 felony with a maximum fine of \$250,000 (rather than a Class 2 felony with a maximum fine of \$200,000). Provides that the illegal possession of a substance containing less than 15 grams of heroin is a Class 1 felony (rather than a Class 4 felony). Amends the Unified Code of Corrections. Provides that a person convicted of the manufacture or delivery or possession with the intent to manufacture or deliver of any amount of a substance containing heroin may not receive a period of probation, a term of periodic imprisonment, or conditional discharge.

LRB093 18012 RLC 43696 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Illinois Controlled Substances Act is
5 amended by changing Sections 401 and 402 as follows:

6 (720 ILCS 570/401) (from Ch. 56 1/2, par. 1401)

7 Sec. 401. Except as authorized by this Act, it is unlawful
8 for any person knowingly to: (i) manufacture or deliver, or
9 possess with intent to manufacture or deliver, a controlled or
10 counterfeit substance or controlled substance analog or (ii)
11 possess any methamphetamine manufacturing chemical listed in
12 paragraph (z-1) of Section 102 with the intent to manufacture
13 methamphetamine or the salt of an optical isomer of
14 methamphetamine or an analog thereof. A violation of this Act
15 with respect to each of the controlled substances listed herein
16 constitutes a single and separate violation of this Act. For
17 purposes of this Section, "controlled substance analog" or
18 "analog" means a substance which is intended for human
19 consumption, other than a controlled substance, that has a
20 chemical structure substantially similar to that of a
21 controlled substance in Schedule I or II, or that was
22 specifically designed to produce an effect substantially
23 similar to that of a controlled substance in Schedule I or II.
24 Examples of chemical classes in which controlled substance
25 analogs are found include, but are not limited to, the
26 following: phenethylamines, N-substituted piperidines,
27 morphinans, ecgonines, quinazolinones, substituted indoles,
28 and arylcycloalkylamines. For purposes of this Act, a
29 controlled substance analog shall be treated in the same manner
30 as the controlled substance to which it is substantially
31 similar.

32 (a) Any person who violates this Section with respect to

1 the following amounts of controlled or counterfeit substances
2 or controlled substance analogs, notwithstanding any of the
3 provisions of subsections (c), (c-5), (d), (d-5), (e), (f), (g)
4 or (h) to the contrary, is guilty of a Class X felony and shall
5 be sentenced to a term of imprisonment as provided in this
6 subsection (a) and fined as provided in subsection (b):

7 (1) (A) not less than 6 years and not more than 30
8 years with respect to 15 grams or more but less than
9 100 grams of a substance containing heroin, or an
10 analog thereof;

11 (B) not less than 9 years and not more than 40
12 years with respect to 100 grams or more but less than
13 400 grams of a substance containing heroin, or an
14 analog thereof;

15 (C) not less than 12 years and not more than 50
16 years with respect to 400 grams or more but less than
17 900 grams of a substance containing heroin, or an
18 analog thereof;

19 (D) not less than 15 years and not more than 60
20 years with respect to 900 grams or more of any
21 substance containing heroin, or an analog thereof;

22 (2) (A) not less than 6 years and not more than 30
23 years with respect to 15 grams or more but less than
24 100 grams of a substance containing cocaine, or an
25 analog thereof;

26 (B) not less than 9 years and not more than 40
27 years with respect to 100 grams or more but less than
28 400 grams of a substance containing cocaine, or an
29 analog thereof;

30 (C) not less than 12 years and not more than 50
31 years with respect to 400 grams or more but less than
32 900 grams of a substance containing cocaine, or an
33 analog thereof;

34 (D) not less than 15 years and not more than 60
35 years with respect to 900 grams or more of any
36 substance containing cocaine, or an analog thereof;

1 (3) (A) not less than 6 years and not more than 30
2 years with respect to 15 grams or more but less than
3 100 grams of a substance containing morphine, or an
4 analog thereof;

5 (B) not less than 9 years and not more than 40
6 years with respect to 100 grams or more but less than
7 400 grams of a substance containing morphine, or an
8 analog thereof;

9 (C) not less than 12 years and not more than 50
10 years with respect to 400 grams or more but less than
11 900 grams of a substance containing morphine, or an
12 analog thereof;

13 (D) not less than 15 years and not more than 60
14 years with respect to 900 grams or more of a substance
15 containing morphine, or an analog thereof;

16 (4) 200 grams or more of any substance containing
17 peyote, or an analog thereof;

18 (5) 200 grams or more of any substance containing a
19 derivative of barbituric acid or any of the salts of a
20 derivative of barbituric acid, or an analog thereof;

21 (6) 200 grams or more of any substance containing
22 amphetamine or any salt of an optical isomer of
23 amphetamine, or an analog thereof;

24 (6.5) (A) not less than 6 years and not more than 30
25 years with respect to 15 grams or more but less than
26 100 grams of a substance containing methamphetamine or
27 any salt of an optical isomer of methamphetamine, or an
28 analog thereof;

29 (B) not less than 9 years and not more than 40
30 years with respect to 100 grams or more but less than
31 400 grams of a substance containing methamphetamine or
32 any salt of an optical isomer of methamphetamine, or an
33 analog thereof;

34 (C) not less than 12 years and not more than 50
35 years with respect to 400 grams or more but less than
36 900 grams of a substance containing methamphetamine or

1 any salt of an optical isomer of methamphetamine, or an
2 analog thereof;

3 (D) not less than 15 years and not more than 60
4 years with respect to 900 grams or more of any
5 substance containing methamphetamine or any salt of an
6 optical isomer of methamphetamine, or an analog
7 thereof.

8 (6.6) (A) not less than 6 years and not more than 30
9 years for the possession of any methamphetamine
10 manufacturing chemical set forth in paragraph (z-1) of
11 Section 102 with intent to manufacture 30 grams or more
12 but less than 150 grams of any substance containing
13 methamphetamine, or salt of any optical isomer of
14 methamphetamine, or an analog thereof;

15 (B) not less than 6 years and not more than 40
16 years for the possession of any methamphetamine
17 manufacturing chemical set forth in paragraph (z-1) of
18 Section 102 with intent to manufacture 150 grams or
19 more but less than 500 grams of any substance
20 containing methamphetamine, or salt of an optical
21 isomer of methamphetamine, or an analog thereof;

22 (C) not less than 6 years and not more than 50
23 years for the possession of any methamphetamine
24 manufacturing chemical set forth in paragraph (z-1) of
25 Section 102 with intent to manufacture 500 grams or
26 more but less than 1200 grams of any substance
27 containing methamphetamine, or salt of an optical
28 isomer of methamphetamine, or an analog thereof;

29 (D) not less than 6 years and not more than 60
30 years for the possession of any methamphetamine
31 manufacturing chemical set forth in paragraph (z-1) of
32 Section 102 with intent to manufacture 1200 grams or
33 more of any substance containing methamphetamine, or
34 salt of an optical isomer of methamphetamine, or an
35 analog thereof;

36 (7) (A) not less than 6 years and not more than 30

1 years with respect to: (i) 15 grams or more but less
2 than 100 grams of a substance containing lysergic acid
3 diethylamide (LSD), or an analog thereof, or (ii) 15 or
4 more objects or 15 or more segregated parts of an
5 object or objects but less than 200 objects or 200
6 segregated parts of an object or objects containing in
7 them or having upon them any amounts of any substance
8 containing lysergic acid diethylamide (LSD), or an
9 analog thereof;

10 (B) not less than 9 years and not more than 40
11 years with respect to: (i) 100 grams or more but less
12 than 400 grams of a substance containing lysergic acid
13 diethylamide (LSD), or an analog thereof, or (ii) 200
14 or more objects or 200 or more segregated parts of an
15 object or objects but less than 600 objects or less
16 than 600 segregated parts of an object or objects
17 containing in them or having upon them any amount of
18 any substance containing lysergic acid diethylamide
19 (LSD), or an analog thereof;

20 (C) not less than 12 years and not more than 50
21 years with respect to: (i) 400 grams or more but less
22 than 900 grams of a substance containing lysergic acid
23 diethylamide (LSD), or an analog thereof, or (ii) 600
24 or more objects or 600 or more segregated parts of an
25 object or objects but less than 1500 objects or 1500
26 segregated parts of an object or objects containing in
27 them or having upon them any amount of any substance
28 containing lysergic acid diethylamide (LSD), or an
29 analog thereof;

30 (D) not less than 15 years and not more than 60
31 years with respect to: (i) 900 grams or more of any
32 substance containing lysergic acid diethylamide (LSD),
33 or an analog thereof, or (ii) 1500 or more objects or
34 1500 or more segregated parts of an object or objects
35 containing in them or having upon them any amount of a
36 substance containing lysergic acid diethylamide (LSD),

1 or an analog thereof;

2 (7.5) (A) not less than 6 years and not more than 30
3 years with respect to: (i) 15 grams or more but less
4 than 100 grams of a substance listed in paragraph (1),
5 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),
6 (25), or (26) of subsection (d) of Section 204, or an
7 analog or derivative thereof, or (ii) 15 or more pills,
8 tablets, caplets, capsules, or objects but less than
9 200 pills, tablets, caplets, capsules, or objects
10 containing in them or having upon them any amounts of
11 any substance listed in paragraph (1), (2), (2.1), (3),
12 (14.1), (19), (20), (20.1), (21), (25), or (26) of
13 subsection (d) of Section 204, or an analog or
14 derivative thereof;

15 (B) not less than 9 years and not more than 40
16 years with respect to: (i) 100 grams or more but less
17 than 400 grams of a substance listed in paragraph (1),
18 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),
19 (25), or (26) of subsection (d) of Section 204, or an
20 analog or derivative thereof, or (ii) 200 or more
21 pills, tablets, caplets, capsules, or objects but less
22 than 600 pills, tablets, caplets, capsules, or objects
23 containing in them or having upon them any amount of
24 any substance listed in paragraph (1), (2), (2.1), (3),
25 (14.1), (19), (20), (20.1), (21), (25), or (26) of
26 subsection (d) of Section 204, or an analog or
27 derivative thereof;

28 (C) not less than 12 years and not more than 50
29 years with respect to: (i) 400 grams or more but less
30 than 900 grams of a substance listed in paragraph (1),
31 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),
32 (25), or (26) of subsection (d) of Section 204, or an
33 analog or derivative thereof, or (ii) 600 or more
34 pills, tablets, caplets, capsules, or objects but less
35 than 1,500 pills, tablets, caplets, capsules, or
36 objects containing in them or having upon them any

1 amount of any substance listed in paragraph (1), (2),
2 (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or
3 (26) of subsection (d) of Section 204, or an analog or
4 derivative thereof;

5 (D) not less than 15 years and not more than 60
6 years with respect to: (i) 900 grams or more of any
7 substance listed in paragraph (1), (2), (2.1), (3),
8 (14.1), (19), (20), (20.1), (21), (25), or (26) of
9 subsection (d) of Section 204, or an analog or
10 derivative thereof, or (ii) 1,500 or more pills,
11 tablets, caplets, capsules, or objects containing in
12 them or having upon them any amount of a substance
13 listed in paragraph (1), (2), (2.1), (3), (14.1), (19),
14 (20), (20.1), (21), (25), or (26) of subsection (d) of
15 Section 204, or an analog or derivative thereof;

16 (8) 30 grams or more of any substance containing
17 pentazocine or any of the salts, isomers and salts of
18 isomers of pentazocine, or an analog thereof;

19 (9) 30 grams or more of any substance containing
20 methaqualone or any of the salts, isomers and salts of
21 isomers of methaqualone, or an analog thereof;

22 (10) 30 grams or more of any substance containing
23 phencyclidine or any of the salts, isomers and salts of
24 isomers of phencyclidine (PCP), or an analog thereof;

25 (10.5) 30 grams or more of any substance containing
26 ketamine or any of the salts, isomers and salts of isomers
27 of ketamine, or an analog thereof;

28 (11) 200 grams or more of any substance containing any
29 other controlled substance classified in Schedules I or II,
30 or an analog thereof, which is not otherwise included in
31 this subsection.

32 (b) Any person sentenced with respect to violations of
33 paragraph (1), (2), (3), (6.5), (6.6), (7), or (7.5) of
34 subsection (a) involving 100 grams or more of the controlled
35 substance named therein, may in addition to the penalties
36 provided therein, be fined an amount not more than \$500,000 or

1 the full street value of the controlled or counterfeit
2 substance or controlled substance analog, whichever is
3 greater. The term "street value" shall have the meaning
4 ascribed in Section 110-5 of the Code of Criminal Procedure of
5 1963. Any person sentenced with respect to any other provision
6 of subsection (a), may in addition to the penalties provided
7 therein, be fined an amount not to exceed \$500,000.

8 (c) Any person who violates this Section with regard to the
9 following amounts of controlled or counterfeit substances or
10 controlled substance analogs, notwithstanding any of the
11 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)
12 to the contrary, is guilty of a Class 1 felony. The fine for
13 violation of this subsection (c) shall not be more than
14 \$250,000:

15 (1) ~~1 gram or more but~~ less than 15 grams of any
16 substance containing heroin, or an analog thereof;

17 (2) 1 gram or more but less than 15 grams of any
18 substance containing cocaine, or an analog thereof;

19 (3) 10 grams or more but less than 15 grams of any
20 substance containing morphine, or an analog thereof;

21 (4) 50 grams or more but less than 200 grams of any
22 substance containing peyote, or an analog thereof;

23 (5) 50 grams or more but less than 200 grams of any
24 substance containing a derivative of barbituric acid or any
25 of the salts of a derivative of barbituric acid, or an
26 analog thereof;

27 (6) 50 grams or more but less than 200 grams of any
28 substance containing amphetamine or any salt of an optical
29 isomer of amphetamine, or an analog thereof;

30 (6.5) 5 grams or more but less than 15 grams of any
31 substance containing methamphetamine or any salt or
32 optical isomer of methamphetamine, or an analog thereof;

33 (7) (i) 5 grams or more but less than 15 grams of any
34 substance containing lysergic acid diethylamide (LSD), or
35 an analog thereof, or (ii) more than 10 objects or more
36 than 10 segregated parts of an object or objects but less

1 than 15 objects or less than 15 segregated parts of an
2 object containing in them or having upon them any amount of
3 any substance containing lysergic acid diethylamide (LSD),
4 or an analog thereof;

5 (7.5) (i) 5 grams or more but less than 15 grams of any
6 substance listed in paragraph (1), (2), (2.1), (3), (14.1),
7 (19), (20), (20.1), (21), (25), or (26) of subsection (d)
8 of Section 204, or an analog or derivative thereof, or (ii)
9 more than 10 pills, tablets, caplets, capsules, or objects
10 but less than 15 pills, tablets, caplets, capsules, or
11 objects containing in them or having upon them any amount
12 of any substance listed in paragraph (1), (2), (2.1), (3),
13 (14.1), (19), (20), (20.1), (21), (25), or (26) of
14 subsection (d) of Section 204, or an analog or derivative
15 thereof;

16 (8) 10 grams or more but less than 30 grams of any
17 substance containing pentazocine or any of the salts,
18 isomers and salts of isomers of pentazocine, or an analog
19 thereof;

20 (9) 10 grams or more but less than 30 grams of any
21 substance containing methaqualone or any of the salts,
22 isomers and salts of isomers of methaqualone, or an analog
23 thereof;

24 (10) 10 grams or more but less than 30 grams of any
25 substance containing phencyclidine or any of the salts,
26 isomers and salts of isomers of phencyclidine (PCP), or an
27 analog thereof;

28 (10.5) 10 grams or more but less than 30 grams of any
29 substance containing ketamine or any of the salts, isomers
30 and salts of isomers of ketamine, or an analog thereof;

31 (11) 50 grams or more but less than 200 grams of any
32 substance containing a substance classified in Schedules I
33 or II, or an analog thereof, which is not otherwise
34 included in this subsection.

35 (c-5) Any person who violates this Section with regard to
36 possession of any methamphetamine manufacturing chemical set

1 forth in paragraph (z-1) of Section 102 with intent to
2 manufacture 15 grams or more but less than 30 grams of
3 methamphetamine, or salt of an optical isomer of
4 methamphetamine or any analog thereof, is guilty of a Class 1
5 felony. The fine for violation of this subsection (c-5) shall
6 not be more than \$250,000.

7 (d) Any person who violates this Section with regard to any
8 other amount of a controlled or counterfeit substance
9 classified in Schedules I or II, or an analog thereof, which is
10 (i) a narcotic drug, (ii) lysergic acid diethylamide (LSD) or
11 an analog thereof, or (iii) any substance containing
12 amphetamine or methamphetamine or any salt or optical isomer of
13 amphetamine or methamphetamine, or an analog thereof, is guilty
14 of a Class 2 felony. The fine for violation of this subsection
15 (d) shall not be more than \$200,000.

16 (d-5) Any person who violates this Section with regard to
17 possession of any methamphetamine manufacturing chemical set
18 forth in paragraph (z-1) of Section 102 with intent to
19 manufacture less than 15 grams of methamphetamine, or salt of
20 an optical isomer of methamphetamine or any analog thereof, is
21 guilty of a Class 2 felony. The fine for violation of this
22 subsection (d-5) shall not be more than \$200,000.

23 (e) Any person who violates this Section with regard to any
24 other amount of a controlled or counterfeit substance
25 classified in Schedule I or II, or an analog thereof, which
26 substance is not included under subsection (d) of this Section,
27 is guilty of a Class 3 felony. The fine for violation of this
28 subsection (e) shall not be more than \$150,000.

29 (f) Any person who violates this Section with regard to any
30 other amount of a controlled or counterfeit substance
31 classified in Schedule III is guilty of a Class 3 felony. The
32 fine for violation of this subsection (f) shall not be more
33 than \$125,000.

34 (g) Any person who violates this Section with regard to any
35 other amount of a controlled or counterfeit substance
36 classified in Schedule IV is guilty of a Class 3 felony. The

1 fine for violation of this subsection (g) shall not be more
2 than \$100,000.

3 (h) Any person who violates this Section with regard to any
4 other amount of a controlled or counterfeit substance
5 classified in Schedule V is guilty of a Class 3 felony. The
6 fine for violation of this subsection (h) shall not be more
7 than \$75,000.

8 (i) This Section does not apply to the manufacture,
9 possession or distribution of a substance in conformance with
10 the provisions of an approved new drug application or an
11 exemption for investigational use within the meaning of Section
12 505 of the Federal Food, Drug and Cosmetic Act.

13 (j) The presence of any methamphetamine manufacturing
14 chemical in a sealed, factory imprinted container, including,
15 but not limited to a bottle, box, or plastic blister package,
16 at the time of seizure by law enforcement, is prima facie
17 evidence that the methamphetamine manufacturing chemical
18 located within the container is in fact the chemical so
19 described and in the amount and dosage listed on the container.
20 The factory imprinted container is admissible for a violation
21 of this Section for purposes of proving the contents of the
22 container.

23 (Source: P.A. 92-16, eff. 6-28-01; 92-256, eff. 1-1-02; 92-698,
24 eff. 7-19-02; 93-278, eff. 1-1-04.)

25 (720 ILCS 570/402) (from Ch. 56 1/2, par. 1402)

26 Sec. 402. Except as otherwise authorized by this Act, it is
27 unlawful for any person knowingly to possess a controlled or
28 counterfeit substance. A violation of this Act with respect to
29 each of the controlled substances listed herein constitutes a
30 single and separate violation of this Act.

31 (a) Any person who violates this Section with respect to
32 the following controlled or counterfeit substances and
33 amounts, notwithstanding any of the provisions of subsections
34 (c) and (d) to the contrary, is guilty of a Class 1 felony and
35 shall, if sentenced to a term of imprisonment, be sentenced as

1 provided in this subsection (a) and fined as provided in
2 subsection (b):

3 (1) (A) not less than 4 years and not more than 15
4 years with respect to ~~15 grams or more but~~ less than
5 100 grams of a substance containing heroin;

6 (B) not less than 6 years and not more than 30
7 years with respect to 100 grams or more but less than
8 400 grams of a substance containing heroin;

9 (C) not less than 8 years and not more than 40
10 years with respect to 400 grams or more but less than
11 900 grams of any substance containing heroin;

12 (D) not less than 10 years and not more than 50
13 years with respect to 900 grams or more of any
14 substance containing heroin;

15 (2) (A) not less than 4 years and not more than 15
16 years with respect to 15 grams or more but less than
17 100 grams of any substance containing cocaine;

18 (B) not less than 6 years and not more than 30
19 years with respect to 100 grams or more but less than
20 400 grams of any substance containing cocaine;

21 (C) not less than 8 years and not more than 40
22 years with respect to 400 grams or more but less than
23 900 grams of any substance containing cocaine;

24 (D) not less than 10 years and not more than 50
25 years with respect to 900 grams or more of any
26 substance containing cocaine;

27 (3) (A) not less than 4 years and not more than 15
28 years with respect to 15 grams or more but less than
29 100 grams of any substance containing morphine;

30 (B) not less than 6 years and not more than 30
31 years with respect to 100 grams or more but less than
32 400 grams of any substance containing morphine;

33 (C) not less than 6 years and not more than 40
34 years with respect to 400 grams or more but less than

1 900 grams of any substance containing morphine;

2 (D) not less than 10 years and not more than 50
3 years with respect to 900 grams or more of any
4 substance containing morphine;

5 (4) 200 grams or more of any substance containing
6 peyote;

7 (5) 200 grams or more of any substance containing a
8 derivative of barbituric acid or any of the salts of a
9 derivative of barbituric acid;

10 (6) 200 grams or more of any substance containing
11 amphetamine or any salt of an optical isomer of
12 amphetamine;

13 (6.5) (A) not less than 4 years and not more than 15
14 years with respect to 15 grams or more but less than
15 100 grams of a substance containing methamphetamine or
16 any salt of an optical isomer of methamphetamine;

17 (B) not less than 6 years and not more than 30
18 years with respect to 100 grams or more but less than
19 400 grams of a substance containing methamphetamine or
20 any salt of an optical isomer of methamphetamine;

21 (C) not less than 8 years and not more than 40
22 years with respect to 400 grams or more but less than
23 900 grams of a substance containing methamphetamine or
24 any salt of an optical isomer of methamphetamine;

25 (D) not less than 10 years and not more than 50
26 years with respect to 900 grams or more of any
27 substance containing methamphetamine or any salt of an
28 optical isomer of methamphetamine;

29 (7) (A) not less than 4 years and not more than 15
30 years with respect to: (i) 15 grams or more but less
31 than 100 grams of any substance containing lysergic
32 acid diethylamide (LSD), or an analog thereof, or (ii)
33 15 or more objects or 15 or more segregated parts of an
34 object or objects but less than 200 objects or 200
35 segregated parts of an object or objects containing in
36 them or having upon them any amount of any substance

1 containing lysergic acid diethylamide (LSD), or an
2 analog thereof;

3 (B) not less than 6 years and not more than 30
4 years with respect to: (i) 100 grams or more but less
5 than 400 grams of any substance containing lysergic
6 acid diethylamide (LSD), or an analog thereof, or (ii)
7 200 or more objects or 200 or more segregated parts of
8 an object or objects but less than 600 objects or less
9 than 600 segregated parts of an object or objects
10 containing in them or having upon them any amount of
11 any substance containing lysergic acid diethylamide
12 (LSD), or an analog thereof;

13 (C) not less than 8 years and not more than 40
14 years with respect to: (i) 400 grams or more but less
15 than 900 grams of any substance containing lysergic
16 acid diethylamide (LSD), or an analog thereof, or (ii)
17 600 or more objects or 600 or more segregated parts of
18 an object or objects but less than 1500 objects or 1500
19 segregated parts of an object or objects containing in
20 them or having upon them any amount of any substance
21 containing lysergic acid diethylamide (LSD), or an
22 analog thereof;

23 (D) not less than 10 years and not more than 50
24 years with respect to: (i) 900 grams or more of any
25 substance containing lysergic acid diethylamide (LSD),
26 or an analog thereof, or (ii) 1500 or more objects or
27 1500 or more segregated parts of an object or objects
28 containing in them or having upon them any amount of a
29 substance containing lysergic acid diethylamide (LSD),
30 or an analog thereof;

31 (7.5) (A) not less than 4 years and not more than 15
32 years with respect to: (i) 15 grams or more but less
33 than 100 grams of any substance listed in paragraph
34 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),
35 (25), or (26) of subsection (d) of Section 204, or an
36 analog or derivative thereof, or (ii) 15 or more pills,

1 tablets, caplets, capsules, or objects but less than
2 200 pills, tablets, caplets, capsules, or objects
3 containing in them or having upon them any amount of
4 any substance listed in paragraph (1), (2), (2.1), (3),
5 (14.1), (19), (20), (20.1), (21), (25), or (26) of
6 subsection (d) of Section 204, or an analog or
7 derivative thereof;

8 (B) not less than 6 years and not more than 30
9 years with respect to: (i) 100 grams or more but less
10 than 400 grams of any substance listed in paragraph
11 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),
12 (25), or (26) of subsection (d) of Section 204, or an
13 analog or derivative thereof, or (ii) 200 or more
14 pills, tablets, caplets, capsules, or objects but less
15 than 600 pills, tablets, caplets, capsules, or objects
16 containing in them or having upon them any amount of
17 any substance listed in paragraph (1), (2), (2.1), (3),
18 (14.1), (19), (20), (20.1), (21), (25), or (26) of
19 subsection (d) of Section 204, or an analog or
20 derivative thereof;

21 (C) not less than 8 years and not more than 40
22 years with respect to: (i) 400 grams or more but less
23 than 900 grams of any substance listed in paragraph
24 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),
25 (25), or (26) of subsection (d) of Section 204, or an
26 analog or derivative thereof, or (ii) 600 or more
27 pills, tablets, caplets, capsules, or objects but less
28 than 1,500 pills, tablets, caplets, capsules, or
29 objects containing in them or having upon them any
30 amount of any substance listed in paragraph (1), (2),
31 (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or
32 (26) of subsection (d) of Section 204, or an analog or
33 derivative thereof;

34 (D) not less than 10 years and not more than 50
35 years with respect to: (i) 900 grams or more of any
36 substance listed in paragraph (1), (2), (2.1), (3),

1 (14.1), (19), (20), (20.1), (21), (25), or (26) of
2 subsection (d) of Section 204, or an analog or
3 derivative thereof, or (ii) 1,500 or more pills,
4 tablets, caplets, capsules, or objects containing in
5 them or having upon them any amount of a substance
6 listed in paragraph (1), (2), (2.1), (3), (14.1), (19),
7 (20), (20.1), (21), (25), or (26) of subsection (d) of
8 Section 204, or an analog or derivative thereof;

9 (8) 30 grams or more of any substance containing
10 pentazocine or any of the salts, isomers and salts of
11 isomers of pentazocine, or an analog thereof;

12 (9) 30 grams or more of any substance containing
13 methaqualone or any of the salts, isomers and salts of
14 isomers of methaqualone;

15 (10) 30 grams or more of any substance containing
16 phencyclidine or any of the salts, isomers and salts of
17 isomers of phencyclidine (PCP);

18 (10.5) 30 grams or more of any substance containing
19 ketamine or any of the salts, isomers and salts of isomers
20 of ketamine;

21 (11) 200 grams or more of any substance containing any
22 substance classified as a narcotic drug in Schedules I or
23 II which is not otherwise included in this subsection.

24 (b) Any person sentenced with respect to violations of
25 paragraph (1), (2), (3), (6.5), (7), or (7.5) of subsection (a)
26 involving 100 grams or more of the controlled substance named
27 therein, may in addition to the penalties provided therein, be
28 fined an amount not to exceed \$200,000 or the full street value
29 of the controlled or counterfeit substances, whichever is
30 greater. The term "street value" shall have the meaning
31 ascribed in Section 110-5 of the Code of Criminal Procedure of
32 1963. Any person sentenced with respect to any other provision
33 of subsection (a), may in addition to the penalties provided
34 therein, be fined an amount not to exceed \$200,000.

35 (c) Any person who violates this Section with regard to an
36 amount of a controlled or counterfeit substance not set forth

1 in subsection (a) or (d) is guilty of a Class 4 felony. The
2 fine for a violation punishable under this subsection (c) shall
3 not be more than \$25,000.

4 (d) Any person who violates this Section with regard to any
5 amount of anabolic steroid is guilty of a Class C misdemeanor
6 for the first offense and a Class B misdemeanor for a
7 subsequent offense committed within 2 years of a prior
8 conviction.

9 (Source: P.A. 91-336, eff. 1-1-00; 91-357, eff. 7-29-99;
10 92-256, eff. 1-1-02.)

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

13 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

14 Sec. 5-5-3. Disposition.

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

17 (b) The following options shall be appropriate
18 dispositions, alone or in combination, for all felonies and
19 misdemeanors other than those identified in subsection (c) of
20 this Section:

21 (1) A period of probation.

22 (2) A term of periodic imprisonment.

23 (3) A term of conditional discharge.

24 (4) A term of imprisonment.

25 (5) An order directing the offender to clean up and
26 repair the damage, if the offender was convicted under
27 paragraph (h) of Section 21-1 of the Criminal Code of 1961
28 (now repealed).

29 (6) A fine.

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

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

34 Whenever an individual is sentenced for an offense based

1 upon an arrest for a violation of Section 11-501 of the
2 Illinois Vehicle Code, or a similar provision of a local
3 ordinance, and the professional evaluation recommends remedial
4 or rehabilitative treatment or education, neither the
5 treatment nor the education shall be the sole disposition and
6 either or both may be imposed only in conjunction with another
7 disposition. The court shall monitor compliance with any
8 remedial education or treatment recommendations contained in
9 the professional evaluation. Programs conducting alcohol or
10 other drug evaluation or remedial education must be licensed by
11 the Department of Human Services. However, if the individual is
12 not a resident of Illinois, the court may accept an alcohol or
13 other drug evaluation or remedial education program in the
14 state of such individual's residence. Programs providing
15 treatment must be licensed under existing applicable
16 alcoholism and drug treatment licensure standards.

17 In addition to any other fine or penalty required by law,
18 any individual convicted of a violation of Section 11-501 of
19 the Illinois Vehicle Code, Section 5-7 of the Snowmobile
20 Registration and Safety Act, Section 5-16 of the Boat
21 Registration and Safety Act, or a similar provision of local
22 ordinance, whose operation of a motor vehicle while in
23 violation of Section 11-501, Section 5-7, Section 5-16, or such
24 ordinance proximately caused an incident resulting in an
25 appropriate emergency response, shall be required to make
26 restitution to a public agency for the costs of that emergency
27 response. Such restitution shall not exceed \$1,000 per public
28 agency for each such emergency response. For the purpose of
29 this paragraph, emergency response shall mean any incident
30 requiring a response by: a police officer as defined under
31 Section 1-162 of the Illinois Vehicle Code; a fireman carried
32 on the rolls of a regularly constituted fire department; and an
33 ambulance as defined under Section 3.85 of the Emergency
34 Medical Services (EMS) Systems Act.

35 Neither a fine nor restitution shall be the sole
36 disposition for a felony and either or both may be imposed only

1 in conjunction with another disposition.

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

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

14 (A) First degree murder where the death penalty is
15 not imposed.

16 (B) Attempted first degree murder.

17 (C) A Class X felony.

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

23 (D-5) A violation of Section 401.1 or 407 of the
24 Illinois Controlled Substances Act or a violation of
25 subdivision (c)(1) of Section 401 of that Act that
26 relates to any amount of a substance containing heroin.

27 (E) A violation of Section 5.1 or 9 of the Cannabis
28 Control Act.

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

35 (G) Residential burglary, except as otherwise
36 provided in Section 40-10 of the Alcoholism and Other

1 Drug Abuse and Dependency Act.

2 (H) Criminal sexual assault.

3 (I) Aggravated battery of a senior citizen.

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

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

12 Beginning July 1, 1994, for the purposes of this
13 paragraph, "organized gang" has the meaning ascribed
14 to it in Section 10 of the Illinois Streetgang
15 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 upon
19 which the hate crime is based is felony aggravated
20 assault or felony mob action.

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

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

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

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

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

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

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

1 Illinois Vehicle Code.

2 (T) A second or subsequent violation of paragraph
3 (6.6) of subsection (a), subsection (c-5), or
4 subsection (d-5) of Section 401 of the Illinois
5 Controlled Substances Act.

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

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

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

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

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

1 (4.4) Except as provided in paragraph (4.5) and
2 paragraph (4.6) of this subsection (c), a minimum term of
3 imprisonment of 30 days or 300 hours of community service,
4 as determined by the court, shall be imposed for a third or
5 subsequent violation of Section 6-303 of the Illinois
6 Vehicle Code.

7 (4.5) A minimum term of imprisonment of 30 days shall
8 be imposed for a third violation of subsection (c) of
9 Section 6-303 of the Illinois Vehicle Code.

10 (4.6) A minimum term of imprisonment of 180 days shall
11 be imposed for a fourth or subsequent violation of
12 subsection (c) of Section 6-303 of the Illinois Vehicle
13 Code.

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

17 (A) a period of conditional discharge;

18 (B) a fine;

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

21 (5.1) In addition to any penalties imposed under
22 paragraph (5) of this subsection (c), and except as
23 provided in paragraph (5.2) or (5.3), a person convicted of
24 violating subsection (c) of Section 11-907 of the Illinois
25 Vehicle Code shall have his or her driver's license,
26 permit, or privileges suspended for at least 90 days but
27 not more than one year, if the violation resulted in damage
28 to the property of another person.

29 (5.2) In addition to any penalties imposed under
30 paragraph (5) of this subsection (c), and except as
31 provided in paragraph (5.3), a person convicted of
32 violating subsection (c) of Section 11-907 of the Illinois
33 Vehicle Code shall have his or her driver's license,
34 permit, or privileges suspended for at least 180 days but
35 not more than 2 years, if the violation resulted in injury
36 to another person.

1 (5.3) In addition to any penalties imposed under
2 paragraph (5) of this subsection (c), a person convicted of
3 violating subsection (c) of Section 11-907 of the Illinois
4 Vehicle Code shall have his or her driver's license,
5 permit, or privileges suspended for 2 years, if the
6 violation resulted in the death of another person.

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

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

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

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

34 (10) When a person is convicted of violating Section
35 11-501 of the Illinois Vehicle Code or a similar provision
36 of a local ordinance, the following penalties apply when

1 his or her blood, breath, or urine was .16 or more based on
2 the definition of blood, breath, or urine units in Section
3 11-501.2 or that person is convicted of violating Section
4 11-501 of the Illinois Vehicle Code while transporting a
5 child under the age of 16:

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

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

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

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

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

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

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

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

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

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

20 (i) removal from the household;

21 (ii) restricted contact with the victim;

22 (iii) continued financial support of the
23 family;

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

25 and

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

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

35 Probation may be revoked or modified pursuant to Section
36 5-6-4; except where the court determines at the hearing that

1 the defendant violated a condition of his or her probation
2 restricting contact with the victim or other family members or
3 commits another offense with the victim or other family
4 members, the court shall revoke the defendant's probation and
5 impose a term of imprisonment.

6 For the purposes of this Section, "family member" and
7 "victim" shall have the meanings ascribed to them in Section
8 12-12 of the Criminal Code of 1961.

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

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

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

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

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

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

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

24 (j) In cases when prosecution for any violation of Section
25 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
26 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
27 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
28 Code of 1961, any violation of the Illinois Controlled
29 Substances Act, or any violation of the Cannabis Control Act
30 results in conviction, a disposition of court supervision, or
31 an order of probation granted under Section 10 of the Cannabis
32 Control Act or Section 410 of the Illinois Controlled Substance
33 Act of a defendant, the court shall determine whether the
34 defendant is employed by a facility or center as defined under
35 the Child Care Act of 1969, a public or private elementary or
36 secondary school, or otherwise works with children under 18

1 years of age on a daily basis. When a defendant is so employed,
2 the court shall order the Clerk of the Court to send a copy of
3 the judgment of conviction or order of supervision or probation
4 to the defendant's employer by certified mail. If the employer
5 of the defendant is a school, the Clerk of the Court shall
6 direct the mailing of a copy of the judgment of conviction or
7 order of supervision or probation to the appropriate regional
8 superintendent of schools. The regional superintendent of
9 schools shall notify the State Board of Education of any
10 notification under this subsection.

11 (j-5) A defendant at least 17 years of age who is convicted
12 of a felony and who has not been previously convicted of a
13 misdemeanor or felony and who is sentenced to a term of
14 imprisonment in the Illinois Department of Corrections shall as
15 a condition of his or her sentence be required by the court to
16 attend educational courses designed to prepare the defendant
17 for a high school diploma and to work toward a high school
18 diploma or to work toward passing the high school level Test of
19 General Educational Development (GED) or to work toward
20 completing a vocational training program offered by the
21 Department of Corrections. If a defendant fails to complete the
22 educational training required by his or her sentence during the
23 term of incarceration, the Prisoner Review Board shall, as a
24 condition of mandatory supervised release, require the
25 defendant, at his or her own expense, to pursue a course of
26 study toward a high school diploma or passage of the GED test.
27 The Prisoner Review Board shall revoke the mandatory supervised
28 release of a defendant who wilfully fails to comply with this
29 subsection (j-5) upon his or her release from confinement in a
30 penal institution while serving a mandatory supervised release
31 term; however, the inability of the defendant after making a
32 good faith effort to obtain financial aid or pay for the
33 educational training shall not be deemed a wilful failure to
34 comply. The Prisoner Review Board shall recommit the defendant
35 whose mandatory supervised release term has been revoked under
36 this subsection (j-5) as provided in Section 3-3-9. This

1 subsection (j-5) does not apply to a defendant who has a high
2 school diploma or has successfully passed the GED test. This
3 subsection (j-5) does not apply to a defendant who is
4 determined by the court to be developmentally disabled or
5 otherwise mentally incapable of completing the educational or
6 vocational program.

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

10 (l) (A) Except as provided in paragraph (C) of subsection
11 (l), whenever a defendant, who is an alien as defined by
12 the Immigration and Nationality Act, is convicted of any
13 felony or misdemeanor offense, the court after sentencing
14 the defendant may, upon motion of the State's Attorney,
15 hold sentence in abeyance and remand the defendant to the
16 custody of the Attorney General of the United States or his
17 or her designated agent to be deported when:

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

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

24 Otherwise, the defendant shall be sentenced as
25 provided in this Chapter V.

26 (B) If the defendant has already been sentenced for a
27 felony or misdemeanor offense, or has been placed on
28 probation under Section 10 of the Cannabis Control Act or
29 Section 410 of the Illinois Controlled Substances Act, the
30 court may, upon motion of the State's Attorney to suspend
31 the sentence imposed, commit the defendant to the custody
32 of the Attorney General of the United States or his or her
33 designated agent when:

34 (1) a final order of deportation has been issued
35 against the defendant pursuant to proceedings under
36 the Immigration and Nationality Act, and

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

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

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

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

23 (n) The court may sentence a person convicted of a
24 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
25 Code of 1961 (i) to an impact incarceration program if the
26 person is otherwise eligible for that program under Section
27 5-8-1.1, (ii) to community service, or (iii) if the person is
28 an addict or alcoholic, as defined in the Alcoholism and Other
29 Drug Abuse and Dependency Act, to a substance or alcohol abuse
30 program licensed under that Act.

31 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
32 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
33 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
34 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
35 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
36 eff. 1-1-04; revised 10-9-03.)