

1 AN ACT in relation to criminal law.

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

4 Section 5. The Illinois Controlled Substances Act is
5 amended by changing Section 401 as follows:

6 (720 ILCS 570/401) (from Ch. 56 1/2, par. 1401)

7 Sec. 401. Except as authorized by this Act, it is
8 unlawful for any person knowingly to: (i) manufacture or
9 deliver, or possess with intent to manufacture or deliver, a
10 controlled or counterfeit substance or controlled substance
11 analog or (ii) possess any methamphetamine manufacturing
12 chemical listed in paragraph (z-1) of Section 102 with the
13 intent to manufacture methamphetamine or the salt of an
14 optical isomer of methamphetamine or an analog thereof. A
15 violation of this Act with respect to each of the controlled
16 substances listed herein constitutes a single and separate
17 violation of this Act. For purposes of this Section,
18 "controlled substance analog" or "analog" means a substance
19 which is intended for human consumption, other than a
20 controlled substance, that has a chemical structure
21 substantially similar to that of a controlled substance in
22 Schedule I or II, or that was specifically designed to
23 produce an effect substantially similar to that of a
24 controlled substance in Schedule I or II. Examples of
25 chemical classes in which controlled substance analogs are
26 found include, but are not limited to, the following:
27 phenethylamines, N-substituted piperidines, morphinans,
28 ecgonines, quinazolinones, substituted indoles, and
29 arylcycloalkylamines. For purposes of this Act, a controlled
30 substance analog shall be treated in the same manner as the
31 controlled substance to which it is substantially similar.

1 (a) Any person who violates this Section with respect to
2 the following amounts of controlled or counterfeit substances
3 or controlled substance analogs, notwithstanding any of the
4 provisions of subsections (c), (c-5), (d), (d-5), (e), (f),
5 (g) or (h) to the contrary, is guilty of a Class X felony and
6 shall be sentenced to a term of imprisonment as provided in
7 this subsection (a) and fined as provided in subsection (b):

8 (1) (A) not less than 6 years and not more than 30
9 years with respect to 15 grams or more but less than
10 100 grams of a substance containing heroin, or an
11 analog thereof;

12 (B) not less than 9 years and not more than 40
13 years with respect to 100 grams or more but less
14 than 400 grams of a substance containing heroin, or
15 an analog thereof;

16 (C) not less than 12 years and not more than
17 50 years with respect to 400 grams or more but less
18 than 900 grams of a substance containing heroin, or
19 an analog thereof;

20 (D) not less than 15 years and not more than
21 60 years with respect to 900 grams or more of any
22 substance containing heroin, or an analog thereof;

23 (2) (A) not less than 6 years and not more than 30
24 years with respect to 15 grams or more but less than
25 100 grams of a substance containing cocaine, or an
26 analog thereof;

27 (B) not less than 9 years and not more than 40
28 years with respect to 100 grams or more but less
29 than 400 grams of a substance containing cocaine, or
30 an analog thereof;

31 (C) not less than 12 years and not more than
32 50 years with respect to 400 grams or more but less
33 than 900 grams of a substance containing cocaine, or
34 an analog thereof;

1 (D) not less than 15 years and not more than
2 60 years with respect to 900 grams or more of any
3 substance containing cocaine, or an analog thereof;

4 (3) (A) not less than 6 years and not more than 30
5 years with respect to 15 grams or more but less than
6 100 grams of a substance containing morphine, or an
7 analog thereof;

8 (B) not less than 9 years and not more than 40
9 years with respect to 100 grams or more but less
10 than 400 grams of a substance containing morphine,
11 or an analog thereof;

12 (C) not less than 12 years and not more than
13 50 years with respect to 400 grams or more but less
14 than 900 grams of a substance containing morphine,
15 or an analog thereof;

16 (D) not less than 15 years and not more than
17 60 years with respect to 900 grams or more of a
18 substance containing morphine, or an analog thereof;

19 (4) 200 grams or more of any substance containing
20 peyote, or an analog thereof;

21 (5) 200 grams or more of any substance containing a
22 derivative of barbituric acid or any of the salts of a
23 derivative of barbituric acid, or an analog thereof;

24 (6) 200 grams or more of any substance containing
25 amphetamine or any salt of an optical isomer of
26 amphetamine, or an analog thereof;

27 (6.5) (A) not less than 6 years and not more than
28 30 years with respect to 15 grams or more but less
29 than 100 grams of a substance containing
30 methamphetamine or any salt of an optical isomer of
31 methamphetamine, or an analog thereof;

32 (B) not less than 9 years and not more than 40
33 years with respect to 100 grams or more but less
34 than 400 grams of a substance containing

1 methamphetamine or any salt of an optical isomer of
2 methamphetamine, or an analog thereof;

3 (C) not less than 12 years and not more than
4 50 years with respect to 400 grams or more but less
5 than 900 grams of a substance containing
6 methamphetamine or any salt of an optical isomer of
7 methamphetamine, or an analog thereof;

8 (D) not less than 15 years and not more than
9 60 years with respect to 900 grams or more of any
10 substance containing methamphetamine or any salt of
11 an optical isomer of methamphetamine, or an analog
12 thereof.

13 (6.6) (A) not less than 6 years and not more than
14 30 years for the possession of any methamphetamine
15 manufacturing chemical set forth in paragraph (z-1)
16 of Section 102 with intent to manufacture 30 grams
17 or more but less than 150 grams of any substance
18 containing methamphetamine, or salt of any optical
19 isomer of methamphetamine, or an analog thereof;

20 (B) not less than 6 years and not more than 40
21 years for the possession of any methamphetamine
22 manufacturing chemical set forth in paragraph (z-1)
23 of Section 102 with intent to manufacture 150 grams
24 or more but less than 500 grams of any substance
25 containing methamphetamine, or salt of an optical
26 isomer of methamphetamine, or an analog thereof;

27 (C) not less than 6 years and not more than 50
28 years for the possession of any methamphetamine
29 manufacturing chemical set forth in paragraph (z-1)
30 of Section 102 with intent to manufacture 500 grams
31 or more but less than 1200 grams of any substance
32 containing methamphetamine, or salt of an optical
33 isomer of methamphetamine, or an analog thereof;

34 (D) not less than 6 years and not more than 60

1 years for the possession of any methamphetamine
2 manufacturing chemical set forth in paragraph (z-1)
3 of Section 102 with intent to manufacture 1200 grams
4 or more of any substance containing methamphetamine,
5 or salt of an optical isomer of methamphetamine, or
6 an analog thereof;

7 (7) (A) not less than 6 years and not more than 30
8 years with respect to: (i) 15 grams or more but less
9 than 100 grams of a substance containing lysergic
10 acid diethylamide (LSD), or an analog thereof, or
11 (ii) 15 or more objects or 15 or more segregated
12 parts of an object or objects but less than 200
13 objects or 200 segregated parts of an object or
14 objects containing in them or having upon them any
15 amounts of any substance containing lysergic acid
16 diethylamide (LSD), or an analog thereof;

17 (B) not less than 9 years and not more than 40
18 years with respect to: (i) 100 grams or more but
19 less than 400 grams of a substance containing
20 lysergic acid diethylamide (LSD), or an analog
21 thereof, or (ii) 200 or more objects or 200 or more
22 segregated parts of an object or objects but less
23 than 600 objects or less than 600 segregated parts
24 of an object or objects containing in them or having
25 upon them any amount of any substance containing
26 lysergic acid diethylamide (LSD), or an analog
27 thereof;

28 (C) not less than 12 years and not more than
29 50 years with respect to: (i) 400 grams or more but
30 less than 900 grams of a substance containing
31 lysergic acid diethylamide (LSD), or an analog
32 thereof, or (ii) 600 or more objects or 600 or more
33 segregated parts of an object or objects but less
34 than 1500 objects or 1500 segregated parts of an

1 object or objects containing in them or having upon
2 them any amount of any substance containing lysergic
3 acid diethylamide (LSD), or an analog thereof;

4 (D) not less than 15 years and not more than
5 60 years with respect to: (i) 900 grams or more of
6 any substance containing lysergic acid diethylamide
7 (LSD), or an analog thereof, or (ii) 1500 or more
8 objects or 1500 or more segregated parts of an
9 object or objects containing in them or having upon
10 them any amount of a substance containing lysergic
11 acid diethylamide (LSD), or an analog thereof;

12 (7.5) (A) not less than 6 years and not more than 30
13 years with respect to: (i) 15 grams or more but less
14 than 100 grams of a substance listed in paragraph
15 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1),
16 (21), (25), or (26) of subsection (d) of Section
17 204, or an analog or derivative thereof, or (ii) 15
18 or more pills, tablets, caplets, capsules, or
19 objects but less than 200 pills, tablets, caplets,
20 capsules, or objects containing in them or having
21 upon them any amounts of any substance listed in
22 paragraph (1), (2), (2.1), (3), (14.1), (19), (20),
23 (20.1), (21), (25), or (26) of subsection (d) of
24 Section 204, or an analog or derivative thereof;

25 (B) not less than 9 years and not more than 40
26 years with respect to: (i) 100 grams or more but
27 less than 400 grams of a substance listed in
28 paragraph (1), (2), (2.1), (3), (14.1), (19), (20),
29 (20.1), (21), (25), or (26) of subsection (d) of
30 Section 204, or an analog or derivative thereof, or
31 (ii) 200 or more pills, tablets, caplets, capsules,
32 or objects but less than 600 pills, tablets,
33 caplets, capsules, or objects containing in them or
34 having upon them any amount of any substance listed

1 in paragraph (1), (2), (2.1), (3), (14.1), (19),
2 (20), (20.1), (21), (25), or (26) of subsection (d)
3 of Section 204, or an analog or derivative thereof;

4 (C) not less than 12 years and not more than 50
5 years with respect to: (i) 400 grams or more but
6 less than 900 grams of a substance listed in
7 paragraph (1), (2), (2.1), (3), (14.1), (19), (20),
8 (20.1), (21), (25), or (26) of subsection (d) of
9 Section 204, or an analog or derivative thereof, or
10 (ii) 600 or more pills, tablets, caplets, capsules,
11 or objects but less than 1,500 pills, tablets,
12 caplets, capsules, or objects containing in them or
13 having upon them any amount of any substance listed
14 in paragraph (1), (2), (2.1), (3), (14.1), (19),
15 (20), (20.1), (21), (25), or (26) of subsection (d)
16 of Section 204, or an analog or derivative thereof;

17 (D) not less than 15 years and not more than 60
18 years with respect to: (i) 900 grams or more of any
19 substance listed in paragraph (1), (2), (2.1), (3),
20 (14.1), (19), (20), (20.1), (21), (25), or (26) of
21 subsection (d) of Section 204, or an analog or
22 derivative thereof, or (ii) 1,500 or more pills,
23 tablets, caplets, capsules, or objects containing in
24 them or having upon them any amount of a substance
25 listed in paragraph (1), (2), (2.1), (3), (14.1),
26 (19), (20), (20.1), (21), (25), or (26) of
27 subsection (d) of Section 204, or an analog or
28 derivative thereof;

29 (8) 30 grams or more of any substance containing
30 pentazocine or any of the salts, isomers and salts of
31 isomers of pentazocine, or an analog thereof;

32 (9) 30 grams or more of any substance containing
33 methaqualone or any of the salts, isomers and salts of
34 isomers of methaqualone, or an analog thereof;

1 (10) 30 grams or more of any substance
 2 containing phencyclidine or any of the salts, isomers
 3 and salts of isomers of phencyclidine (PCP), or an
 4 analog thereof;

5 (10.5) 30 grams or more of any substance containing
 6 ketamine or any of the salts, isomers and salts of
 7 isomers of ketamine, or an analog thereof;

8 (11) 200 grams or more of any substance containing
 9 any other controlled substance classified in Schedules I
 10 or II, or an analog thereof, which is not otherwise
 11 included in this subsection.

12 (b) Any person sentenced with respect to violations of
 13 paragraph (1), (2), (3), (6.5), (6.6), (7), or (7.5) of
 14 subsection (a) involving 100 grams or more of the controlled
 15 substance named therein, may in addition to the penalties
 16 provided therein, be fined an amount not more than \$500,000
 17 or the full street value of the controlled or counterfeit
 18 substance or controlled substance analog, whichever is
 19 greater. The term "street value" shall have the meaning
 20 ascribed in Section 110-5 of the Code of Criminal Procedure
 21 of 1963. Any person sentenced with respect to any other
 22 provision of subsection (a), may in addition to the penalties
 23 provided therein, be fined an amount not to exceed \$500,000.

24 (c) Any person who violates this Section with regard to
 25 the following amounts of controlled or counterfeit substances
 26 or controlled substance analogs, notwithstanding any of the
 27 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)
 28 to the contrary, is guilty of a Class 1 felony. The fine for
 29 violation of this subsection (c) shall not be more than
 30 \$250,000:

31 (1) 1 gram ~~10~~ or more ~~grams~~ but less than 15 grams
 32 of any substance containing heroin, or an analog thereof;

33 (2) 1 gram or more but less than 15 grams of any
 34 substance containing cocaine, or an analog thereof;

1 (3) 10 grams or more but less than 15 grams of any
2 substance containing morphine, or an analog thereof;

3 (4) 50 grams or more but less than 200 grams of any
4 substance containing peyote, or an analog thereof;

5 (5) 50 grams or more but less than 200 grams of any
6 substance containing a derivative of barbituric acid or
7 any of the salts of a derivative of barbituric acid, or
8 an analog thereof;

9 (6) 50 grams or more but less than 200 grams of any
10 substance containing amphetamine or any salt of an
11 optical isomer of amphetamine, or an analog thereof;

12 (6.5) 5 grams or more but less than 15 grams of any
13 substance containing methamphetamine or any salt or
14 optical isomer of methamphetamine, or an analog thereof;

15 (7) (i) 5 grams or more but less than 15 grams of
16 any substance containing lysergic acid diethylamide
17 (LSD), or an analog thereof, or (ii) more than 10 objects
18 or more than 10 segregated parts of an object or objects
19 but less than 15 objects or less than 15 segregated parts
20 of an object containing in them or having upon them any
21 amount of any substance containing lysergic acid
22 diethylamide (LSD), or an analog thereof;

23 (7.5) (i) 5 grams or more but less than 15 grams of
24 any substance listed in paragraph (1), (2), (2.1), (3),
25 (14.1), (19), (20), (20.1), (21), (25), or (26) of
26 subsection (d) of Section 204, or an analog or derivative
27 thereof, or (ii) more than 10 pills, tablets, caplets,
28 capsules, or objects but less than 15 pills, tablets,
29 caplets, capsules, or objects containing in them or
30 having upon them any amount of any substance listed in
31 paragraph (1), (2), (2.1), (3), (14.1), (19), (20),
32 (20.1), (21), (25), or (26) of subsection (d) of Section
33 204, or an analog or derivative thereof;

34 (8) 10 grams or more but less than 30 grams of any

1 substance containing pentazocine or any of the salts,
2 isomers and salts of isomers of pentazocine, or an analog
3 thereof;

4 (9) 10 grams or more but less than 30 grams of any
5 substance containing methaqualone or any of the salts,
6 isomers and salts of isomers of methaqualone, or an
7 analog thereof;

8 (10) 10 grams or more but less than 30 grams of any
9 substance containing phencyclidine or any of the salts,
10 isomers and salts of isomers of phencyclidine (PCP), or
11 an analog thereof;

12 (10.5) 10 grams or more but less than 30 grams of
13 any substance containing ketamine or any of the salts,
14 isomers and salts of isomers of ketamine, or an analog
15 thereof;

16 (11) 50 grams or more but less than 200 grams of
17 any substance containing a substance classified in
18 Schedules I or II, or an analog thereof, which is not
19 otherwise included in this subsection.

20 (c-5) Any person who violates this Section with regard
21 to possession of any methamphetamine manufacturing chemical
22 set forth in paragraph (z-1) of Section 102 with intent to
23 manufacture 15 grams or more but less than 30 grams of
24 methamphetamine, or salt of an optical isomer of
25 methamphetamine or any analog thereof, is guilty of a Class 1
26 felony. The fine for violation of this subsection (c-5)
27 shall not be more than \$250,000.

28 (d) Any person who violates this Section with regard to
29 any other amount of a controlled or counterfeit substance
30 classified in Schedules I or II, or an analog thereof, which
31 is (i) a narcotic drug, (ii) lysergic acid diethylamide (LSD)
32 or an analog thereof, or (iii) any substance containing
33 amphetamine or methamphetamine or any salt or optical isomer
34 of amphetamine or methamphetamine, or an analog thereof, is

1 guilty of a Class 2 felony. The fine for violation of this
2 subsection (d) shall not be more than \$200,000.

3 (d-5) Any person who violates this Section with regard
4 to possession of any methamphetamine manufacturing chemical
5 set forth in paragraph (z-1) of Section 102 with intent to
6 manufacture less than 15 grams of methamphetamine, or salt of
7 an optical isomer of methamphetamine or any analog thereof,
8 is guilty of a Class 2 felony. The fine for violation of
9 this subsection (d-5) shall not be more than \$200,000.

10 (e) Any person who violates this Section with regard to
11 any other amount of a controlled or counterfeit substance
12 classified in Schedule I or II, or an analog thereof, which
13 substance is not included under subsection (d) of this
14 Section, is guilty of a Class 3 felony. The fine for
15 violation of this subsection (e) shall not be more than
16 \$150,000.

17 (f) Any person who violates this Section with regard to
18 any other amount of a controlled or counterfeit substance
19 classified in Schedule III is guilty of a Class 3 felony. The
20 fine for violation of this subsection (f) shall not be more
21 than \$125,000.

22 (g) Any person who violates this Section with regard to
23 any other amount of a controlled or counterfeit substance
24 classified in Schedule IV is guilty of a Class 3 felony. The
25 fine for violation of this subsection (g) shall not be more
26 than \$100,000.

27 (h) Any person who violates this Section with regard to
28 any other amount of a controlled or counterfeit substance
29 classified in Schedule V is guilty of a Class 3 felony. The
30 fine for violation of this subsection (h) shall not be more
31 than \$75,000.

32 (i) This Section does not apply to the manufacture,
33 possession or distribution of a substance in conformance with
34 the provisions of an approved new drug application or an

1 exemption for investigational use within the meaning of
 2 Section 505 of the Federal Food, Drug and Cosmetic Act.
 3 (Source: P.A. 91-336, eff. 1-1-00; 91-357, eff. 7-29-99;
 4 91-403, eff. 1-1-00; 92-16, eff. 6-28-01; 92-256, eff.
 5 1-1-02.)

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

8 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)
 9 Sec. 5-5-3. Disposition.

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

12 (b) The following options shall be appropriate
 13 dispositions, alone or in combination, for all felonies and
 14 misdemeanors other than those identified in subsection (c) of
 15 this Section:

- 16 (1) A period of probation.
 - 17 (2) A term of periodic imprisonment.
 - 18 (3) A term of conditional discharge.
 - 19 (4) A term of imprisonment.
 - 20 (5) An order directing the offender to clean up and
 21 repair the damage, if the offender was convicted under
 22 paragraph (h) of Section 21-1 of the Criminal Code of
 23 1961.
 - 24 (6) A fine.
 - 25 (7) An order directing the offender to make
 26 restitution to the victim under Section 5-5-6 of this
 27 Code.
 - 28 (8) A sentence of participation in a county impact
 29 incarceration program under Section 5-8-1.2 of this Code.
- 30 Whenever an individual is sentenced for an offense based
 31 upon an arrest for a violation of Section 11-501 of the
 32 Illinois Vehicle Code, or a similar provision of a local

1 ordinance, and the professional evaluation recommends
2 remedial or rehabilitative treatment or education, neither
3 the treatment nor the education shall be the sole disposition
4 and either or both may be imposed only in conjunction with
5 another disposition. The court shall monitor compliance with
6 any remedial education or treatment recommendations contained
7 in the professional evaluation. Programs conducting alcohol
8 or other drug evaluation or remedial education must be
9 licensed by the Department of Human Services. However, if
10 the individual is not a resident of Illinois, the court may
11 accept an alcohol or other drug evaluation or remedial
12 education program in the state of such individual's
13 residence. Programs providing treatment must be licensed
14 under existing applicable alcoholism and drug treatment
15 licensure standards.

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

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

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

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

13 (A) First degree murder where the death
 14 penalty is not imposed.

15 (B) Attempted first degree murder.

16 (C) A Class X felony.

17 (D) A violation of Section 401.1 or 407 of the
 18 Illinois Controlled Substances Act, or a violation
 19 of subdivision (c)(1) or (c)(2) of Section 401 of
 20 that Act which relates to more than 5 grams of a
 21 substance containing heroin or cocaine or an analog
 22 thereof.

23 (E) A violation of Section 5.1 or 9 of the
 24 Cannabis Control Act.

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

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

1 (H) Criminal sexual assault, except as
2 otherwise provided in subsection (e) of this
3 Section.

4 (I) Aggravated battery of a senior citizen.

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

7 Before July 1, 1994, for the purposes of this
8 paragraph, "organized gang" means an association of
9 5 or more persons, with an established hierarchy,
10 that encourages members of the association to
11 perpetrate crimes or provides support to the members
12 of the association who do commit crimes.

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

17 (K) Vehicular hijacking.

18 (L) A second or subsequent conviction for the
19 offense of hate crime when the underlying offense
20 upon which the hate crime is based is felony
21 aggravated assault or felony mob action.

22 (M) A second or subsequent conviction for the
23 offense of institutional vandalism if the damage to
24 the property exceeds \$300.

25 (N) A Class 3 felony violation of paragraph
26 (1) of subsection (a) of Section 2 of the Firearm
27 Owners Identification Card Act.

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

30 (P) A violation of paragraph (1), (2), (3),
31 (4), (5), or (7) of subsection (a) of Section
32 11-20.1 of the Criminal Code of 1961.

33 (Q) A violation of Section 20-1.2 of the
34 Criminal Code of 1961.

1 (R) A violation of Section 24-3A of the
2 Criminal Code of 1961.

3 (S) A violation of Section 11-501(c-1)(3) of
4 the Illinois Vehicle Code.

5 (3) A minimum term of imprisonment of not less than
6 5 days or 30 days of community service as may be
7 determined by the court shall be imposed for a second
8 violation committed within 5 years of a previous
9 violation of Section 11-501 of the Illinois Vehicle Code
10 or a similar provision of a local ordinance. In the case
11 of a third or subsequent violation committed within 5
12 years of a previous violation of Section 11-501 of the
13 Illinois Vehicle Code or a similar provision of a local
14 ordinance, a minimum term of either 10 days of
15 imprisonment or 60 days of community service shall be
16 imposed.

17 (4) A minimum term of imprisonment of not less than
18 10 consecutive days or 30 days of community service shall
19 be imposed for a violation of paragraph (c) of Section
20 6-303 of the Illinois Vehicle Code.

21 (4.1) A minimum term of 30 consecutive days of
22 imprisonment, 40 days of 24 hour periodic imprisonment or
23 720 hours of community service, as may be determined by
24 the court, shall be imposed for a violation of Section
25 11-501 of the Illinois Vehicle Code during a period in
26 which the defendant's driving privileges are revoked or
27 suspended, where the revocation or suspension was for a
28 violation of Section 11-501 or Section 11-501.1 of that
29 Code.

30 (4.2) Except as provided in paragraph (4.3) of this
31 subsection (c), a minimum of 100 hours of community
32 service shall be imposed for a second violation of
33 Section 6-303 of the Illinois Vehicle Code.

34 (4.3) A minimum term of imprisonment of 30 days or

1 300 hours of community service, as determined by the
2 court, shall be imposed for a second violation of
3 subsection (c) of Section 6-303 of the Illinois Vehicle
4 Code.

5 (4.4) Except as provided in paragraph (4.5) and
6 paragraph (4.6) of this subsection (c), a minimum term of
7 imprisonment of 30 days or 300 hours of community
8 service, as determined by the court, shall be imposed for
9 a third or subsequent violation of Section 6-303 of the
10 Illinois Vehicle Code.

11 (4.5) A minimum term of imprisonment of 30 days
12 shall be imposed for a third violation of subsection (c)
13 of Section 6-303 of the Illinois Vehicle Code.

14 (4.6) A minimum term of imprisonment of 180 days
15 shall be imposed for a fourth or subsequent violation of
16 subsection (c) of Section 6-303 of the Illinois Vehicle
17 Code.

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

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

25 (5.1) In addition to any penalties imposed under
26 paragraph (5) of this subsection (c), and except as
27 provided in paragraph (5.2) or (5.3), a person convicted
28 of violating subsection (c) of Section 11-907 of the
29 Illinois Vehicle Code shall have his or her driver's
30 license, permit, or privileges suspended for at least 90
31 days but not more than one year, if the violation
32 resulted in damage to the property of another person.

33 (5.2) In addition to any penalties imposed under
34 paragraph (5) of this subsection (c), and except as

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

7 (5.3) In addition to any penalties imposed under
8 paragraph (5) of this subsection (c), a person convicted
9 of violating subsection (c) of Section 11-907 of the
10 Illinois Vehicle Code shall have his or her driver's
11 license, permit, or privileges suspended for 2 years, if
12 the violation resulted in the death of another person.

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

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

21 (8) When a defendant, over the age of 21 years, is
22 convicted of a Class 1 or Class 2 felony, after having
23 twice been convicted in any state or federal court of an
24 offense that contains the same elements as an offense now
25 classified in Illinois as a Class 2 or greater Class
26 felony and such charges are separately brought and tried
27 and arise out of different series of acts, such defendant
28 shall be sentenced as a Class X offender. This paragraph
29 shall not apply unless (1) the first felony was committed
30 after the effective date of this amendatory Act of 1977;
31 and (2) the second felony was committed after conviction
32 on the first; and (3) the third felony was committed
33 after conviction on the second. A person sentenced as a
34 Class X offender under this paragraph is not eligible to

1 apply for treatment as a condition of probation as
2 provided by Section 40-10 of the Alcoholism and Other
3 Drug Abuse and Dependency Act.

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

7 (10) When a person is convicted of violating
8 Section 11-501 of the Illinois Vehicle Code or a similar
9 provision of a local ordinance, the following penalties
10 apply when his or her blood, breath, or urine was .16 or
11 more based on the definition of blood, breath, or urine
12 units in Section 11-501.2 or that person is convicted of
13 violating Section 11-501 of the Illinois Vehicle Code
14 while transporting a child under the age of 16:

15 (A) For a first violation of subsection (a) of
16 Section 11-501, in addition to any other penalty
17 that may be imposed under subsection (c) of Section
18 11-501: a mandatory minimum of 100 hours of
19 community service and a minimum fine of \$500.

20 (B) For a second violation of subsection (a)
21 of Section 11-501, in addition to any other penalty
22 that may be imposed under subsection (c) of Section
23 11-501 within 10 years: a mandatory minimum of 2
24 days of imprisonment and a minimum fine of \$1,250.

25 (C) For a third violation of subsection (a) of
26 Section 11-501, in addition to any other penalty
27 that may be imposed under subsection (c) of Section
28 11-501 within 20 years: a mandatory minimum of 90
29 days of imprisonment and a minimum fine of \$2,500.

30 (D) For a fourth or subsequent violation of
31 subsection (a) of Section 11-501: ineligibility for
32 a sentence of probation or conditional discharge and
33 a minimum fine of \$2,500.

34 (d) In any case in which a sentence originally imposed

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

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

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

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

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

34 (i) removal from the household;

- 1 (ii) restricted contact with the victim;
- 2 (iii) continued financial support of the
- 3 family;
- 4 (iv) restitution for harm done to the
- 5 victim; and
- 6 (v) compliance with any other measures
- 7 that the court may deem appropriate; and

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

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

22 For the purposes of this Section, "family member" and
 23 "victim" shall have the meanings ascribed to them in Section
 24 12-12 of the Criminal Code of 1961.

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

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

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

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

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

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

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

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

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

1 superintendent of schools shall notify the State Board of
2 Education of any notification under this subsection.

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

1 or vocational program.

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

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

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

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

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

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

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

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

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

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

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

24 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;
 25 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.
 26 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,
 27 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;
 28 92-422, eff. 8-17-01; revised 8-28-01.)

29 Section 99. Effective date. This Act takes effect upon
 30 becoming law.