

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 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 (Text of Section before amendment by P.A. 94-1035)

8 Sec. 5-5-3. Disposition.

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

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

16 (1) A period of probation.

17 (2) A term of periodic imprisonment.

18 (3) A term of conditional discharge.

19 (4) A term of imprisonment.

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23 (now repealed).

1 (6) A fine.

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

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

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

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

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

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

25 (A) First degree murder where the death penalty is
26 not imposed.

1 (B) Attempted first degree murder.

2 (C) A Class X felony.

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

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

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

16 (F-5) A violation of Section 24-1, 24-1.1, or
17 24-1.6 of the Criminal Code of 1961 for which
18 imprisonment is prescribed in those Sections.

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

22 (H) Criminal sexual assault.

23 (I) Aggravated battery of a senior citizen.

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

26 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

1 Criminal Code of 1961.

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

4 (S) (Blank).

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

7 (3) (Blank).

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

12 (4.1) (Blank).

13 (4.2) Except as provided in paragraph (4.3) of this
14 subsection (c), a minimum of 100 hours of community service
15 shall be imposed for a second violation of Section 6-303 of
16 the Illinois Vehicle Code.

17 (4.3) A minimum term of imprisonment of 30 days or 300
18 hours of community service, as determined by the court,
19 shall be imposed for a second violation of subsection (c)
20 of Section 6-303 of the Illinois Vehicle Code.

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

1 (4.5) A minimum term of imprisonment of 30 days shall
2 be imposed for a third violation of subsection (c) of
3 Section 6-303 of the Illinois Vehicle Code.

4 (4.6) A minimum term of imprisonment of 180 days shall
5 be imposed for a fourth or subsequent violation of
6 subsection (c) of Section 6-303 of the Illinois Vehicle
7 Code.

8 (5) The court may sentence an offender convicted of a
9 business offense or a petty offense or a corporation or
10 unincorporated association convicted of any offense to:

11 (A) a period of conditional discharge;

12 (B) a fine;

13 (C) make restitution to the victim under Section
14 5-5-6 of this Code.

15 (5.1) In addition to any penalties imposed under
16 paragraph (5) of this subsection (c), and except as
17 provided in paragraph (5.2) or (5.3), a person convicted of
18 violating subsection (c) of Section 11-907 of the Illinois
19 Vehicle Code shall have his or her driver's license,
20 permit, or privileges suspended for at least 90 days but
21 not more than one year, if the violation resulted in damage
22 to the property of another person.

23 (5.2) In addition to any penalties imposed under
24 paragraph (5) of this subsection (c), and except as
25 provided in paragraph (5.3), a person convicted of
26 violating subsection (c) of Section 11-907 of the Illinois

1 Vehicle Code shall have his or her driver's license,
2 permit, or privileges suspended for at least 180 days but
3 not more than 2 years, if the violation resulted in injury
4 to another person.

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

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

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

19 (8) When a defendant, over the age of 21 years, is
20 convicted of a Class 1 or Class 2 felony, after having
21 twice been convicted in any state or federal court of an
22 offense that contains the same elements as an offense now
23 classified in Illinois as a Class 2 or greater Class felony
24 and such charges are separately brought and tried and arise
25 out of different series of acts, such defendant shall be
26 sentenced as a Class X offender. This paragraph shall not

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

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

12 (10) (Blank).

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

1 sports activities are conducted; and "coach" means a person
2 recognized as a coach by the sanctioning authority that
3 conducted the sporting event.

4 (12) A person may not receive a disposition of court
5 supervision for a violation of Section 5-16 of the Boat
6 Registration and Safety Act if that person has previously
7 received a disposition of court supervision for a violation
8 of that Section.

9 (13) A person convicted of or placed on court
10 supervision for an assault or aggravated assault when the
11 victim and the offender are family or household members as
12 defined in Section 103 of the Illinois Domestic Violence
13 Act of 1986 or convicted of domestic battery or aggravated
14 domestic battery may be required to attend a Partner Abuse
15 Intervention Program under protocols set forth by the
16 Illinois Department of Human Services under such terms and
17 conditions imposed by the court. The costs of such classes
18 shall be paid by the offender.

19 (d) In any case in which a sentence originally imposed is
20 vacated, the case shall be remanded to the trial court. The
21 trial court shall hold a hearing under Section 5-4-1 of the
22 Unified Code of Corrections which may include evidence of the
23 defendant's life, moral character and occupation during the
24 time since the original sentence was passed. The trial court
25 shall then impose sentence upon the defendant. The trial court
26 may impose any sentence which could have been imposed at the

1 original trial subject to Section 5-5-4 of the Unified Code of
2 Corrections. If a sentence is vacated on appeal or on
3 collateral attack due to the failure of the trier of fact at
4 trial to determine beyond a reasonable doubt the existence of a
5 fact (other than a prior conviction) necessary to increase the
6 punishment for the offense beyond the statutory maximum
7 otherwise applicable, either the defendant may be re-sentenced
8 to a term within the range otherwise provided or, if the State
9 files notice of its intention to again seek the extended
10 sentence, the defendant shall be afforded a new trial.

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

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

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

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

24 (i) removal from the household;

25 (ii) restricted contact with the victim;

26 (iii) continued financial support of the

1 family;
2 (iv) restitution for harm done to the victim;
3 and
4 (v) compliance with any other measures that
5 the court may deem appropriate; and

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

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

20 For the purposes of this Section, "family member" and
21 "victim" shall have the meanings ascribed to them in Section
22 12-12 of the Criminal Code of 1961.

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

1 (g) Whenever a defendant is convicted of an offense under
2 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
3 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
4 of the Criminal Code of 1961, the defendant shall undergo
5 medical testing to determine whether the defendant has any
6 sexually transmissible disease, including a test for infection
7 with human immunodeficiency virus (HIV) or any other identified
8 causative agent of acquired immunodeficiency syndrome (AIDS).
9 Any such medical test shall be performed only by appropriately
10 licensed medical practitioners and may include an analysis of
11 any bodily fluids as well as an examination of the defendant's
12 person. Except as otherwise provided by law, the results of
13 such test shall be kept strictly confidential by all medical
14 personnel involved in the testing and must be personally
15 delivered in a sealed envelope to the judge of the court in
16 which the conviction was entered for the judge's inspection in
17 camera. Acting in accordance with the best interests of the
18 victim and the public, the judge shall have the discretion to
19 determine to whom, if anyone, the results of the testing may be
20 revealed. The court shall notify the defendant of the test
21 results. The court shall also notify the victim if requested by
22 the victim, and if the victim is under the age of 15 and if
23 requested by the victim's parents or legal guardian, the court
24 shall notify the victim's parents or legal guardian of the test
25 results. The court shall provide information on the
26 availability of HIV testing and counseling at Department of

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

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

22 (h) Whenever a defendant is convicted of an offense under
23 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
24 defendant shall undergo medical testing to determine whether
25 the defendant has been exposed to human immunodeficiency virus
26 (HIV) or any other identified causative agent of acquired

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

25 (i) All fines and penalties imposed under this Section for
26 any violation of Chapters 3, 4, 6, and 11 of the Illinois

1 Vehicle Code, or a similar provision of a local ordinance, and
2 any violation of the Child Passenger Protection Act, or a
3 similar provision of a local ordinance, shall be collected and
4 disbursed by the circuit clerk as provided under Section 27.5
5 of the Clerks of Courts Act.

6 (j) In cases when prosecution for any violation of Section
7 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
8 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
9 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
10 Code of 1961, any violation of the Illinois Controlled
11 Substances Act, any violation of the Cannabis Control Act, or
12 any violation of the Methamphetamine Control and Community
13 Protection Act results in conviction, a disposition of court
14 supervision, or an order of probation granted under Section 10
15 of the Cannabis Control Act, Section 410 of the Illinois
16 Controlled Substance Act, or Section 70 of the Methamphetamine
17 Control and Community Protection Act of a defendant, the court
18 shall determine whether the defendant is employed by a facility
19 or center as defined under the Child Care Act of 1969, a public
20 or private elementary or secondary school, or otherwise works
21 with children under 18 years of age on a daily basis. When a
22 defendant is so employed, the court shall order the Clerk of
23 the Court to send a copy of the judgment of conviction or order
24 of supervision or probation to the defendant's employer by
25 certified mail. If the employer of the defendant is a school,
26 the Clerk of the Court shall direct the mailing of a copy of

1 the judgment of conviction or order of supervision or probation
2 to the appropriate regional superintendent of schools. The
3 regional superintendent of schools shall notify the State Board
4 of Education of any notification under this subsection.

5 (j-5) A defendant at least 17 years of age who is convicted
6 of a felony and who has not been previously convicted of a
7 misdemeanor or felony and who is sentenced to a term of
8 imprisonment in the Illinois Department of Corrections shall as
9 a condition of his or her sentence be required by the court to
10 attend educational courses designed to prepare the defendant
11 for a high school diploma and to work toward a high school
12 diploma or to work toward passing the high school level Test of
13 General Educational Development (GED) or to work toward
14 completing a vocational training program offered by the
15 Department of Corrections. If a defendant fails to complete the
16 educational training required by his or her sentence during the
17 term of incarceration, the Prisoner Review Board shall, as a
18 condition of mandatory supervised release, require the
19 defendant, at his or her own expense, to pursue a course of
20 study toward a high school diploma or passage of the GED test.
21 The 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

1 educational training shall not be deemed a wilful failure to
2 comply. The Prisoner Review Board shall recommit the defendant
3 whose mandatory supervised release term has been revoked under
4 this subsection (j-5) as provided in Section 3-3-9. This
5 subsection (j-5) does not apply to a defendant who has a high
6 school diploma or has successfully passed the GED test. This
7 subsection (j-5) does not apply to a defendant who is
8 determined by the court to be developmentally disabled or
9 otherwise mentally incapable of completing the educational or
10 vocational program.

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

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

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

25 (2) the deportation of the defendant would not
26 deprecate the seriousness of the defendant's conduct

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

2 Otherwise, the defendant shall be sentenced as
3 provided in this Chapter V.

4 (B) If the defendant has already been sentenced for a
5 felony or misdemeanor offense, or has been placed on
6 probation under Section 10 of the Cannabis Control Act,
7 Section 410 of the Illinois Controlled Substances Act, or
8 Section 70 of the Methamphetamine Control and Community
9 Protection Act, the court may, upon motion of the State's
10 Attorney to suspend the sentence imposed, commit the
11 defendant to the custody of the Attorney General of the
12 United States or his or her designated agent when:

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

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

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

22 (D) Upon motion of the State's Attorney, if a defendant
23 sentenced under this Section returns to the jurisdiction of
24 the United States, the defendant shall be recommitted to
25 the custody of the county from which he or she was
26 sentenced. Thereafter, the defendant shall be brought

1 before the sentencing court, which may impose any sentence
2 that was available under Section 5-5-3 at the time of
3 initial sentencing. In addition, the defendant shall not be
4 eligible for additional good conduct credit for
5 meritorious service as provided under Section 3-6-6.

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

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

20 (o) Whenever a person is convicted of a sex offense as
21 defined in Section 2 of the Sex Offender Registration Act, the
22 defendant's driver's license or permit shall be subject to
23 renewal on an annual basis in accordance with the provisions of
24 license renewal established by the Secretary of State.

25 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
26 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,

1 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,
2 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,
3 eff. 9-11-05; 94-993, eff. 1-1-07.)

4 (Text of Section after amendment by P.A. 94-1035)

5 Sec. 5-5-3. Disposition.

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

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

13 (1) A period of probation.

14 (2) A term of periodic imprisonment.

15 (3) A term of conditional discharge.

16 (4) A term of imprisonment.

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

21 (6) A fine.

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

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

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

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

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

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

20 (A) First degree murder where the death penalty is
21 not imposed.

22 (B) Attempted first degree murder.

23 (C) A Class X felony.

24 (D) A violation of Section 401.1 or 407 of the
25 Illinois Controlled Substances Act, or a violation of
26 subdivision (c) (1) or (c) (2) of Section 401 of that Act

1 which relates to more than 5 grams of a substance
2 containing heroin or cocaine or an analog thereof.

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

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

11 (F-5) A violation of Section 24-1, 24-1.1, or
12 24-1.6 of the Criminal Code of 1961 for which
13 imprisonment is prescribed in those Sections.

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

17 (H) Criminal sexual assault.

18 (I) Aggravated battery of a senior citizen.

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

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

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

5 (K) Vehicular hijacking.

6 (L) A second or subsequent conviction for the
7 offense of hate crime when the underlying offense upon
8 which the hate crime is based is felony aggravated
9 assault or felony mob action.

10 (M) A second or subsequent conviction for the
11 offense of institutional vandalism if the damage to the
12 property exceeds \$300.

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

16 (O) A violation of Section 12-6.1 of the Criminal
17 Code of 1961.

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

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

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

25 (S) (Blank).

26 (T) A second or subsequent violation of the

1 Methamphetamine Control and Community Protection Act.

2 (3) (Blank).

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

7 (4.1) (Blank).

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

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

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

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

25 (4.6) A minimum term of imprisonment of 180 days shall
26 be imposed for a fourth or subsequent violation of

1 subsection (c) of Section 6-303 of the Illinois Vehicle
2 Code.

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

6 (A) a period of conditional discharge;

7 (B) a fine;

8 (C) make restitution to the victim under Section
9 5-5-6 of this Code.

10 (5.1) In addition to any penalties imposed under
11 paragraph (5) of this subsection (c), and except as
12 provided in paragraph (5.2) or (5.3), a person convicted of
13 violating subsection (c) of Section 11-907 of the Illinois
14 Vehicle Code shall have his or her driver's license,
15 permit, or privileges suspended for at least 90 days but
16 not more than one year, if the violation resulted in damage
17 to the property of another person.

18 (5.2) In addition to any penalties imposed under
19 paragraph (5) of this subsection (c), and except as
20 provided in paragraph (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 180 days but
24 not more than 2 years, if the violation resulted in injury
25 to another person.

26 (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 (5.4) In addition to any penalties imposed under
7 paragraph (5) of this subsection (c), a person convicted of
8 violating Section 3-707 of the Illinois Vehicle Code shall
9 have his or her driver's license, permit, or privileges
10 suspended for 3 months and until he or she has paid a
11 reinstatement fee of \$100.

12 (5.5) In addition to any penalties imposed under
13 paragraph (5) of this subsection (c), a person convicted of
14 violating Section 3-707 of the Illinois Vehicle Code during
15 a period in which his or her driver's license, permit, or
16 privileges were suspended for a previous violation of that
17 Section shall have his or her driver's license, permit, or
18 privileges suspended for an additional 6 months after the
19 expiration of the original 3-month suspension and until he
20 or she has paid a reinstatement fee of \$100.

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

25 (7) When a defendant is adjudged a habitual criminal
26 under Article 33B of the Criminal Code of 1961, the court

1 shall sentence the defendant to a term of natural life
2 imprisonment.

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

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

22 (10) (Blank).

23 (11) The court shall impose a minimum fine of \$1,000
24 for a first offense and \$2,000 for a second or subsequent
25 offense upon a person convicted of or placed on supervision
26 for battery when the individual harmed was a sports

1 official or coach at any level of competition and the act
2 causing harm to the sports official or coach occurred
3 within an athletic facility or within the immediate
4 vicinity of the athletic facility at which the sports
5 official or coach was an active participant of the athletic
6 contest held at the athletic facility. For the purposes of
7 this paragraph (11), "sports official" means a person at an
8 athletic contest who enforces the rules of the contest,
9 such as an umpire or referee; "athletic facility" means an
10 indoor or outdoor playing field or recreational area where
11 sports activities are conducted; and "coach" means a person
12 recognized as a coach by the sanctioning authority that
13 conducted the sporting event.

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

19 (13) A person convicted of or placed on court
20 supervision for an assault or aggravated assault when the
21 victim and the offender are family or household members as
22 defined in Section 103 of the Illinois Domestic Violence
23 Act of 1986 or convicted of domestic battery or aggravated
24 domestic battery may be required to attend a Partner Abuse
25 Intervention Program under protocols set forth by the
26 Illinois Department of Human Services under such terms and

1 conditions imposed by the court. The costs of such classes
2 shall be paid by the offender.

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

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

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

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

5 (B) the defendant is willing to participate in a
6 court approved plan including but not limited to the
7 defendant's:

8 (i) removal from the household;

9 (ii) restricted contact with the victim;

10 (iii) continued financial support of the
11 family;

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

13 and

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

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

23 Probation may be revoked or modified pursuant to Section
24 5-6-4; except where the court determines at the hearing that
25 the defendant violated a condition of his or her probation
26 restricting contact with the victim or other family members or

1 commits another offense with the victim or other family
2 members, the court shall revoke the defendant's probation and
3 impose a term of imprisonment.

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

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

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

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

22 (g-5) When an inmate is tested for an airborne communicable
23 disease, as determined by the Illinois Department of Public
24 Health including but not limited to tuberculosis, the results
25 of the test shall be personally delivered by the warden or his
26 or her designee in a sealed envelope to the judge of the court

1 in which the inmate must appear for the judge's inspection in
2 camera if requested by the judge. Acting in accordance with the
3 best interests of those in the courtroom, the judge shall have
4 the discretion to determine what if any precautions need to be
5 taken to prevent transmission of the disease in the courtroom.

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

1 obtain the results of any HIV test administered under this
2 Section, and the court shall grant the disclosure if the
3 State's Attorney shows it is relevant in order to prosecute a
4 charge of criminal transmission of HIV under Section 12-16.2 of
5 the Criminal Code of 1961 against the defendant. The court
6 shall order that the cost of any such test shall be paid by the
7 county and may be taxed as costs against the convicted
8 defendant.

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

16 (j) In cases when prosecution for any violation of Section
17 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
18 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
19 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
20 Code of 1961, any violation of the Illinois Controlled
21 Substances Act, any violation of the Cannabis Control Act, or
22 any violation of the Methamphetamine Control and Community
23 Protection Act results in conviction, a disposition of court
24 supervision, or an order of probation granted under Section 10
25 of the Cannabis Control Act, Section 410 of the Illinois
26 Controlled Substance Act, or Section 70 of the Methamphetamine

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

15 (j-5) A defendant at least 17 years of age who is convicted
16 of a felony and who has not been previously convicted of a
17 misdemeanor or felony and who is sentenced to a term of
18 imprisonment in the Illinois Department of Corrections shall as
19 a condition of his or her sentence be required by the court to
20 attend educational courses designed to prepare the defendant
21 for a high school diploma and to work toward a high school
22 diploma or to work toward passing the high school level Test of
23 General Educational Development (GED) or to work toward
24 completing a vocational training program offered by the
25 Department of Corrections. If a defendant fails to complete the
26 educational training required by his or her sentence during the

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

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

24 (l) (A) Except as provided in paragraph (C) of subsection
25 (l), whenever a defendant, who is an alien as defined by
26 the Immigration and Nationality Act, is convicted of any

1 felony or misdemeanor offense, the court after sentencing
2 the defendant may, upon motion of the State's Attorney,
3 hold sentence in abeyance and remand the defendant to the
4 custody of the Attorney General of the United States or his
5 or her designated agent to be deported when:

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

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

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

14 (B) If the defendant has already been sentenced for a
15 felony or misdemeanor offense, or has been placed on
16 probation under Section 10 of the Cannabis Control Act,
17 Section 410 of the Illinois Controlled Substances Act, or
18 Section 70 of the Methamphetamine Control and Community
19 Protection Act, the court may, upon motion of the State's
20 Attorney to suspend the sentence imposed, commit the
21 defendant to the custody of the Attorney General of the
22 United States or his or her designated agent when:

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

26 (2) the deportation of the defendant would not

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

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

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

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

22 (n) The court may sentence a person convicted of a
23 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
24 Code of 1961 (i) to an impact incarceration program if the
25 person is otherwise eligible for that program under Section
26 5-8-1.1, (ii) to community service, or (iii) if the person is

1 an addict or alcoholic, as defined in the Alcoholism and Other
2 Drug Abuse and Dependency Act, to a substance or alcohol abuse
3 program licensed under that Act.

4 (o) Whenever a person is convicted of a sex offense as
5 defined in Section 2 of the Sex Offender Registration Act, the
6 defendant's driver's license or permit shall be subject to
7 renewal on an annual basis in accordance with the provisions of
8 license renewal established by the Secretary of State.

9 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
10 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
11 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,
12 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,
13 eff. 9-11-05; 94-993, eff. 1-1-07; 94-1035, eff. 7-1-07;
14 revised 8-28-06.)

15 Section 95. No acceleration or delay. Where this Act makes
16 changes in a statute that is represented in this Act by text
17 that is not yet or no longer in effect (for example, a Section
18 represented by multiple versions), the use of that text does
19 not accelerate or delay the taking effect of (i) the changes
20 made by this Act or (ii) provisions derived from any other
21 Public Act.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.