



Sen. John J. Cullerton

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1 AMENDMENT TO SENATE BILL 1026

2 AMENDMENT NO. _____. Amend Senate Bill 1026 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Unified Code of Corrections is amended by
5 changing Sections 3-1-2, 3-5-1, 3-6-2, and 5-5-3 and by adding
6 Section 5-1-9.1 as follows:

7 (730 ILCS 5/3-1-2) (from Ch. 38, par. 1003-1-2)

8 Sec. 3-1-2. Definitions. (a) "Chief Administrative
9 Officer" means the person designated by the Director to
10 exercise the powers and duties of the Department of Corrections
11 in regard to committed persons within a correctional
12 institution or facility, and includes the superintendent of any
13 juvenile institution or facility.

14 (b) "Commitment" means a judicially determined placement
15 in the custody of the Department of Corrections on the basis of
16 delinquency or conviction.

17 (c) "Committed Person" is a person committed to the
18 Department, however a committed person shall not be considered
19 to be an employee of the Department of Corrections for any
20 purpose, including eligibility for a pension, benefits, or any
21 other compensation or rights or privileges which may be
22 provided to employees of the Department.

23 (d) "Correctional Institution or Facility" means any
24 building or part of a building where committed persons are kept

1 in a secured manner.

2 (e) "Department" means the Department of Corrections of
3 this State.

4 (f) "Director" means the Director of the Department of
5 Corrections.

6 (g) "Discharge" means the final termination of a commitment
7 to the Department of Corrections.

8 (h) "Discipline" means the rules and regulations for the
9 maintenance of order and the protection of persons and property
10 within the institutions and facilities of the Department and
11 their enforcement.

12 (i) "Escape" means the intentional and unauthorized
13 absence of a committed person from the custody of the
14 Department.

15 (j) "Furlough" means an authorized leave of absence from
16 the Department of Corrections for a designated purpose and
17 period of time.

18 (j-5) "HIV/AIDS" means the human immunodeficiency virus or
19 any other identified causative agent of acquired
20 immunodeficiency syndrome.

21 (k) "Parole" means the conditional and revocable release of
22 a committed person under the supervision of a parole officer.

23 (l) "Prisoner Review Board" means the Board established in
24 Section 3-3-1(a), independent of the Department, to review
25 rules and regulations with respect to good time credits, to
26 hear charges brought by the Department against certain
27 prisoners alleged to have violated Department rules with
28 respect to good time credits, to set release dates for certain
29 prisoners sentenced under the law in effect prior to the
30 effective date of this Amendatory Act of 1977, to hear requests
31 and make recommendations to the Governor with respect to
32 pardon, reprieve or commutation, to set conditions for parole
33 and mandatory supervised release and determine whether
34 violations of those conditions justify revocation of parole or

1 release, and to assume all other functions previously exercised
2 by the Illinois Parole and Pardon Board.

3 (m) Whenever medical treatment, service, counseling, or
4 care is referred to in this Unified Code of Corrections, such
5 term may be construed by the Department or Court, within its
6 discretion, to include treatment, service or counseling by a
7 Christian Science practitioner or nursing care appropriate
8 therewith whenever request therefor is made by a person subject
9 to the provisions of this Act.

10 (n) "Victim" shall have the meaning ascribed to it in
11 subsection (a) of Section 3 of the Bill of Rights for Victims
12 and Witnesses of Violent Crime Act.

13 (Source: P.A. 83-1433; 83-1499.)

14 (730 ILCS 5/3-5-1) (from Ch. 38, par. 1003-5-1)

15 Sec. 3-5-1. Master Record File.

16 (a) The Department shall maintain a master record file on
17 each person committed to it, which shall contain the following
18 information:

19 (1) all information from the committing court;

20 (2) reception summary;

21 (3) evaluation and assignment reports and
22 recommendations;

23 (4) reports as to program assignment and progress;

24 (5) reports of disciplinary infractions and
25 disposition;

26 (6) any parole plan;

27 (7) any parole reports;

28 (8) the date and circumstances of final discharge;

29 (9) The results of an HIV/AIDS test administered under
30 subsection (i) of Section 3-6-2; and

31 (10) any other pertinent data concerning the person's
32 background, conduct, associations and family relationships
33 as may be required by the Department.

1 A current summary index shall be maintained on each file
2 which shall include the person's known active and past gang
3 affiliations and ranks.

4 (b) All files shall be confidential and access shall be
5 limited to authorized personnel of the Department. Personnel of
6 other correctional, welfare or law enforcement agencies may
7 have access to files under rules and regulations of the
8 Department. The Department shall keep a record of all outside
9 personnel who have access to files, the files reviewed, any
10 file material copied, and the purpose of access. If the
11 Department or the Prisoner Review Board makes a determination
12 under this Code which affects the length of the period of
13 confinement or commitment, the committed person and his counsel
14 shall be advised of factual information relied upon by the
15 Department or Board to make the determination, provided that
16 the Department or Board shall not be required to advise a
17 person committed to the Juvenile Division any such information
18 which in the opinion of the Department or Board would be
19 detrimental to his treatment or rehabilitation.

20 (c) The master file shall be maintained at a place
21 convenient to its use by personnel of the Department in charge
22 of the person. When custody of a person is transferred from the
23 Department to another department or agency, a summary of the
24 file shall be forwarded to the receiving agency with such other
25 information required by law or requested by the agency under
26 rules and regulations of the Department.

27 (d) The master file of a person no longer in the custody of
28 the Department shall be placed on inactive status and its use
29 shall be restricted subject to rules and regulations of the
30 Department.

31 (e) All public agencies may make available to the
32 Department on request any factual data not otherwise privileged
33 as a matter of law in their possession in respect to
34 individuals committed to the Department.

1 (Source: P.A. 89-688, eff. 6-1-97; 89-689, eff. 12-31-96.)

2 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

3 Sec. 3-6-2. Institutions and Facility Administration.

4 (a) Each institution and facility of the Department shall
5 be administered by a chief administrative officer appointed by
6 the Director. A chief administrative officer shall be
7 responsible for all persons assigned to the institution or
8 facility. The chief administrative officer shall administer
9 the programs of the Department for the custody and treatment of
10 such persons.

11 (b) The chief administrative officer shall have such
12 assistants as the Department may assign.

13 (c) The Director or Assistant Director shall have the
14 emergency powers to temporarily transfer individuals without
15 formal procedures to any State, county, municipal or regional
16 correctional or detention institution or facility in the State,
17 subject to the acceptance of such receiving institution or
18 facility, or to designate any reasonably secure place in the
19 State as such an institution or facility and to make transfers
20 thereto. However, transfers made under emergency powers shall
21 be reviewed as soon as practicable under Article 8, and shall
22 be subject to Section 5-905 of the Juvenile Court Act of 1987.
23 This Section shall not apply to transfers to the Department of
24 Human Services which are provided for under Section 3-8-5 or
25 Section 3-10-5.

26 (d) The Department shall provide educational programs for
27 all committed persons so that all persons have an opportunity
28 to attain the achievement level equivalent to the completion of
29 the twelfth grade in the public school system in this State.
30 Other higher levels of attainment shall be encouraged and
31 professional instruction shall be maintained wherever
32 possible. The Department may establish programs of mandatory
33 education and may establish rules and regulations for the

1 administration of such programs. A person committed to the
2 Department who, during the period of his or her incarceration,
3 participates in an educational program provided by or through
4 the Department and through that program is awarded or earns the
5 number of hours of credit required for the award of an
6 associate, baccalaureate, or higher degree from a community
7 college, college, or university located in Illinois shall
8 reimburse the State, through the Department, for the costs
9 incurred by the State in providing that person during his or
10 her incarceration with the education that qualifies him or her
11 for the award of that degree. The costs for which reimbursement
12 is required under this subsection shall be determined and
13 computed by the Department under rules and regulations that it
14 shall establish for that purpose. However, interest at the rate
15 of 6% per annum shall be charged on the balance of those costs
16 from time to time remaining unpaid, from the date of the
17 person's parole, mandatory supervised release, or release
18 constituting a final termination of his or her commitment to
19 the Department until paid.

20 (e) A person committed to the Department who becomes in
21 need of medical or surgical treatment but is incapable of
22 giving consent thereto shall receive such medical or surgical
23 treatment by the chief administrative officer consenting on the
24 person's behalf. Before the chief administrative officer
25 consents, he or she shall obtain the advice of one or more
26 physicians licensed to practice medicine in all its branches in
27 this State. If such physician or physicians advise:

28 (1) that immediate medical or surgical treatment is
29 required relative to a condition threatening to cause
30 death, damage or impairment to bodily functions, or
31 disfigurement; and

32 (2) that the person is not capable of giving consent to
33 such treatment; the chief administrative officer may give
34 consent for such medical or surgical treatment, and such

1 consent shall be deemed to be the consent of the person for
2 all purposes, including, but not limited to, the authority
3 of a physician to give such treatment.

4 (e-5) If a physician providing medical care to a committed
5 person on behalf of the Department advises the chief
6 administrative officer that the committed person's mental or
7 physical health has deteriorated as a result of the cessation
8 of ingestion of food or liquid to the point where medical or
9 surgical treatment is required to prevent death, damage, or
10 impairment to bodily functions, the chief administrative
11 officer may authorize such medical or surgical treatment.

12 (f) In the event that the person requires medical care and
13 treatment at a place other than the institution or facility,
14 the person may be removed therefrom under conditions prescribed
15 by the Department. The Department shall require the committed
16 person receiving medical or dental services on a non-emergency
17 basis to pay a \$2 co-payment to the Department for each visit
18 for medical or dental services. The amount of each co-payment
19 shall be deducted from the committed person's individual
20 account. A committed person who has a chronic illness, as
21 defined by Department rules and regulations, shall be exempt
22 from the \$2 co-payment for treatment of the chronic illness. A
23 committed person shall not be subject to a \$2 co-payment for
24 follow-up visits ordered by a physician, who is employed by, or
25 contracts with, the Department. A committed person who is
26 indigent is exempt from the \$2 co-payment and is entitled to
27 receive medical or dental services on the same basis as a
28 committed person who is financially able to afford the
29 co-payment. Notwithstanding any other provision in this
30 subsection (f) to the contrary, any person committed to any
31 facility operated by the Juvenile Division, as set forth in
32 subsection (b) of Section 3-2-5 of this Code, is exempt from
33 the co-payment requirement for the duration of confinement in
34 those facilities.

1 (g) Any person having sole custody of a child at the time
2 of commitment or any woman giving birth to a child after her
3 commitment, may arrange through the Department of Children and
4 Family Services for suitable placement of the child outside of
5 the Department of Corrections. The Director of the Department
6 of Corrections may determine that there are special reasons why
7 the child should continue in the custody of the mother until
8 the child is 6 years old.

9 (h) The Department may provide Family Responsibility
10 Services which may consist of, but not be limited to the
11 following:

12 (1) family advocacy counseling;

13 (2) parent self-help group;

14 (3) parenting skills training;

15 (4) parent and child overnight program;

16 (5) parent and child reunification counseling, either
17 separately or together, preceding the inmate's release;
18 and

19 (6) a prerelease reunification staffing involving the
20 family advocate, the inmate and the child's counselor, or
21 both and the inmate.

22 (i) The Department of Corrections, in consultation with the
23 Department of Public Health, shall develop and implement an
24 HIV/AIDS prevention education program targeted to offenders
25 incarcerated in Department of Corrections facilities,
26 significant others, and family of adult and juvenile prison
27 inmates. Through this program, the Illinois Department of
28 Corrections shall: (1) provide, in all public places of
29 detention facilities and prisons, printed information on the
30 transmission and prevention of HIV/AIDS, hepatitis C, and other
31 sexually transmitted diseases and referral information to
32 community-based providers of HIV/AIDS prevention, HIV/AIDS
33 treatment, and HIV/AIDS counseling and testing services
34 throughout Illinois; (2) display in all public places of

1 detention facilities and prisons in which video equipment is
2 available an HIV/AIDS informational video, produced by a
3 national organization with expertise in HIV/AIDS prevention;
4 (3) provide written information on the transmission and
5 prevention of HIV/AIDS, hepatitis C, and other sexually
6 transmitted diseases to all inmates upon entrance to a
7 detention center or prison and offer voluntary HIV/AIDS testing
8 to all inmates; and (4) provide written information on the
9 transmission and prevention of HIV/AIDS, hepatitis C, and other
10 sexually transmitted diseases to all inmates just prior to
11 their release from custody and referral to appropriate
12 community based organizations that provide HIV/AIDS services
13 and HIV/AIDS counseling and testing.

14 Upon admission of a committed person to a Department of
15 Corrections facility as part of his or her comprehensive
16 physical examination and immediately prior to release of that
17 person, the committed person shall be required to take a test
18 for HIV/AIDS administered by the Department. ~~Prior to the~~
19 ~~release of any inmate who has a documented history of~~
20 ~~intravenous drug use, and upon the receipt of that inmate's~~
21 ~~written informed consent, the Department shall provide for the~~
22 ~~testing of such inmate for infection with human~~
23 ~~immunodeficiency virus (HIV) and any other identified~~
24 ~~causative agent of acquired immunodeficiency syndrome (AIDS).~~
25 The testing provided under this subsection shall consist of an
26 enzyme-linked immunosorbent assay (ELISA) test or such other
27 test as may be approved by the Illinois Department of Public
28 Health. If the test result is positive, the Western Blot Assay
29 or more reliable confirmatory test shall be administered. Each
30 committed person ~~All inmates tested in accordance with the~~
31 ~~provisions of this subsection~~ shall be provided with HIV/AIDS
32 ~~pre-test and post-test~~ counseling. If the test result is
33 positive, the committed person shall receive medical care for
34 the infection paid by the Department. The Department shall

1 develop a specialized discharge plan for a committed person who
2 tests positive for HIV/AIDS. The Department, in consultation
3 with the Department of Public Health and Prisoner Review Board,
4 shall provide community reentry services for committed persons
5 who test positive for HIV/AIDS.

6 One year after the implementation of this amendatory Act of
7 the 94th General Assembly, the Department of Corrections shall
8 report to the General Assembly on the effectiveness of the
9 program created by this amendatory Act in preventing HIV/AIDS.

10 ~~Notwithstanding any provision of this subsection to the~~
11 ~~contrary, the Department shall not be required to conduct the~~
12 ~~testing and counseling required by this subsection unless~~
13 ~~sufficient funds to cover all costs of such testing and~~
14 ~~counseling are appropriated for that purpose by the General~~
15 ~~Assembly.~~

16 (j) Any person convicted of a sex offense as defined in the
17 Sex Offender Management Board Act shall be required to receive
18 a sex offender evaluation prior to release into the community
19 from the Department of Corrections. The sex offender evaluation
20 shall be conducted in conformance with the standards and
21 guidelines developed under the Sex Offender Management Board
22 Act and by an evaluator approved by the Board.

23 (k) Any minor committed to the Department of
24 Corrections-Juvenile Division for a sex offense as defined by
25 the Sex Offender Management Board Act shall be required to
26 undergo sex offender treatment by a treatment provider approved
27 by the Board and conducted in conformance with the Sex Offender
28 Management Board Act.

29 (Source: P.A. 92-292, eff. 8-9-01; 93-616, eff. 1-1-04; 93-928,
30 eff. 1-1-05.)

31 (730 ILCS 5/5-1-9.1 new)

32 Sec. 5-1-9.1. HIV/AIDS. "HIV/AIDS" has the meaning
33 ascribed to it in subsection (j-5) of Section 3-1-2 of this

1 Code.

2 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

3 Sec. 5-5-3. Disposition.

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

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

11 (1) A period of probation.

12 (2) A term of periodic imprisonment.

13 (3) A term of conditional discharge.

14 (4) A term of imprisonment.

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

19 (6) A fine.

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

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

24 (9) A term of imprisonment in combination with a term
25 of probation when the offender has been admitted into a
26 drug court program under Section 20 of the Drug Court
27 Treatment Act.

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

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

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

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

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

12 (B) Attempted first degree murder.

13 (C) A Class X felony.

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

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

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

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

30 (H) Criminal sexual assault.

31 (I) Aggravated battery of a senior citizen.

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

34 Before July 1, 1994, for the purposes of this

1 paragraph, "organized gang" means an association of 5
2 or more persons, with an established hierarchy, that
3 encourages members of the association to perpetrate
4 crimes or provides support to the members of the
5 association who do commit crimes.

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

10 (K) Vehicular hijacking.

11 (L) A second or subsequent conviction for the
12 offense of hate crime when the underlying offense upon
13 which the hate crime is based is felony aggravated
14 assault or felony mob action.

15 (M) A second or subsequent conviction for the
16 offense of institutional vandalism if the damage to the
17 property exceeds \$300.

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

21 (O) A violation of Section 12-6.1 of the Criminal
22 Code of 1961.

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

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

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

30 (S) (Blank).

31 (T) A second or subsequent violation of paragraph
32 (6.6) of subsection (a), subsection (c-5), or
33 subsection (d-5) of Section 401 of the Illinois
34 Controlled Substances Act.

1 (3) (Blank).

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

6 (4.1) (Blank).

7 (4.2) Except as provided in paragraph (4.3) of this
8 subsection (c), a minimum of 100 hours of community service
9 shall be imposed for a second violation of Section 6-303 of
10 the Illinois Vehicle Code.

11 (4.3) A minimum term of imprisonment of 30 days or 300
12 hours of community service, as determined by the court,
13 shall be imposed for a second violation of subsection (c)
14 of Section 6-303 of the Illinois Vehicle Code.

15 (4.4) Except as provided in paragraph (4.5) and
16 paragraph (4.6) of this subsection (c), a minimum term of
17 imprisonment of 30 days or 300 hours of community service,
18 as determined by the court, shall be imposed for a third or
19 subsequent violation of Section 6-303 of the Illinois
20 Vehicle Code.

21 (4.5) A minimum term of imprisonment of 30 days shall
22 be imposed for a third violation of subsection (c) of
23 Section 6-303 of the Illinois Vehicle Code.

24 (4.6) A minimum term of imprisonment of 180 days shall
25 be imposed for a fourth or subsequent violation of
26 subsection (c) of Section 6-303 of the Illinois Vehicle
27 Code.

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

31 (A) a period of conditional discharge;

32 (B) a fine;

33 (C) make restitution to the victim under Section
34 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

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

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

16 (10) (Blank).

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

34 (12) ~~(11)~~ A person may not receive a disposition of

1 court supervision for a violation of Section 5-16 of the
2 Boat Registration and Safety Act if that person has
3 previously received a disposition of court supervision for
4 a violation of that Section.

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

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

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

30 (A) the defendant is willing to undergo a court
31 approved counseling program for a minimum duration of 2
32 years; or

33 (B) the defendant is willing to participate in a
34 court approved plan including but not limited to the

1 defendant's:

2 (i) removal from the household;

3 (ii) restricted contact with the victim;

4 (iii) continued financial support of the
5 family;

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

7 and

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

10 (2) the court orders the defendant to pay for the
11 victim's counseling services, to the extent that the court
12 finds, after considering the defendant's income and
13 assets, that the defendant is financially capable of paying
14 for such services, if the victim was under 18 years of age
15 at the time the offense was committed and requires
16 counseling as a result of the offense.

17 Probation may be revoked or modified pursuant to Section
18 5-6-4; except where the court determines at the hearing that
19 the defendant violated a condition of his or her probation
20 restricting contact with the victim or other family members or
21 commits another offense with the victim or other family
22 members, the court shall revoke the defendant's probation and
23 impose a term of imprisonment.

24 For the purposes of this Section, "family member" and
25 "victim" shall have the meanings ascribed to them in Section
26 12-12 of the Criminal Code of 1961.

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

31 (g) Whenever a defendant is convicted of an offense under
32 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
33 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
34 of the Criminal Code of 1961, the defendant shall undergo

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

34 (g-5) When an inmate is tested for an airborne communicable

1 disease, as determined by the Illinois Department of Public
2 Health including but not limited to tuberculosis, the results
3 of the test shall be personally delivered by the warden or his
4 or her designee in a sealed envelope to the judge of the court
5 in which the inmate must appear for the judge's inspection in
6 camera if requested by the judge. Acting in accordance with the
7 best interests of those in the courtroom, the judge shall have
8 the discretion to determine what if any precautions need to be
9 taken to prevent transmission of the disease in the courtroom.

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

1 the Criminal Code of 1961 against the defendant. The court
2 shall order that the cost of any such test shall be paid by the
3 county and may be taxed as costs against the convicted
4 defendant.

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

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

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

1 otherwise mentally incapable of completing the educational or
2 vocational program.

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

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

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

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

20 Otherwise, the defendant shall be sentenced as
21 provided in this Chapter V.

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

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

33 (2) the deportation of the defendant would not
34 deprecate the seriousness of the defendant's conduct

1 and would not be inconsistent with the ends of justice.

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

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

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

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

29 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
30 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
31 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
32 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
33 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
34 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,

1 eff. 1-1-05; 93-1014, eff. 1-1-05; revised 10-25-04.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".