



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB2391

Introduced 2/19/2009, by Rep. Elizabeth Hernandez

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-710

730 ILCS 5/5-5-3

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

Amends the Juvenile Court Act of 1987 and the Unified Code of Corrections. Provides that in addition to any term of incarceration that may be imposed by the court and unless the court determines that it has good cause not to impose these requirements, a gang member who is under 21 years of age and who has been found guilty of or continued under supervision for a gang-related offense and who has not previously been found guilty of or continued under supervision for a gang-related offense shall, upon completion of any term of incarceration, be required: (i) to perform community service, the type and number of hours of community service to be determined by the court; (ii) if the gang member does not have a high school diploma or a GED certificate, to attend and complete educational courses designed to prepare the gang member to pass the high school level Test of General Educational Development (GED); (iii) to comply with a curfew (A) between 11:00 p.m. on Friday and 6:00 a.m. on Saturday; (B) between 11:00 p.m. on Saturday and 6:00 a.m. on Sunday; and (C) between 10:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day; and (iv) to attend Life Skills classes conducted by a community college or by a non-profit offender re-entry program.

LRB096 09760 RLC 19923 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

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

6 (705 ILCS 405/5-710)

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

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

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

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

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

23 (iii) required to undergo a substance abuse

1 assessment conducted by a licensed provider and  
2 participate in the indicated clinical level of care;

3 (iv) placed in the guardianship of the Department  
4 of Children and Family Services, but only if the  
5 delinquent minor is under 15 years of age or, pursuant  
6 to Article II of this Act, a minor for whom an  
7 independent basis of abuse, neglect, or dependency  
8 exists. An independent basis exists when the  
9 allegations or adjudication of abuse, neglect, or  
10 dependency do not arise from the same facts, incident,  
11 or circumstances which give rise to a charge or  
12 adjudication of delinquency;

13 (v) placed in detention for a period not to exceed  
14 30 days, either as the exclusive order of disposition  
15 or, where appropriate, in conjunction with any other  
16 order of disposition issued under this paragraph,  
17 provided that any such detention shall be in a juvenile  
18 detention home and the minor so detained shall be 10  
19 years of age or older. However, the 30-day limitation  
20 may be extended by further order of the court for a  
21 minor under age 15 committed to the Department of  
22 Children and Family Services if the court finds that  
23 the minor is a danger to himself or others. The minor  
24 shall be given credit on the sentencing order of  
25 detention for time spent in detention under Sections  
26 5-501, 5-601, 5-710, or 5-720 of this Article as a

1 result of the offense for which the sentencing order  
2 was imposed. The court may grant credit on a sentencing  
3 order of detention entered under a violation of  
4 probation or violation of conditional discharge under  
5 Section 5-720 of this Article for time spent in  
6 detention before the filing of the petition alleging  
7 the violation. A minor shall not be deprived of credit  
8 for time spent in detention before the filing of a  
9 violation of probation or conditional discharge  
10 alleging the same or related act or acts;

11 (vi) ordered partially or completely emancipated  
12 in accordance with the provisions of the Emancipation  
13 of Minors Act;

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

18 (viii) put on probation or conditional discharge  
19 and placed in detention under Section 3-6039 of the  
20 Counties Code for a period not to exceed the period of  
21 incarceration permitted by law for adults found guilty  
22 of the same offense or offenses for which the minor was  
23 adjudicated delinquent, and in any event no longer than  
24 upon attainment of age 21; this subdivision (viii)  
25 notwithstanding any contrary provision of the law; or

26 (ix) ordered to undergo a medical or other

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

3 (b) A minor found to be guilty may be committed to the  
4 Department of Juvenile Justice under Section 5-750 if the  
5 minor is 13 years of age or older, provided that the  
6 commitment to the Department of Juvenile Justice shall be  
7 made only if a term of incarceration is permitted by law  
8 for adults found guilty of the offense for which the minor  
9 was adjudicated delinquent. The time during which a minor  
10 is in custody before being released upon the request of a  
11 parent, guardian or legal custodian shall be considered as  
12 time spent in detention.

13 (c) When a minor is found to be guilty for an offense  
14 which is a violation of the Illinois Controlled Substances  
15 Act, the Cannabis Control Act, or the Methamphetamine  
16 Control and Community Protection Act and made a ward of the  
17 court, the court may enter a disposition order requiring  
18 the minor to undergo assessment, counseling or treatment in  
19 a substance abuse program approved by the Department of  
20 Human Services.

21 (2) Any sentencing order other than commitment to the  
22 Department of Juvenile Justice may provide for protective  
23 supervision under Section 5-725 and may include an order of  
24 protection under Section 5-730.

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

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

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

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

24 (6) Whenever the sentencing order requires the minor to  
25 attend school or participate in a program of training, the  
26 truant officer or designated school official shall regularly

1 report to the court if the minor is a chronic or habitual  
2 truant under Section 26-2a of the School Code. Notwithstanding  
3 any other provision of this Act, in instances in which  
4 educational services are to be provided to a minor in a  
5 residential facility where the minor has been placed by the  
6 court, costs incurred in the provision of those educational  
7 services must be allocated based on the requirements of the  
8 School Code.

9 (7) In no event shall a guilty minor be committed to the  
10 Department of Juvenile Justice for a period of time in excess  
11 of that period for which an adult could be committed for the  
12 same act.

13 (8) A minor found to be guilty for reasons that include a  
14 violation of Section 21-1.3 of the Criminal Code of 1961 shall  
15 be ordered to perform community service for not less than 30  
16 and not more than 120 hours, if community service is available  
17 in the jurisdiction. The community service shall include, but  
18 need not be limited to, the cleanup and repair of the damage  
19 that was caused by the violation or similar damage to property  
20 located in the municipality or county in which the violation  
21 occurred. The order may be in addition to any other order  
22 authorized by this Section.

23 (8.5) A minor found to be guilty for reasons that include a  
24 violation of Section 3.02 or Section 3.03 of the Humane Care  
25 for Animals Act or paragraph (d) of subsection (1) of Section  
26 21-1 of the Criminal Code of 1961 shall be ordered to undergo

1 medical or psychiatric treatment rendered by a psychiatrist or  
2 psychological treatment rendered by a clinical psychologist.  
3 The order may be in addition to any other order authorized by  
4 this Section.

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



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

13 (10) When a court finds a minor to be guilty the court  
14 shall, before entering a sentencing order under this Section,  
15 make a finding whether the offense committed either: (a) was  
16 related to or in furtherance of the criminal activities of an  
17 organized gang or was motivated by the minor's membership in or  
18 allegiance to an organized gang, or (b) involved a violation of  
19 subsection (a) of Section 12-7.1 of the Criminal Code of 1961,  
20 a violation of any Section of Article 24 of the Criminal Code  
21 of 1961, or a violation of any statute that involved the  
22 wrongful use of a firearm. If the court determines the question  
23 in the affirmative, and the court does not commit the minor to  
24 the Department of Juvenile Justice, the court shall order the  
25 minor to perform community service for not less than 30 hours  
26 nor more than 120 hours, provided that community service is

1 available in the jurisdiction and is funded and approved by the  
2 county board of the county where the offense was committed. The  
3 community service shall include, but need not be limited to,  
4 the cleanup and repair of any damage caused by a violation of  
5 Section 21-1.3 of the Criminal Code of 1961 and similar damage  
6 to property located in the municipality or county in which the  
7 violation occurred. When possible and reasonable, the  
8 community service shall be performed in the minor's  
9 neighborhood. This order shall be in addition to any other  
10 order authorized by this Section except for an order to place  
11 the minor in the custody of the Department of Juvenile Justice.  
12 For the purposes of this Section, "organized gang" has the  
13 meaning ascribed to it in Section 10 of the Illinois Streetgang  
14 Terrorism Omnibus Prevention Act.

15 (11) If the court determines that the offense was committed  
16 in furtherance of the criminal activities of an organized gang,  
17 as provided in subsection (10), and that the offense involved  
18 the operation or use of a motor vehicle or the use of a  
19 driver's license or permit, the court shall notify the  
20 Secretary of State of that determination and of the period for  
21 which the minor shall be denied driving privileges. If, at the  
22 time of the determination, the minor does not hold a driver's  
23 license or permit, the court shall provide that the minor shall  
24 not be issued a driver's license or permit until his or her  
25 18th birthday. If the minor holds a driver's license or permit  
26 at the time of the determination, the court shall provide that

1 the minor's driver's license or permit shall be revoked until  
2 his or her 21st birthday, or until a later date or occurrence  
3 determined by the court. If the minor holds a driver's license  
4 at the time of the determination, the court may direct the  
5 Secretary of State to issue the minor a judicial driving  
6 permit, also known as a JDP. The JDP shall be subject to the  
7 same terms as a JDP issued under Section 6-206.1 of the  
8 Illinois Vehicle Code, except that the court may direct that  
9 the JDP be effective immediately.

10 (12) In addition to any term of incarceration that may be  
11 imposed by the court and unless the court determines that it  
12 has good cause not to impose these requirements, a gang member  
13 who is a minor under 21 years of age and subject to the  
14 jurisdiction of the juvenile court and who has been found  
15 guilty of or continued under supervision for a gang-related  
16 offense and who has not previously been been found guilty of or  
17 continued under supervision for a gang-related offense shall,  
18 upon completion of any term of incarceration, be required: (i)  
19 to perform community service, the type and number of hours of  
20 community service to be determined by the court; (ii) if the  
21 gang member does not have a high school diploma or a GED  
22 certificate, to attend and complete educational courses  
23 designed to prepare the gang member to pass the high school  
24 level Test of General Educational Development (GED); (iii) to  
25 comply with a curfew (A) between 11:00 p.m. on Friday and 6:00  
26 a.m. on Saturday; (B) between 11:00 p.m. on Saturday and 6:00

1 a.m. on Sunday; and (C) between 10:00 p.m. on Sunday to  
2 Thursday, inclusive, and 6:00 a.m. on the following day; and  
3 (iv) to attend Life Skills classes conducted by a community  
4 college or by a non-profit offender re-entry program. The court  
5 shall inform the local law enforcement agency of the  
6 jurisdiction where the gang member resides after completion of  
7 any term of imprisonment of the curfew imposed on the gang  
8 member and shall order that the law enforcement agency conduct  
9 random monitoring of the gang member to ensure compliance with  
10 the curfew requirements. For the purposes of this paragraph  
11 (12), "gang member" and "gang-related" have the meanings  
12 ascribed to them in Section 10 of the Illinois Streetgang  
13 Terrorism Omnibus Prevention Act.

14 (Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06;  
15 95-337, eff. 6-1-08; 95-642, eff. 6-1-08; 95-844, eff. 8-15-08;  
16 95-876, eff. 8-21-08.)

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

19 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

20 Sec. 5-5-3. Disposition.

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

24 (b) The following options shall be appropriate

1 dispositions, alone or in combination, for all felonies and  
2 misdemeanors other than those identified in subsection (c) of  
3 this Section:

4 (1) A period of probation.

5 (2) A term of periodic imprisonment.

6 (3) A term of conditional discharge.

7 (4) A term of imprisonment.

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

12 (6) A fine.

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

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

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

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

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

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

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

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

12 (B) Attempted first degree murder.

13 (C) A Class X felony.

14 (D) A violation of Section 401.1 or 407 of the  
15 Illinois Controlled Substances Act, or a violation of  
16 subdivision (c) (1), (c) (1.5), or (c) (2) of Section 401  
17 of that Act which relates to more than 5 grams of a  
18 substance containing heroin, cocaine, fentanyl, or an  
19 analog thereof.

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

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

1 Alcoholism and Other Drug Abuse and Dependency Act.

2 (F-5) A violation of Section 24-1, 24-1.1, or  
3 24-1.6 of the Criminal Code of 1961 for which  
4 imprisonment is prescribed in those Sections.

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

8 (H) Criminal sexual assault.

9 (I) Aggravated battery of a senior citizen.

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

12 Before July 1, 1994, for the purposes of this  
13 paragraph, "organized gang" means an association of 5  
14 or more persons, with an established hierarchy, that  
15 encourages members of the association to perpetrate  
16 crimes or provides support to the members of the  
17 association who do commit crimes.

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

22 (K) Vehicular hijacking.

23 (L) A second or subsequent conviction for the  
24 offense of hate crime when the underlying offense upon  
25 which the hate crime is based is felony aggravated  
26 assault or felony mob action.

1 (M) A second or subsequent conviction for the  
2 offense of institutional vandalism if the damage to the  
3 property exceeds \$300.

4 (N) A Class 3 felony violation of paragraph (1) of  
5 subsection (a) of Section 2 of the Firearm Owners  
6 Identification Card Act.

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

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

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

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

16 (S) (Blank).

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

19 (U) A second or subsequent violation of Section  
20 6-303 of the Illinois Vehicle Code committed while his  
21 or her driver's license, permit, or privilege was  
22 revoked because of a violation of Section 9-3 of the  
23 Criminal Code of 1961, relating to the offense of  
24 reckless homicide, or a similar provision of a law of  
25 another state.

26 (V) A violation of paragraph (4) of subsection (c)



1 of Section 11-20.3 of the Criminal Code of 1961.

2 (W) A violation of Section 24-3.5 of the Criminal  
3 Code of 1961.

4 (3) (Blank).

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

9 (4.1) (Blank).

10 (4.2) Except as provided in paragraphs (4.3) and (4.8)  
11 of this subsection (c), a minimum of 100 hours of community  
12 service shall be imposed for a second violation of Section  
13 6-303 of the Illinois Vehicle Code.

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

18 (4.4) Except as provided in paragraphs (4.5), (4.6),  
19 and (4.9) of this subsection (c), a minimum term of  
20 imprisonment of 30 days or 300 hours of community service,  
21 as determined by the court, shall be imposed for a third or  
22 subsequent violation of Section 6-303 of the Illinois  
23 Vehicle Code.

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

1           (4.6) Except as provided in paragraph (4.10) of this  
2 subsection (c), a minimum term of imprisonment of 180 days  
3 shall be imposed for a fourth or subsequent violation of  
4 subsection (c) of Section 6-303 of the Illinois Vehicle  
5 Code.

6           (4.7) A minimum term of imprisonment of not less than  
7 30 consecutive days, or 300 hours of community service,  
8 shall be imposed for a violation of subsection (a-5) of  
9 Section 6-303 of the Illinois Vehicle Code, as provided in  
10 subsection (b-5) of that Section.

11           (4.8) A mandatory prison sentence shall be imposed for  
12 a second violation of subsection (a-5) of Section 6-303 of  
13 the Illinois Vehicle Code, as provided in subsection (c-5)  
14 of that Section. The person's driving privileges shall be  
15 revoked for a period of not less than 5 years from the date  
16 of his or her release from prison.

17           (4.9) A mandatory prison sentence of not less than 4  
18 and not more than 15 years shall be imposed for a third  
19 violation of subsection (a-5) of Section 6-303 of the  
20 Illinois Vehicle Code, as provided in subsection (d-2.5) of  
21 that Section. The person's driving privileges shall be  
22 revoked for the remainder of his or her life.

23           (4.10) A mandatory prison sentence for a Class 1 felony  
24 shall be imposed, and the person shall be eligible for an  
25 extended term sentence, for a fourth or subsequent  
26 violation of subsection (a-5) of Section 6-303 of the

1 Illinois Vehicle Code, as provided in subsection (d-3.5) of  
2 that Section. The person's driving privileges shall be  
3 revoked for the remainder of his or her life.

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

7 (A) a period of conditional discharge;

8 (B) a fine;

9 (C) make restitution to the victim under Section  
10 5-5-6 of this Code.

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

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

1           (5.3) In addition to any penalties imposed under  
2 paragraph (5) of this subsection (c), a person convicted of  
3 violating subsection (c) of Section 11-907 of the Illinois  
4 Vehicle Code shall have his or her driver's license,  
5 permit, or privileges suspended for 2 years, if the  
6 violation resulted in the death of another person.

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

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

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

26           (7) When a defendant is adjudged a habitual criminal

1 under Article 33B of the Criminal Code of 1961, the court  
2 shall sentence the defendant to a term of natural life  
3 imprisonment.

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

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

23 (10) (Blank).

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

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

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

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

1 Illinois Department of Human Services under such terms and  
2 conditions imposed by the court. The costs of such classes  
3 shall be paid by the offender.

4 (14) In addition to any term of imprisonment that may  
5 be imposed by the court and unless the court determines  
6 that it has good cause not to impose these requirements, a  
7 gang member under 21 years of age who has been convicted of  
8 or placed on supervision for a gang-related offense and who  
9 has not previously been convicted of or placed on  
10 supervision for a gang-related offense shall, upon  
11 completion of any term of imprisonment, be required: (i) to  
12 perform community service, the type and number of hours of  
13 community service to be determined by the court; (ii) if  
14 the gang member does not have a high school diploma or a  
15 GED certificate, to attend and complete educational  
16 courses designed to prepare the gang member to pass the  
17 high school level Test of General Educational Development  
18 (GED); (iii) to comply with a curfew (A) between 11:00 p.m.  
19 on Friday and 6:00 a.m. on Saturday; (B) between 11:00 p.m.  
20 on Saturday and 6:00 a.m. on Sunday; and (C) between 10:00  
21 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the  
22 following day; and (iv) to attend Life Skills classes  
23 conducted by a community college or by a non-profit  
24 offender re-entry program. The court shall inform the local  
25 law enforcement agency of the jurisdiction where the gang  
26 member resides after completion of any term of imprisonment

1       of the curfew imposed on the gang member and shall order  
2       that the law enforcement agency conduct random monitoring  
3       of the gang member to ensure compliance with the curfew  
4       requirements. For the purposes of this paragraph (14),  
5       "gang member" and "gang-related" have the meanings  
6       ascribed to them in Section 10 of the Illinois Streetgang  
7       Terrorism Omnibus Prevention Act.

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

26      (e) In cases where prosecution for aggravated criminal



1 sexual abuse under Section 12-16 of the Criminal Code of 1961  
2 results in conviction of a defendant who was a family member of  
3 the victim at the time of the commission of the offense, the  
4 court shall consider the safety and welfare of the victim and  
5 may impose a sentence of probation only where:

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

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

10 (B) the defendant is willing to participate in a  
11 court approved plan including but not limited to the  
12 defendant's:

13 (i) removal from the household;

14 (ii) restricted contact with the victim;

15 (iii) continued financial support of the  
16 family;

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

18 and

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

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

1 counseling as a result of the offense.

2 Probation may be revoked or modified pursuant to Section  
3 5-6-4; except where the court determines at the hearing that  
4 the defendant violated a condition of his or her probation  
5 restricting contact with the victim or other family members or  
6 commits another offense with the victim or other family  
7 members, the court shall revoke the defendant's probation and  
8 impose a term of imprisonment.

9 For the purposes of this Section, "family member" and  
10 "victim" shall have the meanings ascribed to them in Section  
11 12-12 of the Criminal Code of 1961.

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

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

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

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

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

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

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

21 (j) In cases when prosecution for any violation of Section  
22 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,  
23 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
24 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal  
25 Code of 1961, any violation of the Illinois Controlled  
26 Substances Act, any violation of the Cannabis Control Act, or

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

20 (j-5) A defendant at least 17 years of age who is convicted  
21 of a felony and who has not been previously convicted of a  
22 misdemeanor or felony and who is sentenced to a term of  
23 imprisonment in the Illinois Department of Corrections shall as  
24 a condition of his or her sentence be required by the court to  
25 attend educational courses designed to prepare the defendant  
26 for a high school diploma and to work toward a high school

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

26 (k) A court may not impose a sentence or disposition for a

1 felony or misdemeanor that requires the defendant to be  
2 implanted or injected with or to use any form of birth control.

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

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

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

17 Otherwise, the defendant shall be sentenced as  
18 provided in this Chapter V.

19 (B) If the defendant has already been sentenced for a  
20 felony or misdemeanor offense, or has been placed on  
21 probation under Section 10 of the Cannabis Control Act,  
22 Section 410 of the Illinois Controlled Substances Act, or  
23 Section 70 of the Methamphetamine Control and Community  
24 Protection Act, the court may, upon motion of the State's  
25 Attorney to suspend the sentence imposed, commit the  
26 defendant to the custody of the Attorney General of the



1 United States or his or her designated agent when:

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

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

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

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

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

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

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

14           (Source: P.A. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993,  
15 eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07;  
16 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff.  
17 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff.  
18 1-1-09.)