

1 AN ACT concerning criminal law.

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

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

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

7 Sec. 401. Except as authorized by this Act, it is unlawful  
8 for any person knowingly to manufacture or deliver, or possess  
9 with intent to manufacture or deliver, a controlled substance  
10 other than methamphetamine, a counterfeit substance, or a  
11 controlled substance analog. A violation of this Act with  
12 respect to each of the controlled substances listed herein  
13 constitutes a single and separate violation of this Act. For  
14 purposes of this Section, "controlled substance analog" or  
15 "analog" means a substance which is intended for human  
16 consumption, other than a controlled substance, that has a  
17 chemical structure substantially similar to that of a  
18 controlled substance in Schedule I or II, or that was  
19 specifically designed to produce an effect substantially  
20 similar to that of a controlled substance in Schedule I or II.  
21 Examples of chemical classes in which controlled substance  
22 analogs are found include, but are not limited to, the  
23 following: phenethylamines, N-substituted piperidines,

1 morphinans, ecgonines, quinazolinones, substituted indoles,  
2 and arylcycloalkylamines. For purposes of this Act, a  
3 controlled substance analog shall be treated in the same manner  
4 as the controlled substance to which it is substantially  
5 similar.

6 (a) Any person who violates this Section with respect to  
7 the following amounts of controlled or counterfeit substances  
8 or controlled substance analogs, notwithstanding any of the  
9 provisions of subsections (c), (d), (e), (f), (g) or (h) to the  
10 contrary, is guilty of a Class X felony and shall be sentenced  
11 to a term of imprisonment as provided in this subsection (a)  
12 and fined as provided in subsection (b):

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

17 (B) not less than 9 years and not more than 40  
18 years with respect to 100 grams or more but less than  
19 400 grams of a substance containing heroin, or an  
20 analog thereof;

21 (C) not less than 12 years and not more than 50  
22 years with respect to 400 grams or more but less than  
23 900 grams of a substance containing heroin, or an  
24 analog thereof;

25 (D) not less than 15 years and not more than 60  
26 years with respect to 900 grams or more of any

1 substance containing heroin, or an analog thereof;

2 (1.5) (A) not less than 6 years and not more than 30  
3 years with respect to 15 grams or more but less than  
4 100 grams of a substance containing fentanyl, or an  
5 analog thereof;

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

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

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

17 (2) (A) not less than 6 years and not more than 30  
18 years with respect to 15 grams or more but less than  
19 100 grams of a substance containing cocaine, or an  
20 analog thereof;

21 (B) not less than 9 years and not more than 40  
22 years with respect to 100 grams or more but less than  
23 400 grams of a substance containing cocaine, or an  
24 analog thereof;

25 (C) not less than 12 years and not more than 50  
26 years with respect to 400 grams or more but less than

1           900 grams of a substance containing cocaine, or an  
2 analog thereof;

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

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

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

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

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

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

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

26           (6) 200 grams or more of any substance containing

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

3           (6.5) (blank);

4           (6.6) (blank);

5           (7) (A) not less than 6 years and not more than 30  
6           years with respect to: (i) 15 grams or more but less  
7           than 100 grams of a substance containing lysergic acid  
8           diethylamide (LSD), or an analog thereof, or (ii) 15 or  
9           more objects or 15 or more segregated parts of an  
10          object or objects but less than 200 objects or 200  
11          segregated parts of an object or objects containing in  
12          them or having upon them any amounts of any substance  
13          containing lysergic acid diethylamide (LSD), or an  
14          analog thereof;

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

25          (C) not less than 12 years and not more than 50  
26          years with respect to: (i) 400 grams or more but less

1           than 900 grams of a substance containing lysergic acid  
2           diethylamide (LSD), or an analog thereof, or (ii) 600  
3           or more objects or 600 or more segregated parts of an  
4           object or objects but less than 1500 objects or 1500  
5           segregated parts of an object or objects containing in  
6           them or having upon them any amount of any substance  
7           containing lysergic acid diethylamide (LSD), or an  
8           analog thereof;

9           (D) not less than 15 years and not more than 60  
10          years with respect to: (i) 900 grams or more of any  
11          substance containing lysergic acid diethylamide (LSD),  
12          or an analog thereof, or (ii) 1500 or more objects or  
13          1500 or more segregated parts of an object or objects  
14          containing in them or having upon them any amount of a  
15          substance containing lysergic acid diethylamide (LSD),  
16          or an analog thereof;

17          (7.5) (A) not less than 6 years and not more than 30  
18          years with respect to: (i) 15 grams or more but less  
19          than 100 grams of a substance listed in paragraph (1),  
20          (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
21          (25), or (26) of subsection (d) of Section 204, or an  
22          analog or derivative thereof, or (ii) 15 or more pills,  
23          tablets, caplets, capsules, or objects but less than  
24          200 pills, tablets, caplets, capsules, or objects  
25          containing in them or having upon them any amounts of  
26          any substance listed in paragraph (1), (2), (2.1), (3),

1 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
2 subsection (d) of Section 204, or an analog or  
3 derivative thereof;

4 (B) not less than 9 years and not more than 40  
5 years with respect to: (i) 100 grams or more but less  
6 than 400 grams of a substance listed in paragraph (1),  
7 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
8 (25), or (26) of subsection (d) of Section 204, or an  
9 analog or derivative thereof, or (ii) 200 or more  
10 pills, tablets, caplets, capsules, or objects but less  
11 than 600 pills, tablets, caplets, capsules, or objects  
12 containing in them or having upon them any amount of  
13 any substance listed in paragraph (1), (2), (2.1), (3),  
14 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
15 subsection (d) of Section 204, or an analog or  
16 derivative thereof;

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

1 (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or  
2 (26) of subsection (d) of Section 204, or an analog or  
3 derivative thereof;

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

15 (8) 30 grams or more of any substance containing  
16 pentazocine or any of the salts, isomers and salts of  
17 isomers of pentazocine, or an analog thereof;

18 (9) 30 grams or more of any substance containing  
19 methaqualone or any of the salts, isomers and salts of  
20 isomers of methaqualone, or an analog thereof;

21 (10) 30 grams or more of any substance containing  
22 phencyclidine or any of the salts, isomers and salts of  
23 isomers of phencyclidine (PCP), or an analog thereof;

24 (10.5) 30 grams or more of any substance containing  
25 ketamine or any of the salts, isomers and salts of isomers  
26 of ketamine, or an analog thereof;



1           (11) 200 grams or more of any substance containing any  
2           other controlled substance classified in Schedules I or II,  
3           or an analog thereof, which is not otherwise included in  
4           this subsection.

5           (b) Any person sentenced with respect to violations of  
6           paragraph (1), (2), (3), (7), or (7.5) of subsection (a)  
7           involving 100 grams or more of the controlled substance named  
8           therein, may in addition to the penalties provided therein, be  
9           fined an amount not more than \$500,000 or the full street value  
10          of the controlled or counterfeit substance or controlled  
11          substance analog, whichever is greater. The term "street value"  
12          shall have the meaning ascribed in Section 110-5 of the Code of  
13          Criminal Procedure of 1963. Any person sentenced with respect  
14          to any other provision of subsection (a), may in addition to  
15          the penalties provided therein, be fined an amount not to  
16          exceed \$500,000.

17          (b-1) Excluding violations of this Act when the controlled  
18          substance is fentanyl, any person sentenced to a term of  
19          imprisonment with respect to violations of Section 401, 401.1,  
20          405, 405.1, 405.2, or 407, when the substance containing the  
21          controlled substance contains any amount of fentanyl, 3 years  
22          shall be added to the term of imprisonment imposed by the  
23          court, and the maximum sentence for the offense shall be  
24          increased by 3 years.

25          (c) Any person who violates this Section with regard to the  
26          following amounts of controlled or counterfeit substances or

1 controlled substance analogs, notwithstanding any of the  
2 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)  
3 to the contrary, is guilty of a Class 1 felony. The fine for  
4 violation of this subsection (c) shall not be more than  
5 \$250,000:

6 (1) 1 gram or more but less than 15 grams of any  
7 substance containing heroin, or an analog thereof;

8 (1.5) 1 gram or more but less than 15 grams of any  
9 substance containing fentanyl, or an analog thereof;

10 (2) 1 gram or more but less than 15 grams of any  
11 substance containing cocaine, or an analog thereof;

12 (3) 10 grams or more but less than 15 grams of any  
13 substance containing morphine, or an analog thereof;

14 (4) 50 grams or more but less than 200 grams of any  
15 substance containing peyote, or an analog thereof;

16 (5) 50 grams or more but less than 200 grams of any  
17 substance containing a derivative of barbituric acid or any  
18 of the salts of a derivative of barbituric acid, or an  
19 analog thereof;

20 (6) 50 grams or more but less than 200 grams of any  
21 substance containing amphetamine or any salt of an optical  
22 isomer of amphetamine, or an analog thereof;

23 (6.5) (blank);

24 (7) (i) 5 grams or more but less than 15 grams of any  
25 substance containing lysergic acid diethylamide (LSD), or  
26 an analog thereof, or (ii) more than 10 objects or more

1 than 10 segregated parts of an object or objects but less  
2 than 15 objects or less than 15 segregated parts of an  
3 object containing in them or having upon them any amount of  
4 any substance containing lysergic acid diethylamide (LSD),  
5 or an analog thereof;

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

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

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

25 (10) 10 grams or more but less than 30 grams of any  
26 substance containing phencyclidine or any of the salts,

1 isomers and salts of isomers of phencyclidine (PCP), or an  
2 analog thereof;

3 (10.5) 10 grams or more but less than 30 grams of any  
4 substance containing ketamine or any of the salts, isomers  
5 and salts of isomers of ketamine, or an analog thereof;

6 (11) 50 grams or more but less than 200 grams of any  
7 substance containing a substance classified in Schedules I  
8 or II, or an analog thereof, which is not otherwise  
9 included in this subsection.

10 (c-5) (Blank).

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

20 (d-5) (Blank).

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

1 shall not be more than \$150,000.

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

7 (g) Any person who violates this Section with regard to any  
8 other amount of a controlled or counterfeit substance  
9 classified in Schedule IV is guilty of a Class 3 felony. The  
10 fine for violation of this subsection (g) shall not be more  
11 than \$100,000.

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

17 (i) This Section does not apply to the manufacture,  
18 possession or distribution of a substance in conformance with  
19 the provisions of an approved new drug application or an  
20 exemption for investigational use within the meaning of Section  
21 505 of the Federal Food, Drug and Cosmetic Act.

22 (j) (Blank).

23 (Source: P.A. 93-278, eff. 1-1-04; 94-556, eff. 9-11-05.)

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

1 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

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

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

1 drug court program under Section 20 of the Drug Court  
2 Treatment Act.

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

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

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

18 (A) First degree murder where the death penalty is  
19 not imposed.

20 (B) Attempted first degree murder.

21 (C) A Class X felony.

22 (D) A violation of Section 401.1 or 407 of the  
23 Illinois Controlled Substances Act, or a violation of  
24 subdivision (c) (1), (c) (1.5), or (c) (2) of Section 401  
25 of that Act which relates to more than 5 grams of a  
26 substance containing heroin, ~~or~~ cocaine, fentanyl, or

1 an analog thereof.

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

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

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

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

16 (H) Criminal sexual assault.

17 (I) Aggravated battery of a senior citizen.

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

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

26 Beginning July 1, 1994, for the purposes of this



1 paragraph, "organized gang" has the meaning ascribed  
2 to it in Section 10 of the Illinois Streetgang  
3 Terrorism Omnibus Prevention Act.

4 (K) Vehicular hijacking.

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

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

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

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

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

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

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

24 (S) (Blank).

25 (T) A second or subsequent violation of the  
26 Methamphetamine Control and Community Protection 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

1 Code.

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

5 (A) a period of conditional discharge;

6 (B) a fine;

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

9 (5.1) In addition to any penalties imposed under  
10 paragraph (5) of this subsection (c), and except as  
11 provided in paragraph (5.2) or (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 90 days but  
15 not more than one year, if the violation resulted in damage  
16 to the property of another person.

17 (5.2) In addition to any penalties imposed under  
18 paragraph (5) of this subsection (c), and except as  
19 provided in paragraph (5.3), a person convicted of  
20 violating subsection (c) of Section 11-907 of the Illinois  
21 Vehicle Code shall have his or her driver's license,  
22 permit, or privileges suspended for at least 180 days but  
23 not more than 2 years, if the violation resulted in injury  
24 to another person.

25 (5.3) In addition to any penalties imposed under  
26 paragraph (5) of this subsection (c), a person convicted of

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

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

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

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

1 condition of probation as provided by Section 40-10 of the  
2 Alcoholism and Other Drug Abuse and Dependency Act.

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

6 (10) (Blank).

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

24 (12) A person may not receive a disposition of court  
25 supervision for a violation of Section 5-16 of the Boat  
26 Registration and Safety Act if that person has previously

1 received a disposition of court supervision for a violation  
2 of that Section.

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.)

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

15 Sec. 5-5-3. Disposition.

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

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

23 (1) A period of probation.

24 (2) A term of periodic imprisonment.

25 (3) A term of conditional discharge.



1 (4) A term of imprisonment.

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

6 (6) A fine.

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

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

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

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

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

23 (2) A period of probation, a term of periodic  
24 imprisonment or conditional discharge shall not be imposed  
25 for the following offenses. The court shall sentence the  
26 offender to not less than the minimum term of imprisonment

1 set forth in this Code for the following offenses, and may  
2 order a fine or restitution or both in conjunction with  
3 such term of imprisonment:

4 (A) First degree murder where the death penalty is  
5 not imposed.

6 (B) Attempted first degree murder.

7 (C) A Class X felony.

8 (D) A violation of Section 401.1 or 407 of the  
9 Illinois Controlled Substances Act, or a violation of  
10 subdivision (c) (1), (c) (1.5), or (c) (2) of Section 401  
11 of that Act which relates to more than 5 grams of a  
12 substance containing heroin, ~~or~~ cocaine, fentanyl, or  
13 an analog thereof.

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

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

22 (F-5) A violation of Section 24-1, 24-1.1, or  
23 24-1.6 of the Criminal Code of 1961 for which  
24 imprisonment is prescribed in those Sections.

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

1 Drug Abuse and Dependency Act.

2 (H) Criminal sexual assault.

3 (I) Aggravated battery of a senior citizen.

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

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

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

16 (K) Vehicular hijacking.

17 (L) A second or subsequent conviction for the  
18 offense of hate crime when the underlying offense upon  
19 which the hate crime is based is felony aggravated  
20 assault or felony mob action.

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

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

1           (O) A violation of Section 12-6.1 of the Criminal  
2 Code of 1961.

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

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

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

10          (S) (Blank).

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

13          (3) (Blank).

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

18          (4.1) (Blank).

19          (4.2) Except as provided in paragraph (4.3) of this  
20 subsection (c), a minimum of 100 hours of community service  
21 shall be imposed for a second violation of Section 6-303 of  
22 the Illinois Vehicle Code.

23          (4.3) A minimum term of imprisonment of 30 days or 300  
24 hours of community service, as determined by the court,  
25 shall be imposed for a second violation of subsection (c)  
26 of Section 6-303 of the Illinois Vehicle Code.

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

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

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

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

17               (A) a period of conditional discharge;

18               (B) a fine;

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

21          (5.1) In addition to any penalties imposed under  
22 paragraph (5) of this subsection (c), and except as  
23 provided in paragraph (5.2) or (5.3), a person convicted of  
24 violating subsection (c) of Section 11-907 of the Illinois  
25 Vehicle Code shall have his or her driver's license,  
26 permit, or privileges suspended for at least 90 days but

1 not more than one year, if the violation resulted in damage  
2 to the property of another person.

3 (5.2) In addition to any penalties imposed under  
4 paragraph (5) of this subsection (c), and except as  
5 provided in paragraph (5.3), a person convicted of  
6 violating subsection (c) of Section 11-907 of the Illinois  
7 Vehicle Code shall have his or her driver's license,  
8 permit, or privileges suspended for at least 180 days but  
9 not more than 2 years, if the violation resulted in injury  
10 to another person.

11 (5.3) In addition to any penalties imposed under  
12 paragraph (5) of this subsection (c), 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 2 years, if the  
16 violation resulted in the death of another person.

17 (5.4) In addition to any penalties imposed under  
18 paragraph (5) of this subsection (c), a person convicted of  
19 violating Section 3-707 of the Illinois Vehicle Code shall  
20 have his or her driver's license, permit, or privileges  
21 suspended for 3 months and until he or she has paid a  
22 reinstatement fee of \$100.

23 (5.5) In addition to any penalties imposed under  
24 paragraph (5) of this subsection (c), a person convicted of  
25 violating Section 3-707 of the Illinois Vehicle Code during  
26 a period in which his or her driver's license, permit, or

1 privileges were suspended for a previous violation of that  
2 Section shall have his or her driver's license, permit, or  
3 privileges suspended for an additional 6 months after the  
4 expiration of the original 3-month suspension and until he  
5 or she has paid a reinstatement fee of \$100.

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

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

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

1           this paragraph is not eligible to apply for treatment as a  
2           condition of probation as provided by Section 40-10 of the  
3           Alcoholism and Other Drug Abuse and Dependency Act.

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

7           (10) (Blank).

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

25          (12) A person may not receive a disposition of court  
26          supervision for a violation of Section 5-16 of the Boat



1           Registration and Safety Act if that person has previously  
2           received a disposition of court supervision for a violation  
3           of that Section.

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

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

1 may impose a sentence of probation only where:

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

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

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

9 (i) removal from the household;

10 (ii) restricted contact with the victim;

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

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

14 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Controlled Substance Act, or Section 70 of the Methamphetamine  
2 Control and Community Protection Act of a defendant, the court  
3 shall determine whether the defendant is employed by a facility  
4 or center as defined under the Child Care Act of 1969, a public  
5 or private elementary or secondary school, or otherwise works  
6 with children under 18 years of age on a daily basis. When a  
7 defendant is so employed, the court shall order the Clerk of  
8 the Court to send a copy of the judgment of conviction or order  
9 of supervision or probation to the defendant's employer by  
10 certified mail. If the employer of the defendant is a school,  
11 the Clerk of the Court shall direct the mailing of a copy of  
12 the judgment of conviction or order of supervision or probation  
13 to the appropriate regional superintendent of schools. The  
14 regional superintendent of schools shall notify the State Board  
15 of Education of any notification under this subsection.

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

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

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

25 (l) (A) Except as provided in paragraph (C) of subsection

26 (l), whenever a defendant, who is an alien as defined by



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

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

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

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

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

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

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

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

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

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

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

1 5-8-1.1, (ii) to community service, or (iii) if the person is  
2 an addict or alcoholic, as defined in the Alcoholism and Other  
3 Drug Abuse and Dependency Act, to a substance or alcohol abuse  
4 program licensed under that Act.

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

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

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

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