



Rep. Bill Mitchell

Filed: 4/11/2005

09400HB2913ham001

LRB094 05436 RLC 44365 a

1 AMENDMENT TO HOUSE BILL 2913

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2913 by replacing  
3 everything after the enacting clause with the following:

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

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

7 Sec. 5-5-3. Disposition.

8 (a) Except as provided in Section 11-501 of the Illinois  
9 Vehicle Code, every person convicted of an offense shall be  
10 sentenced as provided in this Section.

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

15 (1) A period of probation.

16 (2) A term of periodic imprisonment.

17 (3) A term of conditional discharge.

18 (4) A term of imprisonment.

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22 (now repealed).

23 (6) A fine.

24 (7) An order directing the offender to make restitution

1 to the victim under Section 5-5-6 of this Code.

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

4 (9) A term of imprisonment in combination with a term  
5 of probation when the offender has been admitted into a  
6 drug court program under Section 20 of the Drug Court  
7 Treatment Act.

8 (10) A sentence of participation in a county work camp  
9 program if the offender was convicted of a felony that is  
10 not a violent crime as defined in Section 3 of the Rights  
11 of Crime Victims and Witnesses Act.

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

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

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

27 (A) First degree murder where the death penalty is  
28 not imposed.

29 (B) Attempted first degree murder.

30 (C) A Class X felony.

31 (D) A violation of Section 401.1 or 407 of the  
32 Illinois Controlled Substances Act, or a violation of  
33 subdivision (c) (1) or (c) (2) of Section 401 of that Act  
34 which relates to more than 5 grams of a substance

1 containing heroin or cocaine or an analog thereof.

2 (E) A violation of Section 5.1 or 9 of the Cannabis  
3 Control Act.

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

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

13 (H) Criminal sexual assault.

14 (I) Aggravated battery of a senior citizen.

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

17 Before July 1, 1994, for the purposes of this  
18 paragraph, "organized gang" means an association of 5  
19 or more persons, with an established hierarchy, that  
20 encourages members of the association to perpetrate  
21 crimes or provides support to the members of the  
22 association who do commit crimes.

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

27 (K) Vehicular hijacking.

28 (L) A second or subsequent conviction for the  
29 offense of hate crime when the underlying offense upon  
30 which the hate crime is based is felony aggravated  
31 assault or felony mob action.

32 (M) A second or subsequent conviction for the  
33 offense of institutional vandalism if the damage to the  
34 property exceeds \$300.

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

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

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

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

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

13 (S) (Blank).

14 (T) A second or subsequent violation of paragraph  
15 (6.6) of subsection (a), subsection (c-5), or  
16 subsection (d-5) of Section 401 of the Illinois  
17 Controlled Substances Act.

18 (3) (Blank).

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

23 (4.1) (Blank).

24 (4.2) Except as provided in paragraph (4.3) of this  
25 subsection (c), a minimum of 100 hours of community service  
26 shall be imposed for a second violation of Section 6-303 of  
27 the Illinois Vehicle Code.

28 (4.3) A minimum term of imprisonment of 30 days or 300  
29 hours of community service, as determined by the court,  
30 shall be imposed for a second violation of subsection (c)  
31 of Section 6-303 of the Illinois Vehicle Code.

32 (4.4) Except as provided in paragraph (4.5) and  
33 paragraph (4.6) of this subsection (c), a minimum term of  
34 imprisonment of 30 days or 300 hours of community service,

1 as determined by the court, shall be imposed for a third or  
2 subsequent violation of Section 6-303 of the Illinois  
3 Vehicle Code.

4 (4.5) A minimum term of imprisonment of 30 days shall  
5 be imposed for a third violation of subsection (c) of  
6 Section 6-303 of the Illinois Vehicle Code.

7 (4.6) A minimum term of imprisonment of 180 days shall  
8 be imposed for a fourth or subsequent violation of  
9 subsection (c) of Section 6-303 of the Illinois Vehicle  
10 Code.

11 (5) The court may sentence an offender convicted of a  
12 business offense or a petty offense or a corporation or  
13 unincorporated association convicted of any offense to:

14 (A) a period of conditional discharge;

15 (B) a fine;

16 (C) make restitution to the victim under Section  
17 5-5-6 of this Code.

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

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

34 (5.3) In addition to any penalties imposed under

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

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

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

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

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

33 (10) (Blank).

34 (11) The court shall impose a minimum fine of \$1,000

1 for a first offense and \$2,000 for a second or subsequent  
2 offense upon a person convicted of or placed on supervision  
3 for battery when the individual harmed was a sports  
4 official or coach at any level of competition and the act  
5 causing harm to the sports official or coach occurred  
6 within an athletic facility or within the immediate  
7 vicinity of the athletic facility at which the sports  
8 official or coach was an active participant of the athletic  
9 contest held at the athletic facility. For the purposes of  
10 this paragraph (11), "sports official" means a person at an  
11 athletic contest who enforces the rules of the contest,  
12 such as an umpire or referee; "athletic facility" means an  
13 indoor or outdoor playing field or recreational area where  
14 sports activities are conducted; and "coach" means a person  
15 recognized as a coach by the sanctioning authority that  
16 conducted the sporting event.

17 (12) ~~(11)~~ A person may not receive a disposition of  
18 court supervision for a violation of Section 5-16 of the  
19 Boat Registration and Safety Act if that person has  
20 previously received a disposition of court supervision for  
21 a violation of that Section.

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

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

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

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

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

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

19 (i) removal from the household;

20 (ii) restricted contact with the victim;

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

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

24 and

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

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

34 Probation may be revoked or modified pursuant to Section



1 5-6-4; except where the court determines at the hearing that  
2 the defendant violated a condition of his or her probation  
3 restricting contact with the victim or other family members or  
4 commits another offense with the victim or other family  
5 members, the court shall revoke the defendant's probation and  
6 impose a term of imprisonment.

7 For the purposes of this Section, "family member" and  
8 "victim" shall have the meanings ascribed to them in Section  
9 12-12 of the Criminal Code of 1961.

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

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

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

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

27 (h) Whenever a defendant is convicted of an offense under  
28 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the  
29 defendant shall undergo medical testing to determine whether  
30 the defendant has been exposed to human immunodeficiency virus  
31 (HIV) or any other identified causative agent of acquired  
32 immunodeficiency syndrome (AIDS). Except as otherwise provided  
33 by law, the results of such test shall be kept strictly  
34 confidential by all medical personnel involved in the testing

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

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

29 (j) In cases when prosecution for any violation of Section  
30 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,  
31 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
32 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal  
33 Code of 1961, any violation of the Illinois Controlled  
34 Substances Act, or any violation of the Cannabis Control Act

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

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

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

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

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

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

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

33 Otherwise, the defendant shall be sentenced as  
34 provided in this Chapter V.

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

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

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

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

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

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

34 (n) The court may sentence a person convicted of a

1 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal  
2 Code of 1961 (i) to an impact incarceration program if the  
3 person is otherwise eligible for that program under Section  
4 5-8-1.1, (ii) to community service, or (iii) if the person is  
5 an addict or alcoholic, as defined in the Alcoholism and Other  
6 Drug Abuse and Dependency Act, to a substance or alcohol abuse  
7 program licensed under that Act.

8 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;  
9 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.  
10 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,  
11 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,  
12 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,  
13 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,  
14 eff. 1-1-05; 93-1014, eff. 1-1-05; revised 10-25-04.)

15 Section 10. The County Jail Act is amended by adding  
16 Section 19.6 as follows:

17 (730 ILCS 125/19.6 new)

18 Sec. 19.6. County work camp program.

19 (a) Legislative intent. It is the finding of the General  
20 Assembly that certain non-violent felony offenders eligible  
21 for sentences of incarceration in a county jail may benefit  
22 from the rehabilitative aspects of a county work camp program.  
23 It is the intent of the General Assembly that such programs be  
24 implemented as provided by this Section. This Section shall not  
25 be construed to allow violent offenders to participate in a  
26 county work camp program.

27 (b) Under the direction of the sheriff and with the  
28 approval of the county board in any county, the sheriff may  
29 establish and operate a county work camp program for eligible  
30 offenders. If the court finds at the sentencing hearing under  
31 Section 5-4-1 of the Unified Code of Corrections that an  
32 offender convicted of a felony meets the eligibility

1 requirements of the sheriff's county work camp program, the  
2 court may sentence the offender to the county work camp  
3 program. The sheriff in a county whose county board has created  
4 a work camp program may also assign an eligible offender to a  
5 work camp program. The sheriff shall be responsible for  
6 monitoring all offenders who are sentenced to the county work  
7 camp program. In the event the offender is not accepted for  
8 placement in the county work camp program, the court shall  
9 proceed to sentence the offender to any other disposition  
10 authorized by the Unified Code of Corrections. If the offender  
11 does not successfully complete the program, the offender's  
12 failure to do so shall constitute a violation of the sentence  
13 to the county work camp program.

14 (c) In order to be eligible to be sentenced to a county  
15 work camp program by the court or to be assigned to a county  
16 work camp program by the sheriff, the person shall meet all of  
17 the following requirements:

18 (1) the person must be not less than 17 years of age;

19 (2) the person must have been convicted of a felony  
20 that is not a violent crime as defined in Section 3 of the  
21 Rights of Crime Victims and Witnesses Act;

22 (3) the person must not have any mental disorder or  
23 disability that would prevent participation in a county  
24 work camp program; and

25 (4) the person was recommended and approved for  
26 placement in the county work camp program by the sheriff  
27 and consented in writing to participation in the county  
28 work camp program and to the terms and conditions of the  
29 program. The sheriff may consider, among other matters,  
30 whether the person has any outstanding detainers or  
31 warrants, whether the person has a history of escaping or  
32 absconding, whether participation in the county work camp  
33 program may pose a risk to the safety or security of any  
34 person and whether space is available.



1       (d) The county work camp program shall include such  
2 community service work as defined by the county board that  
3 approved the program to be performed by offenders at locations  
4 other than the county jail. When the offender is not performing  
5 community service work, he or she shall be confined in the  
6 county jail.

7       (e) The sheriff shall issue written rules and requirements  
8 for the program. Persons shall be informed of rules of behavior  
9 and conduct. Persons participating in the county work camp  
10 program shall adhere to all rules and all requirements of the  
11 program.

12       (f) The period of time a person shall serve in the work  
13 camp program shall be determined by the court that sentenced  
14 the offender to the program or by the sheriff who assigned the  
15 offender to the program. The period of time a person shall  
16 serve in the work camp program shall not be reduced by the  
17 accumulation of good time. The court may also sentence the  
18 person to a period of probation to commence at the successful  
19 completion of the county work camp program.

20       (g) If the person successfully completes the county work  
21 camp program, the sheriff shall certify the person's successful  
22 completion of the program to the court and to the county's  
23 State's Attorney. Upon successful completion of the county work  
24 camp program and if there is an additional period of probation  
25 given, the person shall at that time begin his or her  
26 probationary sentence under the supervision of the Adult  
27 Probation Department.

28       (h) A person may be removed from the county work camp  
29 program for a violation of the terms or conditions of the  
30 program or in the event he or she is for any reason unable to  
31 participate. The failure to complete the program for any reason  
32 shall be deemed a violation of the county work camp sentence.  
33 The sheriff shall give notice to the State's Attorney of the  
34 person's failure to complete the program. The sheriff shall

1 file a petition for violation of the county work camp sentence  
2 with the court and the State's Attorney may proceed on the  
3 petition under Section 5-6-4 of the Unified Code of  
4 Corrections. The sheriff shall promulgate rules and  
5 regulations governing conduct which could result in removal  
6 from the program or in a determination that the person has not  
7 successfully completed the program.

8 (i) The mandatory conditions of every county work camp  
9 sentence shall include that the person while in the program:

10 (1) not violate any criminal statute; or

11 (2) report or appear in person before any such person  
12 or agency as directed by the court or the sheriff.

13 (j) A county board that creates a work camp program shall  
14 by ordinance or resolution require a participant in the program  
15 to waive any liability by the county for injuries or loss of  
16 property incurred by the participant in the program, except for  
17 wilful and wanton misconduct."