



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5922

by Rep. Jennifer Gong-Gershowitz

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-20.1	from Ch. 38, par. 11-20.1
720 ILCS 5/11-20.4	
725 ILCS 115/3	from Ch. 38, par. 1353
730 ILCS 5/5-5-3	
730 ILCS 5/5-8-4	from Ch. 38, par. 1005-8-4

Amends the Criminal Code of 2012. Provides that the charge of child pornography does not apply to the creator of a film, video, photograph, or other similar visual image or depiction in which the creator is the sole subject of the film, video, photograph, or other similar visual image or depiction. In the statute concerning an obscene depiction of a purported child, defines "indistinguishable" and provides that "purported child" means a visual representation that depicts an individual indistinguishable from an actual (rather than appears to depict a) child under the age of 18 but may or may not depict an actual child under the age of 18. Amends the Bill of Rights for Children and the Unified Code of Corrections to make conforming changes. Effective immediately.

LRB103 43499 RLC 76834 b

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 Criminal Code of 2012 is amended by
5 changing Sections 11-20.1 and 11-20.4 as follows:

6 (720 ILCS 5/11-20.1) (from Ch. 38, par. 11-20.1)

7 Sec. 11-20.1. Child pornography.

8 (a) A person commits child pornography who:

9 (1) films, videotapes, photographs, or otherwise
10 depicts or portrays by means of any similar visual medium
11 or reproduction or depicts by computer any child whom he
12 or she knows or reasonably should know to be under the age
13 of 18 or any person with a severe or profound intellectual
14 disability where such child or person with a severe or
15 profound intellectual disability is:

16 (i) actually or by simulation engaged in any act
17 of sexual penetration or sexual conduct with any
18 person or animal; or

19 (ii) actually or by simulation engaged in any act
20 of sexual penetration or sexual conduct involving the
21 sex organs of the child or person with a severe or
22 profound intellectual disability and the mouth, anus,
23 or sex organs of another person or animal; or which

1 involves the mouth, anus or sex organs of the child or
2 person with a severe or profound intellectual
3 disability and the sex organs of another person or
4 animal; or

5 (iii) actually or by simulation engaged in any act
6 of masturbation; or

7 (iv) actually or by simulation portrayed as being
8 the object of, or otherwise engaged in, any act of lewd
9 fondling, touching, or caressing involving another
10 person or animal; or

11 (v) actually or by simulation engaged in any act
12 of excretion or urination within a sexual context; or

13 (vi) actually or by simulation portrayed or
14 depicted as bound, fettered, or subject to sadistic,
15 masochistic, or sadomasochistic abuse in any sexual
16 context; or

17 (vii) depicted or portrayed in any pose, posture
18 or setting involving a lewd exhibition of the
19 unclothed or transparently clothed genitals, pubic
20 area, buttocks, or, if such person is female, a fully
21 or partially developed breast of the child or other
22 person; or

23 (2) with the knowledge of the nature or content
24 thereof, reproduces, disseminates, offers to disseminate,
25 exhibits or possesses with intent to disseminate any film,
26 videotape, photograph or other similar visual reproduction

1 or depiction by computer of any child or person with a
2 severe or profound intellectual disability whom the person
3 knows or reasonably should know to be under the age of 18
4 or to be a person with a severe or profound intellectual
5 disability, engaged in any activity described in
6 subparagraphs (i) through (vii) of paragraph (1) of this
7 subsection; or

8 (3) with knowledge of the subject matter or theme
9 thereof, produces any stage play, live performance, film,
10 videotape or other similar visual portrayal or depiction
11 by computer which includes a child whom the person knows
12 or reasonably should know to be under the age of 18 or a
13 person with a severe or profound intellectual disability
14 engaged in any activity described in subparagraphs (i)
15 through (vii) of paragraph (1) of this subsection; or

16 (4) solicits, uses, persuades, induces, entices, or
17 coerces any child whom he or she knows or reasonably
18 should know to be under the age of 18 or a person with a
19 severe or profound intellectual disability to appear in
20 any stage play, live presentation, film, videotape,
21 photograph or other similar visual reproduction or
22 depiction by computer in which the child or person with a
23 severe or profound intellectual disability is or will be
24 depicted, actually or by simulation, in any act, pose or
25 setting described in subparagraphs (i) through (vii) of
26 paragraph (1) of this subsection; or

1 (5) is a parent, step-parent, legal guardian or other
2 person having care or custody of a child whom the person
3 knows or reasonably should know to be under the age of 18
4 or a person with a severe or profound intellectual
5 disability and who knowingly permits, induces, promotes,
6 or arranges for such child or person with a severe or
7 profound intellectual disability to appear in any stage
8 play, live performance, film, videotape, photograph or
9 other similar visual presentation, portrayal or simulation
10 or depiction by computer of any act or activity described
11 in subparagraphs (i) through (vii) of paragraph (1) of
12 this subsection; or

13 (6) with knowledge of the nature or content thereof,
14 possesses any film, videotape, photograph or other similar
15 visual reproduction or depiction by computer of any child
16 or person with a severe or profound intellectual
17 disability whom the person knows or reasonably should know
18 to be under the age of 18 or to be a person with a severe
19 or profound intellectual disability, engaged in any
20 activity described in subparagraphs (i) through (vii) of
21 paragraph (1) of this subsection; or

22 (7) solicits, or knowingly uses, persuades, induces,
23 entices, or coerces, a person to provide a child under the
24 age of 18 or a person with a severe or profound
25 intellectual disability to appear in any videotape,
26 photograph, film, stage play, live presentation, or other

1 similar visual reproduction or depiction by computer in
2 which the child or person with a severe or profound
3 intellectual disability will be depicted, actually or by
4 simulation, in any act, pose, or setting described in
5 subparagraphs (i) through (vii) of paragraph (1) of this
6 subsection.

7 (a-5) The possession of each individual film, videotape,
8 photograph, or other similar visual reproduction or depiction
9 by computer in violation of this Section constitutes a single
10 and separate violation. This subsection (a-5) does not apply
11 to multiple copies of the same film, videotape, photograph, or
12 other similar visual reproduction or depiction by computer
13 that are identical to each other.

14 (b) (1) It shall be an affirmative defense to a charge of
15 child pornography that the defendant reasonably believed,
16 under all of the circumstances, that the child was 18 years of
17 age or older or that the person was not a person with a severe
18 or profound intellectual disability but only where, prior to
19 the act or acts giving rise to a prosecution under this
20 Section, he or she took some affirmative action or made a
21 bonafide inquiry designed to ascertain whether the child was
22 18 years of age or older or that the person was not a person
23 with a severe or profound intellectual disability and his or
24 her reliance upon the information so obtained was clearly
25 reasonable.

26 (1.5) Telecommunications carriers, commercial mobile

1 service providers, and providers of information services,
2 including, but not limited to, Internet service providers and
3 hosting service providers, are not liable under this Section
4 by virtue of the transmission, storage, or caching of
5 electronic communications or messages of others or by virtue
6 of the provision of other related telecommunications,
7 commercial mobile services, or information services used by
8 others in violation of this Section.

9 (2) (Blank).

10 (3) The charge of child pornography shall not apply to the
11 performance of official duties by law enforcement or
12 prosecuting officers or persons employed by law enforcement or
13 prosecuting agencies, court personnel or attorneys, nor to
14 bonafide treatment or professional education programs
15 conducted by licensed physicians, psychologists or social
16 workers. In any criminal proceeding, any property or material
17 that constitutes child pornography shall remain in the care,
18 custody, and control of either the State or the court. A motion
19 to view the evidence shall comply with subsection (e-5) of
20 this Section.

21 (3.5) The charge of child pornography does not apply to
22 the creator of a film, video, photograph, or other similar
23 visual image or depiction in which the creator is the sole
24 subject of the film, video, photograph, or other similar
25 visual image or depiction.

26 (4) If the defendant possessed more than one of the same

1 film, videotape or visual reproduction or depiction by
2 computer in which child pornography is depicted, then the
3 trier of fact may infer that the defendant possessed such
4 materials with the intent to disseminate them.

5 (5) The charge of child pornography does not apply to a
6 person who does not voluntarily possess a film, videotape, or
7 visual reproduction or depiction by computer in which child
8 pornography is depicted. Possession is voluntary if the
9 defendant knowingly procures or receives a film, videotape, or
10 visual reproduction or depiction for a sufficient time to be
11 able to terminate his or her possession.

12 (6) Any violation of paragraph (1), (2), (3), (4), (5), or
13 (7) of subsection (a) that includes a child engaged in,
14 solicited for, depicted in, or posed in any act of sexual
15 penetration or bound, fettered, or subject to sadistic,
16 masochistic, or sadomasochistic abuse in a sexual context
17 shall be deemed a crime of violence.

18 (c) If the violation does not involve a film, videotape,
19 or other moving depiction, a violation of paragraph (1), (4),
20 (5), or (7) of subsection (a) is a Class 1 felony with a
21 mandatory minimum fine of \$2,000 and a maximum fine of
22 \$100,000. If the violation involves a film, videotape, or
23 other moving depiction, a violation of paragraph (1), (4),
24 (5), or (7) of subsection (a) is a Class X felony with a
25 mandatory minimum fine of \$2,000 and a maximum fine of
26 \$100,000. If the violation does not involve a film, videotape,

1 or other moving depiction, a violation of paragraph (3) of
2 subsection (a) is a Class 1 felony with a mandatory minimum
3 fine of \$1500 and a maximum fine of \$100,000. If the violation
4 involves a film, videotape, or other moving depiction, a
5 violation of paragraph (3) of subsection (a) is a Class X
6 felony with a mandatory minimum fine of \$1500 and a maximum
7 fine of \$100,000. If the violation does not involve a film,
8 videotape, or other moving depiction, a violation of paragraph
9 (2) of subsection (a) is a Class 1 felony with a mandatory
10 minimum fine of \$1000 and a maximum fine of \$100,000. If the
11 violation involves a film, videotape, or other moving
12 depiction, a violation of paragraph (2) of subsection (a) is a
13 Class X felony with a mandatory minimum fine of \$1000 and a
14 maximum fine of \$100,000. If the violation does not involve a
15 film, videotape, or other moving depiction, a violation of
16 paragraph (6) of subsection (a) is a Class 3 felony with a
17 mandatory minimum fine of \$1000 and a maximum fine of
18 \$100,000. If the violation involves a film, videotape, or
19 other moving depiction, a violation of paragraph (6) of
20 subsection (a) is a Class 2 felony with a mandatory minimum
21 fine of \$1000 and a maximum fine of \$100,000.

22 (c-5) Where the child depicted is under the age of 13, a
23 violation of paragraph (1), (2), (3), (4), (5), or (7) of
24 subsection (a) is a Class X felony with a mandatory minimum
25 fine of \$2,000 and a maximum fine of \$100,000. Where the child
26 depicted is under the age of 13, a violation of paragraph (6)

1 of subsection (a) is a Class 2 felony with a mandatory minimum
2 fine of \$1,000 and a maximum fine of \$100,000. Where the child
3 depicted is under the age of 13, a person who commits a
4 violation of paragraph (1), (2), (3), (4), (5), or (7) of
5 subsection (a) where the defendant has previously been
6 convicted under the laws of this State or any other state of
7 the offense of child pornography, aggravated child
8 pornography, aggravated criminal sexual abuse, aggravated
9 criminal sexual assault, predatory criminal sexual assault of
10 a child, or any of the offenses formerly known as rape, deviate
11 sexual assault, indecent liberties with a child, or aggravated
12 indecent liberties with a child where the victim was under the
13 age of 18 years or an offense that is substantially equivalent
14 to those offenses, is guilty of a Class X felony for which the
15 person shall be sentenced to a term of imprisonment of not less
16 than 9 years with a mandatory minimum fine of \$2,000 and a
17 maximum fine of \$100,000. Where the child depicted is under
18 the age of 13, a person who commits a violation of paragraph
19 (6) of subsection (a) where the defendant has previously been
20 convicted under the laws of this State or any other state of
21 the offense of child pornography, aggravated child
22 pornography, aggravated criminal sexual abuse, aggravated
23 criminal sexual assault, predatory criminal sexual assault of
24 a child, or any of the offenses formerly known as rape, deviate
25 sexual assault, indecent liberties with a child, or aggravated
26 indecent liberties with a child where the victim was under the

1 age of 18 years or an offense that is substantially equivalent
2 to those offenses, is guilty of a Class 1 felony with a
3 mandatory minimum fine of \$1,000 and a maximum fine of
4 \$100,000. The issue of whether the child depicted is under the
5 age of 13 is an element of the offense to be resolved by the
6 trier of fact.

7 (d) If a person is convicted of a second or subsequent
8 violation of this Section within 10 years of a prior
9 conviction, the court shall order a presentence psychiatric
10 examination of the person. The examiner shall report to the
11 court whether treatment of the person is necessary.

12 (e) Any film, videotape, photograph or other similar
13 visual reproduction or depiction by computer which includes a
14 child under the age of 18 or a person with a severe or profound
15 intellectual disability engaged in any activity described in
16 subparagraphs (i) through (vii) or paragraph 1 of subsection
17 (a), and any material or equipment used or intended for use in
18 photographing, filming, printing, producing, reproducing,
19 manufacturing, projecting, exhibiting, depiction by computer,
20 or disseminating such material shall be seized and forfeited
21 in the manner, method and procedure provided by Section 36-1
22 of this Code for the seizure and forfeiture of vessels,
23 vehicles and aircraft.

24 In addition, any person convicted under this Section is
25 subject to the property forfeiture provisions set forth in
26 Article 124B of the Code of Criminal Procedure of 1963.

1 (e-5) Upon the conclusion of a case brought under this
2 Section, the court shall seal all evidence depicting a victim
3 or witness that is sexually explicit. The evidence may be
4 unsealed and viewed, on a motion of the party seeking to unseal
5 and view the evidence, only for good cause shown and in the
6 discretion of the court. The motion must expressly set forth
7 the purpose for viewing the material. The State's attorney and
8 the victim, if possible, shall be provided reasonable notice
9 of the hearing on the motion to unseal the evidence. Any person
10 entitled to notice of a hearing under this subsection (e-5)
11 may object to the motion.

12 (f) Definitions. For the purposes of this Section:

13 (1) "Disseminate" means (i) to sell, distribute,
14 exchange or transfer possession, whether with or without
15 consideration or (ii) to make a depiction by computer
16 available for distribution or downloading through the
17 facilities of any telecommunications network or through
18 any other means of transferring computer programs or data
19 to a computer.

20 (2) "Produce" means to direct, promote, advertise,
21 publish, manufacture, issue, present or show.

22 (3) "Reproduce" means to make a duplication or copy.

23 (4) "Depict by computer" means to generate or create,
24 or cause to be created or generated, a computer program or
25 data that, after being processed by a computer either
26 alone or in conjunction with one or more computer

1 programs, results in a visual depiction on a computer
2 monitor, screen, or display.

3 (5) "Depiction by computer" means a computer program
4 or data that, after being processed by a computer either
5 alone or in conjunction with one or more computer
6 programs, results in a visual depiction on a computer
7 monitor, screen, or display.

8 (6) "Computer", "computer program", and "data" have
9 the meanings ascribed to them in Section 17.05 of this
10 Code.

11 (7) For the purposes of this Section, "child
12 pornography" includes a film, videotape, photograph, or
13 other similar visual medium or reproduction or depiction
14 by computer that is, or appears to be, that of a person,
15 either in part, or in total, under the age of 18 or a
16 person with a severe or profound intellectual disability,
17 regardless of the method by which the film, videotape,
18 photograph, or other similar visual medium or reproduction
19 or depiction by computer is created, adopted, or modified
20 to appear as such. "Child pornography" also includes a
21 film, videotape, photograph, or other similar visual
22 medium or reproduction or depiction by computer that is
23 advertised, promoted, presented, described, or distributed
24 in such a manner that conveys the impression that the
25 film, videotape, photograph, or other similar visual
26 medium or reproduction or depiction by computer is of a

1 person under the age of 18 or a person with a severe or
2 profound intellectual disability. "Child pornography"
3 includes the depiction of a part of an actual child under
4 the age of 18 who, by manipulation, creation, or
5 modification, appears to be engaged in any activity
6 described in subparagraphs (i) through (vii) of paragraph
7 (1) of subsection (a). ~~"Child pornography" does not~~
8 ~~include images or materials in which the creator of the~~
9 ~~image or materials is the sole subject of the depiction.~~

10 (g) Re-enactment; findings; purposes.

11 (1) The General Assembly finds and declares that:

12 (i) Section 50-5 of Public Act 88-680, effective
13 January 1, 1995, contained provisions amending the
14 child pornography statute, Section 11-20.1 of the
15 Criminal Code of 1961. Section 50-5 also contained
16 other provisions.

17 (ii) In addition, Public Act 88-680 was entitled
18 "AN ACT to create a Safe Neighborhoods Law". (A)
19 Article 5 was entitled JUVENILE JUSTICE and amended
20 the Juvenile Court Act of 1987. (B) Article 15 was
21 entitled GANGS and amended various provisions of the
22 Criminal Code of 1961 and the Unified Code of
23 Corrections. (C) Article 20 was entitled ALCOHOL ABUSE
24 and amended various provisions of the Illinois Vehicle
25 Code. (D) Article 25 was entitled DRUG ABUSE and
26 amended the Cannabis Control Act and the Illinois

1 Controlled Substances Act. (E) Article 30 was entitled
2 FIREARMS and amended the Criminal Code of 1961 and the
3 Code of Criminal Procedure of 1963. (F) Article 35
4 amended the Criminal Code of 1961, the Rights of Crime
5 Victims and Witnesses Act, and the Unified Code of
6 Corrections. (G) Article 40 amended the Criminal Code
7 of 1961 to increase the penalty for compelling
8 organization membership of persons. (H) Article 45
9 created the Secure Residential Youth Care Facility
10 Licensing Act and amended the State Finance Act, the
11 Juvenile Court Act of 1987, the Unified Code of
12 Corrections, and the Private Correctional Facility
13 Moratorium Act. (I) Article 50 amended the WIC Vendor
14 Management Act, the Firearm Owners Identification Card
15 Act, the Juvenile Court Act of 1987, the Criminal Code
16 of 1961, the Wrongs to Children Act, and the Unified
17 Code of Corrections.

18 (iii) On September 22, 1998, the Third District
19 Appellate Court in *People v. Dainty*, 701 N.E. 2d 118,
20 ruled that Public Act 88-680 violates the single
21 subject clause of the Illinois Constitution (Article
22 IV, Section 8 (d)) and was unconstitutional in its
23 entirety. As of the time this amendatory Act of 1999
24 was prepared, *People v. Dainty* was still subject to
25 appeal.

26 (iv) Child pornography is a vital concern to the

1 people of this State and the validity of future
2 prosecutions under the child pornography statute of
3 the Criminal Code of 1961 is in grave doubt.

4 (2) It is the purpose of this amendatory Act of 1999 to
5 prevent or minimize any problems relating to prosecutions
6 for child pornography that may result from challenges to
7 the constitutional validity of Public Act 88-680 by
8 re-enacting the Section relating to child pornography that
9 was included in Public Act 88-680.

10 (3) This amendatory Act of 1999 re-enacts Section
11 11-20.1 of the Criminal Code of 1961, as it has been
12 amended. This re-enactment is intended to remove any
13 question as to the validity or content of that Section; it
14 is not intended to supersede any other Public Act that
15 amends the text of the Section as set forth in this
16 amendatory Act of 1999. The material is shown as existing
17 text (i.e., without underscoring) because, as of the time
18 this amendatory Act of 1999 was prepared, *People v. Dainty*
19 was subject to appeal to the Illinois Supreme Court.

20 (4) The re-enactment by this amendatory Act of 1999 of
21 Section 11-20.1 of the Criminal Code of 1961 relating to
22 child pornography that was amended by Public Act 88-680 is
23 not intended, and shall not be construed, to imply that
24 Public Act 88-680 is invalid or to limit or impair any
25 legal argument concerning whether those provisions were
26 substantially re-enacted by other Public Acts.

1 (Source: P.A. 102-567, eff. 1-1-22; 103-825, eff. 1-1-25.)

2 (720 ILCS 5/11-20.4)

3 Sec. 11-20.4. Obscene depiction of a purported child.

4 (a) In this Section:

5 "Indistinguishable" means that the visual
6 representation is such that an ordinary person viewing the
7 visual representation would conclude that the visual
8 representation is of an actual child.

9 "Obscene depiction" means a visual representation of
10 any kind, including an image, video, or computer-generated
11 image or video, whether made, produced, or altered by
12 electronic, mechanical, or other means, that:

13 (i) the average person, applying contemporary
14 adult community standards, would find that, taken as a
15 whole, it appeals to the prurient interest;

16 (ii) the average person, applying contemporary
17 adult community standards, would find that it depicts
18 or describes, in a patently offensive way, sexual acts
19 or sadomasochistic sexual acts, whether normal or
20 perverted, actual or simulated, or masturbation,
21 excretory functions, or lewd exhibition of the
22 unclothed or transparently clothed genitals, pubic
23 area, buttocks or, if such person is a female, the
24 fully or partially developed breast of the child or
25 other person; and

1 (iii) taken as a whole, it lacks serious literary,
2 artistic, political, or scientific value.

3 "Purported child" means a visual representation that
4 depicts an individual indistinguishable from an actual
5 ~~appears to depict a~~ child under the age of 18 but may or
6 may not depict an actual child under the age of 18.

7 (b) A person commits obscene depiction of a purported
8 child when, with knowledge of the nature or content thereof,
9 the person:

10 (1) receives, obtains, or accesses in any way with the
11 intent to view, any obscene depiction of a purported
12 child; or

13 (2) reproduces, disseminates, offers to disseminate,
14 exhibits, or possesses with intent to disseminate, any
15 obscene depiction of a purported child.

16 (c) A violation of paragraph (1) of subsection (b) is a
17 Class 3 felony, and a second or subsequent offense is a Class 2
18 felony. A violation of paragraph (2) of subsection (b) is a
19 Class 1 felony, and a second or subsequent offense is a Class X
20 felony.

21 (d) If the ~~age of the~~ purported child depicted is
22 indistinguishable from an actual child under the age of 13, a
23 violation of paragraph (1) of subsection (b) is a Class 2
24 felony, and a second or subsequent offense is a Class 1 felony.
25 If the ~~age of the~~ purported child depicted is
26 indistinguishable from an actual child under the age of 13, a

1 violation of paragraph (2) of subsection (b) is a Class X
2 felony, and a second or subsequent offense is a Class X felony
3 for which the person shall be sentenced to a term of
4 imprisonment of not less than 9 years.

5 (e) Nothing in this Section shall be construed to impose
6 liability upon the following entities solely as a result of
7 content or information provided by another person:

8 (1) an interactive computer service, as defined in 47
9 U.S.C. 230(f) (2);

10 (2) a provider of public mobile services or private
11 radio services, as defined in Section 13-214 of the Public
12 Utilities Act; or

13 (3) a telecommunications network or broadband
14 provider.

15 (f) A person convicted under this Section is subject to
16 the forfeiture provisions in Article 124B of the Code of
17 Criminal Procedure of 1963.

18 (Source: P.A. 103-825, eff. 1-1-25.)

19 Section 10. The Bill of Rights for Children is amended by
20 changing Section 3 as follows:

21 (725 ILCS 115/3) (from Ch. 38, par. 1353)

22 Sec. 3. Rights to present child impact statement.

23 (a) In any case where a defendant has been convicted of a
24 violent crime involving a child or a juvenile has been

1 adjudicated a delinquent for any offense defined in Sections
2 11-6, 11-20.1, 11-20.1B, and 11-20.3, ~~and 11-20.4~~ and in
3 Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the
4 Criminal Code of 1961 or the Criminal Code of 2012, except
5 those in which both parties have agreed to the imposition of a
6 specific sentence, and a parent or legal guardian of the child
7 involved is present in the courtroom at the time of the
8 sentencing or the disposition hearing, the parent or legal
9 guardian upon his or her request shall have the right to
10 address the court regarding the impact which the defendant's
11 criminal conduct or the juvenile's delinquent conduct has had
12 upon the child. If the parent or legal guardian chooses to
13 exercise this right, the impact statement must have been
14 prepared in writing in conjunction with the Office of the
15 State's Attorney prior to the initial hearing or sentencing,
16 before it can be presented orally at the sentencing hearing.
17 The court shall consider any statements made by the parent or
18 legal guardian, along with all other appropriate factors in
19 determining the sentence of the defendant or disposition of
20 such juvenile.

21 (b) The crime victim has the right to prepare a victim
22 impact statement and present it to the office of the State's
23 Attorney at any time during the proceedings.

24 (c) This Section shall apply to any child victims of any
25 offense defined in Sections 11-1.20 through 11-1.60 or 12-13
26 through 12-16 of the Criminal Code of 1961 or the Criminal Code

1 of 2012 during any dispositional hearing under Section 5-705
2 of the Juvenile Court Act of 1987 which takes place pursuant to
3 an adjudication of delinquency for any such offense.

4 (Source: P.A. 103-825, eff. 1-1-25.)

5 Section 15. The Unified Code of Corrections is amended by
6 changing Sections 5-5-3 and 5-8-4 as follows:

7 (730 ILCS 5/5-5-3)

8 Sec. 5-5-3. Disposition.

9 (a) (Blank).

10 (b) (Blank).

11 (c) (1) (Blank).

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

19 (A) First degree murder.

20 (B) Attempted first degree murder.

21 (C) A Class X felony.

22 (D) A violation of Section 401.1 or 407 of the
23 Illinois Controlled Substances Act, or a violation of
24 subdivision (c) (1.5) of Section 401 of that Act which

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

3 (D-5) A violation of subdivision (c) (1) of Section 401
4 of the Illinois Controlled Substances Act which relates to
5 3 or more grams of a substance containing heroin or an
6 analog thereof.

7 (E) (Blank).

8 (F) A Class 1 or greater felony if the offender had
9 been convicted of a Class 1 or greater felony, including
10 any state or federal conviction for an offense that
11 contained, at the time it was committed, the same elements
12 as an offense now (the date of the offense committed after
13 the prior Class 1 or greater felony) classified as a Class
14 1 or greater felony, within 10 years of the date on which
15 the offender committed the offense for which he or she is
16 being sentenced, except as otherwise provided in Section
17 40-10 of the Substance Use Disorder Act.

18 (F-3) A Class 2 or greater felony sex offense or
19 felony firearm offense if the offender had been convicted
20 of a Class 2 or greater felony, including any state or
21 federal conviction for an offense that contained, at the
22 time it was committed, the same elements as an offense now
23 (the date of the offense committed after the prior Class 2
24 or greater felony) classified as a Class 2 or greater
25 felony, within 10 years of the date on which the offender
26 committed the offense for which he or she is being

1 sentenced, except as otherwise provided in Section 40-10
2 of the Substance Use Disorder Act.

3 (F-5) A violation of Section 24-1, 24-1.1, or 24-1.6
4 of the Criminal Code of 1961 or the Criminal Code of 2012
5 for which imprisonment is prescribed in those Sections.

6 (G) Residential burglary, except as otherwise provided
7 in Section 40-10 of the Substance Use Disorder Act.

8 (H) Criminal sexual assault.

9 (I) Aggravated battery of a senior citizen as
10 described in Section 12-4.6 or subdivision (a)(4) of
11 Section 12-3.05 of the Criminal Code of 1961 or the
12 Criminal Code of 2012.

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

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

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

25 (K) Vehicular hijacking.

26 (L) A second or subsequent conviction for the offense

1 of hate crime when the underlying offense upon which the
2 hate crime is based is felony aggravated assault or felony
3 mob action.

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

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

10 (O) A violation of Section 12-6.1 or 12-6.5 of the
11 Criminal Code of 1961 or the Criminal Code of 2012.

12 (P) A violation of paragraph (1), (2), (3), (4), (5),
13 or (7) of subsection (a) of Section 11-20.1 of the
14 Criminal Code of 1961 or the Criminal Code of 2012.

15 (P-5) A violation of paragraph (6) of subsection (a)
16 of Section 11-20.1 of the Criminal Code of 1961 or the
17 Criminal Code of 2012 if the victim is a household or
18 family member of the defendant.

19 (P-6) A violation of paragraph (2) of subsection (b)
20 of Section 11-20.4 of the Criminal Code of 2012.

21 (Q) A violation of subsection (b) or (b-5) of Section
22 20-1, Section 20-1.2, or Section 20-1.3 of the Criminal
23 Code of 1961 or the Criminal Code of 2012.

24 (R) A violation of Section 24-3A of the Criminal Code
25 of 1961 or the Criminal Code of 2012.

26 (S) (Blank).

1 (T) (Blank).

2 (U) A second or subsequent violation of Section 6-303
3 of the Illinois Vehicle Code committed while his or her
4 driver's license, permit, or privilege was revoked because
5 of a violation of Section 9-3 of the Criminal Code of 1961
6 or the Criminal Code of 2012, relating to the offense of
7 reckless homicide, or a similar provision of a law of
8 another state.

9 (V) A violation of paragraph (4) of subsection (c) of
10 Section 11-20.1B or paragraph (4) of subsection (c) of
11 Section 11-20.3 of the Criminal Code of 1961, or paragraph
12 (6) of subsection (a) of Section 11-20.1 of the Criminal
13 Code of 2012 when the victim is under 13 years of age and
14 the defendant has previously been convicted under the laws
15 of this State or any other state of the offense of child
16 pornography, aggravated child pornography, aggravated
17 criminal sexual abuse, aggravated criminal sexual assault,
18 predatory criminal sexual assault of a child, or any of
19 the offenses formerly known as rape, deviate sexual
20 assault, indecent liberties with a child, or aggravated
21 indecent liberties with a child where the victim was under
22 the age of 18 years or an offense that is substantially
23 equivalent to those offenses.

24 (V-5) A violation of paragraph (1) of subsection (b)
25 of Section 11-20.4 of the Criminal Code of 2012 when the
26 purported child depicted is indistinguishable from an

1 actual child ~~victim is~~ under 13 years of age and the
2 defendant has previously been convicted under the laws of
3 this State or any other state of the offense of child
4 pornography, aggravated child pornography, aggravated
5 criminal sexual abuse, aggravated criminal sexual assault,
6 predatory criminal sexual assault of a child, or any of
7 the offenses formerly known as rape, deviate sexual
8 assault, indecent liberties with a child, or aggravated
9 indecent liberties with a child if the victim was under
10 the age of 18 years or an offense that is substantially
11 equivalent to those offenses.

12 (W) A violation of Section 24-3.5 of the Criminal Code
13 of 1961 or the Criminal Code of 2012.

14 (X) A violation of subsection (a) of Section 31-1a of
15 the Criminal Code of 1961 or the Criminal Code of 2012.

16 (Y) A conviction for unlawful possession of a firearm
17 by a street gang member when the firearm was loaded or
18 contained firearm ammunition.

19 (Z) A Class 1 felony committed while he or she was
20 serving a term of probation or conditional discharge for a
21 felony.

22 (AA) Theft of property exceeding \$500,000 and not
23 exceeding \$1,000,000 in value.

24 (BB) Laundering of criminally derived property of a
25 value exceeding \$500,000.

26 (CC) Knowingly selling, offering for sale, holding for

1 sale, or using 2,000 or more counterfeit items or
2 counterfeit items having a retail value in the aggregate
3 of \$500,000 or more.

4 (DD) A conviction for aggravated assault under
5 paragraph (6) of subsection (c) of Section 12-2 of the
6 Criminal Code of 1961 or the Criminal Code of 2012 if the
7 firearm is aimed toward the person against whom the
8 firearm is being used.

9 (EE) A conviction for a violation of paragraph (2) of
10 subsection (a) of Section 24-3B of the Criminal Code of
11 2012.

12 (3) (Blank).

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

17 (4.1) (Blank).

18 (4.2) Except as provided in paragraphs (4.3) and (4.8) of
19 this subsection (c), a minimum of 100 hours of community
20 service shall be imposed for a second violation of Section
21 6-303 of the Illinois Vehicle Code.

22 (4.3) A minimum term of imprisonment of 30 days or 300
23 hours of community service, as determined by the court, shall
24 be imposed for a second violation of subsection (c) of Section
25 6-303 of the Illinois Vehicle Code.

26 (4.4) Except as provided in paragraphs (4.5), (4.6), and

1 (4.9) of this subsection (c), a minimum term of imprisonment
2 of 30 days or 300 hours of community service, as determined by
3 the court, shall be imposed for a third or subsequent
4 violation of Section 6-303 of the Illinois Vehicle Code. The
5 court may give credit toward the fulfillment of community
6 service hours for participation in activities and treatment as
7 determined by court services.

8 (4.5) A minimum term of imprisonment of 30 days shall be
9 imposed for a third violation of subsection (c) of Section
10 6-303 of the Illinois Vehicle Code.

11 (4.6) Except as provided in paragraph (4.10) of this
12 subsection (c), a minimum term of imprisonment of 180 days
13 shall be imposed for a fourth or subsequent violation of
14 subsection (c) of Section 6-303 of the Illinois Vehicle Code.

15 (4.7) A minimum term of imprisonment of not less than 30
16 consecutive days, or 300 hours of community service, shall be
17 imposed for a violation of subsection (a-5) of Section 6-303
18 of the Illinois Vehicle Code, as provided in subsection (b-5)
19 of that Section.

20 (4.8) A mandatory prison sentence shall be imposed for a
21 second violation of subsection (a-5) of Section 6-303 of the
22 Illinois Vehicle Code, as provided in subsection (c-5) of that
23 Section. The person's driving privileges shall be revoked for
24 a period of not less than 5 years from the date of his or her
25 release from prison.

26 (4.9) A mandatory prison sentence of not less than 4 and

1 not more than 15 years shall be imposed for a third violation
2 of subsection (a-5) of Section 6-303 of the Illinois Vehicle
3 Code, as provided in subsection (d-2.5) of that Section. The
4 person's driving privileges shall be revoked for the remainder
5 of his or her life.

6 (4.10) A mandatory prison sentence for a Class 1 felony
7 shall be imposed, and the person shall be eligible for an
8 extended term sentence, for a fourth or subsequent violation
9 of subsection (a-5) of Section 6-303 of the Illinois Vehicle
10 Code, as provided in subsection (d-3.5) of that Section. The
11 person's driving privileges shall be revoked for the remainder
12 of his or her life.

13 (5) The court may sentence a corporation or unincorporated
14 association convicted of any offense to:

15 (A) a period of conditional discharge;

16 (B) a fine;

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

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

26 (5.2) In addition to any other penalties imposed, and

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

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

12 (5.4) In addition to any other penalties imposed, a person
13 convicted of violating Section 3-707 of the Illinois Vehicle
14 Code shall have his or her driver's license, permit, or
15 privileges suspended for 3 months and until he or she has paid
16 a reinstatement fee of \$100.

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

25 (6) (Blank).

26 (7) (Blank).

1 (8) (Blank).

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

5 (10) (Blank).

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

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

1 (13) A person convicted of or placed on court supervision
2 for an assault or aggravated assault when the victim and the
3 offender are family or household members as defined in Section
4 103 of the Illinois Domestic Violence Act of 1986 or convicted
5 of domestic battery or aggravated domestic battery may be
6 required to attend a Partner Abuse Intervention Program under
7 protocols set forth by the Illinois Department of Human
8 Services under such terms and conditions imposed by the court.
9 The costs of such classes shall be paid by the offender.

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

1 shall be afforded a new trial.

2 (e) In cases where prosecution for aggravated criminal
3 sexual abuse under Section 11-1.60 or 12-16 of the Criminal
4 Code of 1961 or the Criminal Code of 2012 results in conviction
5 of a defendant who was a family member of the victim at the
6 time of the commission of the offense, the court shall
7 consider the safety and welfare of the victim and may impose a
8 sentence of probation only where:

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

11 (A) the defendant is willing to undergo a court
12 approved counseling program for a minimum duration of
13 2 years; or

14 (B) the defendant is willing to participate in a
15 court approved plan, including, but not limited to,
16 the defendant's:

17 (i) removal from the household;

18 (ii) restricted contact with the victim;

19 (iii) continued financial support of the
20 family;

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

22 and

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

25 (2) the court orders the defendant to pay for the
26 victim's counseling services, to the extent that the court

1 finds, after considering the defendant's income and
2 assets, that the defendant is financially capable of
3 paying for such services, if the victim was under 18 years
4 of age at the time the offense was committed and requires
5 counseling as a result of the offense.

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

13 For the purposes of this Section, "family member" and
14 "victim" shall have the meanings ascribed to them in Section
15 11-0.1 of the Criminal Code of 2012.

16 (f) (Blank).

17 (g) Whenever a defendant is convicted of an offense under
18 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,
19 11-14.3, 11-14.4 except for an offense that involves keeping a
20 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,
21 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,
22 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the
23 Criminal Code of 2012, the defendant shall undergo medical
24 testing to determine whether the defendant has any sexually
25 transmissible disease, including a test for infection with
26 human immunodeficiency virus (HIV) or any other identified

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

26 (g-5) When an inmate is tested for an airborne

1 communicable disease, as determined by the Illinois Department
2 of Public Health, including, but not limited to, tuberculosis,
3 the results of the test shall be personally delivered by the
4 warden or his or her designee in a sealed envelope to the judge
5 of the court in which the inmate must appear for the judge's
6 inspection in camera if requested by the judge. Acting in
7 accordance with the best interests of those in the courtroom,
8 the judge shall have the discretion to determine what if any
9 precautions need to be taken to prevent transmission of the
10 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. The court shall order that the cost of any such
6 test shall be paid by the county and may be taxed as costs
7 against the convicted defendant.

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

15 (j) In cases when prosecution for any violation of Section
16 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,
17 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,
18 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
19 11-20.1B, 11-20.3, 11-20.4, 11-21, 11-30, 11-40, 12-13, 12-14,
20 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the
21 Criminal Code of 2012, any violation of the Illinois
22 Controlled Substances Act, any violation of the Cannabis
23 Control Act, or any violation of the Methamphetamine Control
24 and Community Protection Act results in conviction, a
25 disposition of court supervision, or an order of probation
26 granted under Section 10 of the Cannabis Control Act, Section

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

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

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

24 (k) (Blank).

25 (l) (A) Except as provided in paragraph (C) of subsection
26 (l), whenever a defendant, who is not a citizen or national of

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

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

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

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

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

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

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

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

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

17 (m) A person convicted of criminal defacement of property
18 under Section 21-1.3 of the Criminal Code of 1961 or the
19 Criminal Code of 2012, in which the property damage exceeds
20 \$300 and the property damaged is a school building, shall be
21 ordered to perform community service that may include cleanup,
22 removal, or painting over the defacement.

23 (n) The court may sentence a person convicted of a
24 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or
25 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
26 of 1961 or the Criminal Code of 2012 (i) to an impact

1 incarceration program if the person is otherwise eligible for
2 that program under Section 5-8-1.1, (ii) to community service,
3 or (iii) if the person has a substance use disorder, as defined
4 in the Substance Use Disorder Act, to a treatment program
5 licensed under that Act.

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

11 (Source: P.A. 102-168, eff. 7-27-21; 102-531, eff. 1-1-22;
12 102-813, eff. 5-13-22; 102-1030, eff. 5-27-22; 103-51, eff.
13 1-1-24; 103-825, eff. 1-1-25.)

14 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

15 Sec. 5-8-4. Concurrent and consecutive terms of
16 imprisonment.

17 (a) Concurrent terms; multiple or additional sentences.
18 When an Illinois court (i) imposes multiple sentences of
19 imprisonment on a defendant at the same time or (ii) imposes a
20 sentence of imprisonment on a defendant who is already subject
21 to a sentence of imprisonment imposed by an Illinois court, a
22 court of another state, or a federal court, then the sentences
23 shall run concurrently unless otherwise determined by the
24 Illinois court under this Section.

25 (b) Concurrent terms; misdemeanor and felony. A defendant

1 serving a sentence for a misdemeanor who is convicted of a
2 felony and sentenced to imprisonment shall be transferred to
3 the Department of Corrections, and the misdemeanor sentence
4 shall be merged in and run concurrently with the felony
5 sentence.

6 (c) Consecutive terms; permissive. The court may impose
7 consecutive sentences in any of the following circumstances:

8 (1) If, having regard to the nature and circumstances
9 of the offense and the history and character of the
10 defendant, it is the opinion of the court that consecutive
11 sentences are required to protect the public from further
12 criminal conduct by the defendant, the basis for which the
13 court shall set forth in the record.

14 (2) If one of the offenses for which a defendant was
15 convicted was a violation of Section 32-5.2 (aggravated
16 false personation of a peace officer) of the Criminal Code
17 of 1961 (720 ILCS 5/32-5.2) or a violation of subdivision
18 (b) (5) or (b) (6) of Section 17-2 of the Criminal Code of
19 1961 or the Criminal Code of 2012 (720 ILCS 5/17-2) and the
20 offense was committed in attempting or committing a
21 forcible felony.

22 (3) If a person charged with a felony commits a
23 separate felony while on pretrial release or in pretrial
24 detention in a county jail facility or county detention
25 facility, then the sentences imposed upon conviction of
26 these felonies may be served consecutively regardless of

1 the order in which the judgments of conviction are
2 entered.

3 (4) If a person commits a battery against a county
4 correctional officer or sheriff's employee while serving a
5 sentence or in pretrial detention in a county jail
6 facility, then the sentence imposed upon conviction of the
7 battery may be served consecutively with the sentence
8 imposed upon conviction of the earlier misdemeanor or
9 felony, regardless of the order in which the judgments of
10 conviction are entered.

11 (5) If a person admitted to pretrial release following
12 conviction of a felony commits a separate felony while
13 released pretrial or if a person detained in a county jail
14 facility or county detention facility following conviction
15 of a felony commits a separate felony while in detention,
16 then any sentence following conviction of the separate
17 felony may be consecutive to that of the original sentence
18 for which the defendant was released pretrial or detained.

19 (6) If a person is found to be in possession of an item
20 of contraband, as defined in Section 31A-0.1 of the
21 Criminal Code of 2012, while serving a sentence in a
22 county jail or while in pretrial detention in a county
23 jail, the sentence imposed upon conviction for the offense
24 of possessing contraband in a penal institution may be
25 served consecutively to the sentence imposed for the
26 offense for which the person is serving a sentence in the

1 county jail or while in pretrial detention, regardless of
2 the order in which the judgments of conviction are
3 entered.

4 (7) If a person is sentenced for a violation of a
5 condition of pretrial release under Section 32-10 of the
6 Criminal Code of 1961 or the Criminal Code of 2012, any
7 sentence imposed for that violation may be served
8 consecutive to the sentence imposed for the charge for
9 which pretrial release had been granted and with respect
10 to which the defendant has been convicted.

11 (d) Consecutive terms; mandatory. The court shall impose
12 consecutive sentences in each of the following circumstances:

13 (1) One of the offenses for which the defendant was
14 convicted was first degree murder or a Class X or Class 1
15 felony and the defendant inflicted severe bodily injury.

16 (2) The defendant was convicted of a violation of
17 Section 11-1.20 or 12-13 (criminal sexual assault),
18 11-1.30 or 12-14 (aggravated criminal sexual assault), or
19 11-1.40 or 12-14.1 (predatory criminal sexual assault of a
20 child) of the Criminal Code of 1961 or the Criminal Code of
21 2012 (720 ILCS 5/11-20.1, 5/11-20.1B, 5/11-20.3,
22 5/11-1.20, 5/12-13, 5/11-1.30, 5/12-14, 5/11-1.40, or
23 5/12-14.1).

24 (2.5) The defendant was convicted of a violation of
25 paragraph (1), (2), (3), (4), (5), or (7) of subsection
26 (a) of Section 11-20.1 (child pornography) or of paragraph

1 (1), (2), (3), (4), (5), or (7) of subsection (a) of
2 Section 11-20.1B or 11-20.3 (aggravated child pornography)
3 of the Criminal Code of 1961 or the Criminal Code of 2012;
4 or the defendant was convicted of a violation of paragraph
5 (6) of subsection (a) of Section 11-20.1 (child
6 pornography) or of paragraph (6) of subsection (a) of
7 Section 11-20.1B or 11-20.3 (aggravated child pornography)
8 of the Criminal Code of 1961 or the Criminal Code of 2012,
9 when the child depicted is under the age of 13.

10 (2.6) The defendant was convicted of:

11 (A) a violation of paragraph (2) of subsection (b)
12 of Section 11-20.4 of the Criminal Code of 2012; or

13 (B) a violation of paragraph (1) of Section
14 11-20.4 of the Criminal Code of 2012 when the
15 purported child depicted is indistinguishable from an
16 actual child under the age of 13.

17 (3) The defendant was convicted of armed violence
18 based upon the predicate offense of any of the following:
19 solicitation of murder, solicitation of murder for hire,
20 heinous battery as described in Section 12-4.1 or
21 subdivision (a)(2) of Section 12-3.05, aggravated battery
22 of a senior citizen as described in Section 12-4.6 or
23 subdivision (a)(4) of Section 12-3.05, criminal sexual
24 assault, a violation of subsection (g) of Section 5 of the
25 Cannabis Control Act (720 ILCS 550/5), cannabis
26 trafficking, a violation of subsection (a) of Section 401

1 of the Illinois Controlled Substances Act (720 ILCS
2 570/401), controlled substance trafficking involving a
3 Class X felony amount of controlled substance under
4 Section 401 of the Illinois Controlled Substances Act (720
5 ILCS 570/401), a violation of the Methamphetamine Control
6 and Community Protection Act (720 ILCS 646/), calculated
7 criminal drug conspiracy, or streetgang criminal drug
8 conspiracy.

9 (4) The defendant was convicted of the offense of
10 leaving the scene of a motor vehicle crash involving death
11 or personal injuries under Section 11-401 of the Illinois
12 Vehicle Code (625 ILCS 5/11-401) and either: (A)
13 aggravated driving under the influence of alcohol, other
14 drug or drugs, or intoxicating compound or compounds, or
15 any combination thereof under Section 11-501 of the
16 Illinois Vehicle Code (625 ILCS 5/11-501), (B) reckless
17 homicide under Section 9-3 of the Criminal Code of 1961 or
18 the Criminal Code of 2012 (720 ILCS 5/9-3), or (C) both an
19 offense described in item (A) and an offense described in
20 item (B).

21 (5) The defendant was convicted of a violation of
22 Section 9-3.1 or Section 9-3.4 (concealment of homicidal
23 death) or Section 12-20.5 (dismembering a human body) of
24 the Criminal Code of 1961 or the Criminal Code of 2012 (720
25 ILCS 5/9-3.1 or 5/12-20.5).

26 (5.5) The defendant was convicted of a violation of

1 Section 24-3.7 (use of a stolen firearm in the commission
2 of an offense) of the Criminal Code of 1961 or the Criminal
3 Code of 2012.

4 (6) If the defendant was in the custody of the
5 Department of Corrections at the time of the commission of
6 the offense, the sentence shall be served consecutive to
7 the sentence under which the defendant is held by the
8 Department of Corrections.

9 (7) A sentence under Section 3-6-4 (730 ILCS 5/3-6-4)
10 for escape or attempted escape shall be served consecutive
11 to the terms under which the offender is held by the
12 Department of Corrections.

13 (8) (Blank).

14 (8.5) (Blank).

15 (9) (Blank).

16 (10) (Blank).

17 (11) (Blank).

18 (e) Consecutive terms; subsequent non-Illinois term. If an
19 Illinois court has imposed a sentence of imprisonment on a
20 defendant and the defendant is subsequently sentenced to a
21 term of imprisonment by a court of another state or a federal
22 court, then the Illinois sentence shall run consecutively to
23 the sentence imposed by the court of the other state or the
24 federal court. That same Illinois court, however, may order
25 that the Illinois sentence run concurrently with the sentence
26 imposed by the court of the other state or the federal court,

1 but only if the defendant applies to that same Illinois court
2 within 30 days after the sentence imposed by the court of the
3 other state or the federal court is finalized.

4 (f) Consecutive terms; aggregate maximums and minimums.
5 The aggregate maximum and aggregate minimum of consecutive
6 sentences shall be determined as follows:

7 (1) For sentences imposed under law in effect prior to
8 February 1, 1978, the aggregate maximum of consecutive
9 sentences shall not exceed the maximum term authorized
10 under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of
11 Chapter V for the 2 most serious felonies involved. The
12 aggregate minimum period of consecutive sentences shall
13 not exceed the highest minimum term authorized under
14 Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter
15 V for the 2 most serious felonies involved. When sentenced
16 only for misdemeanors, a defendant shall not be
17 consecutively sentenced to more than the maximum for one
18 Class A misdemeanor.

19 (2) For sentences imposed under the law in effect on
20 or after February 1, 1978, the aggregate of consecutive
21 sentences for offenses that were committed as part of a
22 single course of conduct during which there was no
23 substantial change in the nature of the criminal objective
24 shall not exceed the sum of the maximum terms authorized
25 under Article 4.5 of Chapter V for the 2 most serious
26 felonies involved, but no such limitation shall apply for

1 offenses that were not committed as part of a single
2 course of conduct during which there was no substantial
3 change in the nature of the criminal objective. When
4 sentenced only for misdemeanors, a defendant shall not be
5 consecutively sentenced to more than the maximum for one
6 Class A misdemeanor.

7 (g) Consecutive terms; manner served. In determining the
8 manner in which consecutive sentences of imprisonment, one or
9 more of which is for a felony, will be served, the Department
10 of Corrections shall treat the defendant as though he or she
11 had been committed for a single term subject to each of the
12 following:

13 (1) The maximum period of a term of imprisonment shall
14 consist of the aggregate of the maximums of the imposed
15 indeterminate terms, if any, plus the aggregate of the
16 imposed determinate sentences for felonies, plus the
17 aggregate of the imposed determinate sentences for
18 misdemeanors, subject to subsection (f) of this Section.

19 (2) The parole or mandatory supervised release term
20 shall be as provided in paragraph (e) of Section 5-4.5-50
21 (730 ILCS 5/5-4.5-50) for the most serious of the offenses
22 involved.

23 (3) The minimum period of imprisonment shall be the
24 aggregate of the minimum and determinate periods of
25 imprisonment imposed by the court, subject to subsection
26 (f) of this Section.

1 (4) The defendant shall be awarded credit against the
2 aggregate maximum term and the aggregate minimum term of
3 imprisonment for all time served in an institution since
4 the commission of the offense or offenses and as a
5 consequence thereof at the rate specified in Section 3-6-3
6 (730 ILCS 5/3-6-3).

7 (h) Notwithstanding any other provisions of this Section,
8 all sentences imposed by an Illinois court under this Code
9 shall run concurrent to any and all sentences imposed under
10 the Juvenile Court Act of 1987.

11 (Source: P.A. 102-350, eff. 8-13-21; 102-982, eff. 7-1-23;
12 102-1104, eff. 12-6-22; 103-825, eff. 1-1-25.)

13 Section 999. Effective date. This Act takes effect upon
14 becoming law.