

1 AN ACT concerning vehicles.

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

4 Section 5. The Illinois Vehicle Code is amended by
5 changing Section 6-303 as follows:

6 (625 ILCS 5/6-303) (from Ch. 95 1/2, par. 6-303)

7 Sec. 6-303. Driving while driver's license, permit or
8 privilege to operate a motor vehicle is suspended or revoked.

9 (a) Any person who drives or is in actual physical
10 control of a motor vehicle on any highway of this State at a
11 time when such person's driver's license, permit or privilege
12 to do so or the privilege to obtain a driver's license or
13 permit is revoked or suspended as provided by this Code or
14 the law of another state, except as may be specifically
15 allowed by a judicial driving permit, family financial
16 responsibility driving permit, probationary license to drive,
17 or a restricted driving permit issued pursuant to this Code
18 or under the law of another state, shall be guilty of a Class
19 A misdemeanor.

20 (b) The Secretary of State upon receiving a report of
21 the conviction of any violation indicating a person was
22 operating a motor vehicle during the time when said person's
23 driver's license, permit or privilege was suspended by the
24 Secretary, by the appropriate authority of another state, or
25 pursuant to Section 11-501.1; except as may be specifically
26 allowed by a probationary license to drive, judicial driving
27 permit or restricted driving permit issued pursuant to this
28 Code or the law of another state; shall extend the suspension
29 for the same period of time as the originally imposed
30 suspension; however, if the period of suspension has then
31 expired, the Secretary shall be authorized to suspend said

1 person's driving privileges for the same period of time as
2 the originally imposed suspension; and if the conviction was
3 upon a charge which indicated that a vehicle was operated
4 during the time when the person's driver's license, permit or
5 privilege was revoked; except as may be allowed by a
6 restricted driving permit issued pursuant to this Code or the
7 law of another state; the Secretary shall not issue a
8 driver's license for an additional period of one year from
9 the date of such conviction indicating such person was
10 operating a vehicle during such period of revocation.

11 (c) Any person convicted of violating this Section shall
12 serve a minimum term of imprisonment of 10 7 consecutive days
13 or 30 days of community service when the person's driving
14 privilege was revoked or suspended as a result of:

15 (1) a violation of Section 11-501 of this Code or a
16 similar provision of a local ordinance relating to the
17 offense of operating or being in physical control of a
18 vehicle while under the influence of alcohol, any other
19 drug or any combination thereof; or

20 (2) a violation of paragraph (b) of Section 11-401
21 of this Code or a similar provision of a local ordinance
22 relating to the offense of leaving the scene of a motor
23 vehicle accident involving personal injury or death; or

24 (3) a violation of Section 9-3 of the Criminal Code
25 of 1961, as amended, relating to the offense of reckless
26 homicide; or

27 (4) a statutory summary suspension under Section
28 11-501.1 of this Code.

29 Such sentence of imprisonment or community service shall
30 not be subject to suspension in order to reduce such
31 sentence.

32 (c-1) Except as provided in subsection (d), any person
33 convicted of a second violation of this Section shall be
34 ordered by the court to serve a minimum of 100 hours of

1 community service.

2 (c-2) In addition to other penalties imposed under this
3 Section, the court may impose on any person convicted a
4 fourth time of violating this Section any of the following:

5 (1) Seizure of the license plates of the person's
6 vehicle.

7 (2) Immobilization of the person's vehicle for a
8 period of time to be determined by the court.

9 (d) Any person convicted of a second or subsequent
10 violation of this Section shall be guilty of a Class 4 felony
11 and shall serve a minimum term of imprisonment of 30 days or
12 300 hours of community service, as determined by the court,
13 if the original revocation or suspension was for a violation
14 of Section 11-401 or 11-501 of this Code, or a similar
15 out-of-state offense, or a similar provision of a local
16 ordinance, a violation of Section 9-3 of the Criminal Code of
17 1961, relating to the offense of reckless homicide, or a
18 similar out-of-state offense, or a statutory summary
19 suspension under Section 11-501.1 of this Code.

20 (d-1) Except as provided in subsection (d-2) and
21 subsection (d-3), any person convicted of a third or
22 subsequent violation of this Section shall serve a minimum
23 term of imprisonment of 30 days or 300 hours of community
24 service, as determined by the court.

25 (d-2) Any person convicted of a third violation of this
26 Section is guilty of a Class 4 felony and must serve a
27 minimum term of imprisonment of 30 days if the revocation or
28 suspension was for a violation of Section 11-401 or 11-501 of
29 this Code, or a similar out-of-state offense, or a similar
30 provision of a local ordinance, a violation of Section 9-3 of
31 the Criminal Code of 1961, relating to the offense of
32 reckless homicide, or a similar out-of-state offense, or a
33 statutory summary suspension under Section 11-501.1 of this
34 Code.

1 (d-3) Any person convicted of a fourth or subsequent
2 violation of this Section is guilty of a Class 4 felony and
3 must serve a minimum term of imprisonment of 180 days if the
4 revocation or suspension was for a violation of Section
5 11-401 or 11-501 of this Code, or a similar out-of-state
6 offense, or a similar provision of a local ordinance, a
7 violation of Section 9-3 of the Criminal Code of 1961,
8 relating to the offense of reckless homicide, or a similar
9 out-of-state offense, or a statutory summary suspension under
10 Section 11-501.1 of this Code.

11 (e) Any person in violation of this Section who is also
12 in violation of Section 7-601 of this Code relating to
13 mandatory insurance requirements, in addition to other
14 penalties imposed under this Section, shall have his or her
15 motor vehicle immediately impounded by the arresting law
16 enforcement officer. The motor vehicle may be released to
17 any licensed driver upon a showing of proof of insurance for
18 the vehicle that was impounded and the notarized written
19 consent for the release by the vehicle owner.

20 (f) For any prosecution under this Section, a certified
21 copy of the driving abstract of the defendant shall be
22 admitted as proof of any prior conviction.

23 (Source: P.A. 90-400, eff. 8-15-97; 90-738, eff. 1-1-99;
24 91-692, eff. 4-13-00.)

25 Section 10. The Unified Code of Corrections is amended
26 by changing Sections 5-5-3 and 5-6-3 as follows:

27 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

28 Sec. 5-5-3. Disposition.

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

31 (b) The following options shall be appropriate
32 dispositions, alone or in combination, for all felonies and

1 misdemeanors other than those identified in subsection (c) of
2 this Section:

3 (1) A period of probation.

4 (2) A term of periodic imprisonment.

5 (3) A term of conditional discharge.

6 (4) A term of imprisonment.

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

11 (6) A fine.

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

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

17 Whenever an individual is sentenced for an offense based
18 upon an arrest for a violation of Section 11-501 of the
19 Illinois Vehicle Code, or a similar provision of a local
20 ordinance, and the professional evaluation recommends
21 remedial or rehabilitative treatment or education, neither
22 the treatment nor the education shall be the sole disposition
23 and either or both may be imposed only in conjunction with
24 another disposition. The court shall monitor compliance with
25 any remedial education or treatment recommendations contained
26 in the professional evaluation. Programs conducting alcohol
27 or other drug evaluation or remedial education must be
28 licensed by the Department of Human Services. However, if
29 the individual is not a resident of Illinois, the court may
30 accept an alcohol or other drug evaluation or remedial
31 education program in the state of such individual's
32 residence. Programs providing treatment must be licensed
33 under existing applicable alcoholism and drug treatment
34 licensure standards.

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

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

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

25 (2) A period of probation, a term of periodic
26 imprisonment or conditional discharge shall not be
27 imposed for the following offenses. The court shall
28 sentence the offender to not less than the minimum term
29 of imprisonment set forth in this Code for the following
30 offenses, and may order a fine or restitution or both in
31 conjunction with such term of imprisonment:

32 (A) First degree murder where the death
33 penalty is not imposed.

34 (B) Attempted first degree murder.

1 (C) A Class X felony.

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

7 (E) A violation of Section 5.1 or 9 of the
8 Cannabis Control Act.

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

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

19 (H) Criminal sexual assault, except as
20 otherwise provided in subsection (e) of this
21 Section.

22 (I) Aggravated battery of a senior citizen.

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

25 Before July 1, 1994, for the purposes of this
26 paragraph, "organized gang" means an association of
27 5 or more persons, with an established hierarchy,
28 that encourages members of the association to
29 perpetrate crimes or provides support to the members
30 of the association who do commit crimes.

31 Beginning July 1, 1994, for the purposes of
32 this paragraph, "organized gang" has the meaning
33 ascribed to it in Section 10 of the Illinois
34 Streetgang Terrorism Omnibus Prevention Act.

1 (K) Vehicular hijacking.

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

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

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

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

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

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

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

21 (3) A minimum term of imprisonment of not less than
22 48 consecutive hours or 100 hours of community service as
23 may be determined by the court shall be imposed for a
24 second or subsequent violation committed within 5 years
25 of a previous violation of Section 11-501 of the Illinois
26 Vehicle Code or a similar provision of a local ordinance.

27 (4) A minimum term of imprisonment of not less than
28 10 7 consecutive days or 30 days of community service
29 shall be imposed for a violation of paragraph (c) of
30 Section 6-303 of the Illinois Vehicle Code.

31 (4.1) A minimum term of 30 consecutive days of
32 imprisonment, 40 days of 24 hour periodic imprisonment or
33 720 hours of community service, as may be determined by
34 the court, shall be imposed for a violation of Section

1 11-501 of the Illinois Vehicle Code during a period in
2 which the defendant's driving privileges are revoked or
3 suspended, where the revocation or suspension was for a
4 violation of Section 11-501 or Section 11-501.1 of that
5 Code.

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

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

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

21 (4.5) A minimum term of imprisonment of 30 days
22 shall be imposed for a third violation of subsection (c)
23 of Section 6-303 of the Illinois Vehicle Code.

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

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

31 (A) a period of conditional discharge;

32 (B) a fine;

33 (C) make restitution to the victim under

34 Section 5-5-6 of this Code.

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

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

9 (8) When a defendant, over the age of 21 years, is
10 convicted of a Class 1 or Class 2 felony, after having
11 twice been convicted of any Class 2 or greater Class
12 felonies in Illinois, and such charges are separately
13 brought and tried and arise out of different series of
14 acts, such defendant shall be sentenced as a Class X
15 offender. This paragraph shall not apply unless (1) the
16 first felony was committed after the effective date of
17 this amendatory Act of 1977; and (2) the second felony
18 was committed after conviction on the first; and (3) the
19 third felony was committed after conviction on the
20 second.

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

24 (d) In any case in which a sentence originally imposed
25 is vacated, the case shall be remanded to the trial court.
26 The trial court shall hold a hearing under Section 5-4-1 of
27 the Unified Code of Corrections which may include evidence of
28 the defendant's life, moral character and occupation during
29 the time since the original sentence was passed. The trial
30 court shall then impose sentence upon the defendant. The
31 trial court may impose any sentence which could have been
32 imposed at the original trial subject to Section 5-5-4 of the
33 Unified Code of Corrections.

34 (e) In cases where prosecution for criminal sexual

1 assault or aggravated criminal sexual abuse under Section
2 12-13 or 12-16 of the Criminal Code of 1961 results in
3 conviction of a defendant who was a family member of the
4 victim at the time of the commission of the offense, the
5 court shall consider the safety and welfare of the victim and
6 may impose a sentence of probation only where:

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

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

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

15 (i) removal from the household;

16 (ii) restricted contact with the victim;

17 (iii) continued financial support of the
18 family;

19 (iv) restitution for harm done to the
20 victim; and

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

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

30 Probation may be revoked or modified pursuant to Section
31 5-6-4; except where the court determines at the hearing that
32 the defendant violated a condition of his or her probation
33 restricting contact with the victim or other family members
34 or commits another offense with the victim or other family

1 members, the court shall revoke the defendant's probation and
2 impose a term of imprisonment.

3 For the purposes of this Section, "family member" and
4 "victim" shall have the meanings ascribed to them in Section
5 12-12 of the Criminal Code of 1961.

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

10 (g) Whenever a defendant is convicted of an offense
11 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,
12 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,
13 12-15 or 12-16 of the Criminal Code of 1961, the defendant
14 shall undergo medical testing to determine whether the
15 defendant has any sexually transmissible disease, including a
16 test for infection with human immunodeficiency virus (HIV) or
17 any other identified causative agent of acquired
18 immunodeficiency syndrome (AIDS). Any such medical test
19 shall be performed only by appropriately licensed medical
20 practitioners and may include an analysis of any bodily
21 fluids as well as an examination of the defendant's person.
22 Except as otherwise provided by law, the results of such test
23 shall be kept strictly confidential by all medical personnel
24 involved in the testing and must be personally delivered in a
25 sealed envelope to the judge of the court in which the
26 conviction was entered for the judge's inspection in camera.
27 Acting in accordance with the best interests of the victim
28 and the public, the judge shall have the discretion to
29 determine to whom, if anyone, the results of the testing may
30 be revealed. The court shall notify the defendant of the test
31 results. The court shall also notify the victim if requested
32 by the victim, and if the victim is under the age of 15 and
33 if requested by the victim's parents or legal guardian, the
34 court shall notify the victim's parents or legal guardian of

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

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

26 (h) Whenever a defendant is convicted of an offense
27 under Section 1 or 2 of the Hypodermic Syringes and Needles
28 Act, the defendant shall undergo medical testing to determine
29 whether the defendant has been exposed to human
30 immunodeficiency virus (HIV) or any other identified
31 causative agent of acquired immunodeficiency syndrome (AIDS).
32 Except as otherwise provided by law, the results of such test
33 shall be kept strictly confidential by all medical personnel
34 involved in the testing and must be personally delivered in a

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

21 (i) All fines and penalties imposed under this Section
22 for any violation of Chapters 3, 4, 6, and 11 of the Illinois
23 Vehicle Code, or a similar provision of a local ordinance,
24 and any violation of the Child Passenger Protection Act, or a
25 similar provision of a local ordinance, shall be collected
26 and disbursed by the circuit clerk as provided under Section
27 27.5 of the Clerks of Courts Act.

28 (j) In cases when prosecution for any violation of
29 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,
30 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,
31 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or
32 12-16 of the Criminal Code of 1961, any violation of the
33 Illinois Controlled Substances Act, or any violation of the
34 Cannabis Control Act results in conviction, a disposition of

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

18 (j-5) A defendant at least 17 years of age who is
19 convicted of a felony and who has not been previously
20 convicted of a misdemeanor or felony and who is sentenced to
21 a term of imprisonment in the Illinois Department of
22 Corrections shall as a condition of his or her sentence be
23 required by the court to attend educational courses designed
24 to prepare the defendant for a high school diploma and to
25 work toward a high school diploma or to work toward passing
26 the high school level Test of General Educational Development
27 (GED) or to work toward completing a vocational training
28 program offered by the Department of Corrections. If a
29 defendant fails to complete the educational training required
30 by his or her sentence during the term of incarceration, the
31 Prisoner Review Board shall, as a condition of mandatory
32 supervised release, require the defendant, at his or her own
33 expense, to pursue a course of study toward a high school
34 diploma or passage of the GED test. The Prisoner Review

1 Board shall revoke the mandatory supervised release of a
2 defendant who wilfully fails to comply with this subsection
3 (j-5) upon his or her release from confinement in a penal
4 institution while serving a mandatory supervised release
5 term; however, the inability of the defendant after making a
6 good faith effort to obtain financial aid or pay for the
7 educational training shall not be deemed a wilful failure to
8 comply. The Prisoner Review Board shall recommit the
9 defendant whose mandatory supervised release term has been
10 revoked under this subsection (j-5) as provided in Section
11 3-3-9. This subsection (j-5) does not apply to a defendant
12 who has a high school diploma or has successfully passed the
13 GED test. This subsection (j-5) does not apply to a defendant
14 who is determined by the court to be developmentally disabled
15 or otherwise mentally incapable of completing the educational
16 or vocational program.

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

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

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

33 (2) the deportation of the defendant would not
34 deprecate the seriousness of the defendant's conduct

1 and would not be inconsistent with the ends of
2 justice.

3 Otherwise, the defendant shall be sentenced as
4 provided in this Chapter V.

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

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

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

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

23 (D) Upon motion of the State's Attorney, if a
24 defendant sentenced under this Section returns to the
25 jurisdiction of the United States, the defendant shall be
26 recommitted to the custody of the county from which he or
27 she was sentenced. Thereafter, the defendant shall be
28 brought before the sentencing court, which may impose any
29 sentence that was available under Section 5-5-3 at the
30 time of initial sentencing. In addition, the defendant
31 shall not be eligible for additional good conduct credit
32 for meritorious service as provided under Section 3-6-6.

33 (m) A person convicted of criminal defacement of
34 property under Section 21-1.3 of the Criminal Code of 1961,

1 in which the property damage exceeds \$300 and the property
2 damaged is a school building, shall be ordered to perform
3 community service that may include cleanup, removal, or
4 painting over the defacement.

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

9 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

10 Sec. 5-6-3. Conditions of Probation and of Conditional
11 Discharge.

12 (a) The conditions of probation and of conditional
13 discharge shall be that the person:

14 (1) not violate any criminal statute of any
15 jurisdiction;

16 (2) report to or appear in person before such
17 person or agency as directed by the court;

18 (3) refrain from possessing a firearm or other
19 dangerous weapon;

20 (4) not leave the State without the consent of the
21 court or, in circumstances in which the reason for the
22 absence is of such an emergency nature that prior consent
23 by the court is not possible, without the prior
24 notification and approval of the person's probation
25 officer;

26 (5) permit the probation officer to visit him at
27 his home or elsewhere to the extent necessary to
28 discharge his duties;

29 (6) perform no less than 30 hours of community
30 service and not more than 120 hours of community service,
31 if community service is available in the jurisdiction and
32 is funded and approved by the county board where the
33 offense was committed, where the offense was related to

1 or in furtherance of the criminal activities of an
2 organized gang and was motivated by the offender's
3 membership in or allegiance to an organized gang. The
4 community service shall include, but not be limited to,
5 the cleanup and repair of any damage caused by a
6 violation of Section 21-1.3 of the Criminal Code of 1961
7 and similar damage to property located within the
8 municipality or county in which the violation occurred.
9 When possible and reasonable, the community service
10 should be performed in the offender's neighborhood. For
11 purposes of this Section, "organized gang" has the
12 meaning ascribed to it in Section 10 of the Illinois
13 Streetgang Terrorism Omnibus Prevention Act;

14 (7) if he or she is at least 17 years of age and
15 has been sentenced to probation or conditional discharge
16 for a misdemeanor or felony in a county of 3,000,000 or
17 more inhabitants and has not been previously convicted of
18 a misdemeanor or felony, may be required by the
19 sentencing court to attend educational courses designed
20 to prepare the defendant for a high school diploma and to
21 work toward a high school diploma or to work toward
22 passing the high school level Test of General Educational
23 Development (GED) or to work toward completing a
24 vocational training program approved by the court. The
25 person on probation or conditional discharge must attend
26 a public institution of education to obtain the
27 educational or vocational training required by this
28 clause (7). The court shall revoke the probation or
29 conditional discharge of a person who wilfully fails to
30 comply with this clause (7). The person on probation or
31 conditional discharge shall be required to pay for the
32 cost of the educational courses or GED test, if a fee is
33 charged for those courses or test. The court shall
34 resentence the offender whose probation or conditional

1 discharge has been revoked as provided in Section 5-6-4.
 2 This clause (7) does not apply to a person who has a high
 3 school diploma or has successfully passed the GED test.
 4 This clause (7) does not apply to a person who is
 5 determined by the court to be developmentally disabled or
 6 otherwise mentally incapable of completing the
 7 educational or vocational program; and

8 (8) if convicted of possession of a substance
 9 prohibited by the Cannabis Control Act or Illinois
 10 Controlled Substances Act after a previous conviction or
 11 disposition of supervision for possession of a substance
 12 prohibited by the Cannabis Control Act or Illinois
 13 Controlled Substances Act or after a sentence of
 14 probation under Section 10 of the Cannabis Control Act or
 15 Section 410 of the Illinois Controlled Substances Act and
 16 upon a finding by the court that the person is addicted,
 17 undergo treatment at a substance abuse program approved
 18 by the court.

19 (b) The Court may in addition to other reasonable
 20 conditions relating to the nature of the offense or the
 21 rehabilitation of the defendant as determined for each
 22 defendant in the proper discretion of the Court require that
 23 the person:

24 (1) serve a term of periodic imprisonment under
 25 Article 7 for a period not to exceed that specified in
 26 paragraph (d) of Section 5-7-1;

27 (2) pay a fine and costs;

28 (3) work or pursue a course of study or vocational
 29 training;

30 (4) undergo medical, psychological or psychiatric
 31 treatment; or treatment for drug addiction or alcoholism;

32 (5) attend or reside in a facility established for
 33 the instruction or residence of defendants on probation;

34 (6) support his dependents;

- 1 (7) and in addition, if a minor:
- 2 (i) reside with his parents or in a foster
- 3 home;
- 4 (ii) attend school;
- 5 (iii) attend a non-residential program for
- 6 youth;
- 7 (iv) contribute to his own support at home or
- 8 in a foster home;
- 9 (8) make restitution as provided in Section 5-5-6
- 10 of this Code;
- 11 (9) perform some reasonable public or community
- 12 service;
- 13 (10) serve a term of home confinement. In addition
- 14 to any other applicable condition of probation or
- 15 conditional discharge, the conditions of home confinement
- 16 shall be that the offender:
- 17 (i) remain within the interior premises of the
- 18 place designated for his confinement during the
- 19 hours designated by the court;
- 20 (ii) admit any person or agent designated by
- 21 the court into the offender's place of confinement
- 22 at any time for purposes of verifying the offender's
- 23 compliance with the conditions of his confinement;
- 24 and
- 25 (iii) if further deemed necessary by the court
- 26 or the Probation or Court Services Department, be
- 27 placed on an approved electronic monitoring device,
- 28 subject to Article 8A of Chapter V;
- 29 (iv) for persons convicted of any alcohol,
- 30 cannabis or controlled substance violation who are
- 31 placed on an approved monitoring device as a
- 32 condition of probation or conditional discharge, the
- 33 court shall impose a reasonable fee for each day of
- 34 the use of the device, as established by the county

1 board in subsection (g) of this Section, unless
2 after determining the inability of the offender to
3 pay the fee, the court assesses a lesser fee or no
4 fee as the case may be. This fee shall be imposed in
5 addition to the fees imposed under subsections (g)
6 and (i) of this Section. The fee shall be collected
7 by the clerk of the circuit court. The clerk of the
8 circuit court shall pay all monies collected from
9 this fee to the county treasurer for deposit in the
10 substance abuse services fund under Section 5-1086.1
11 of the Counties Code; and

12 (v) for persons convicted of offenses other
13 than those referenced in clause (iv) above and who
14 are placed on an approved monitoring device as a
15 condition of probation or conditional discharge, the
16 court shall impose a reasonable fee for each day of
17 the use of the device, as established by the county
18 board in subsection (g) of this Section, unless
19 after determining the inability of the defendant to
20 pay the fee, the court assesses a lesser fee or no
21 fee as the case may be. This fee shall be imposed
22 in addition to the fees imposed under subsections
23 (g) and (i) of this Section. The fee shall be
24 collected by the clerk of the circuit court. The
25 clerk of the circuit court shall pay all monies
26 collected from this fee to the county treasurer who
27 shall use the monies collected to defray the costs
28 of corrections. The county treasurer shall deposit
29 the fee collected in the county working cash fund
30 under Section 6-27001 or Section 6-29002 of the
31 Counties Code, as the case may be.

32 (11) comply with the terms and conditions of an
33 order of protection issued by the court pursuant to the
34 Illinois Domestic Violence Act of 1986, as now or

1 hereafter amended, or an order of protection issued by
2 the court of another state, tribe, or United States
3 territory. A copy of the order of protection shall be
4 transmitted to the probation officer or agency having
5 responsibility for the case;

6 (12) reimburse any "local anti-crime program" as
7 defined in Section 7 of the Anti-Crime Advisory Council
8 Act for any reasonable expenses incurred by the program
9 on the offender's case, not to exceed the maximum amount
10 of the fine authorized for the offense for which the
11 defendant was sentenced;

12 (13) contribute a reasonable sum of money, not to
13 exceed the maximum amount of the fine authorized for the
14 offense for which the defendant was sentenced, to a
15 "local anti-crime program", as defined in Section 7 of
16 the Anti-Crime Advisory Council Act;

17 (14) refrain from entering into a designated
18 geographic area except upon such terms as the court finds
19 appropriate. Such terms may include consideration of the
20 purpose of the entry, the time of day, other persons
21 accompanying the defendant, and advance approval by a
22 probation officer, if the defendant has been placed on
23 probation or advance approval by the court, if the
24 defendant was placed on conditional discharge;

25 (15) refrain from having any contact, directly or
26 indirectly, with certain specified persons or particular
27 types of persons, including but not limited to members of
28 street gangs and drug users or dealers;

29 (16) refrain from having in his or her body the
30 presence of any illicit drug prohibited by the Cannabis
31 Control Act or the Illinois Controlled Substances Act,
32 unless prescribed by a physician, and submit samples of
33 his or her blood or urine or both for tests to determine
34 the presence of any illicit drug.

1 (c) The court may as a condition of probation or of
2 conditional discharge require that a person under 18 years of
3 age found guilty of any alcohol, cannabis or controlled
4 substance violation, refrain from acquiring a driver's
5 license during the period of probation or conditional
6 discharge. If such person is in possession of a permit or
7 license, the court may require that the minor refrain from
8 driving or operating any motor vehicle during the period of
9 probation or conditional discharge, except as may be
10 necessary in the course of the minor's lawful employment.

11 (d) An offender sentenced to probation or to conditional
12 discharge shall be given a certificate setting forth the
13 conditions thereof.

14 (e) Except where the offender has committed a fourth or
15 subsequent violation of subsection (c) of Section 6-303 of
16 the Illinois Vehicle Code, the court shall not require as a
17 condition of the sentence of probation or conditional
18 discharge that the offender be committed to a period of
19 imprisonment in excess of 6 months. This 6 month limit shall
20 not include periods of confinement given pursuant to a
21 sentence of county impact incarceration under Section
22 5-8-1.2.

23 Persons committed to imprisonment as a condition of
24 probation or conditional discharge shall not be committed to
25 the Department of Corrections.

26 (f) The court may combine a sentence of periodic
27 imprisonment under Article 7 or a sentence to a county impact
28 incarceration program under Article 8 with a sentence of
29 probation or conditional discharge.

30 (g) An offender sentenced to probation or to conditional
31 discharge and who during the term of either undergoes
32 mandatory drug or alcohol testing, or both, or is assigned to
33 be placed on an approved electronic monitoring device, shall
34 be ordered to pay all costs incidental to such mandatory drug

1 or alcohol testing, or both, and all costs incidental to such
2 approved electronic monitoring in accordance with the
3 defendant's ability to pay those costs. The county board
4 with the concurrence of the Chief Judge of the judicial
5 circuit in which the county is located shall establish
6 reasonable fees for the cost of maintenance, testing, and
7 incidental expenses related to the mandatory drug or alcohol
8 testing, or both, and all costs incidental to approved
9 electronic monitoring, involved in a successful probation
10 program for the county. The concurrence of the Chief Judge
11 shall be in the form of an administrative order. The fees
12 shall be collected by the clerk of the circuit court. The
13 clerk of the circuit court shall pay all moneys collected
14 from these fees to the county treasurer who shall use the
15 moneys collected to defray the costs of drug testing, alcohol
16 testing, and electronic monitoring. The county treasurer
17 shall deposit the fees collected in the county working cash
18 fund under Section 6-27001 or Section 6-29002 of the Counties
19 Code, as the case may be.

20 (h) Jurisdiction over an offender may be transferred
21 from the sentencing court to the court of another circuit
22 with the concurrence of both courts, or to another state
23 under an Interstate Probation Reciprocal Agreement as
24 provided in Section 3-3-11. Further transfers or retransfers
25 of jurisdiction are also authorized in the same manner. The
26 court to which jurisdiction has been transferred shall have
27 the same powers as the sentencing court.

28 (i) The court shall impose upon an offender sentenced to
29 probation after January 1, 1989 or to conditional discharge
30 after January 1, 1992, as a condition of such probation or
31 conditional discharge, a fee of \$25 for each month of
32 probation or conditional discharge supervision ordered by the
33 court, unless after determining the inability of the person
34 sentenced to probation or conditional discharge to pay the

1 fee, the court assesses a lesser fee. The court may not
2 impose the fee on a minor who is made a ward of the State
3 under the Juvenile Court Act of 1987 while the minor is in
4 placement. The fee shall be imposed only upon an offender who
5 is actively supervised by the probation and court services
6 department. The fee shall be collected by the clerk of the
7 circuit court. The clerk of the circuit court shall pay all
8 monies collected from this fee to the county treasurer for
9 deposit in the probation and court services fund under
10 Section 15.1 of the Probation and Probation Officers Act.

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

18 (Source: P.A. 90-14, eff. 7-1-97; 90-399, eff. 1-1-98;
19 90-504, eff. 1-1-98; 90-655, eff. 7-30-98; 91-325, eff.
20 7-29-99; 91-696, eff. 4-13-00; 91-903, eff. 1-1-01.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.