



Rep. Constance A. Howard

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1 AMENDMENT TO SENATE BILL 1391

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1391 on page 1, by  
3 replacing lines 4 and 5 with the following:

4 "Section 5. The Unified Code of Corrections is amended by  
5 changing Sections 3-3-7, 3-6-2, 3-6-3, and 5-5-3 as follows:";  
6 and

7 on page 9, by inserting immediately below line 16 the  
8 following:

9 "(730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

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

11 (a) Each institution and facility of the Department shall  
12 be administered by a chief administrative officer appointed by  
13 the Director. A chief administrative officer shall be  
14 responsible for all persons assigned to the institution or  
15 facility. The chief administrative officer shall administer

1 the programs of the Department for the custody and treatment of  
2 such persons.

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

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

18 (d) Subject to appropriation, the ~~The~~ Department shall  
19 provide educational programs for all committed persons so that  
20 all persons have an opportunity to attain the achievement level  
21 equivalent to the completion of an associate, baccalaureate, or  
22 higher degree from a community college, college, or university  
23 located in Illinois ~~the twelfth grade in the public school~~  
24 ~~system in this State.~~ Professional ~~Other higher levels of~~  
25 ~~attainment shall be encouraged and professional~~ instruction  
26 shall be maintained wherever possible. The Department may

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

23 (d-5) A person committed to the Department is entitled to  
24 confidential testing for infection with human immunodeficiency  
25 virus (HIV) and to counseling in connection with such testing,  
26 with no copay to the committed person. A person committed to

1 the Department who has tested positive for infection with HIV  
2 is entitled to medical care while incarcerated, counseling, and  
3 referrals to support services, in connection with that positive  
4 test result. Implementation of this subsection (d-5) is subject  
5 to appropriation.

6 (e) A person committed to the Department who becomes in  
7 need of medical or surgical treatment but is incapable of  
8 giving consent thereto shall receive such medical or surgical  
9 treatment by the chief administrative officer consenting on the  
10 person's behalf. Before the chief administrative officer  
11 consents, he or she shall obtain the advice of one or more  
12 physicians licensed to practice medicine in all its branches in  
13 this State. If such physician or physicians advise:

14 (1) that immediate medical or surgical treatment is  
15 required relative to a condition threatening to cause  
16 death, damage or impairment to bodily functions, or  
17 disfigurement; and

18 (2) that the person is not capable of giving consent to  
19 such treatment; the chief administrative officer may give  
20 consent for such medical or surgical treatment, and such  
21 consent shall be deemed to be the consent of the person for  
22 all purposes, including, but not limited to, the authority  
23 of a physician to give such treatment.

24 (e-5) If a physician providing medical care to a committed  
25 person on behalf of the Department advises the chief  
26 administrative officer that the committed person's mental or

1 physical health has deteriorated as a result of the cessation  
2 of ingestion of food or liquid to the point where medical or  
3 surgical treatment is required to prevent death, damage, or  
4 impairment to bodily functions, the chief administrative  
5 officer may authorize such medical or surgical treatment.

6 (f) In the event that the person requires medical care and  
7 treatment at a place other than the institution or facility,  
8 the person may be removed therefrom under conditions prescribed  
9 by the Department. The Department shall require the committed  
10 person receiving medical or dental services on a non-emergency  
11 basis to pay a \$2 co-payment to the Department for each visit  
12 for medical or dental services. The amount of each co-payment  
13 shall be deducted from the committed person's individual  
14 account. A committed person who has a chronic illness, as  
15 defined by Department rules and regulations, shall be exempt  
16 from the \$2 co-payment for treatment of the chronic illness. A  
17 committed person shall not be subject to a \$2 co-payment for  
18 follow-up visits ordered by a physician, who is employed by, or  
19 contracts with, the Department. A committed person who is  
20 indigent is exempt from the \$2 co-payment and is entitled to  
21 receive medical or dental services on the same basis as a  
22 committed person who is financially able to afford the  
23 co-payment. Notwithstanding any other provision in this  
24 subsection (f) to the contrary, any person committed to any  
25 facility operated by the Department of Juvenile Justice, as set  
26 forth in Section 3-2.5-15 of this Code, is exempt from the

1 co-payment requirement for the duration of confinement in those  
2 facilities.

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

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

- 14 (1) family advocacy counseling;
- 15 (2) parent self-help group;
- 16 (3) parenting skills training;
- 17 (4) parent and child overnight program;
- 18 (5) parent and child reunification counseling, either  
19 separately or together, preceding the inmate's release;  
20 and
- 21 (6) a prerelease reunification staffing involving the  
22 family advocate, the inmate and the child's counselor, or  
23 both and the inmate.

24 (i) Prior to the release of any inmate who has a documented  
25 history of intravenous drug use, and upon the receipt of that  
26 inmate's written informed consent, the Department shall

1 provide for the testing of such inmate for infection with human  
2 immunodeficiency virus (HIV) and any other identified  
3 causative agent of acquired immunodeficiency syndrome (AIDS).  
4 The testing provided under this subsection shall consist of an  
5 enzyme-linked immunosorbent assay (ELISA) test or such other  
6 test as may be approved by the Illinois Department of Public  
7 Health. If the test result is positive, the Western Blot Assay  
8 or more reliable confirmatory test shall be administered. All  
9 inmates tested in accordance with the provisions of this  
10 subsection shall be provided with pre-test and post-test  
11 counseling. Notwithstanding any provision of this subsection  
12 to the contrary, the Department shall not be required to  
13 conduct the testing and counseling required by this subsection  
14 unless sufficient funds to cover all costs of such testing and  
15 counseling are appropriated for that purpose by the General  
16 Assembly.

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

24 (k) Any minor committed to the Department of Juvenile  
25 Justice for a sex offense as defined by the Sex Offender  
26 Management Board Act shall be required to undergo sex offender

1 treatment by a treatment provider approved by the Board and  
2 conducted in conformance with the Sex Offender Management Board  
3 Act.

4 (1) Prior to the release of any inmate, the Department must  
5 provide the inmate with the option of testing for infection  
6 with human immunodeficiency virus (HIV), as well as counseling  
7 in connection with such testing, with no copayment for the  
8 test. At the same time, the Department shall require each such  
9 inmate to sign a form stating that the inmate has been informed  
10 of his or her rights with respect to the testing required to be  
11 offered under this subsection (1) and providing the inmate with  
12 an opportunity to indicate either that he or she wants to be  
13 tested or that he or she does not want to be tested. The  
14 Department, in consultation with the Department of Public  
15 Health, shall prescribe the contents of the form. The testing  
16 provided under this subsection (1) shall consist of an  
17 enzyme-linked immunosorbent assay (ELISA) test or any other  
18 test approved by the Department of Public Health. If the test  
19 result is positive, the Western Blot Assay or more reliable  
20 confirmatory test shall be administered.

21 Prior to the release of an inmate who the Department knows  
22 has tested positive for infection with HIV, the Department in a  
23 timely manner shall offer the inmate transitional case  
24 management, including referrals to other support services.

25 Implementation of this subsection (1) is subject to  
26 appropriation.



1 (Source: P.A. 93-616, eff. 1-1-04; 93-928, eff. 1-1-05; 94-629,  
2 eff. 1-1-06; 94-696, eff. 6-1-06.)

3 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)  
4 Sec. 3-6-3. Rules and Regulations for Early Release.

5 (a) (1) The Department of Corrections shall prescribe  
6 rules and regulations for the early release on account of  
7 good conduct of persons committed to the Department which  
8 shall be subject to review by the Prisoner Review Board.

9 (2) The rules and regulations on early release shall  
10 provide, with respect to offenses listed in clause (i),  
11 (ii), or (iii) of this paragraph (2) committed on or after  
12 June 19, 1998 or with respect to the offense listed in  
13 clause (iv) of this paragraph (2) committed on or after  
14 June 23, 2005 (the effective date of Public Act 94-71) or  
15 with respect to the offense of being an armed habitual  
16 criminal committed on or after August 2, 2005 (the  
17 effective date of Public Act 94-398), the following:

18 (i) that a prisoner who is serving a term of  
19 imprisonment for first degree murder or for the offense  
20 of terrorism shall receive no good conduct credit and  
21 shall serve the entire sentence imposed by the court;

22 (ii) that a prisoner serving a sentence for attempt  
23 to commit first degree murder, solicitation of murder,  
24 solicitation of murder for hire, intentional homicide  
25 of an unborn child, predatory criminal sexual assault

1 of a child, aggravated criminal sexual assault,  
2 criminal sexual assault, aggravated kidnapping,  
3 aggravated battery with a firearm, heinous battery,  
4 being an armed habitual criminal, aggravated battery  
5 of a senior citizen, or aggravated battery of a child  
6 shall receive no more than 4.5 days of good conduct  
7 credit for each month of his or her sentence of  
8 imprisonment;

9 (iii) that a prisoner serving a sentence for home  
10 invasion, armed robbery, aggravated vehicular  
11 hijacking, aggravated discharge of a firearm, or armed  
12 violence with a category I weapon or category II  
13 weapon, when the court has made and entered a finding,  
14 pursuant to subsection (c-1) of Section 5-4-1 of this  
15 Code, that the conduct leading to conviction for the  
16 enumerated offense resulted in great bodily harm to a  
17 victim, shall receive no more than 4.5 days of good  
18 conduct credit for each month of his or her sentence of  
19 imprisonment; and

20 (iv) that a prisoner serving a sentence for  
21 aggravated discharge of a firearm, whether or not the  
22 conduct leading to conviction for the offense resulted  
23 in great bodily harm to the victim, shall receive no  
24 more than 4.5 days of good conduct credit for each  
25 month of his or her sentence of imprisonment.

26 (2.1) For all offenses, other than those enumerated in

1 subdivision (a) (2) (i), (ii), or (iii) committed on or after  
2 June 19, 1998 or subdivision (a) (2) (iv) committed on or  
3 after June 23, 2005 (the effective date of Public Act  
4 94-71), and other than the offense of reckless homicide as  
5 defined in subsection (e) of Section 9-3 of the Criminal  
6 Code of 1961 committed on or after January 1, 1999, or  
7 aggravated driving under the influence of alcohol, other  
8 drug or drugs, or intoxicating compound or compounds, or  
9 any combination thereof as defined in subparagraph (F) of  
10 paragraph (1) of subsection (d) of Section 11-501 of the  
11 Illinois Vehicle Code, the rules and regulations shall  
12 provide that a prisoner who is serving a term of  
13 imprisonment shall receive one day of good conduct credit  
14 for each day of his or her sentence of imprisonment or  
15 recommitment under Section 3-3-9. Each day of good conduct  
16 credit shall reduce by one day the prisoner's period of  
17 imprisonment or recommitment under Section 3-3-9.

18 (2.2) A prisoner serving a term of natural life  
19 imprisonment or a prisoner who has been sentenced to death  
20 shall receive no good conduct credit.

21 (2.3) The rules and regulations on early release shall  
22 provide that a prisoner who is serving a sentence for  
23 reckless homicide as defined in subsection (e) of Section  
24 9-3 of the Criminal Code of 1961 committed on or after  
25 January 1, 1999, or aggravated driving under the influence  
26 of alcohol, other drug or drugs, or intoxicating compound

1 or compounds, or any combination thereof as defined in  
2 subparagraph (F) of paragraph (1) of subsection (d) of  
3 Section 11-501 of the Illinois Vehicle Code, shall receive  
4 no more than 4.5 days of good conduct credit for each month  
5 of his or her sentence of imprisonment.

6 (2.4) The rules and regulations on early release shall  
7 provide with respect to the offenses of aggravated battery  
8 with a machine gun or a firearm equipped with any device or  
9 attachment designed or used for silencing the report of a  
10 firearm or aggravated discharge of a machine gun or a  
11 firearm equipped with any device or attachment designed or  
12 used for silencing the report of a firearm, committed on or  
13 after July 15, 1999 (the effective date of Public Act  
14 91-121), that a prisoner serving a sentence for any of  
15 these offenses shall receive no more than 4.5 days of good  
16 conduct credit for each month of his or her sentence of  
17 imprisonment.

18 (2.5) The rules and regulations on early release shall  
19 provide that a prisoner who is serving a sentence for  
20 aggravated arson committed on or after July 27, 2001 (the  
21 effective date of Public Act 92-176) shall receive no more  
22 than 4.5 days of good conduct credit for each month of his  
23 or her sentence of imprisonment.

24 (3) The rules and regulations shall also provide that  
25 the Director may award up to 180 days additional good  
26 conduct credit for meritorious service in specific

1 instances as the Director deems proper; except that no more  
2 than 90 days of good conduct credit for meritorious service  
3 shall be awarded to any prisoner who is serving a sentence  
4 for conviction of first degree murder, reckless homicide  
5 while under the influence of alcohol or any other drug, or  
6 aggravated driving under the influence of alcohol, other  
7 drug or drugs, or intoxicating compound or compounds, or  
8 any combination thereof as defined in subparagraph (F) of  
9 paragraph (1) of subsection (d) of Section 11-501 of the  
10 Illinois Vehicle Code, aggravated kidnapping, kidnapping,  
11 predatory criminal sexual assault of a child, aggravated  
12 criminal sexual assault, criminal sexual assault, deviate  
13 sexual assault, aggravated criminal sexual abuse,  
14 aggravated indecent liberties with a child, indecent  
15 liberties with a child, child pornography, heinous  
16 battery, aggravated battery of a spouse, aggravated  
17 battery of a spouse with a firearm, stalking, aggravated  
18 stalking, aggravated battery of a child, endangering the  
19 life or health of a child, cruelty to a child, or narcotic  
20 racketeering. Notwithstanding the foregoing, good conduct  
21 credit for meritorious service shall not be awarded on a  
22 sentence of imprisonment imposed for conviction of: (i) one  
23 of the offenses enumerated in subdivision (a)(2)(i), (ii),  
24 or (iii) when the offense is committed on or after June 19,  
25 1998 or subdivision (a)(2)(iv) when the offense is  
26 committed on or after June 23, 2005 (the effective date of

1 Public Act 94-71), (ii) reckless homicide as defined in  
2 subsection (e) of Section 9-3 of the Criminal Code of 1961  
3 when the offense is committed on or after January 1, 1999,  
4 or aggravated driving under the influence of alcohol, other  
5 drug or drugs, or intoxicating compound or compounds, or  
6 any combination thereof as defined in subparagraph (F) of  
7 paragraph (1) of subsection (d) of Section 11-501 of the  
8 Illinois Vehicle Code, (iii) one of the offenses enumerated  
9 in subdivision (a) (2.4) when the offense is committed on or  
10 after July 15, 1999 (the effective date of Public Act  
11 91-121), or (iv) aggravated arson when the offense is  
12 committed on or after July 27, 2001 (the effective date of  
13 Public Act 92-176).

14 (4) The rules and regulations shall also provide that  
15 the good conduct credit accumulated and retained under  
16 paragraph (2.1) of subsection (a) of this Section by any  
17 inmate during specific periods of time in which such inmate  
18 is engaged full-time in substance abuse programs,  
19 correctional industry assignments, or educational programs  
20 provided by the Department under this paragraph (4) and  
21 satisfactorily completes the assigned program as  
22 determined by the standards of the Department, shall be  
23 multiplied by a factor of 1.25 for program participation  
24 before August 11, 1993 and 1.50 for program participation  
25 on or after that date. However, no inmate shall be eligible  
26 for the additional good conduct credit under this paragraph

1 (4) or (4.1) of this subsection (a) while assigned to a  
2 boot camp or electronic detention, or if convicted of an  
3 offense enumerated in subdivision (a)(2)(i), (ii), or  
4 (iii) of this Section that is committed on or after June  
5 19, 1998 or subdivision (a)(2)(iv) of this Section that is  
6 committed on or after June 23, 2005 (the effective date of  
7 Public Act 94-71), or if convicted of reckless homicide as  
8 defined in subsection (e) of Section 9-3 of the Criminal  
9 Code of 1961 if the offense is committed on or after  
10 January 1, 1999, or aggravated driving under the influence  
11 of alcohol, other drug or drugs, or intoxicating compound  
12 or compounds, or any combination thereof as defined in  
13 subparagraph (F) of paragraph (1) of subsection (d) of  
14 Section 11-501 of the Illinois Vehicle Code, or if  
15 convicted of an offense enumerated in paragraph (a)(2.4) of  
16 this Section that is committed on or after July 15, 1999  
17 (the effective date of Public Act 91-121), or first degree  
18 murder, a Class X felony, criminal sexual assault, felony  
19 criminal sexual abuse, aggravated criminal sexual abuse,  
20 aggravated battery with a firearm, or any predecessor or  
21 successor offenses with the same or substantially the same  
22 elements, or any inchoate offenses relating to the  
23 foregoing offenses. No inmate shall be eligible for the  
24 additional good conduct credit under this paragraph (4) who  
25 (i) has previously received increased good conduct credit  
26 under this paragraph (4) and has subsequently been

1 convicted of a felony, or (ii) has previously served more  
2 than one prior sentence of imprisonment for a felony in an  
3 adult correctional facility.

4 Educational, vocational, substance abuse and  
5 correctional industry programs under which good conduct  
6 credit may be increased under this paragraph (4) and  
7 paragraph (4.1) of this subsection (a) shall be evaluated  
8 by the Department on the basis of documented standards. The  
9 Department shall report the results of these evaluations to  
10 the Governor and the General Assembly by September 30th of  
11 each year. The reports shall include data relating to the  
12 recidivism rate among program participants.

13 Availability of these programs shall be subject to the  
14 limits of fiscal resources appropriated by the General  
15 Assembly for these purposes. Eligible inmates who are  
16 denied immediate admission shall be placed on a waiting  
17 list under criteria established by the Department. The  
18 inability of any inmate to become engaged in any such  
19 programs by reason of insufficient program resources or for  
20 any other reason established under the rules and  
21 regulations of the Department shall not be deemed a cause  
22 of action under which the Department or any employee or  
23 agent of the Department shall be liable for damages to the  
24 inmate.

25 (4.1) The rules and regulations shall also provide that  
26 an additional 180 ~~60~~ days of good conduct credit shall be



1 awarded to any prisoner who passes the high school level  
2 Test of General Educational Development (GED) while the  
3 prisoner is incarcerated. The good conduct credit awarded  
4 under this paragraph (4.1) shall be in addition to, and  
5 shall not affect, the award of good conduct under any other  
6 paragraph of this Section, but shall also be pursuant to  
7 the guidelines and restrictions set forth in paragraph (4)  
8 of subsection (a) of this Section. The good conduct credit  
9 provided for in this paragraph shall be available only to  
10 those prisoners who have not previously earned a high  
11 school diploma or a GED. If, after an award of the GED good  
12 conduct credit has been made and the Department determines  
13 that the prisoner was not eligible, then the award shall be  
14 revoked.

15 (4.5) The rules and regulations on early release shall  
16 also provide that when the court's sentencing order  
17 recommends a prisoner for substance abuse treatment and the  
18 crime was committed on or after September 1, 2003 (the  
19 effective date of Public Act 93-354), the prisoner shall  
20 receive no good conduct credit awarded under clause (3) of  
21 this subsection (a) unless he or she participates in and  
22 completes a substance abuse treatment program. The  
23 Director may waive the requirement to participate in or  
24 complete a substance abuse treatment program and award the  
25 good conduct credit in specific instances if the prisoner  
26 is not a good candidate for a substance abuse treatment

1 program for medical, programming, or operational reasons.  
2 Availability of substance abuse treatment shall be subject  
3 to the limits of fiscal resources appropriated by the  
4 General Assembly for these purposes. If treatment is not  
5 available and the requirement to participate and complete  
6 the treatment has not been waived by the Director, the  
7 prisoner shall be placed on a waiting list under criteria  
8 established by the Department. The Director may allow a  
9 prisoner placed on a waiting list to participate in and  
10 complete a substance abuse education class or attend  
11 substance abuse self-help meetings in lieu of a substance  
12 abuse treatment program. A prisoner on a waiting list who  
13 is not placed in a substance abuse program prior to release  
14 may be eligible for a waiver and receive good conduct  
15 credit under clause (3) of this subsection (a) at the  
16 discretion of the Director.

17 (4.6) Due to the importance of education on recidivism,  
18 the rules and regulations shall also provide that 90 days  
19 of early release from parole shall be awarded to any  
20 parolee who passes the high school level Test of General  
21 Educational Development (GED) while the parolee is on  
22 parole. The early release from parole awarded under this  
23 paragraph (4.6) shall be in addition to, and shall not be  
24 affected by, the award of good conduct under any other  
25 paragraph of this Section, but shall not be pursuant to the  
26 guidelines and restrictions set forth in paragraph (4) of

1       this subsection (a). The early release from parole provided  
2       for in this paragraph shall be available only to parolees  
3       who have not yet previously earned a high school diploma or  
4       a GED.

5           (5) Whenever the Department is to release any inmate  
6       earlier than it otherwise would because of a grant of good  
7       conduct credit for meritorious service given at any time  
8       during the term, the Department shall give reasonable  
9       advance notice of the impending release to the State's  
10      Attorney of the county where the prosecution of the inmate  
11      took place.

12       (b) Whenever a person is or has been committed under  
13      several convictions, with separate sentences, the sentences  
14      shall be construed under Section 5-8-4 in granting and  
15      forfeiting of good time.

16       (c) The Department shall prescribe rules and regulations  
17      for revoking good conduct credit, or suspending or reducing the  
18      rate of accumulation of good conduct credit for specific rule  
19      violations, during imprisonment. These rules and regulations  
20      shall provide that no inmate may be penalized more than one  
21      year of good conduct credit for any one infraction.

22       When the Department seeks to revoke, suspend or reduce the  
23      rate of accumulation of any good conduct credits for an alleged  
24      infraction of its rules, it shall bring charges therefor  
25      against the prisoner sought to be so deprived of good conduct  
26      credits before the Prisoner Review Board as provided in

1 subparagraph (a) (4) of Section 3-3-2 of this Code, if the  
2 amount of credit at issue exceeds 30 days or when during any 12  
3 month period, the cumulative amount of credit revoked exceeds  
4 30 days except where the infraction is committed or discovered  
5 within 60 days of scheduled release. In those cases, the  
6 Department of Corrections may revoke up to 30 days of good  
7 conduct credit. The Board may subsequently approve the  
8 revocation of additional good conduct credit, if the Department  
9 seeks to revoke good conduct credit in excess of 30 days.  
10 However, the Board shall not be empowered to review the  
11 Department's decision with respect to the loss of 30 days of  
12 good conduct credit within any calendar year for any prisoner  
13 or to increase any penalty beyond the length requested by the  
14 Department.

15 The Director of the Department of Corrections, in  
16 appropriate cases, may restore up to 30 days good conduct  
17 credits which have been revoked, suspended or reduced. Any  
18 restoration of good conduct credits in excess of 30 days shall  
19 be subject to review by the Prisoner Review Board. However, the  
20 Board may not restore good conduct credit in excess of the  
21 amount requested by the Director.

22 Nothing contained in this Section shall prohibit the  
23 Prisoner Review Board from ordering, pursuant to Section  
24 3-3-9(a) (3) (i) (B), that a prisoner serve up to one year of the  
25 sentence imposed by the court that was not served due to the  
26 accumulation of good conduct credit.

1 (d) If a lawsuit is filed by a prisoner in an Illinois or  
2 federal court against the State, the Department of Corrections,  
3 or the Prisoner Review Board, or against any of their officers  
4 or employees, and the court makes a specific finding that a  
5 pleading, motion, or other paper filed by the prisoner is  
6 frivolous, the Department of Corrections shall conduct a  
7 hearing to revoke up to 180 days of good conduct credit by  
8 bringing charges against the prisoner sought to be deprived of  
9 the good conduct credits before the Prisoner Review Board as  
10 provided in subparagraph (a) (8) of Section 3-3-2 of this Code.  
11 If the prisoner has not accumulated 180 days of good conduct  
12 credit at the time of the finding, then the Prisoner Review  
13 Board may revoke all good conduct credit accumulated by the  
14 prisoner.

15 For purposes of this subsection (d):

16 (1) "Frivolous" means that a pleading, motion, or other  
17 filing which purports to be a legal document filed by a  
18 prisoner in his or her lawsuit meets any or all of the  
19 following criteria:

20 (A) it lacks an arguable basis either in law or in  
21 fact;

22 (B) it is being presented for any improper purpose,  
23 such as to harass or to cause unnecessary delay or  
24 needless increase in the cost of litigation;

25 (C) the claims, defenses, and other legal  
26 contentions therein are not warranted by existing law

1 or by a nonfrivolous argument for the extension,  
2 modification, or reversal of existing law or the  
3 establishment of new law;

4 (D) the allegations and other factual contentions  
5 do not have evidentiary support or, if specifically so  
6 identified, are not likely to have evidentiary support  
7 after a reasonable opportunity for further  
8 investigation or discovery; or

9 (E) the denials of factual contentions are not  
10 warranted on the evidence, or if specifically so  
11 identified, are not reasonably based on a lack of  
12 information or belief.

13 (2) "Lawsuit" means a petition for post-conviction  
14 relief under Article 122 of the Code of Criminal Procedure  
15 of 1963, a motion pursuant to Section 116-3 of the Code of  
16 Criminal Procedure of 1963, a habeas corpus action under  
17 Article X of the Code of Civil Procedure or under federal  
18 law (28 U.S.C. 2254), a petition for claim under the Court  
19 of Claims Act or an action under the federal Civil Rights  
20 Act (42 U.S.C. 1983).

21 (e) Nothing in Public Act 90-592 or 90-593 affects the  
22 validity of Public Act 89-404.

23 (Source: P.A. 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; 94-71,  
24 eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398,  
25 eff. 8-2-05; 94-491, eff. 8-8-05; 94-744, eff. 5-8-06.)

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

2 Sec. 5-5-3. Disposition.

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

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

10 (1) A period of probation.

11 (2) A term of periodic imprisonment.

12 (3) A term of conditional discharge.

13 (4) A term of imprisonment.

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

18 (6) A fine.

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

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

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

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

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

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

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

18                   (B) Attempted first degree murder.

19                   (C) A Class X felony.

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

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



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

7 (F-5) A violation of Section 24-1, 24-1.1, or  
8 24-1.6 of the Criminal Code of 1961 for which  
9 imprisonment is prescribed in those Sections.

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

13 (H) Criminal sexual assault.

14 (I) Aggravated battery of a senior citizen.

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

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

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

1 (K) Vehicular hijacking.

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

6 (M) A second or subsequent conviction for the  
7 offense of institutional vandalism if the damage to the  
8 property exceeds \$300.

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

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

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

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

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

21 (S) (Blank).

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

24 (3) (Blank).

25 (4) A minimum term of imprisonment of not less than 10  
26 consecutive days or 30 days of community service shall be

1 imposed for a violation of paragraph (c) of Section 6-303  
2 of the Illinois Vehicle Code.

3 (4.1) (Blank).

4 (4.2) Except as provided in paragraph (4.3) of this  
5 subsection (c), a minimum of 100 hours of community service  
6 shall be imposed for a second violation of Section 6-303 of  
7 the Illinois Vehicle Code.

8 (4.3) A minimum term of imprisonment of 30 days or 300  
9 hours of community service, as determined by the court,  
10 shall be imposed for a second violation of subsection (c)  
11 of Section 6-303 of the Illinois Vehicle Code.

12 (4.4) Except as provided in paragraph (4.5) and  
13 paragraph (4.6) of this subsection (c), a minimum term of  
14 imprisonment of 30 days or 300 hours of community service,  
15 as determined by the court, shall be imposed for a third or  
16 subsequent violation of Section 6-303 of the Illinois  
17 Vehicle Code.

18 (4.5) A minimum term of imprisonment of 30 days shall  
19 be imposed for a third violation of subsection (c) of  
20 Section 6-303 of the Illinois Vehicle Code.

21 (4.6) A minimum term of imprisonment of 180 days shall  
22 be imposed for a fourth or subsequent violation of  
23 subsection (c) of Section 6-303 of the Illinois Vehicle  
24 Code.

25 (5) The court may sentence an offender convicted of a  
26 business offense or a petty offense or a corporation or

1 unincorporated association convicted of any offense to:

2 (A) a period of conditional discharge;

3 (B) a fine;

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

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

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

22 (5.3) In addition to any penalties imposed under  
23 paragraph (5) of this subsection (c), 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 2 years, if the

1 violation resulted in the death of another person.

2 (5.4) In addition to any penalties imposed under  
3 paragraph (5) of this subsection (c), a person convicted of  
4 violating Section 3-707 of the Illinois Vehicle Code shall  
5 have his or her driver's license, permit, or privileges  
6 suspended for 3 months and until he or she has paid a  
7 reinstatement fee of \$100.

8 (5.5) In addition to any penalties imposed under  
9 paragraph (5) of this subsection (c), a person convicted of  
10 violating Section 3-707 of the Illinois Vehicle Code during  
11 a period in which his or her driver's license, permit, or  
12 privileges were suspended for a previous violation of that  
13 Section shall have his or her driver's license, permit, or  
14 privileges suspended for an additional 6 months after the  
15 expiration of the original 3-month suspension and until he  
16 or she has paid a reinstatement fee of \$100.

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

21 (7) When a defendant is adjudged a habitual criminal  
22 under Article 33B of the Criminal Code of 1961, the court  
23 shall sentence the defendant to a term of natural life  
24 imprisonment.

25 (8) When a defendant, over the age of 21 years, is  
26 convicted of a Class 1 or Class 2 felony, after having

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

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

18 (10) (Blank).

19 (11) The court shall impose a minimum fine of \$1,000  
20 for a first offense and \$2,000 for a second or subsequent  
21 offense upon a person convicted of or placed on supervision  
22 for battery when the individual harmed was a sports  
23 official or coach at any level of competition and the act  
24 causing harm to the sports official or coach occurred  
25 within an athletic facility or within the immediate  
26 vicinity of the athletic facility at which the sports

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

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

15 (d) In any case in which a sentence originally imposed is  
16 vacated, the case shall be remanded to the trial court. The  
17 trial court shall hold a hearing under Section 5-4-1 of the  
18 Unified Code of Corrections which may include evidence of the  
19 defendant's life, moral character and occupation during the  
20 time since the original sentence was passed. The trial court  
21 shall then impose sentence upon the defendant. The trial court  
22 may impose any sentence which could have been imposed at the  
23 original trial subject to Section 5-5-4 of the Unified Code of  
24 Corrections. If a sentence is vacated on appeal or on  
25 collateral attack due to the failure of the trier of fact at  
26 trial to determine beyond a reasonable doubt the existence of a

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

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

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

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

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

20 (i) removal from the household;

21 (ii) restricted contact with the victim;

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

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

25 and

26 (v) compliance with any other measures that



1                   the court may deem appropriate; and

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

9                   Probation may be revoked or modified pursuant to Section  
10                  5-6-4; except where the court determines at the hearing that  
11                  the defendant violated a condition of his or her probation  
12                  restricting contact with the victim or other family members or  
13                  commits another offense with the victim or other family  
14                  members, the court shall revoke the defendant's probation and  
15                  impose a term of imprisonment.

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

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

23                  (g) Whenever a defendant is convicted of an offense under  
24                  Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,  
25                  11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16  
26                  of the Criminal Code of 1961, the defendant shall undergo

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

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

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

18 (h) Whenever a defendant is convicted of an offense under  
19 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the  
20 defendant shall undergo medical testing to determine whether  
21 the defendant has been exposed to human immunodeficiency virus  
22 (HIV) or any other identified causative agent of acquired  
23 immunodeficiency syndrome (AIDS). Except as otherwise provided  
24 by law, the results of such test shall be kept strictly  
25 confidential by all medical personnel involved in the testing  
26 and must be personally delivered in a sealed envelope to the

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

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

1 of the Clerks of Courts Act.

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

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

1 release term has been revoked under this subsection (j-5) as  
2 provided in Section 3-3-9. This subsection (j-5) does not apply  
3 to a defendant who has a high school diploma or has  
4 successfully passed the GED test. This subsection (j-5) does  
5 not apply to a defendant who is determined by the court to be  
6 developmentally disabled or otherwise mentally incapable of  
7 completing the educational or vocational program.

8 (j-6) Subject to appropriation, a defendant at least 17  
9 years of age who has a high school diploma or who has passed  
10 the high school level Test of General Educational Development  
11 (GED) and who is convicted of a felony and who is sentenced to  
12 a term of imprisonment in the Illinois Department of  
13 Corrections shall be provided with an educational program that  
14 leads to the completion of an associate, baccalaureate, or  
15 higher degree as provided in subsection (d) of Section 3-6-2.

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

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

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

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

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

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

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

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

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



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

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

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

25           (o) Whenever a person is convicted of a sex offense as  
26 defined in Section 2 of the Sex Offender Registration Act, the

1 defendant's driver's license or permit shall be subject to  
2 renewal on an annual basis in accordance with the provisions of  
3 license renewal established by the Secretary of State.

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