



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5358

Introduced 01/26/06, by Rep. Annazette Collins

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-710

730 ILCS 5/5-5-3

from Ch. 38, par. 1005-5-3

Amends the Juvenile Court Act of 1987 and the Unified Code of Corrections. Provides that if a person convicted of or adjudicated delinquent for an offense is under 21 years of age and has not received a high school diploma or a General Educational Development (GED) certificate, the court shall order that person to attend school or courses that lead to a high school diploma or the receipt of a General Educational Development (GED) certificate until the person has attained 21 years of age. This provision does not apply to a person who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational requirements.

LRB094 18183 RLC 53494 b

FISCAL NOTE ACT
MAY APPLY

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 Juvenile Court Act of 1987 is amended by
5 changing Section 5-710 as follows:

6 (705 ILCS 405/5-710)

7 Sec. 5-710. Kinds of sentencing orders.

8 (1) The following kinds of sentencing orders may be made in
9 respect of wards of the court:

10 (a) Except as provided in Sections 5-805, 5-810, 5-815,
11 a minor who is found guilty under Section 5-620 may be:

12 (i) put on probation or conditional discharge and
13 released to his or her parents, guardian or legal
14 custodian, provided, however, that any such minor who
15 is not committed to the Department of Juvenile Justice
16 under this subsection and who is found to be a
17 delinquent for an offense which is first degree murder,
18 a Class X felony, or a forcible felony shall be placed
19 on probation;

20 (ii) placed in accordance with Section 5-740, with
21 or without also being put on probation or conditional
22 discharge;

23 (iii) required to undergo a substance abuse
24 assessment conducted by a licensed provider and
25 participate in the indicated clinical level of care;

26 (iv) placed in the guardianship of the Department
27 of Children and Family Services, but only if the
28 delinquent minor is under 13 years of age;

29 (v) placed in detention for a period not to exceed
30 30 days, either as the exclusive order of disposition
31 or, where appropriate, in conjunction with any other
32 order of disposition issued under this paragraph,

1 provided that any such detention shall be in a juvenile
2 detention home and the minor so detained shall be 10
3 years of age or older. However, the 30-day limitation
4 may be extended by further order of the court for a
5 minor under age 13 committed to the Department of
6 Children and Family Services if the court finds that
7 the minor is a danger to himself or others. The minor
8 shall be given credit on the sentencing order of
9 detention for time spent in detention under Sections
10 5-501, 5-601, 5-710, or 5-720 of this Article as a
11 result of the offense for which the sentencing order
12 was imposed. The court may grant credit on a sentencing
13 order of detention entered under a violation of
14 probation or violation of conditional discharge under
15 Section 5-720 of this Article for time spent in
16 detention before the filing of the petition alleging
17 the violation. A minor shall not be deprived of credit
18 for time spent in detention before the filing of a
19 violation of probation or conditional discharge
20 alleging the same or related act or acts;

21 (vi) ordered partially or completely emancipated
22 in accordance with the provisions of the Emancipation
23 of Minors Act;

24 (vii) subject to having his or her driver's license
25 or driving privileges suspended for such time as
26 determined by the court but only until he or she
27 attains 18 years of age;

28 (viii) put on probation or conditional discharge
29 and placed in detention under Section 3-6039 of the
30 Counties Code for a period not to exceed the period of
31 incarceration permitted by law for adults found guilty
32 of the same offense or offenses for which the minor was
33 adjudicated delinquent, and in any event no longer than
34 upon attainment of age 21; this subdivision (viii)
35 notwithstanding any contrary provision of the law; or

36 (ix) ordered to undergo a medical or other

1 procedure to have a tattoo symbolizing allegiance to a
2 street gang removed from his or her body.

3 (a-5) If the minor has not received a high school
4 diploma or a General Educational Development (GED)
5 certificate, the court shall order the minor to attend
6 school or courses that lead to a high school diploma or the
7 receipt of a General Educational Development (GED)
8 certificate until the minor has attained 21 years of age.
9 This subsection (a-5) does not apply to a minor who is
10 determined by the court to be developmentally disabled or
11 otherwise mentally incapable of completing the educational
12 requirements.

13 (b) A minor found to be guilty may be committed to the
14 Department of Juvenile Justice under Section 5-750 if the
15 minor is 13 years of age or older, provided that the
16 commitment to the Department of Juvenile Justice shall be
17 made only if a term of incarceration is permitted by law
18 for adults found guilty of the offense for which the minor
19 was adjudicated delinquent. The time during which a minor
20 is in custody before being released upon the request of a
21 parent, guardian or legal custodian shall be considered as
22 time spent in detention.

23 (c) When a minor is found to be guilty for an offense
24 which is a violation of the Illinois Controlled Substances
25 Act, the Cannabis Control Act, or the Methamphetamine
26 Control and Community Protection Act and made a ward of the
27 court, the court may enter a disposition order requiring
28 the minor to undergo assessment, counseling or treatment in
29 a substance abuse program approved by the Department of
30 Human Services.

31 (2) Any sentencing order other than commitment to the
32 Department of Juvenile Justice may provide for protective
33 supervision under Section 5-725 and may include an order of
34 protection under Section 5-730.

35 (3) Unless the sentencing order expressly so provides, it
36 does not operate to close proceedings on the pending petition,

1 but is subject to modification until final closing and
2 discharge of the proceedings under Section 5-750.

3 (4) In addition to any other sentence, the court may order
4 any minor found to be delinquent to make restitution, in
5 monetary or non-monetary form, under the terms and conditions
6 of Section 5-5-6 of the Unified Code of Corrections, except
7 that the "presentencing hearing" referred to in that Section
8 shall be the sentencing hearing for purposes of this Section.
9 The parent, guardian or legal custodian of the minor may be
10 ordered by the court to pay some or all of the restitution on
11 the minor's behalf, pursuant to the Parental Responsibility
12 Law. The State's Attorney is authorized to act on behalf of any
13 victim in seeking restitution in proceedings under this
14 Section, up to the maximum amount allowed in Section 5 of the
15 Parental Responsibility Law.

16 (5) Any sentencing order where the minor is committed or
17 placed in accordance with Section 5-740 shall provide for the
18 parents or guardian of the estate of the minor to pay to the
19 legal custodian or guardian of the person of the minor such
20 sums as are determined by the custodian or guardian of the
21 person of the minor as necessary for the minor's needs. The
22 payments may not exceed the maximum amounts provided for by
23 Section 9.1 of the Children and Family Services Act.

24 (6) Whenever the sentencing order requires the minor to
25 attend school or participate in a program of training, the
26 truant officer or designated school official shall regularly
27 report to the court if the minor is a chronic or habitual
28 truant under Section 26-2a of the School Code.

29 (7) In no event shall a guilty minor be committed to the
30 Department of Juvenile Justice for a period of time in excess
31 of that period for which an adult could be committed for the
32 same act.

33 (8) A minor found to be guilty for reasons that include a
34 violation of Section 21-1.3 of the Criminal Code of 1961 shall
35 be ordered to perform community service for not less than 30
36 and not more than 120 hours, if community service is available

1 in the jurisdiction. The community service shall include, but
2 need not be limited to, the cleanup and repair of the damage
3 that was caused by the violation or similar damage to property
4 located in the municipality or county in which the violation
5 occurred. The order may be in addition to any other order
6 authorized by this Section.

7 (8.5) A minor found to be guilty for reasons that include a
8 violation of Section 3.02 or Section 3.03 of the Humane Care
9 for Animals Act or paragraph (d) of subsection (1) of Section
10 21-1 of the Criminal Code of 1961 shall be ordered to undergo
11 medical or psychiatric treatment rendered by a psychiatrist or
12 psychological treatment rendered by a clinical psychologist.
13 The order may be in addition to any other order authorized by
14 this Section.

15 (9) In addition to any other sentencing order, the court
16 shall order any minor found to be guilty for an act which would
17 constitute, predatory criminal sexual assault of a child,
18 aggravated criminal sexual assault, criminal sexual assault,
19 aggravated criminal sexual abuse, or criminal sexual abuse if
20 committed by an adult to undergo medical testing to determine
21 whether the defendant has any sexually transmissible disease
22 including a test for infection with human immunodeficiency
23 virus (HIV) or any other identified causative agency of
24 acquired immunodeficiency syndrome (AIDS). Any medical test
25 shall be performed only by appropriately licensed medical
26 practitioners and may include an analysis of any bodily fluids
27 as well as an examination of the minor's person. Except as
28 otherwise provided by law, the results of the test shall be
29 kept strictly confidential by all medical personnel involved in
30 the testing and must be personally delivered in a sealed
31 envelope to the judge of the court in which the sentencing
32 order was entered for the judge's inspection in camera. Acting
33 in accordance with the best interests of the victim and the
34 public, the judge shall have the discretion to determine to
35 whom the results of the testing may be revealed. The court
36 shall notify the minor of the results of the test for infection

1 with the human immunodeficiency virus (HIV). The court shall
2 also notify the victim if requested by the victim, and if the
3 victim is under the age of 15 and if requested by the victim's
4 parents or legal guardian, the court shall notify the victim's
5 parents or the legal guardian, of the results of the test for
6 infection with the human immunodeficiency virus (HIV). The
7 court shall provide information on the availability of HIV
8 testing and counseling at the Department of Public Health
9 facilities to all parties to whom the results of the testing
10 are revealed. The court shall order that the cost of any test
11 shall be paid by the county and may be taxed as costs against
12 the minor.

13 (10) When a court finds a minor to be guilty the court
14 shall, before entering a sentencing order under this Section,
15 make a finding whether the offense committed either: (a) was
16 related to or in furtherance of the criminal activities of an
17 organized gang or was motivated by the minor's membership in or
18 allegiance to an organized gang, or (b) involved a violation of
19 subsection (a) of Section 12-7.1 of the Criminal Code of 1961,
20 a violation of any Section of Article 24 of the Criminal Code
21 of 1961, or a violation of any statute that involved the
22 wrongful use of a firearm. If the court determines the question
23 in the affirmative, and the court does not commit the minor to
24 the Department of Juvenile Justice, the court shall order the
25 minor to perform community service for not less than 30 hours
26 nor more than 120 hours, provided that community service is
27 available in the jurisdiction and is funded and approved by the
28 county board of the county where the offense was committed. The
29 community service shall include, but need not be limited to,
30 the cleanup and repair of any damage caused by a violation of
31 Section 21-1.3 of the Criminal Code of 1961 and similar damage
32 to property located in the municipality or county in which the
33 violation occurred. When possible and reasonable, the
34 community service shall be performed in the minor's
35 neighborhood. This order shall be in addition to any other
36 order authorized by this Section except for an order to place

1 the minor in the custody of the Department of Juvenile Justice.
2 For the purposes of this Section, "organized gang" has the
3 meaning ascribed to it in Section 10 of the Illinois Streetgang
4 Terrorism Omnibus Prevention Act.

5 (Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06.)

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

8 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

9 Sec. 5-5-3. Disposition.

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

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

17 (1) A period of probation.

18 (2) A term of periodic imprisonment.

19 (3) A term of conditional discharge.

20 (4) A term of imprisonment.

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

25 (6) A fine.

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

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

30 (9) A term of imprisonment in combination with a term
31 of probation when the offender has been admitted into a
32 drug court program under Section 20 of the Drug Court
33 Treatment Act.

34 Neither a fine nor restitution shall be the sole

1 disposition for a felony and either or both may be imposed only
2 in conjunction with another disposition.

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

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

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

17 (B) Attempted first degree murder.

18 (C) A Class X felony.

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

24 (E) A violation of Section 5.1 or 9 of the Cannabis
25 Control Act.

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

32 (F-5) A violation of Section 24-1, 24-1.1, or
33 24-1.6 of the Criminal Code of 1961 for which
34 imprisonment is prescribed in those Sections.

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) (Blank).

1 (T) A second or subsequent violation of the
2 Methamphetamine Control and Community Protection Act.

3 (3) (Blank).

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

8 (4.1) (Blank).

9 (4.2) Except as provided in paragraph (4.3) of this
10 subsection (c), a minimum of 100 hours of community service
11 shall be imposed for a second violation of Section 6-303 of
12 the Illinois Vehicle Code.

13 (4.3) A minimum term of imprisonment of 30 days or 300
14 hours of community service, as determined by the court,
15 shall be imposed for a second violation of subsection (c)
16 of Section 6-303 of the Illinois Vehicle Code.

17 (4.4) Except as provided in paragraph (4.5) and
18 paragraph (4.6) of this subsection (c), a minimum term of
19 imprisonment of 30 days or 300 hours of community service,
20 as determined by the court, shall be imposed for a third or
21 subsequent violation of Section 6-303 of the Illinois
22 Vehicle Code.

23 (4.5) A minimum term of imprisonment of 30 days shall
24 be imposed for a third violation of subsection (c) of
25 Section 6-303 of the Illinois Vehicle Code.

26 (4.6) A minimum term of imprisonment of 180 days shall
27 be imposed for a fourth or subsequent violation of
28 subsection (c) of Section 6-303 of the Illinois Vehicle
29 Code.

30 (5) The court may sentence an offender convicted of a
31 business offense or a petty offense or a corporation or
32 unincorporated association convicted of any offense to:

33 (A) a period of conditional discharge;

34 (B) a fine;

35 (C) make restitution to the victim under Section
36 5-5-6 of this Code.

1 (5.1) In addition to any penalties imposed under
2 paragraph (5) of this subsection (c), and except as
3 provided in paragraph (5.2) or (5.3), a person convicted of
4 violating subsection (c) of Section 11-907 of the Illinois
5 Vehicle Code shall have his or her driver's license,
6 permit, or privileges suspended for at least 90 days but
7 not more than one year, if the violation resulted in damage
8 to the property of another person.

9 (5.2) In addition to any penalties imposed under
10 paragraph (5) of this subsection (c), and except as
11 provided in paragraph (5.3), a person convicted of
12 violating subsection (c) of Section 11-907 of the Illinois
13 Vehicle Code shall have his or her driver's license,
14 permit, or privileges suspended for at least 180 days but
15 not more than 2 years, if the violation resulted in injury
16 to another person.

17 (5.3) In addition to any penalties imposed under
18 paragraph (5) of this subsection (c), a person convicted of
19 violating subsection (c) of Section 11-907 of the Illinois
20 Vehicle Code shall have his or her driver's license,
21 permit, or privileges suspended for 2 years, if the
22 violation resulted in the death of another person.

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

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

31 (8) When a defendant, over the age of 21 years, is
32 convicted of a Class 1 or Class 2 felony, after having
33 twice been convicted in any state or federal court of an
34 offense that contains the same elements as an offense now
35 classified in Illinois as a Class 2 or greater Class felony
36 and such charges are separately brought and tried and arise

1 out of different series of acts, such defendant shall be
2 sentenced as a Class X offender. This paragraph shall not
3 apply unless (1) the first felony was committed after the
4 effective date of this amendatory Act of 1977; and (2) the
5 second felony was committed after conviction on the first;
6 and (3) the third felony was committed after conviction on
7 the second. A person sentenced as a Class X offender under
8 this paragraph is not eligible to apply for treatment as a
9 condition of probation as provided by Section 40-10 of the
10 Alcoholism and Other Drug Abuse and Dependency Act.

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

14 (10) (Blank).

15 (11) The court shall impose a minimum fine of \$1,000
16 for a first offense and \$2,000 for a second or subsequent
17 offense upon a person convicted of or placed on supervision
18 for battery when the individual harmed was a sports
19 official or coach at any level of competition and the act
20 causing harm to the sports official or coach occurred
21 within an athletic facility or within the immediate
22 vicinity of the athletic facility at which the sports
23 official or coach was an active participant of the athletic
24 contest held at the athletic facility. For the purposes of
25 this paragraph (11), "sports official" means a person at an
26 athletic contest who enforces the rules of the contest,
27 such as an umpire or referee; "athletic facility" means an
28 indoor or outdoor playing field or recreational area where
29 sports activities are conducted; and "coach" means a person
30 recognized as a coach by the sanctioning authority that
31 conducted the sporting event.

32 (12) A person may not receive a disposition of court
33 supervision for a violation of Section 5-16 of the Boat
34 Registration and Safety Act if that person has previously
35 received a disposition of court supervision for a violation
36 of that Section.

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

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

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

26 (A) the defendant is willing to undergo a court
27 approved counseling program for a minimum duration of 2
28 years; or

29 (B) the defendant is willing to participate in a
30 court approved plan including but not limited to the
31 defendant's:

32 (i) removal from the household;

33 (ii) restricted contact with the victim;

34 (iii) continued financial support of the
35 family;

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

1 and

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

4 (2) the court orders the defendant to pay for the
5 victim's counseling services, to the extent that the court
6 finds, after considering the defendant's income and
7 assets, that the defendant is financially capable of paying
8 for such services, if the victim was under 18 years of age
9 at the time the offense was committed and requires
10 counseling as a result of the offense.

11 Probation may be revoked or modified pursuant to Section
12 5-6-4; except where the court determines at the hearing that
13 the defendant violated a condition of his or her probation
14 restricting contact with the victim or other family members or
15 commits another offense with the victim or other family
16 members, the court shall revoke the defendant's probation and
17 impose a term of imprisonment.

18 For the purposes of this Section, "family member" and
19 "victim" shall have the meanings ascribed to them in Section
20 12-12 of the Criminal Code of 1961.

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

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

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

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

36 (h) Whenever a defendant is convicted of an offense under

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

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

36 (j) In cases when prosecution for any violation of Section

1 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
2 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
3 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
4 Code of 1961, any violation of the Illinois Controlled
5 Substances Act, any violation of the Cannabis Control Act, or
6 any violation of the Methamphetamine Control and Community
7 Protection Act results in conviction, a disposition of court
8 supervision, or an order of probation granted under Section 10
9 of the Cannabis Control Act, Section 410 of the Illinois
10 Controlled Substance Act, or Section 70 of the Methamphetamine
11 Control and Community Protection Act of a defendant, the court
12 shall determine whether the defendant is employed by a facility
13 or center as defined under the Child Care Act of 1969, a public
14 or private elementary or secondary school, or otherwise works
15 with children under 18 years of age on a daily basis. When a
16 defendant is so employed, the court shall order the Clerk of
17 the Court to send a copy of the judgment of conviction or order
18 of supervision or probation to the defendant's employer by
19 certified mail. If the employer of the defendant is a school,
20 the Clerk of the Court shall direct the mailing of a copy of
21 the judgment of conviction or order of supervision or probation
22 to the appropriate regional superintendent of schools. The
23 regional superintendent of schools shall notify the State Board
24 of Education of any notification under this subsection.

25 (j-5) A defendant at least 21 ~~17~~ years of age who is
26 convicted of a felony and who has not been previously convicted
27 of a misdemeanor or felony and who is sentenced to a term of
28 imprisonment in the Illinois Department of Corrections shall as
29 a condition of his or her sentence be required by the court to
30 attend educational courses designed to prepare the defendant
31 for a high school diploma and to work toward a high school
32 diploma or to work toward passing the high school level Test of
33 General Educational Development (GED) or to work toward
34 completing a vocational training program offered by the
35 Department of Corrections. A defendant under 21 years of age
36 shall as a condition of his or her sentence be required by the

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

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

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

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

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

7 Otherwise, the defendant shall be sentenced as
8 provided in this Chapter V.

9 (B) If the defendant has already been sentenced for a
10 felony or misdemeanor offense, or has been placed on
11 probation under Section 10 of the Cannabis Control Act,
12 Section 410 of the Illinois Controlled Substances Act, or
13 Section 70 of the Methamphetamine Control and Community
14 Protection Act, the court may, upon motion of the State's
15 Attorney to suspend the sentence imposed, commit the
16 defendant to the custody of the Attorney General of the
17 United States or his or her designated agent 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 (C) This subsection (1) does not apply to offenders who
25 are subject to the provisions of paragraph (2) of
26 subsection (a) of Section 3-6-3.

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

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

7 (n) The court may sentence a person convicted of a
8 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
9 Code of 1961 (i) to an impact incarceration program if the
10 person is otherwise eligible for that program under Section
11 5-8-1.1, (ii) to community service, or (iii) if the person is
12 an addict or alcoholic, as defined in the Alcoholism and Other
13 Drug Abuse and Dependency Act, to a substance or alcohol abuse
14 program licensed under that Act.

15 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
16 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
17 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,
18 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,
19 eff. 9-11-05; revised 8-19-05.)