

1 AN ACT in relation to hate crimes.

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 1961 is amended by
5 changing Sections 12-7.1 and 21-1.2 and adding Section 8-2.1
6 as follows:

7 (720 ILCS 5/8-2.1 new)

8 Sec. 8-2.1. Conspiracy against civil rights.

9 (a) Offense. A person commits conspiracy against civil
10 rights when he or she agrees with another to utilize
11 violence, threat, or intimidation in order to interfere with
12 another person's free exercise of any right or privilege
13 secured to the person by the Constitution of the United
14 States, the Constitution of the State of Illinois, the laws
15 of the United States, or the laws of the State of Illinois
16 and either the accused or a co-conspirator has committed any
17 act in furtherance of that agreement.

18 (b) Co-conspirators. It shall not be a defense to
19 conspiracy against civil rights that a person or persons with
20 whom the accused is alleged to have conspired:

- 21 (1) has not been prosecuted or convicted; or
- 22 (2) has been convicted of a different offense; or
- 23 (3) is not amenable to justice; or
- 24 (4) has been acquitted; or
- 25 (5) lacked the capacity to commit an offense.

26 (c) Sentence. Conspiracy against civil rights is a
27 Class 4 felony for a first offense and a Class 2 felony for a
28 second or subsequent offense.

29 (720 ILCS 5/12-7.1) (from Ch. 38, par. 12-7.1)

30 Sec. 12-7.1. Hate crime.

1 (a) A person commits hate crime when, by reason of the
 2 actual or perceived race, color, creed, religion, ancestry,
 3 gender, sexual orientation, physical or mental disability, or
 4 national origin of another individual or group of
 5 individuals, regardless of the existence of any other
 6 motivating factor or factors, he commits assault, battery,
 7 aggravated assault, misdemeanor theft, criminal trespass to
 8 residence, misdemeanor criminal damage to property, criminal
 9 trespass to vehicle, criminal trespass to real property, mob
 10 action or disorderly conduct as these crimes are defined in
 11 Sections 12-1, 12-2, 12-3, 16-1, 19-4, 21-1, 21-2, 21-3,
 12 25-1, and 26-1 of this Code, respectively, or harassment by
 13 telephone as defined in Section 1-1 of the Harassing and
 14 Obscene Communications Act against-a-victim-who-is--(i)-the
 15 other-individual--(ii)-a-member-of-the-group-of--individuals;
 16 (iii)-a-person-who-has-an-association-with,-is-married-to,-or
 17 has-a-friendship-with-the-other-individual-or-a-member-of-the
 18 group--of--individuals--or--(iv)--a--relative--(by--blood-or
 19 marriage)-of-a-person--described--in--clause--(i),--(ii),--or
 20 (iii).

21 (b) Except as provided in subsection (b-5), hate crime
 22 is a Class 4 felony for a first offense and a Class 2 felony
 23 for a second or subsequent offense. Any-order-of-probation
 24 or-conditional-discharge-entered-following-a--conviction--for
 25 an--offense--under--this--Section-shall-include,--a-condition
 26 that-the-offender-perform-public-or-community-service--of--no
 27 less--than--200--hours--if-that-service-is-established-in-the
 28 county-where-the-offender-was-convicted-of--hate--crime.---In
 29 addition---the--court--may--impose--any--other--condition--of
 30 probation-or-conditional-discharge-under-this-Section.

31 (b-5) Hate crime is a Class 3 felony for a first offense
 32 and a Class 1 felony for a second or subsequent offense if
 33 committed:

34 (1) in a church, synagogue, or other building,

1 structure, or place used for religious worship or other
2 religious purpose;

3 (2) in a cemetery, mortuary, or other facility used
4 for the purpose of burial or memorializing the dead;

5 (3) in a school or other educational facility;

6 (4) in a public park or an ethnic or religious
7 community center;

8 (5) on the real property comprising any location
9 specified in clauses (1) through (4) of this subsection
10 (b-5); or

11 (6) on a public way within 1,000 feet of the real
12 property comprising any location specified in clauses (1)
13 through (4) of this subsection (b-5).

14 (b-10) Upon imposition of any sentence or conditional
15 discharge following conviction or the entry of an order of
16 probation for an offense under this Section, the trial court
17 shall also either order restitution paid to the victim or
18 impose a fine up to \$1,000. In addition, any order of
19 probation or conditional discharge entered following a
20 conviction or an adjudication of delinquency shall include a
21 condition that the offender perform public or community
22 service of no less than 200 hours if that service is
23 established in the county where the offender was convicted of
24 hate crime. The court may also impose any other condition of
25 probation or conditional discharge under this Section.

26 (c) Independent of any criminal prosecution or the
27 result thereof, any person suffering injury to his person or
28 damage to his property as a result of hate crime may bring a
29 civil action for damages, injunction or other appropriate
30 relief. The court may award actual damages, including damages
31 for emotional distress, or punitive damages. A judgment may
32 include attorney's fees and costs. The parents or legal
33 guardians, other than guardians appointed pursuant to the
34 Juvenile Court Act or the Juvenile Court Act of 1987, of an

1 unemancipated minor shall be liable for the amount of any
2 judgment for actual damages rendered against such minor under
3 this subsection (c) in any amount not exceeding the amount
4 provided under Section 5 of the Parental Responsibility Law.

5 (d) "Sexual orientation" means heterosexuality,
6 homosexuality, or bisexuality.

7 (Source: P.A. 89-689, eff. 12-31-96; 90-578, eff. 6-1-98.)

8 (720 ILCS 5/21-1.2) (from Ch. 38, par. 21-1.2)

9 Sec. 21-1.2. Institutional vandalism.

10 (a) A person commits institutional vandalism when, by
11 reason of the actual or perceived race, color, creed,
12 religion or national origin of another individual or group of
13 individuals, regardless of the existence of any other
14 motivating factor or factors, he or she knowingly and without
15 consent inflicts damage to any of the following properties:

16 (1) A church, synagogue or other building,
17 structure or place used for religious worship or other
18 religious purpose;

19 (2) A cemetery, mortuary, or other facility used
20 for the purpose of burial or memorializing the dead;

21 (3) A school, educational facility or community
22 center;

23 (4) The grounds adjacent to, and owned or rented
24 by, any institution, facility, building, structure or
25 place described in paragraphs (1), (2) or (3) of this
26 subsection (a); or

27 (5) Any personal property contained in any
28 institution, facility, building, structure or place
29 described in paragraphs (1), (2) or (3) of this
30 subsection (a).

31 (b) Institutional vandalism is a Class 3 felony if the
32 damage to the property does not exceed \$300. Institutional
33 vandalism is a Class 2 felony if the damage to the property

1 exceeds \$300. Institutional vandalism is a Class 1 felony for
2 any second or subsequent offense.

3 (b-5) Upon imposition of any sentence or conditional
4 discharge following conviction or the entry of an order of
5 probation for an offense under this Section, the trial court
6 shall also either order restitution paid to the victim or
7 impose a fine up to \$1,000. In addition, any order of
8 probation or conditional discharge entered following a
9 conviction or an adjudication of delinquency shall include a
10 condition that the offender perform public or community
11 service of no less than 200 hours if that service is
12 established in the county where the offender was convicted of
13 institutional vandalism. The court may also impose any other
14 condition of probation or conditional discharge under this
15 Section.

16 (c) Independent of any criminal prosecution or the
17 result of that prosecution, a person suffering damage to
18 property or injury to his or her person as a result of
19 institutional vandalism may bring a civil action for damages,
20 injunction or other appropriate relief. The court may award
21 actual damages, including damages for emotional distress, or
22 punitive damages. A judgment may include attorney's fees and
23 costs. The parents or legal guardians of an unemancipated
24 minor, other than guardians appointed under the Juvenile
25 Court Act or the Juvenile Court Act of 1987, shall be liable
26 for the amount of any judgment for actual damages rendered
27 against the minor under this subsection (e) in an amount not
28 exceeding the amount provided under Section 5 of the Parental
29 Responsibility Law.

30 (Source: P.A. 88-659.)

31 Section 10. The Unified Code of Corrections is amended
32 by changing Sections 5-5-3 and 5-5-3.2 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 48 consecutive hours or 100 hours of community service as
29 may be determined by the court shall be imposed for a
30 second or subsequent violation committed within 5 years
31 of a previous violation of Section 11-501 of the Illinois
32 Vehicle Code or a similar provision of a local ordinance.

33 (4) A minimum term of imprisonment of not less than
34 7 consecutive days or 30 days of community service shall

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

3 (4.1) A minimum term of 30 consecutive days of
4 imprisonment, 40 days of 24 hour periodic imprisonment or
5 720 hours of community service, as may be determined by
6 the court, shall be imposed for a violation of Section
7 11-501 of the Illinois Vehicle Code during a period in
8 which the defendant's driving privileges are revoked or
9 suspended, where the revocation or suspension was for a
10 violation of Section 11-501 or Section 11-501.1 of that
11 Code.

12 (5) The court may sentence an offender convicted of
13 a business offense or a petty offense or a corporation or
14 unincorporated 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
18 Section 5-5-6 of this Code.

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

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

27 (8) When a defendant, over the age of 21 years, is
28 convicted of a Class 1 or Class 2 felony, after having
29 twice been convicted of any Class 2 or greater Class
30 felonies in Illinois, and such charges are separately
31 brought and tried and arise out of different series of
32 acts, such defendant shall be sentenced as a Class X
33 offender. This paragraph shall not apply unless (1) the
34 first felony was committed after the effective date of

1 this amendatory Act of 1977; and (2) the second felony
2 was committed after conviction on the first; and (3) the
3 third felony was committed after conviction on the
4 second.

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

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

18 (e) In cases where prosecution for criminal sexual
19 assault or aggravated criminal sexual abuse under Section
20 12-13 or 12-16 of the Criminal Code of 1961 results in
21 conviction of a defendant who was a family member of the
22 victim at the time of the commission of the offense, the
23 court shall consider the safety and welfare of the victim and
24 may impose a sentence of probation only where:

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

27 (A) the defendant is willing to undergo a
28 court approved counseling program for a minimum
29 duration of 2 years; or

30 (B) the defendant is willing to participate in
31 a court approved plan including but not limited to
32 the defendant's:

33 (i) removal from the household;

34 (ii) restricted contact with the victim;

1 (iii) continued financial support of the
2 family;

3 (iv) restitution for harm done to the
4 victim; and

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

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

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

21 For the purposes of this Section, "family member" and
22 "victim" shall have the meanings ascribed to them in Section
23 12-12 of the Criminal Code of 1961.

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

28 (g) Whenever a defendant is convicted of an offense
29 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,
30 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,
31 12-15 or 12-16 of the Criminal Code of 1961, the defendant
32 shall undergo medical testing to determine whether the
33 defendant has any sexually transmissible disease, including a
34 test for infection with human immunodeficiency virus (HIV) or

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

33 (g-5) When an inmate is tested for an airborne
34 communicable disease, as determined by the Illinois

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

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

1 transmission of HIV under Section 12-16.2 of the Criminal
2 Code of 1961 against the defendant. The court shall order
3 that the cost of any such test shall be paid by the county
4 and may be taxed as costs against the convicted defendant.

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

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

1 Education of any notification under this subsection.

2 (j-5) A defendant at least 17 years of age who is
3 convicted of a felony and who has not been previously
4 convicted of a misdemeanor or felony and who is sentenced to
5 a term of imprisonment in the Illinois Department of
6 Corrections shall as a condition of his or her sentence be
7 required by the court to attend educational courses designed
8 to prepare the defendant for a high school diploma and to
9 work toward a high school diploma or to work toward passing
10 the high school level Test of General Educational Development
11 (GED) or to work toward completing a vocational training
12 program offered by the Department of Corrections. If a
13 defendant fails to complete the educational training required
14 by his or her sentence during the term of incarceration, the
15 Prisoner Review Board shall, as a condition of mandatory
16 supervised release, require the defendant, at his or her own
17 expense, to pursue a course of study toward a high school
18 diploma or passage of the GED test. The Prisoner Review
19 Board shall revoke the mandatory supervised release of a
20 defendant who wilfully fails to comply with this subsection
21 (j-5) upon his or her release from confinement in a penal
22 institution while serving a mandatory supervised release
23 term; however, the inability of the defendant after making a
24 good faith effort to obtain financial aid or pay for the
25 educational training shall not be deemed a wilful failure to
26 comply. The Prisoner Review Board shall recommit the
27 defendant whose mandatory supervised release term has been
28 revoked under this subsection (j-5) as provided in Section
29 3-3-9. This subsection (j-5) does not apply to a defendant
30 who has a high school diploma or has successfully passed the
31 GED test. This subsection (j-5) does not apply to a defendant
32 who is determined by the court to be developmentally disabled
33 or otherwise mentally incapable of completing the educational
34 or vocational program.

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

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

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

17 (2) the deportation of the defendant would not
18 deprecate the seriousness of the defendant's conduct
19 and would not be inconsistent with the ends of
20 justice.

21 Otherwise, the defendant shall be sentenced as
22 provided in this Chapter V.

23 (B) If the defendant has already been sentenced for
24 a felony or misdemeanor offense, or has been placed on
25 probation under Section 10 of the Cannabis Control Act or
26 Section 410 of the Illinois Controlled Substances Act,
27 the court may, upon motion of the State's Attorney to
28 suspend the sentence imposed, commit the defendant to the
29 custody of the Attorney General of the United States or
30 his or her designated agent when:

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

34 (2) the deportation of the defendant would not

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

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

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

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

23 (Source: P.A. 90-14, eff. 7-1-97; 90-68, eff. 7-8-97; 90-680,
24 eff. 1-1-99; 90-685, eff. 1-1-99; 90-787, eff. 8-14-98;
25 91-357, eff. 7-29-99; 91-404, eff. 1-1-00; 91-663, eff.
26 12-22-99; 91-695, eff. 4-13-00.)

27 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)
28 Sec. 5-5-3.2. Factors in Aggravation.

29 (a) The following factors shall be accorded weight in
30 favor of imposing a term of imprisonment or may be considered
31 by the court as reasons to impose a more severe sentence
32 under Section 5-8-1:

33 (1) the defendant's conduct caused or threatened

1 serious harm;

2 (2) the defendant received compensation for
3 committing the offense;

4 (3) the defendant has a history of prior
5 delinquency or criminal activity;

6 (4) the defendant, by the duties of his office or
7 by his position, was obliged to prevent the particular
8 offense committed or to bring the offenders committing it
9 to justice;

10 (5) the defendant held public office at the time of
11 the offense, and the offense related to the conduct of
12 that office;

13 (6) the defendant utilized his professional
14 reputation or position in the community to commit the
15 offense, or to afford him an easier means of committing
16 it;

17 (7) the sentence is necessary to deter others from
18 committing the same crime;

19 (8) the defendant committed the offense against a
20 person 60 years of age or older or such person's
21 property;

22 (9) the defendant committed the offense against a
23 person who is physically handicapped or such person's
24 property;

25 (10) (blank); by--reason--of--another--individual's
26 actual---or---perceived--race,--color,--creed,--religion,
27 ancestry,--gender,--sexual-orientation,--physical-or--mental
28 disability,--or--national-origin,--the-defendant-committed
29 the-offense-against-(i)-the-person-or--property--of--that
30 individual;--(ii)--the-person-or-property-of-a-person-who
31 has--an--association--with,--is--married--to,--or--has--a
32 friendship-with-the-other-individual;--or--(iii)--the-person
33 or-property-of-a-relative-(by-blood--or--marriage)--of--a
34 person-described-in-clause-(i)-or-(ii).--For-the-purposes

1 of---this---Section,---"sexual---orientation"---means
2 heterosexuality, homosexuality, or bisexuality;

3 (11) the offense took place in a place of worship
4 or on the grounds of a place of worship, immediately
5 prior to, during or immediately following worship
6 services. For purposes of this subparagraph, "place of
7 worship" shall mean any church, synagogue or other
8 building, structure or place used primarily for religious
9 worship;

10 (12) the defendant was convicted of a felony
11 committed while he was released on bail or his own
12 recognizance pending trial for a prior felony and was
13 convicted of such prior felony, or the defendant was
14 convicted of a felony committed while he was serving a
15 period of probation, conditional discharge, or mandatory
16 supervised release under subsection (d) of Section 5-8-1
17 for a prior felony;

18 (13) the defendant committed or attempted to commit
19 a felony while he was wearing a bulletproof vest. For
20 the purposes of this paragraph (13), a bulletproof vest
21 is any device which is designed for the purpose of
22 protecting the wearer from bullets, shot or other lethal
23 projectiles;

24 (14) the defendant held a position of trust or
25 supervision such as, but not limited to, family member as
26 defined in Section 12-12 of the Criminal Code of 1961,
27 teacher, scout leader, baby sitter, or day care worker,
28 in relation to a victim under 18 years of age, and the
29 defendant committed an offense in violation of Section
30 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,
31 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of
32 1961 against that victim;

33 (15) the defendant committed an offense related to
34 the activities of an organized gang. For the purposes of

1 this factor, "organized gang" has the meaning ascribed to
2 it in Section 10 of the Streetgang Terrorism Omnibus
3 Prevention Act;

4 (16) the defendant committed an offense in
5 violation of one of the following Sections while in a
6 school, regardless of the time of day or time of year; on
7 any conveyance owned, leased, or contracted by a school
8 to transport students to or from school or a school
9 related activity; on the real property of a school; or on
10 a public way within 1,000 feet of the real property
11 comprising any school: Section 10-1, 10-2, 10-5, 11-15.1,
12 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1,
13 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1,
14 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of
15 1961;

16 (16.5) the defendant committed an offense in
17 violation of one of the following Sections while in a day
18 care center, regardless of the time of day or time of
19 year; on the real property of a day care center,
20 regardless of the time of day or time of year; or on a
21 public way within 1,000 feet of the real property
22 comprising any day care center, regardless of the time of
23 day or time of year: Section 10-1, 10-2, 10-5, 11-15.1,
24 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1,
25 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1,
26 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of
27 1961;

28 (17) the defendant committed the offense by reason
29 of any person's activity as a community policing
30 volunteer or to prevent any person from engaging in
31 activity as a community policing volunteer. For the
32 purpose of this Section, "community policing volunteer"
33 has the meaning ascribed to it in Section 2-3.5 of the
34 Criminal Code of 1961;

1 (18) the defendant committed the offense in a
2 nursing home or on the real property comprising a nursing
3 home. For the purposes of this paragraph (18), "nursing
4 home" means a skilled nursing or intermediate long term
5 care facility that is subject to license by the Illinois
6 Department of Public Health under the Nursing Home Care
7 Act; or

8 (19) the defendant was a federally licensed firearm
9 dealer and was previously convicted of a violation of
10 subsection (a) of Section 3 of the Firearm Owners
11 Identification Card Act and has now committed either a
12 felony violation of the Firearm Owners Identification
13 Card Act or an act of armed violence while armed with a
14 firearm.

15 For the purposes of this Section:

16 "School" is defined as a public or private elementary or
17 secondary school, community college, college, or university.

18 "Day care center" means a public or private State
19 certified and licensed day care center as defined in Section
20 2.09 of the Child Care Act of 1969 that displays a sign in
21 plain view stating that the property is a day care center.

22 (b) The following factors may be considered by the court
23 as reasons to impose an extended term sentence under Section
24 5-8-2 upon any offender:

25 (1) When a defendant is convicted of any felony,
26 after having been previously convicted in Illinois or any
27 other jurisdiction of the same or similar class felony or
28 greater class felony, when such conviction has occurred
29 within 10 years after the previous conviction, excluding
30 time spent in custody, and such charges are separately
31 brought and tried and arise out of different series of
32 acts; or

33 (2) When a defendant is convicted of any felony and
34 the court finds that the offense was accompanied by

1 exceptionally brutal or heinous behavior indicative of
2 wanton cruelty; or

3 (3) When a defendant is convicted of voluntary
4 manslaughter, second degree murder, involuntary
5 manslaughter or reckless homicide in which the defendant
6 has been convicted of causing the death of more than one
7 individual; or

8 (4) When a defendant is convicted of any felony
9 committed against:

10 (i) a person under 12 years of age at the time
11 of the offense or such person's property;

12 (ii) a person 60 years of age or older at the
13 time of the offense or such person's property; or

14 (iii) a person physically handicapped at the
15 time of the offense or such person's property; or

16 (5) In the case of a defendant convicted of
17 aggravated criminal sexual assault or criminal sexual
18 assault, when the court finds that aggravated criminal
19 sexual assault or criminal sexual assault was also
20 committed on the same victim by one or more other
21 individuals, and the defendant voluntarily participated
22 in the crime with the knowledge of the participation of
23 the others in the crime, and the commission of the crime
24 was part of a single course of conduct during which there
25 was no substantial change in the nature of the criminal
26 objective; or

27 (6) When a defendant is convicted of any felony and
28 the offense involved any of the following types of
29 specific misconduct committed as part of a ceremony,
30 rite, initiation, observance, performance, practice or
31 activity of any actual or ostensible religious,
32 fraternal, or social group:

33 (i) the brutalizing or torturing of humans or
34 animals;

- 1 (ii) the theft of human corpses;
- 2 (iii) the kidnapping of humans;
- 3 (iv) the desecration of any cemetery,
- 4 religious, fraternal, business, governmental,
- 5 educational, or other building or property; or
- 6 (v) ritualized abuse of a child; or
- 7 (7) When a defendant is convicted of first degree
- 8 murder, after having been previously convicted in
- 9 Illinois of any offense listed under paragraph (c)(2) of
- 10 Section 5-5-3, when such conviction has occurred within
- 11 10 years after the previous conviction, excluding time
- 12 spent in custody, and such charges are separately brought
- 13 and tried and arise out of different series of acts; or
- 14 (8) When a defendant is convicted of a felony other
- 15 than conspiracy and the court finds that the felony was
- 16 committed under an agreement with 2 or more other persons
- 17 to commit that offense and the defendant, with respect to
- 18 the other individuals, occupied a position of organizer,
- 19 supervisor, financier, or any other position of
- 20 management or leadership, and the court further finds
- 21 that the felony committed was related to or in
- 22 furtherance of the criminal activities of an organized
- 23 gang or was motivated by the defendant's leadership in an
- 24 organized gang; or
- 25 (9) When a defendant is convicted of a felony
- 26 violation of Section 24-1 of the Criminal Code of 1961
- 27 and the court finds that the defendant is a member of an
- 28 organized gang; or
- 29 (10) When a defendant committed the offense using a
- 30 firearm with a laser sight attached to it. For purposes
- 31 of this paragraph (10), "laser sight" has the meaning
- 32 ascribed to it in Section 24.6-5 of the Criminal Code of
- 33 1961; or
- 34 (11) When a defendant who was at least 17 years of

1 age at the time of the commission of the offense is
 2 convicted of a felony and has been previously adjudicated
 3 a delinquent minor under the Juvenile Court Act of 1987
 4 for an act that if committed by an adult would be a Class
 5 X or Class 1 felony when the conviction has occurred
 6 within 10 years after the previous adjudication,
 7 excluding time spent in custody; or -

8 (12) When a defendant is convicted of any felony
 9 other than hate crime or institutional vandalism and the
 10 court finds that the defendant committed the offense by
 11 reason of the actual or perceived race, color, creed,
 12 religion, ancestry, gender, sexual orientation, physical
 13 or mental disability, or national origin of another
 14 individual or group of individuals and regardless of the
 15 existence of any other motivating factor or factors. For
 16 purposes of this paragraph (12), "sexual orientation"
 17 means heterosexuality, homosexuality, or bisexuality.

18 (b-1) For the purposes of this Section, "organized gang"
 19 has the meaning ascribed to it in Section 10 of the Illinois
 20 Streetgang Terrorism Omnibus Prevention Act.

21 (c) The court may impose an extended term sentence under
 22 Section 5-8-2 upon any offender who was convicted of
 23 aggravated criminal sexual assault or predatory criminal
 24 sexual assault of a child under subsection (a)(1) of Section
 25 12-14.1 of the Criminal Code of 1961 where the victim was
 26 under 18 years of age at the time of the commission of the
 27 offense.

28 (d) The court may impose an extended term sentence under
 29 Section 5-8-2 upon any offender who was convicted of unlawful
 30 use of weapons under Section 24-1 of the Criminal Code of
 31 1961 for possessing a weapon that is not readily
 32 distinguishable as one of the weapons enumerated in Section
 33 24-1 of the Criminal Code of 1961.

34 (Source: P.A. 90-14, eff. 7-1-97; 90-651, eff. 1-1-99;

1 90-686, eff. 1-1-99; 91-119, eff. 1-1-00; 91-120, eff.
2 7-15-99; 91-252, eff. 1-1-00; 91-267, eff. 1-1-00; 91-268,
3 eff. 1-1-00; 91-357, eff. 7-29-99; 91-437, eff. 1-1-00;
4 91-696, eff. 4-13-00.)