

1 the conviction of any violation indicating a person was
2 operating a motor vehicle during the time when said person's
3 driver's license, permit or privilege was suspended by the
4 Secretary, by the appropriate authority of another state, or
5 pursuant to Section 11-501.1; except as may be specifically
6 allowed by a probationary license to drive, judicial driving
7 permit or restricted driving permit issued pursuant to this
8 Code or the law of another state; shall extend the suspension
9 for the same period of time as the originally imposed
10 suspension; however, if the period of suspension has then
11 expired, the Secretary shall be authorized to suspend said
12 person's driving privileges for the same period of time as
13 the originally imposed suspension; and if the conviction was
14 upon a charge which indicated that a vehicle was operated
15 during the time when the person's driver's license, permit or
16 privilege was revoked; except as may be allowed by a
17 restricted driving permit issued pursuant to this Code or the
18 law of another state; the Secretary shall not issue a
19 driver's license for an additional period of one year from
20 the date of such conviction indicating such person was
21 operating a vehicle during such period of revocation.

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25 privilege was revoked or suspended as a result of:

26 (1) a violation of Section 11-501 of this Code or a
27 similar provision of a local ordinance relating to the
28 offense of operating or being in physical control of a
29 vehicle while under the influence of alcohol, any other
30 drug or any combination thereof; or

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

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

4 (4) a statutory summary suspension under Section
5 11-501.1 of this Code.

6 Such sentence of imprisonment or community service shall
7 not be subject to suspension in order to reduce such
8 sentence.

9 (c-1) Except as provided in subsection (d), any person
10 convicted of a second violation of this Section shall be
11 ordered by the court to serve a minimum of 100 hours of
12 community service.

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

16 (1) Seizure of the license plates of the person's
17 vehicle.

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

20 (d) Any person convicted of a second or subsequent
21 violation of this Section shall be guilty of a Class 4 felony
22 and shall serve a minimum term of imprisonment of 30 days or
23 300 hours of community service, as determined by the court,
24 if the original revocation or suspension was for a violation
25 of Section 11-401 or 11-501 of this Code, or a similar
26 out-of-state offense, or a similar provision of a local
27 ordinance, a violation of Section 9-3 of the Criminal Code of
28 1961, relating to the offense of reckless homicide, or a
29 similar out-of-state offense, or a statutory summary
30 suspension under Section 11-501.1 of this Code.

31 (d-1) Except as provided in subsection (d-2) and
32 subsection (d-3), any person convicted of a third or
33 subsequent violation of this Section shall serve a minimum
34 term of imprisonment of 30 days or 300 hours of community

1 service, as determined by the court.

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

12 (d-3) Any person convicted of a fourth or subsequent
13 violation of this Section is guilty of a Class 4 felony and
14 must serve a minimum term of imprisonment of 180 days if the
15 revocation or suspension was for a violation of Section
16 11-401 or 11-501 of this Code, or a similar out-of-state
17 offense, or a similar provision of a local ordinance, a
18 violation of Section 9-3 of the Criminal Code of 1961,
19 relating to the offense of reckless homicide, or a similar
20 out-of-state offense, or a statutory summary suspension under
21 Section 11-501.1 of this Code.

22 (e) Any person in violation of this Section who is also
23 in violation of Section 7-601 of this Code relating to
24 mandatory insurance requirements, in addition to other
25 penalties imposed under this Section, shall have his or her
26 motor vehicle immediately impounded by the arresting law
27 enforcement officer. The motor vehicle may be released to
28 any licensed driver upon a showing of proof of insurance for
29 the vehicle that was impounded and the notarized written
30 consent for the release by the vehicle owner.

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

34 (Source: P.A. 90-400, eff. 8-15-97; 90-738, eff. 1-1-99;

1 91-692, eff. 4-13-00.)

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

4 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

5 Sec. 5-5-3. Disposition.

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

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

12 (1) A period of probation.

13 (2) A term of periodic imprisonment.

14 (3) A term of conditional discharge.

15 (4) A term of imprisonment.

16 (5) An order directing the offender to clean up and
17 repair the damage, if the offender was convicted under
18 paragraph (h) of Section 21-1 of the Criminal Code of
19 1961.

20 (6) A fine.

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

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

26 Whenever an individual is sentenced for an offense based
27 upon an arrest for a violation of Section 11-501 of the
28 Illinois Vehicle Code, or a similar provision of a local
29 ordinance, and the professional evaluation recommends
30 remedial or rehabilitative treatment or education, neither
31 the treatment nor the education shall be the sole disposition
32 and either or both may be imposed only in conjunction with

1 another disposition. The court shall monitor compliance with
2 any remedial education or treatment recommendations contained
3 in the professional evaluation. Programs conducting alcohol
4 or other drug evaluation or remedial education must be
5 licensed by the Department of Human Services. However, if
6 the individual is not a resident of Illinois, the court may
7 accept an alcohol or other drug evaluation or remedial
8 education program in the state of such individual's
9 residence. Programs providing treatment must be licensed
10 under existing applicable alcoholism and drug treatment
11 licensure standards.

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

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

31 (c) (1) When a defendant is found guilty of first degree
32 murder the State may either seek a sentence of
33 imprisonment under Section 5-8-1 of this Code, or where
34 appropriate seek a sentence of death under Section 9-1 of

1 the Criminal Code of 1961.

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

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

11 (B) Attempted first degree murder.

12 (C) A Class X felony.

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

18 (E) A violation of Section 5.1 or 9 of the
19 Cannabis Control Act.

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

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

30 (H) Criminal sexual assault, except as
31 otherwise provided in subsection (e) of this
32 Section.

33 (I) Aggravated battery of a senior citizen.

34 (J) A forcible felony if the offense was

1 related to the activities of an organized gang.

2 Before July 1, 1994, for the purposes of this
3 paragraph, "organized gang" means an association of
4 5 or more persons, with an established hierarchy,
5 that encourages members of the association to
6 perpetrate crimes or provides support to the members
7 of the association who do commit crimes.

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

12 (K) Vehicular hijacking.

13 (L) A second or subsequent conviction for the
14 offense of hate crime when the underlying offense
15 upon which the hate crime is based is felony
16 aggravated assault or felony mob action.

17 (M) A second or subsequent conviction for the
18 offense of institutional vandalism if the damage to
19 the property exceeds \$300.

20 (N) A Class 3 felony violation of paragraph
21 (1) of subsection (a) of Section 2 of the Firearm
22 Owners Identification Card Act.

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

25 (P) A violation of paragraph (1), (2), (3),
26 (4), (5), or (7) of subsection (a) of Section
27 11-20.1 of the Criminal Code of 1961.

28 (Q) A violation of Section 20-1.2 of the
29 Criminal Code of 1961.

30 (R) A violation of Section 24-3A of the
31 Criminal Code of 1961.

32 (3) A minimum term of imprisonment of not less than
33 48 consecutive hours or 100 hours of community service as
34 may be determined by the court shall be imposed for a

1 second or subsequent violation committed within 5 years
2 of a previous violation of Section 11-501 of the Illinois
3 Vehicle Code or a similar provision of a local ordinance.

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

8 (4.1) A minimum term of 30 consecutive days of
9 imprisonment, 40 days of 24 hour periodic imprisonment or
10 720 hours of community service, as may be determined by
11 the court, shall be imposed for a violation of Section
12 11-501 of the Illinois Vehicle Code during a period in
13 which the defendant's driving privileges are revoked or
14 suspended, where the revocation or suspension was for a
15 violation of Section 11-501 or Section 11-501.1 of that
16 Code.

17 (4.2) Except as provided in paragraph (4.3) of this
18 subsection (c), a minimum of 100 hours of community
19 service shall be imposed for a second violation of
20 Section 6-303 of the Illinois Vehicle Code.

21 (4.3) A minimum term of imprisonment of 30 days or
22 300 hours of community service, as determined by the
23 court, shall be imposed for a second violation of
24 subsection (c) of Section 6-303 of the Illinois Vehicle
25 Code.

26 (4.4) Except as provided in paragraph (4.5) and
27 paragraph (4.6) of this subsection (c), a minimum term of
28 imprisonment of 30 days or 300 hours of community
29 service, as determined by the court, shall be imposed for
30 a third or subsequent violation of Section 6-303 of the
31 Illinois Vehicle Code.

32 (4.5) A minimum term of imprisonment of 30 days
33 shall be imposed for a third violation of subsection (c)
34 of Section 6-303 of the Illinois Vehicle Code.

1 (4.6) A minimum term of imprisonment of 180 days
2 shall be imposed for a fourth or subsequent violation of
3 subsection (c) of Section 6-303 of the Illinois Vehicle
4 Code.

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

8 (A) a period of conditional discharge;

9 (B) a fine;

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

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

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

20 (8) When a defendant, over the age of 21 years, is
21 convicted of a Class 1 or Class 2 felony, after having
22 twice been convicted of any Class 2 or greater Class
23 felonies in Illinois, and such charges are separately
24 brought and tried and arise out of different series of
25 acts, such defendant shall be sentenced as a Class X
26 offender. This paragraph shall not apply unless (1) the
27 first felony was committed after the effective date of
28 this amendatory Act of 1977; and (2) the second felony
29 was committed after conviction on the first; and (3) the
30 third felony was committed after conviction on the
31 second.

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

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

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

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

20 (A) the defendant is willing to undergo a
21 court approved counseling program for a minimum
22 duration of 2 years; or

23 (B) the defendant is willing to participate in
24 a court approved plan including but not limited to
25 the defendant's:

26 (i) removal from the household;

27 (ii) restricted contact with the victim;

28 (iii) continued financial support of the
29 family;

30 (iv) restitution for harm done to the
31 victim; and

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

34 (2) the court orders the defendant to pay for the

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

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

14 For the purposes of this Section, "family member" and
15 "victim" shall have the meanings ascribed to them in Section
16 12-12 of the Criminal Code of 1961.

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

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

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

26 (g-5) When an inmate is tested for an airborne
27 communicable disease, as determined by the Illinois
28 Department of Public Health including but not limited to
29 tuberculosis, the results of the test shall be personally
30 delivered by the warden or his or her designee in a sealed
31 envelope to the judge of the court in which the inmate must
32 appear for the judge's inspection in camera if requested by
33 the judge. Acting in accordance with the best interests of
34 those in the courtroom, the judge shall have the discretion

1 to determine what if any precautions need to be taken to
2 prevent transmission of the disease in the courtroom.

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

32 (i) All fines and penalties imposed under this Section
33 for any violation of Chapters 3, 4, 6, and 11 of the Illinois
34 Vehicle Code, or a similar provision of a local ordinance,

1 and any violation of the Child Passenger Protection Act, or a
2 similar provision of a local ordinance, shall be collected
3 and disbursed by the circuit clerk as provided under Section
4 27.5 of the Clerks of Courts Act.

5 (j) In cases when prosecution for any violation of
6 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,
7 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,
8 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or
9 12-16 of the Criminal Code of 1961, any violation of the
10 Illinois Controlled Substances Act, or any violation of the
11 Cannabis Control Act results in conviction, a disposition of
12 court supervision, or an order of probation granted under
13 Section 10 of the Cannabis Control Act or Section 410 of the
14 Illinois Controlled Substance Act of a defendant, the court
15 shall determine whether the defendant is employed by a
16 facility or center as defined under the Child Care Act of
17 1969, a public or private elementary or secondary school, or
18 otherwise works with children under 18 years of age on a
19 daily basis. When a defendant is so employed, the court
20 shall order the Clerk of the Court to send a copy of the
21 judgment of conviction or order of supervision or probation
22 to the defendant's employer by certified mail. If the
23 employer of the defendant is a school, the Clerk of the Court
24 shall direct the mailing of a copy of the judgment of
25 conviction or order of supervision or probation to the
26 appropriate regional superintendent of schools. The regional
27 superintendent of schools shall notify the State Board of
28 Education of any notification under this subsection.

29 (j-5) A defendant at least 17 years of age who is
30 convicted of a felony and who has not been previously
31 convicted of a misdemeanor or felony and who is sentenced to
32 a term of imprisonment in the Illinois Department of
33 Corrections shall as a condition of his or her sentence be
34 required by the court to attend educational courses designed

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

28 (k) A court may not impose a sentence or disposition for
29 a felony or misdemeanor that requires the defendant to be
30 implanted or injected with or to use any form of birth
31 control.

32 (l) (A) Except as provided in paragraph (C) of
33 subsection (l), whenever a defendant, who is an alien as
34 defined by the Immigration and Nationality Act, is

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

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

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

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

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

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

27 (2) the deportation of the defendant would not
28 deprecate the seriousness of the defendant's conduct
29 and would not be inconsistent with the ends of
30 justice.

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

34 (D) Upon motion of the State's Attorney, if a

1 defendant sentenced under this Section returns to the
2 jurisdiction of the United States, the defendant shall be
3 recommitted to the custody of the county from which he or
4 she was sentenced. Thereafter, the defendant shall be
5 brought before the sentencing court, which may impose any
6 sentence that was available under Section 5-5-3 at the
7 time of initial sentencing. In addition, the defendant
8 shall not be eligible for additional good conduct credit
9 for meritorious service as provided under Section 3-6-6.

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

16 (Source: P.A. 90-14, eff. 7-1-97; 90-68, eff. 7-8-97; 90-680,
17 eff. 1-1-99; 90-685, eff. 1-1-99; 90-787, eff. 8-14-98;
18 91-357, eff. 7-29-99; 91-404, eff. 1-1-00; 91-663, eff.
19 12-22-99; 91-695, eff. 4-13-00.)

20 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

21 Sec. 5-6-3. Conditions of Probation and of Conditional
22 Discharge.

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

25 (1) not violate any criminal statute of any
26 jurisdiction;

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

29 (3) refrain from possessing a firearm or other
30 dangerous weapon;

31 (4) not leave the State without the consent of the
32 court or, in circumstances in which the reason for the
33 absence is of such an emergency nature that prior consent

1 by the court is not possible, without the prior
2 notification and approval of the person's probation
3 officer;

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

7 (6) perform no less than 30 hours of community
8 service and not more than 120 hours of community service,
9 if community service is available in the jurisdiction and
10 is funded and approved by the county board where the
11 offense was committed, where the offense was related to
12 or in furtherance of the criminal activities of an
13 organized gang and was motivated by the offender's
14 membership in or allegiance to an organized gang. The
15 community service shall include, but not be limited to,
16 the cleanup and repair of any damage caused by a
17 violation of Section 21-1.3 of the Criminal Code of 1961
18 and similar damage to property located within the
19 municipality or county in which the violation occurred.
20 When possible and reasonable, the community service
21 should be performed in the offender's neighborhood. For
22 purposes of this Section, "organized gang" has the
23 meaning ascribed to it in Section 10 of the Illinois
24 Streetgang Terrorism Omnibus Prevention Act;

25 (7) if he or she is at least 17 years of age and
26 has been sentenced to probation or conditional discharge
27 for a misdemeanor or felony in a county of 3,000,000 or
28 more inhabitants and has not been previously convicted of
29 a misdemeanor or felony, may be required by the
30 sentencing court to attend educational courses designed
31 to prepare the defendant for a high school diploma and to
32 work toward a high school diploma or to work toward
33 passing the high school level Test of General Educational
34 Development (GED) or to work toward completing a

1 vocational training program approved by the court. The
2 person on probation or conditional discharge must attend
3 a public institution of education to obtain the
4 educational or vocational training required by this
5 clause (7). The court shall revoke the probation or
6 conditional discharge of a person who wilfully fails to
7 comply with this clause (7). The person on probation or
8 conditional discharge shall be required to pay for the
9 cost of the educational courses or GED test, if a fee is
10 charged for those courses or test. The court shall
11 resentence the offender whose probation or conditional
12 discharge has been revoked as provided in Section 5-6-4.
13 This clause (7) does not apply to a person who has a high
14 school diploma or has successfully passed the GED test.
15 This clause (7) does not apply to a person who is
16 determined by the court to be developmentally disabled or
17 otherwise mentally incapable of completing the
18 educational or vocational program; and

19 (8) if convicted of possession of a substance
20 prohibited by the Cannabis Control Act or Illinois
21 Controlled Substances Act after a previous conviction or
22 disposition of supervision for possession of a substance
23 prohibited by the Cannabis Control Act or Illinois
24 Controlled Substances Act or after a sentence of
25 probation under Section 10 of the Cannabis Control Act or
26 Section 410 of the Illinois Controlled Substances Act and
27 upon a finding by the court that the person is addicted,
28 undergo treatment at a substance abuse program approved
29 by the court.

30 (b) The Court may in addition to other reasonable
31 conditions relating to the nature of the offense or the
32 rehabilitation of the defendant as determined for each
33 defendant in the proper discretion of the Court require that
34 the person:

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

4 (2) pay a fine and costs;

5 (3) work or pursue a course of study or vocational
6 training;

7 (4) undergo medical, psychological or psychiatric
8 treatment; or treatment for drug addiction or alcoholism;

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

11 (6) support his dependents;

12 (7) and in addition, if a minor:

13 (i) reside with his parents or in a foster
14 home;

15 (ii) attend school;

16 (iii) attend a non-residential program for
17 youth;

18 (iv) contribute to his own support at home or
19 in a foster home;

20 (8) make restitution as provided in Section 5-5-6
21 of this Code;

22 (9) perform some reasonable public or community
23 service;

24 (10) serve a term of home confinement. In addition
25 to any other applicable condition of probation or
26 conditional discharge, the conditions of home confinement
27 shall be that the offender:

28 (i) remain within the interior premises of the
29 place designated for his confinement during the
30 hours designated by the court;

31 (ii) admit any person or agent designated by
32 the court into the offender's place of confinement
33 at any time for purposes of verifying the offender's
34 compliance with the conditions of his confinement;

1 and

2 (iii) if further deemed necessary by the court
3 or the Probation or Court Services Department, be
4 placed on an approved electronic monitoring device,
5 subject to Article 8A of Chapter V;

6 (iv) for persons convicted of any alcohol,
7 cannabis or controlled substance violation who are
8 placed on an approved monitoring device as a
9 condition of probation or conditional discharge, the
10 court shall impose a reasonable fee for each day of
11 the use of the device, as established by the county
12 board in subsection (g) of this Section, unless
13 after determining the inability of the offender to
14 pay the fee, the court assesses a lesser fee or no
15 fee as the case may be. This fee shall be imposed in
16 addition to the fees imposed under subsections (g)
17 and (i) of this Section. The fee shall be collected
18 by the clerk of the circuit court. The clerk of the
19 circuit court shall pay all monies collected from
20 this fee to the county treasurer for deposit in the
21 substance abuse services fund under Section 5-1086.1
22 of the Counties Code; and

23 (v) for persons convicted of offenses other
24 than those referenced in clause (iv) above and who
25 are placed on an approved monitoring device as a
26 condition of probation or conditional discharge, the
27 court shall impose a reasonable fee for each day of
28 the use of the device, as established by the county
29 board in subsection (g) of this Section, unless
30 after determining the inability of the defendant to
31 pay the fee, the court assesses a lesser fee or no
32 fee as the case may be. This fee shall be imposed
33 in addition to the fees imposed under subsections
34 (g) and (i) of this Section. The fee shall be

1 collected by the clerk of the circuit court. The
2 clerk of the circuit court shall pay all monies
3 collected from this fee to the county treasurer who
4 shall use the monies collected to defray the costs
5 of corrections. The county treasurer shall deposit
6 the fee collected in the county working cash fund
7 under Section 6-27001 or Section 6-29002 of the
8 Counties Code, as the case may be.

9 (11) comply with the terms and conditions of an
10 order of protection issued by the court pursuant to the
11 Illinois Domestic Violence Act of 1986, as now or
12 hereafter amended, or an order of protection issued by
13 the court of another state, tribe, or United States
14 territory. A copy of the order of protection shall be
15 transmitted to the probation officer or agency having
16 responsibility for the case;

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

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

28 (14) refrain from entering into a designated
29 geographic area except upon such terms as the court finds
30 appropriate. Such terms may include consideration of the
31 purpose of the entry, the time of day, other persons
32 accompanying the defendant, and advance approval by a
33 probation officer, if the defendant has been placed on
34 probation or advance approval by the court, if the

1 defendant was placed on conditional discharge;

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

6 (16) refrain from having in his or her body the
7 presence of any illicit drug prohibited by the Cannabis
8 Control Act or the Illinois Controlled Substances Act,
9 unless prescribed by a physician, and submit samples of
10 his or her blood or urine or both for tests to determine
11 the presence of any illicit drug.

12 (c) The court may as a condition of probation or of
13 conditional discharge require that a person under 18 years of
14 age found guilty of any alcohol, cannabis or controlled
15 substance violation, refrain from acquiring a driver's
16 license during the period of probation or conditional
17 discharge. If such person is in possession of a permit or
18 license, the court may require that the minor refrain from
19 driving or operating any motor vehicle during the period of
20 probation or conditional discharge, except as may be
21 necessary in the course of the minor's lawful employment.

22 (d) An offender sentenced to probation or to conditional
23 discharge shall be given a certificate setting forth the
24 conditions thereof.

25 (e) Except where the offender has committed a fourth or
26 subsequent violation of subsection (c) of Section 6-303 of
27 the Illinois Vehicle Code, the court shall not require as a
28 condition of the sentence of probation or conditional
29 discharge that the offender be committed to a period of
30 imprisonment in excess of 6 months. This 6 month limit shall
31 not include periods of confinement given pursuant to a
32 sentence of county impact incarceration under Section
33 5-8-1.2.

34 Persons committed to imprisonment as a condition of

1 probation or conditional discharge shall not be committed to
2 the Department of Corrections.

3 (f) The court may combine a sentence of periodic
4 imprisonment under Article 7 or a sentence to a county impact
5 incarceration program under Article 8 with a sentence of
6 probation or conditional discharge.

7 (g) An offender sentenced to probation or to conditional
8 discharge and who during the term of either undergoes
9 mandatory drug or alcohol testing, or both, or is assigned to
10 be placed on an approved electronic monitoring device, shall
11 be ordered to pay all costs incidental to such mandatory drug
12 or alcohol testing, or both, and all costs incidental to such
13 approved electronic monitoring in accordance with the
14 defendant's ability to pay those costs. The county board
15 with the concurrence of the Chief Judge of the judicial
16 circuit in which the county is located shall establish
17 reasonable fees for the cost of maintenance, testing, and
18 incidental expenses related to the mandatory drug or alcohol
19 testing, or both, and all costs incidental to approved
20 electronic monitoring, involved in a successful probation
21 program for the county. The concurrence of the Chief Judge
22 shall be in the form of an administrative order. The fees
23 shall be collected by the clerk of the circuit court. The
24 clerk of the circuit court shall pay all moneys collected
25 from these fees to the county treasurer who shall use the
26 moneys collected to defray the costs of drug testing, alcohol
27 testing, and electronic monitoring. The county treasurer
28 shall deposit the fees collected in the county working cash
29 fund under Section 6-27001 or Section 6-29002 of the Counties
30 Code, as the case may be.

31 (h) Jurisdiction over an offender may be transferred
32 from the sentencing court to the court of another circuit
33 with the concurrence of both courts, or to another state
34 under an Interstate Probation Reciprocal Agreement as

1 provided in Section 3-3-11. Further transfers or retransfers
2 of jurisdiction are also authorized in the same manner. The
3 court to which jurisdiction has been transferred shall have
4 the same powers as the sentencing court.

5 (i) The court shall impose upon an offender sentenced to
6 probation after January 1, 1989 or to conditional discharge
7 after January 1, 1992, as a condition of such probation or
8 conditional discharge, a fee of \$25 for each month of
9 probation or conditional discharge supervision ordered by the
10 court, unless after determining the inability of the person
11 sentenced to probation or conditional discharge to pay the
12 fee, the court assesses a lesser fee. The court may not
13 impose the fee on a minor who is made a ward of the State
14 under the Juvenile Court Act of 1987 while the minor is in
15 placement. The fee shall be imposed only upon an offender who
16 is actively supervised by the probation and court services
17 department. The fee shall be collected by the clerk of the
18 circuit court. The clerk of the circuit court shall pay all
19 monies collected from this fee to the county treasurer for
20 deposit in the probation and court services fund under
21 Section 15.1 of the Probation and Probation Officers Act.

22 (j) All fines and costs imposed under this Section for
23 any violation of Chapters 3, 4, 6, and 11 of the Illinois
24 Vehicle Code, or a similar provision of a local ordinance,
25 and any violation of the Child Passenger Protection Act, or a
26 similar provision of a local ordinance, shall be collected
27 and disbursed by the circuit clerk as provided under Section
28 27.5 of the Clerks of Courts Act.

29 (Source: P.A. 90-14, eff. 7-1-97; 90-399, eff. 1-1-98;
30 90-504, eff. 1-1-98; 90-655, eff. 7-30-98; 91-325, eff.
31 7-29-99; 91-696, eff. 4-13-00; 91-903, eff. 1-1-01.)

32 Section 99. Effective date. This Act takes effect upon
33 becoming law."