

1 AN ACT in relation to driving under the influence of
2 alcohol and drugs.

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

5 Section 5. The Illinois Vehicle Code is amended by
6 changing Sections 6-205, 6-208.1, 6-208.2, and 11-501 as
7 follows:

8 (625 ILCS 5/6-205) (from Ch. 95 1/2, par. 6-205)

9 Sec. 6-205. Mandatory revocation of license or permit;
10 Hardship cases.

11 (a) Except as provided in this Section, the Secretary of
12 State shall immediately revoke the license or permit of any
13 driver upon receiving a report of the driver's conviction of
14 any of the following offenses:

15 1. Reckless homicide resulting from the operation
16 of a motor vehicle;

17 2. Violation of Section 11-501 of this Code or a
18 similar provision of a local ordinance relating to the
19 offense of operating or being in physical control of a
20 vehicle while under the influence of alcohol, other drug
21 or drugs, intoxicating compound or compounds, or any
22 combination thereof;

23 3. Any felony under the laws of any State or the
24 federal government in the commission of which a motor
25 vehicle was used;

26 4. Violation of Section 11-401 of this Code
27 relating to the offense of leaving the scene of a traffic
28 accident involving death or personal injury;

29 5. Perjury or the making of a false affidavit or
30 statement under oath to the Secretary of State under this
31 Code or under any other law relating to the ownership or

1 operation of motor vehicles;

2 6. Conviction upon 3 charges of violation of
3 Section 11-503 of this Code relating to the offense of
4 reckless driving committed within a period of 12 months;

5 7. Conviction of the offense of automobile theft as
6 defined in Section 4-102 of this Code;

7 8. Violation of Section 11-504 of this Code
8 relating to the offense of drag racing;

9 9. Violation of Chapters 8 and 9 of this Code;

10 10. Violation of Section 12-5 of the Criminal Code
11 of 1961 arising from the use of a motor vehicle;

12 11. Violation of Section 11-204.1 of this Code
13 relating to aggravated fleeing or attempting to elude a
14 police officer;

15 12. Violation of paragraph (1) of subsection (b) of
16 Section 6-507, or a similar law of any other state,
17 relating to the unlawful operation of a commercial motor
18 vehicle;

19 13. Violation of paragraph (a) of Section 11-502 of
20 this Code or a similar provision of a local ordinance if
21 the driver has been previously convicted of a violation
22 of that Section or a similar provision of a local
23 ordinance and the driver was less than 21 years of age at
24 the time of the offense.

25 (b) The Secretary of State shall also immediately revoke
26 the license or permit of any driver in the following
27 situations:

28 1. Of any minor upon receiving the notice provided
29 for in Section 5-901 of the Juvenile Court Act of 1987
30 that the minor has been adjudicated under that Act as
31 having committed an offense relating to motor vehicles
32 prescribed in Section 4-103 of this Code;

33 2. Of any person when any other law of this State
34 requires either the revocation or suspension of a license

1 or permit.

2 (c) Whenever a person is convicted of any of the
3 offenses enumerated in this Section, the court may recommend
4 and the Secretary of State in his discretion, without regard
5 to whether the recommendation is made by the court, may, upon
6 application, issue to the person a restricted driving permit
7 granting the privilege of driving a motor vehicle between the
8 petitioner's residence and petitioner's place of employment
9 or within the scope of the petitioner's employment related
10 duties, or to allow transportation for the petitioner or a
11 household member of the petitioner's family for the receipt
12 of necessary medical care or, if the professional evaluation
13 indicates, provide transportation for the petitioner for
14 alcohol remedial or rehabilitative activity, or for the
15 petitioner to attend classes, as a student, in an accredited
16 educational institution; if the petitioner is able to
17 demonstrate that no alternative means of transportation is
18 reasonably available and the petitioner will not endanger the
19 public safety or welfare; provided that the Secretary's
20 discretion shall be limited to cases where undue hardship
21 would result from a failure to issue the restricted driving
22 permit. In each case the Secretary of State may issue a
23 restricted driving permit for a period he deems appropriate,
24 except that the permit shall expire within one year from the
25 date of issuance. A restricted driving permit issued under
26 this Section shall be subject to cancellation, revocation,
27 and suspension by the Secretary of State in like manner and
28 for like cause as a driver's license issued under this Code
29 may be cancelled, revoked, or suspended; except that a
30 conviction upon one or more offenses against laws or
31 ordinances regulating the movement of traffic shall be deemed
32 sufficient cause for the revocation, suspension, or
33 cancellation of a restricted driving permit. The Secretary of
34 State may, as a condition to the issuance of a restricted

1 driving permit, require the applicant to participate in a
2 designated driver remedial or rehabilitative program. The
3 Secretary of State is authorized to cancel a restricted
4 driving permit if the permit holder does not successfully
5 complete the program. However, if an individual's driving
6 privileges have been revoked in accordance with paragraph 13
7 of subsection (a) of this Section, no restricted driving
8 permit shall be issued until the individual has served 6
9 months of the revocation period.

10 (d) Whenever a person under the age of 21 is convicted
11 under Section 11-501 of this Code or a similar provision of a
12 local ordinance, the Secretary of State shall revoke the
13 driving privileges of that person. One year after the date
14 of revocation, and upon application, the Secretary of State
15 may, if satisfied that the person applying will not endanger
16 the public safety or welfare, issue a restricted driving
17 permit granting the privilege of driving a motor vehicle only
18 between the hours of 5 a.m. and 9 p.m. or as otherwise
19 provided by this Section for a period of one year. After
20 this one year period, and upon reapplication for a license as
21 provided in Section 6-106, upon payment of the appropriate
22 reinstatement fee provided under paragraph (b) of Section
23 6-118, the Secretary of State, in his discretion, may issue
24 the applicant a license, or extend the restricted driving
25 permit as many times as the Secretary of State deems
26 appropriate, by additional periods of not more than 12 months
27 each, until the applicant attains 21 years of age. A
28 restricted driving permit issued under this Section shall be
29 subject to cancellation, revocation, and suspension by the
30 Secretary of State in like manner and for like cause as a
31 driver's license issued under this Code may be cancelled,
32 revoked, or suspended; except that a conviction upon one or
33 more offenses against laws or ordinances regulating the
34 movement of traffic shall be deemed sufficient cause for the

1 revocation, suspension, or cancellation of a restricted
2 driving permit. Any person under 21 years of age who has a
3 driver's license revoked for a second or subsequent
4 conviction for driving under the influence, prior to the age
5 of 21, shall not be eligible to submit an application for a
6 full reinstatement of driving privileges or a restricted
7 driving permit until age 21 or one additional year from the
8 date of the latest such revocation, whichever is the longer.
9 The revocation periods contained in this subparagraph shall
10 apply to similar out-of-state convictions.

11 (e) This Section is subject to the provisions of the
12 Driver License Compact.

13 (f) Any revocation imposed upon any person under
14 subsections 2 and 3 of paragraph (b) that is in effect on
15 December 31, 1988 shall be converted to a suspension for a
16 like period of time.

17 (g) The Secretary of State shall not issue a restricted
18 driving permit to a person under the age of 16 years whose
19 driving privileges have been revoked under any provisions of
20 this Code.

21 (h) The Secretary of State ~~shall require the~~ may use of
22 ignition interlock ~~devices on all vehicles owned by an~~
23 ~~individual~~ ~~device-requirements-when-granting--driving--relief~~
24 ~~to--individuals~~ who ~~has~~ have been ~~convicted of~~ arrested for a
25 second or subsequent offense under Section 11-501 of this
26 Code or a similar provision of a local ordinance. The
27 Secretary shall establish by rule and regulation the
28 procedures for certification and use of the interlock system.

29 (i) The Secretary of State may not issue a restricted
30 driving permit for a period of one year after a second or
31 subsequent revocation of driving privileges under clause
32 (a)(2) of this Section; however, one year after the date of a
33 second or subsequent revocation of driving privileges under
34 clause (a)(2) of this Section, the Secretary of State may,

1 upon application, issue a restricted driving permit under the
2 terms and conditions of subsection (c).

3 (Source: P.A. 90-369, eff. 1-1-98; 90-590, eff. 1-1-99;
4 90-611, eff. 1-1-99; 90-779, eff. 1-1-99; 91-357, eff.
5 7-29-99.)

6 (625 ILCS 5/6-208.1) (from Ch. 95 1/2, par. 6-208.1)
7 Sec. 6-208.1. Period of statutory summary alcohol, other
8 drug, or intoxicating compound related suspension.

9 (a) Unless the statutory summary suspension has been
10 rescinded, any person whose privilege to drive a motor
11 vehicle on the public highways has been summarily suspended,
12 pursuant to Section 11-501.1, shall not be eligible for
13 restoration of the privilege until the expiration of:

14 1. Six months from the effective date of the
15 statutory summary suspension for a refusal or failure to
16 complete a test or tests to determine the alcohol, drug,
17 or intoxicating compound concentration, pursuant to
18 Section 11-501.1; or

19 2. Three months from the effective date of the
20 statutory summary suspension imposed following the
21 person's submission to a chemical test which disclosed an
22 alcohol concentration of 0.08 or more, or any amount of a
23 drug, substance, or intoxicating compound in such
24 person's breath, blood, or urine resulting from the
25 unlawful use or consumption of cannabis listed in the
26 Cannabis Control Act, a controlled substance listed in
27 the Illinois Controlled Substances Act, or an
28 intoxicating compound listed in the Use of Intoxicating
29 Compounds Act, pursuant to Section 11-501.1; or

30 3. Three years from the effective date of the
31 statutory summary suspension for any person other than a
32 first offender who refuses or fails to complete a test or
33 tests to determine the alcohol, drug, or intoxicating

1 compound concentration pursuant to Section 11-501.1; or
2 4. One year from the effective date of the summary
3 suspension imposed for any person other than a first
4 offender following submission to a chemical test which
5 disclosed an alcohol concentration of 0.08 or more
6 pursuant to Section 11-501.1 or any amount of a drug,
7 substance or compound in such person's blood or urine
8 resulting from the unlawful use or consumption of
9 cannabis listed in the Cannabis Control Act, a controlled
10 substance listed in the Illinois Controlled Substances
11 Act, or an intoxicating compound listed in the Use of
12 Intoxicating Compounds Act.

13 (b) Following a statutory summary suspension of the
14 privilege to drive a motor vehicle under Section 11-501.1,
15 full driving privileges shall be restored unless the person
16 is otherwise disqualified by this Code. If the court has
17 reason to believe that the person's driving privilege should
18 not be restored, the court shall notify the Secretary of
19 State prior to the expiration of the statutory summary
20 suspension so appropriate action may be taken pursuant to
21 this Code.

22 (c) Full driving privileges may not be restored until
23 all applicable reinstatement fees, as provided by this Code,
24 have been paid to the Secretary of State and the appropriate
25 entry made to the driver's record.

26 (d) Where a driving privilege has been summarily
27 suspended under Section 11-501.1 and the person is
28 subsequently convicted of violating Section 11-501, or a
29 similar provision of a local ordinance, for the same
30 incident, any period served on statutory summary suspension
31 shall be credited toward the minimum period of revocation of
32 driving privileges imposed pursuant to Section 6-205.

33 (e) Following a statutory summary suspension of driving
34 privileges pursuant to Section 11-501.1, for a first

1 offender, the circuit court may, after at least 30 days from
2 the effective date of the statutory summary suspension, issue
3 a judicial driving permit as provided in Section 6-206.1.

4 (f) Subsequent to an arrest of a first offender, for any
5 offense as defined in Section 11-501 or a similar provision
6 of a local ordinance, following a statutory summary
7 suspension of driving privileges pursuant to Section
8 11-501.1, for a first offender, the circuit court may issue a
9 court order directing the Secretary of State to issue a
10 judicial driving permit as provided in Section 6-206.1.
11 However, this JDP shall not be effective prior to the 31st
12 day of the statutory summary suspension.

13 (g) Following a statutory summary suspension of driving
14 privileges pursuant to Section 11-501.1 where the person was
15 not a first offender, as defined in Section 11-500 and such
16 person refused or failed to complete a test or tests to
17 determine the alcohol, drug, or intoxicating compound
18 concentration pursuant to Section 11-501.1, the Secretary of
19 State may not issue a restricted driving permit if at least 2
20 years have elapsed since the effective date of the statutory
21 summary suspension.

22 (h) (Blank). Following a statutory summary suspension of
23 driving privileges pursuant to Section 11-501.1 where the
24 person was not a first offender as defined in Section 11-500
25 and such person submitted to a chemical test which disclosed
26 an alcohol concentration of 0.08 or more pursuant to Section
27 11-501.1, the Secretary of State may, after at least 90 days
28 from the effective date of the statutory summary suspension,
29 issue a restricted driving permit.

30 (Source: P.A. 90-43, eff. 7-2-97; 90-738, eff. 1-1-99;
31 90-779, eff. 1-1-99; 91-357, eff. 7-29-99.)

32 (625 ILCS 5/6-208.2)

33 Sec. 6-208.2. Restoration of driving privileges; persons

1 under age 21.

2 (a) Unless the suspension based upon consumption of
3 alcohol by a minor or refusal to submit to testing has been
4 rescinded by the Secretary of State in accordance with item
5 (c)(3) of Section 6-206 of this Code, a person whose
6 privilege to drive a motor vehicle on the public highways has
7 been suspended under Section 11-501.8 is not eligible for
8 restoration of the privilege until the expiration of:

9 1. Six months from the effective date of the
10 suspension for a refusal or failure to complete a test or
11 tests to determine the alcohol concentration under
12 Section 11-501.8;

13 2. Three months from the effective date of the
14 suspension imposed following the person's submission to a
15 chemical test which disclosed an alcohol concentration
16 greater than 0.00 under Section 11-501.8;

17 3. Two years from the effective date of the
18 suspension for a person who has been previously suspended
19 under Section 11-501.8 and who refuses or fails to
20 complete a test or tests to determine the alcohol
21 concentration under Section 11-501.8; or

22 4. One year from the effective date of the
23 suspension imposed for a person who has been previously
24 suspended under Section 11-501.8 following submission to
25 a chemical test that disclosed an alcohol concentration
26 greater than 0.00 under Section 11-501.8.

27 (b) Following a suspension of the privilege to drive a
28 motor vehicle under Section 11-501.8, full driving privileges
29 shall be restored unless the person is otherwise disqualified
30 by this Code.

31 (c) Full driving privileges may not be restored until
32 all applicable reinstatement fees, as provided by this Code,
33 have been paid to the Secretary of State and the appropriate
34 entry made to the driver's record. The Secretary of State may

1 also, as a condition of the reissuance of a driver's license
2 or permit to an individual under the age of 18 years whose
3 driving privileges have been suspended pursuant to Section
4 11-501.8, require the applicant to participate in a driver
5 remedial education course and be retested under Section
6 6-109.

7 (d) Where a driving privilege has been suspended under
8 Section 11-501.8 and the person is subsequently convicted of
9 violating Section 11-501, or a similar provision of a local
10 ordinance, for the same incident, any period served on that
11 suspension shall be credited toward the minimum period of
12 revocation of driving privileges imposed under Section 6-205.

13 (e) Following a suspension of driving privileges under
14 Section 11-501.8 for a person who has not had his or her
15 driving privileges previously suspended under that Section,
16 the Secretary of State may issue a restricted driving permit
17 after at least 30 days from the effective date of the
18 suspension.

19 (f) Following a second or subsequent suspension of
20 driving privileges under Section 11-501.8 ~~that-is-based-upon~~
21 ~~the-person-having-refused-or-failed-to-complete-a-test-or~~
22 ~~tests-to-determine-the-alcohol-concentration-under-Section~~
23 ~~11-501.8,~~ the Secretary of State may issue a restricted
24 driving permit after at least 12 6 months from the effective
25 date of the suspension.

26 (g) (Blank). ~~Following-a-second-or-subsequent-suspension~~
27 ~~of-driving-privileges-under-Section-11-501.8-that-is-based~~
28 ~~upon-the-person-having-submitted-to-a-chemical-test-that~~
29 ~~disclosed-an-alcohol-concentration-greater-than-0.00-under~~
30 ~~Section-11-501.8,-the-Secretary-of-State-may-issue-a~~
31 ~~restricted-driving-permit-after-at-least-90-days-from-the~~
32 ~~effective-date-of-the-suspension.~~

33 (h) Any restricted driving permit considered under this
34 Section is subject to the provisions of item (e) of Section

1 11-501.8.

2 (Source: P.A. 90-774, eff. 8-14-98.)

3 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

4 Sec. 11-501. Driving while under the influence of
5 alcohol, other drug or drugs, intoxicating compound or
6 compounds or any combination thereof.

7 (a) A person shall not drive or be in actual physical
8 control of any vehicle within this State while:

9 (1) the alcohol concentration in the person's blood
10 or breath is 0.08 or more based on the definition of
11 blood and breath units in Section 11-501.2;

12 (2) under the influence of alcohol;

13 (3) under the influence of any intoxicating
14 compound or combination of intoxicating compounds to a
15 degree that renders the person incapable of driving
16 safely;

17 (4) under the influence of any other drug or
18 combination of drugs to a degree that renders the person
19 incapable of safely driving;

20 (5) under the combined influence of alcohol, other
21 drug or drugs, or intoxicating compound or compounds to a
22 degree that renders the person incapable of safely
23 driving; or

24 (6) there is any amount of a drug, substance, or
25 compound in the person's breath, blood, or urine
26 resulting from the unlawful use or consumption of
27 cannabis listed in the Cannabis Control Act, a controlled
28 substance listed in the Illinois Controlled Substances
29 Act, or an intoxicating compound listed in the Use of
30 Intoxicating Compounds Act.

31 (b) The fact that any person charged with violating this
32 Section is or has been legally entitled to use alcohol, other
33 drug or drugs, or intoxicating compound or compounds, or any

1 combination thereof, shall not constitute a defense against
2 any charge of violating this Section.

3 (c) Except as provided under paragraphs (c-3) and (d) of
4 this Section, every person convicted of violating this
5 Section or a similar provision of a local ordinance, shall be
6 guilty of a Class A misdemeanor and, in addition to any other
7 criminal or administrative action, for any second conviction
8 of violating this Section or a similar provision of a law of
9 another state or local ordinance committed within 5 years of
10 a previous violation of this Section or a similar provision
11 of a local ordinance shall be mandatorily sentenced to a
12 minimum of 5 days ~~48-continuous-hours~~ of imprisonment or
13 assigned to a minimum of 30 days ~~100--hours~~ of community
14 service as may be determined by the court. Every person
15 convicted of violating this Section or a similar provision of
16 a local ordinance shall be subject to an additional a
17 mandatory minimum fine of \$500 and an additional a mandatory
18 5 days of community service in a program benefiting children
19 if the person committed a violation of paragraph (a) or a
20 similar provision of a local ordinance while transporting a
21 person under age 16. Every person convicted a second time
22 for violating this Section or a similar provision of a local
23 ordinance within 5 years of a previous violation of this
24 Section or a similar provision of a law of another state or
25 local ordinance shall be subject to an additional a mandatory
26 minimum fine of \$500 and an additional 10 days of mandatory
27 community service in a program benefiting children if the
28 current offense was committed while transporting a person
29 under age 16. The imprisonment or assignment under this
30 subsection shall not be subject to suspension nor shall the
31 person be eligible for probation in order to reduce the
32 sentence or assignment.

33 (c-1) (1) A person who violates this Section during a
34 period in which his or her driving privileges are revoked

1 or suspended, where the revocation or suspension was for
2 a violation of this Section, Section 11-501.1, paragraph
3 (b) of Section 11-401, or Section 9-3 of the Criminal
4 Code of 1961 is guilty of a Class 4 felony.

5 (2) A person who violates this Section a third time
6 during a period in which his or her driving privileges
7 are revoked or suspended where the revocation or
8 suspension was for a violation of this Section, Section
9 11-501.1, paragraph (b) of Section 11-401, or Section 9-3
10 of the Criminal Code of 1961 is guilty of a Class 3
11 felony.

12 (3) A person who violates this Section a fourth or
13 subsequent time during a period in which his or her
14 driving privileges are revoked or suspended where the
15 revocation or suspension was for a violation of this
16 Section, Section 11-501.1, paragraph (b) of Section
17 11-401, or Section 9-3 of the Criminal Code of 1961 is
18 guilty of a Class 2 felony.

19 (c-2) (Blank).

20 (c-3) Every person convicted of violating this Section
21 or a similar provision of a local ordinance who had a child
22 under age 16 in the vehicle at the time of the offense shall
23 have his or her punishment under this Act enhanced by 2 days
24 of imprisonment for a first offense, 10 days of imprisonment
25 for a second offense, 30 days of imprisonment for a third
26 offense, and 90 days of imprisonment for a fourth or
27 subsequent offense, in addition to the fine and community
28 service required under subsection (c) and the possible
29 imprisonment required under subsection (d). The imprisonment
30 or assignment under this subsection shall not be subject to
31 suspension nor shall the person be eligible for probation in
32 order to reduce the sentence or assignment.

33 (d) (1) Every person convicted of committing a violation
34 of this Section shall be guilty of aggravated driving under

1 the influence of alcohol, other drug or drugs, or
2 intoxicating compound or compounds, or any combination
3 thereof if:

4 (A) the person committed a violation of this
5 Section, or a similar provision of a law of another state
6 or a local ordinance when the cause of action is the same
7 as or substantially similar to this Section, for the
8 third or subsequent time;

9 (B) the person committed a violation of paragraph
10 (a) while driving a school bus with children on board;

11 (C) the person in committing a violation of
12 paragraph (a) was involved in a motor vehicle accident
13 that resulted in great bodily harm or permanent
14 disability or disfigurement to another, when the
15 violation was a proximate cause of the injuries; or

16 (D) the person committed a violation of paragraph
17 (a) for a second time and has been previously convicted
18 of violating Section 9-3 of the Criminal Code of 1961
19 relating to reckless homicide in which the person was
20 determined to have been under the influence of alcohol,
21 other drug or drugs, or intoxicating compound or
22 compounds as an element of the offense or the person has
23 previously been convicted under subparagraph (C) of this
24 paragraph (1).

25 (2) Aggravated driving under the influence of alcohol,
26 other drug or drugs, or intoxicating compound or compounds,
27 or any combination thereof is a Class 4 felony for which a
28 person, if sentenced to a term of imprisonment, shall be
29 sentenced to not less than one year and not more than 3 years
30 for a violation of subparagraph (A), (B) or (D) of paragraph
31 (1) of this subsection (d) and not less than one year and not
32 more than 12 years for a violation of subparagraph (C) of
33 paragraph (1) of this subsection (d). For any prosecution
34 under this subsection (d), a certified copy of the driving

1 abstract of the defendant shall be admitted as proof of any
2 prior conviction.

3 (e) After a finding of guilt and prior to any final
4 sentencing, or an order for supervision, for an offense based
5 upon an arrest for a violation of this Section or a similar
6 provision of a local ordinance, individuals shall be required
7 to undergo a professional evaluation to determine if an
8 alcohol, drug, or intoxicating compound abuse problem exists
9 and the extent of the problem, and undergo the imposition of
10 treatment as appropriate. Programs conducting these
11 evaluations shall be licensed by the Department of Human
12 Services. The cost of any professional evaluation shall be
13 paid for by the individual required to undergo the
14 professional evaluation.

15 (f) Every person found guilty of violating this Section,
16 whose operation of a motor vehicle while in violation of this
17 Section proximately caused any incident resulting in an
18 appropriate emergency response, shall be liable for the
19 expense of an emergency response as provided under Section
20 5-5-3 of the Unified Code of Corrections.

21 (g) The Secretary of State shall revoke the driving
22 privileges of any person convicted under this Section or a
23 similar provision of a local ordinance.

24 (h) Every person sentenced under paragraph (2) or (3) of
25 subsection (c-1) of this Section or subsection (d) of this
26 Section and who receives a term of probation or conditional
27 discharge shall be required to serve a minimum term of either
28 60 30 days community service or 10 days~~7--beginning--July--17~~
29 ~~19937--48--consecutive-hours~~ of imprisonment as a condition of
30 the probation or conditional discharge. This mandatory
31 minimum term of imprisonment or assignment of community
32 service shall not be suspended and shall not be subject to
33 reduction by the court.

34 (i) The Secretary of State shall require the use of may

1 use ignition interlock devices on all vehicles owned by an
2 individual ~~device-requirements-when-granting--driving--relief~~
3 ~~to--individuals~~ who has have been convicted of ~~arrested-for~~ a
4 second or subsequent offense of this Section or a similar
5 provision of a local ordinance. The Secretary shall
6 establish by rule and regulation the procedures for
7 certification and use of the interlock system.

8 (j) In addition to any other penalties and liabilities,
9 a person who is found guilty of or pleads guilty to violating
10 this Section, including any person placed on court
11 supervision for violating this Section, shall be fined \$100,
12 payable to the circuit clerk, who shall distribute the money
13 to the law enforcement agency that made the arrest. In the
14 event that more than one agency is responsible for the
15 arrest, the \$100 shall be shared equally. Any moneys
16 received by a law enforcement agency under this subsection
17 (j) shall be used to purchase law enforcement equipment that
18 will assist in the prevention of alcohol related criminal
19 violence throughout the State. This shall include, but is
20 not limited to, in-car video cameras, radar and laser speed
21 detection devices, and alcohol breath testers. Any moneys
22 received by the Department of State Police under this
23 subsection (j) shall be deposited into the State Police DUI
24 Fund and shall be used to purchase law enforcement equipment
25 that will assist in the prevention of alcohol related
26 criminal violence throughout the State.

27 (Source: P.A. 90-43, eff. 7-2-97; 90-400, eff. 8-15-97;
28 90-611, eff. 1-1-99; 90-655, eff. 7-30-98; 90-738, eff.
29 1-1-99; 90-779, eff. 1-1-99; 91-126, eff. 7-16-99; 91-357,
30 eff. 7-29-99; 91-692, eff. 4-13-00; 91-822, eff. 6-13-00.)

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

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

3 (a) Every person convicted of an offense shall be
4 sentenced as provided in this Section.

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

9 (1) A period of probation.

10 (2) A term of periodic imprisonment.

11 (3) A term of conditional discharge.

12 (4) A term of imprisonment.

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

17 (6) A fine.

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

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

23 Whenever an individual is sentenced for an offense based
24 upon an arrest for a violation of Section 11-501 of the
25 Illinois Vehicle Code, or a similar provision of a local
26 ordinance, and the professional evaluation recommends
27 remedial or rehabilitative treatment or education, neither
28 the treatment nor the education shall be the sole disposition
29 and either or both may be imposed only in conjunction with
30 another disposition. The court shall monitor compliance with
31 any remedial education or treatment recommendations contained
32 in the professional evaluation. Programs conducting alcohol
33 or other drug evaluation or remedial education must be
34 licensed by the Department of Human Services. However, if

1 the individual is not a resident of Illinois, the court may
2 accept an alcohol or other drug evaluation or remedial
3 education program in the state of such individual's
4 residence. Programs providing treatment must be licensed
5 under existing applicable alcoholism and drug treatment
6 licensure standards.

7 In addition to any other fine or penalty required by law,
8 any individual convicted of a violation of Section 11-501 of
9 the Illinois Vehicle Code or a similar provision of local
10 ordinance, whose operation of a motor vehicle while in
11 violation of Section 11-501 or such ordinance proximately
12 caused an incident resulting in an appropriate emergency
13 response, shall be required to make restitution to a public
14 agency for the costs of that emergency response. Such
15 restitution shall not exceed \$500 per public agency for each
16 such emergency response. For the purpose of this paragraph,
17 emergency response shall mean any incident requiring a
18 response by: a police officer as defined under Section 1-162
19 of the Illinois Vehicle Code; a fireman carried on the rolls
20 of a regularly constituted fire department; and an ambulance
21 as defined under Section 4.05 of the Emergency Medical
22 Services (EMS) Systems Act.

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

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

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

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

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

6 (B) Attempted first degree murder.

7 (C) A Class X felony.

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

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

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

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

25 (H) Criminal sexual assault, except as
26 otherwise provided in subsection (e) of this
27 Section.

28 (I) Aggravated battery of a senior citizen.

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

31 Before July 1, 1994, for the purposes of this
32 paragraph, "organized gang" means an association of
33 5 or more persons, with an established hierarchy,
34 that encourages members of the association to

1 perpetrate crimes or provides support to the members
2 of the association who do commit crimes.

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

7 (K) Vehicular hijacking.

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

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

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

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

20 (P) A violation of paragraph (1), (2), (3),
21 (4), (5), or (7) of subsection (a) of Section
22 11-20.1 of the Criminal Code of 1961.

23 (Q) A violation of Section 20-1.2 of the
24 Criminal Code of 1961.

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

27 (3) A minimum term of imprisonment of not less than
28 5 days ~~48--eensecutive--hours~~ or 30 days ~~100-hours~~ of
29 community service as may be determined by the court shall
30 be imposed for a second ~~or-subsequent~~ violation committed
31 within 5 years of a previous violation of Section 11-501
32 of the Illinois Vehicle Code or a similar provision of a
33 local ordinance. In the case of a third or subsequent
34 violation committed within 5 years of a previous

1 violation of Section 11-501 of the Illinois Vehicle Code
 2 or a similar provision of a local ordinance, a minimum
 3 term of either 10 days of imprisonment or 60 days of
 4 community service shall be imposed.

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

9 (4.1) A minimum term of 30 consecutive days of
 10 imprisonment, 40 days of 24 hour periodic imprisonment or
 11 720 hours of community service, as may be determined by
 12 the court, shall be imposed for a violation of Section
 13 11-501 of the Illinois Vehicle Code during a period in
 14 which the defendant's driving privileges are revoked or
 15 suspended, where the revocation or suspension was for a
 16 violation of Section 11-501 or Section 11-501.1 of that
 17 Code.

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

- 21 (A) a period of conditional discharge;
- 22 (B) a fine;
- 23 (C) make restitution to the victim under
- 24 Section 5-5-6 of this Code.

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

29 (7) When a defendant is adjudged a habitual
 30 criminal under Article 33B of the Criminal Code of 1961,
 31 the court shall sentence the defendant to a term of
 32 natural life imprisonment.

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

1 twice been convicted of any Class 2 or greater Class
2 felonies in Illinois, and such charges are separately
3 brought and tried and arise out of different series of
4 acts, such defendant shall be sentenced as a Class X
5 offender. This paragraph shall not apply unless (1) the
6 first felony was committed after the effective date of
7 this amendatory Act of 1977; and (2) the second felony
8 was committed after conviction on the first; and (3) the
9 third felony was committed after conviction on the
10 second.

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

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

24 (e) In cases where prosecution for criminal sexual
25 assault or aggravated criminal sexual abuse under Section
26 12-13 or 12-16 of the Criminal Code of 1961 results in
27 conviction of a defendant who was a family member of the
28 victim at the time of the commission of the offense, the
29 court shall consider the safety and welfare of the victim and
30 may impose a sentence of probation only where:

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

33 (A) the defendant is willing to undergo a
34 court approved counseling program for a minimum

1 duration of 2 years; or

2 (B) the defendant is willing to participate in
3 a court approved plan including but not limited to
4 the defendant's:

5 (i) removal from the household;

6 (ii) restricted contact with the victim;

7 (iii) continued financial support of the
8 family;

9 (iv) restitution for harm done to the
10 victim; and

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

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

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

27 For the purposes of this Section, "family member" and
28 "victim" shall have the meanings ascribed to them in Section
29 12-12 of the Criminal Code of 1961.

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

34 (g) Whenever a defendant is convicted of an offense

1 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,
2 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,
3 12-15 or 12-16 of the Criminal Code of 1961, the defendant
4 shall undergo medical testing to determine whether the
5 defendant has any sexually transmissible disease, including a
6 test for infection with human immunodeficiency virus (HIV) or
7 any other identified causative agent of acquired
8 immunodeficiency syndrome (AIDS). Any such medical test
9 shall be performed only by appropriately licensed medical
10 practitioners and may include an analysis of any bodily
11 fluids as well as an examination of the defendant's person.
12 Except as otherwise provided by law, the results of such test
13 shall be kept strictly confidential by all medical personnel
14 involved in the testing and must be personally delivered in a
15 sealed envelope to the judge of the court in which the
16 conviction was entered for the judge's inspection in camera.
17 Acting in accordance with the best interests of the victim
18 and the public, the judge shall have the discretion to
19 determine to whom, if anyone, the results of the testing may
20 be revealed. The court shall notify the defendant of the test
21 results. The court shall also notify the victim if requested
22 by the victim, and if the victim is under the age of 15 and
23 if requested by the victim's parents or legal guardian, the
24 court shall notify the victim's parents or legal guardian of
25 the test results. The court shall provide information on the
26 availability of HIV testing and counseling at Department of
27 Public Health facilities to all parties to whom the results
28 of the testing are revealed and shall direct the State's
29 Attorney to provide the information to the victim when
30 possible. A State's Attorney may petition the court to obtain
31 the results of any HIV test administered under this Section,
32 and the court shall grant the disclosure if the State's
33 Attorney shows it is relevant in order to prosecute a charge
34 of criminal transmission of HIV under Section 12-16.2 of the

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

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

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

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

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

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

1 to the defendant's employer by certified mail. If the
2 employer of the defendant is a school, the Clerk of the Court
3 shall direct the mailing of a copy of the judgment of
4 conviction or order of supervision or probation to the
5 appropriate regional superintendent of schools. The regional
6 superintendent of schools shall notify the State Board of
7 Education of any notification under this subsection.

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

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

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

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

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

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

27 Otherwise, the defendant shall be sentenced as
28 provided in this Chapter V.

29 (B) If the defendant has already been sentenced for
30 a felony or misdemeanor offense, or has been placed on
31 probation under Section 10 of the Cannabis Control Act or
32 Section 410 of the Illinois Controlled Substances Act,
33 the court may, upon motion of the State's Attorney to
34 suspend the sentence imposed, commit the defendant to the

1 custody of the Attorney General of the United States or
2 his or her designated agent when:

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

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

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

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

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

29 (Source: P.A. 90-14, eff. 7-1-97; 90-68, eff. 7-8-97; 90-680,
30 eff. 1-1-99; 90-685, eff. 1-1-99; 90-787, eff. 8-14-98;
31 91-357, eff. 7-29-99; 91-404, eff. 1-1-00; 91-663, eff.
32 12-22-99; 91-695, eff. 4-13-00.)

33 Section 99. Effective date. This Act takes effect upon

1 becoming law.