

1 AN ACT concerning firearms.

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

4 Section 5. The Firearm Owners Identification Card Act is
5 amended by changing Section 8.1 as follows:

6 (430 ILCS 65/8.1) (from Ch. 38, par. 83-8.1)

7 Sec. 8.1. The Circuit Clerk shall, in the form and manner
8 required by the Supreme Court, notify the Department of State
9 Police of all final dispositions of cases for which the
10 Department has received information reported to it under
11 Section 2.1 of the Criminal Identification Act. Upon
12 receiving notice from the circuit clerk that a person has
13 been convicted of a felony, if that person holds a Firearm
14 Owner's Identification Card, the Department of State Police
15 shall immediately revoke that person's Firearm Owner's
16 Identification Card as provided by Section 9 of this Act.

17 (Source: P.A. 87-905.)

18 Section 10. The Unified Code of Corrections is amended
19 by changing Sections 5-3-1, 5-3-2, 5-4-1, 5-5-3, 5-6-3, and
20 5-6-4 as follows:

21 (730 ILCS 5/5-3-1) (from Ch. 38, par. 1005-3-1)

22 Sec. 5-3-1. Presentence Investigation. A defendant shall
23 not be sentenced for a felony before a written presentence
24 report of investigation is presented to and considered by the
25 court.

26 ~~However, the court need not order a presentence report of~~
27 ~~investigation where both parties agree to the imposition of a~~
28 ~~specific sentence, provided there is a finding made for the~~
29 ~~record as to the defendant's history of delinquency or~~

1 eriminality, including any previous sentence, to a term of
2 probation, periodic imprisonment, conditional discharge, or
3 imprisonment.

4 The court may order a presentence investigation of any
5 defendant.

6 (Source: P.A. 80-1099.)

7 (730 ILCS 5/5-3-2) (from Ch. 38, par. 1005-3-2)
8 Sec. 5-3-2. Presentence Report.

9 (a) In felony cases, the presentence report shall set
10 forth:

11 (1) the defendant's history of delinquency or
12 criminality, physical and mental history and condition,
13 family situation and background, economic status,
14 education, occupation and personal habits;

15 (2) information about special resources within the
16 community which might be available to assist the
17 defendant's rehabilitation, including treatment centers,
18 residential facilities, vocational training services,
19 correctional manpower programs, employment opportunities,
20 special educational programs, alcohol and drug abuse
21 programming, psychiatric and marriage counseling, and
22 other programs and facilities which could aid the
23 defendant's successful reintegration into society;

24 (3) the effect the offense committed has had upon
25 the victim or victims thereof, and any compensatory
26 benefit that various sentencing alternatives would confer
27 on such victim or victims;

28 (4) information concerning the defendant's status
29 since arrest, including his record if released on his own
30 recognizance, or the defendant's achievement record if
31 released on a conditional pre-trial supervision program;

32 (5) when appropriate, a plan, based upon the
33 personal, economic and social adjustment needs of the

1 defendant, utilizing public and private community
2 resources as an alternative to institutional sentencing;

3 (6) any other matters that the investigatory
4 officer deems relevant or the court directs to be
5 included; and

6 (7) information concerning defendant's eligibility
7 for a sentence to a county impact incarceration program
8 under Section 5-8-1.2 of this Code;

9 (8) information obtained from any State or federal
10 agency or any other source, including the defendant,
11 concerning the defendant's possession of firearms; and

12 (9) whether the defendant has a Firearm Owner's
13 Identification Card.

14 (b) The investigation shall include a physical and
15 mental examination of the defendant when so ordered by the
16 court. If the court determines that such an examination
17 should be made, it shall issue an order that the defendant
18 submit to examination at such time and place as designated by
19 the court and that such examination be conducted by a
20 physician, psychologist or psychiatrist designated by the
21 court. Such an examination may be conducted in a court
22 clinic if so ordered by the court. The cost of such
23 examination shall be paid by the county in which the trial is
24 held.

25 (c) In misdemeanor, business offense or petty offense
26 cases, except as specified in subsection (d) of this Section,
27 when a presentence report has been ordered by the court, such
28 presentence report shall contain information on the
29 defendant's history of delinquency or criminality and shall
30 further contain only those matters listed in any of
31 paragraphs (1) through (6) of subsection (a) or in subsection
32 (b) of this Section as are specified by the court in its
33 order for the report.

34 (d) In cases under Section 12-15 and Section 12-30 of

1 the Criminal Code of 1961, as amended, the presentence report
2 shall set forth information about alcohol, drug abuse,
3 psychiatric, and marriage counseling or other treatment
4 programs and facilities, information on the defendant's
5 history of delinquency or criminality, and shall contain
6 those additional matters listed in any of paragraphs (1)
7 through (6) of subsection (a) or in subsection (b) of this
8 Section as are specified by the court.

9 (e) Nothing in this Section shall cause the defendant to
10 be held without bail or to have his bail revoked for the
11 purpose of preparing the presentence report or making an
12 examination.

13 (Source: P.A. 89-587, eff. 7-31-96.)

14 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

15 Sec. 5-4-1. Sentencing Hearing.

16 (a) Except when the death penalty is sought under
17 hearing procedures otherwise specified, after a determination
18 of guilt, a hearing shall be held to impose the sentence.
19 However, prior to the imposition of sentence on an individual
20 being sentenced for an offense based upon a charge for a
21 violation of Section 11-501 of the Illinois Vehicle Code or a
22 similar provision of a local ordinance, the individual must
23 undergo a professional evaluation to determine if an alcohol
24 or other drug abuse problem exists and the extent of such a
25 problem. Programs conducting these evaluations shall be
26 licensed by the Department of Human Services. However, if
27 the individual is not a resident of Illinois, the court may,
28 in its discretion, accept an evaluation from a program in the
29 state of such individual's residence. The court may in its
30 sentencing order approve an eligible defendant for placement
31 in a Department of Corrections impact incarceration program
32 as provided in Section 5-8-1.1. At the hearing the court
33 shall:

1 (1) consider the evidence, if any, received upon
2 the trial;

3 (2) consider any presentence reports;

4 (3) consider the financial impact of incarceration
5 based on the financial impact statement filed with the
6 clerk of the court by the Department of Corrections;

7 (4) consider evidence and information offered by
8 the parties in aggravation and mitigation;

9 (5) hear arguments as to sentencing alternatives;

10 (6) afford the defendant the opportunity to make a
11 statement in his own behalf;

12 (7) afford the victim of a violent crime or a
13 violation of Section 11-501 of the Illinois Vehicle Code,
14 or a similar provision of a local ordinance, or a
15 qualified individual affected by a violation of Section
16 405, 405.1, 405.2, or 407 of the Illinois Controlled
17 Substances Act, committed by the defendant the
18 opportunity to make a statement concerning the impact on
19 the victim and to offer evidence in aggravation or
20 mitigation; provided that the statement and evidence
21 offered in aggravation or mitigation must first be
22 prepared in writing in conjunction with the State's
23 Attorney before it may be presented orally at the
24 hearing. Any sworn testimony offered by the victim is
25 subject to the defendant's right to cross-examine. All
26 statements and evidence offered under this paragraph (7)
27 shall become part of the record of the court. For the
28 purpose of this paragraph (7), "qualified individual"
29 means any person who (i) lived or worked within the
30 territorial jurisdiction where the offense took place
31 when the offense took place; and (ii) is familiar with
32 various public places within the territorial jurisdiction
33 where the offense took place when the offense took place.
34 For the purposes of this paragraph (7), "qualified

1 individual" includes any peace officer, or any member of
2 any duly organized State, county, or municipal peace unit
3 assigned to the territorial jurisdiction where the
4 offense took place when the offense took place; and

5 (8) in cases of reckless homicide afford the
6 victim's spouse, guardians, parents or other immediate
7 family members an opportunity to make oral statements;
8 and-

9 (9) question the defendant concerning his or her
10 possession of firearms and admonish the defendant that
11 possession of firearms by a person who has had his or her
12 Firearm Owner's Identification Card revoked for
13 conviction of a felony is a separate offense, punishable
14 as a Class 3 felony.

15 (b) All sentences shall be imposed by the judge based
16 upon his independent assessment of the elements specified
17 above and any agreement as to sentence reached by the
18 parties. The judge who presided at the trial or the judge
19 who accepted the plea of guilty shall impose the sentence
20 unless he is no longer sitting as a judge in that court.
21 Where the judge does not impose sentence at the same time on
22 all defendants who are convicted as a result of being
23 involved in the same offense, the defendant or the State's
24 Attorney may advise the sentencing court of the disposition
25 of any other defendants who have been sentenced.

26 (c) In imposing a sentence for a violent crime or for an
27 offense of operating or being in physical control of a
28 vehicle while under the influence of alcohol, any other drug
29 or any combination thereof, or a similar provision of a local
30 ordinance, when such offense resulted in the personal injury
31 to someone other than the defendant, the trial judge shall
32 specify on the record the particular evidence, information,
33 factors in mitigation and aggravation or other reasons that
34 led to his sentencing determination. The full verbatim record

1 of the sentencing hearing shall be filed with the clerk of
2 the court and shall be a public record.

3 (c-1) In imposing a sentence for the offense of
4 aggravated kidnapping for ransom, home invasion, armed
5 robbery, aggravated vehicular hijacking, aggravated discharge
6 of a firearm, or armed violence with a category I weapon or
7 category II weapon, the trial judge shall make a finding as
8 to whether the conduct leading to conviction for the offense
9 resulted in great bodily harm to a victim, and shall enter
10 that finding and the basis for that finding in the record.

11 (c-2) If the defendant is sentenced to prison, other
12 than when a sentence of natural life imprisonment or a
13 sentence of death is imposed, at the time the sentence is
14 imposed the judge shall state on the record in open court the
15 approximate period of time the defendant will serve in
16 custody according to the then current statutory rules and
17 regulations for early release found in Section 3-6-3 and
18 other related provisions of this Code. This statement is
19 intended solely to inform the public, has no legal effect on
20 the defendant's actual release, and may not be relied on by
21 the defendant on appeal.

22 The judge's statement, to be given after pronouncing the
23 sentence, other than when the sentence is imposed for one of
24 the offenses enumerated in paragraph (a)(3) of Section 3-6-3,
25 shall include the following:

26 "The purpose of this statement is to inform the public of
27 the actual period of time this defendant is likely to spend
28 in prison as a result of this sentence. The actual period of
29 prison time served is determined by the statutes of Illinois
30 as applied to this sentence by the Illinois Department of
31 Corrections and the Illinois Prisoner Review Board. In this
32 case, assuming the defendant receives all of his or her good
33 conduct credit, the period of estimated actual custody is ...
34 years and ... months, less up to 180 days additional good

1 conduct credit for meritorious service. If the defendant,
2 because of his or her own misconduct or failure to comply
3 with the institutional regulations, does not receive those
4 credits, the actual time served in prison will be longer.
5 The defendant may also receive an additional one-half day
6 good conduct credit for each day of participation in
7 vocational, industry, substance abuse, and educational
8 programs as provided for by Illinois statute."

9 When the sentence is imposed for one of the offenses
10 enumerated in paragraph (a)(3) of Section 3-6-3, other than
11 when the sentence is imposed for one of the offenses
12 enumerated in paragraph (a)(2) of Section 3-6-3 committed on
13 or after June 19, 1998, and other than when the sentence is
14 imposed for reckless homicide as defined in subsection (e) of
15 Section 9-3 of the Criminal Code of 1961 if the offense was
16 committed on or after January 1, 1999, the judge's statement,
17 to be given after pronouncing the sentence, shall include the
18 following:

19 "The purpose of this statement is to inform the public of
20 the actual period of time this defendant is likely to spend
21 in prison as a result of this sentence. The actual period of
22 prison time served is determined by the statutes of Illinois
23 as applied to this sentence by the Illinois Department of
24 Corrections and the Illinois Prisoner Review Board. In this
25 case, assuming the defendant receives all of his or her good
26 conduct credit, the period of estimated actual custody is ...
27 years and ... months, less up to 90 days additional good
28 conduct credit for meritorious service. If the defendant,
29 because of his or her own misconduct or failure to comply
30 with the institutional regulations, does not receive those
31 credits, the actual time served in prison will be longer.
32 The defendant may also receive an additional one-half day
33 good conduct credit for each day of participation in
34 vocational, industry, substance abuse, and educational

1 programs as provided for by Illinois statute."

2 When the sentence is imposed for one of the offenses
3 enumerated in paragraph (a)(2) of Section 3-6-3, other than
4 first degree murder, and the offense was committed on or
5 after June 19, 1998, and when the sentence is imposed for
6 reckless homicide as defined in subsection (e) of Section 9-3
7 of the Criminal Code of 1961 if the offense was committed on
8 or after January 1, 1999, the judge's statement, to be given
9 after pronouncing the sentence, shall include the following:

10 "The purpose of this statement is to inform the public of
11 the actual period of time this defendant is likely to spend
12 in prison as a result of this sentence. The actual period of
13 prison time served is determined by the statutes of Illinois
14 as applied to this sentence by the Illinois Department of
15 Corrections and the Illinois Prisoner Review Board. In this
16 case, the defendant is entitled to no more than 4 1/2 days of
17 good conduct credit for each month of his or her sentence of
18 imprisonment. Therefore, this defendant will serve at least
19 85% of his or her sentence. Assuming the defendant receives
20 4 1/2 days credit for each month of his or her sentence, the
21 period of estimated actual custody is ... years and ...
22 months. If the defendant, because of his or her own
23 misconduct or failure to comply with the institutional
24 regulations receives lesser credit, the actual time served in
25 prison will be longer."

26 When a sentence of imprisonment is imposed for first
27 degree murder and the offense was committed on or after June
28 19, 1998, the judge's statement, to be given after
29 pronouncing the sentence, shall include the following:

30 "The purpose of this statement is to inform the public of
31 the actual period of time this defendant is likely to spend
32 in prison as a result of this sentence. The actual period of
33 prison time served is determined by the statutes of Illinois
34 as applied to this sentence by the Illinois Department of

1 Corrections and the Illinois Prisoner Review Board. In this
2 case, the defendant is not entitled to good conduct credit.
3 Therefore, this defendant will serve 100% of his or her
4 sentence."

5 (d) When the defendant is committed to the Department of
6 Corrections, the State's Attorney shall and counsel for the
7 defendant may file a statement with the clerk of the court to
8 be transmitted to the department, agency or institution to
9 which the defendant is committed to furnish such department,
10 agency or institution with the facts and circumstances of the
11 offense for which the person was committed together with all
12 other factual information accessible to them in regard to the
13 person prior to his commitment relative to his habits,
14 associates, disposition and reputation and any other facts
15 and circumstances which may aid such department, agency or
16 institution during its custody of such person. The clerk
17 shall within 10 days after receiving any such statements
18 transmit a copy to such department, agency or institution and
19 a copy to the other party, provided, however, that this shall
20 not be cause for delay in conveying the person to the
21 department, agency or institution to which he has been
22 committed.

23 (e) The clerk of the court shall transmit to the
24 department, agency or institution, if any, to which the
25 defendant is committed, the following:

- 26 (1) the sentence imposed;
- 27 (2) any statement by the court of the basis for
28 imposing the sentence;
- 29 (3) any presentence reports;
- 30 (4) the number of days, if any, which the defendant
31 has been in custody and for which he is entitled to
32 credit against the sentence, which information shall be
33 provided to the clerk by the sheriff;
- 34 (4.1) any finding of great bodily harm made by the

1 court with respect to an offense enumerated in subsection
2 (c-1);

3 (5) all statements filed under subsection (d) of
4 this Section;

5 (6) any medical or mental health records or
6 summaries of the defendant;

7 (7) the municipality where the arrest of the
8 offender or the commission of the offense has occurred,
9 where such municipality has a population of more than
10 25,000 persons;

11 (8) all statements made and evidence offered under
12 paragraph (7) of subsection (a) of this Section; and

13 (9) all additional matters which the court directs
14 the clerk to transmit.

15 (Source: P.A. 90-592, eff. 6-19-98; 90-593, eff. 6-19-98;
16 90-740, eff. 1-1-99; 91-357, eff. 7-29-99; 91-899, eff.
17 1-1-01.)

18 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)
19 Sec. 5-5-3. Disposition.

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

22 (b) The following options shall be appropriate
23 dispositions, alone or in combination, for all felonies and
24 misdemeanors other than those identified in subsection (c) of
25 this Section:

26 (1) A period of probation.

27 (2) A term of periodic imprisonment.

28 (3) A term of conditional discharge.

29 (4) A term of imprisonment.

30 (5) An order directing the offender to clean up and
31 repair the damage, if the offender was convicted under
32 paragraph (h) of Section 21-1 of the Criminal Code of
33 1961.

1 (6) A fine.

2 (7) An order directing the offender to make
3 restitution to the victim under Section 5-5-6 of this
4 Code.

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

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

25 In addition to any other fine or penalty required by law,
26 any individual convicted of a violation of Section 11-501 of
27 the Illinois Vehicle Code or a similar provision of local
28 ordinance, whose operation of a motor vehicle while in
29 violation of Section 11-501 or such ordinance proximately
30 caused an incident resulting in an appropriate emergency
31 response, shall be required to make restitution to a public
32 agency for the costs of that emergency response. Such
33 restitution shall not exceed \$500 per public agency for each
34 such emergency response. For the purpose of this paragraph,

1 emergency response shall mean any incident requiring a
2 response by: a police officer as defined under Section 1-162
3 of the Illinois Vehicle Code; a fireman carried on the rolls
4 of a regularly constituted fire department; and an ambulance
5 as defined under Section 4.05 of the Emergency Medical
6 Services (EMS) Systems Act.

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

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

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

22 (A) First degree murder where the death
23 penalty is not imposed.

24 (B) Attempted first degree murder.

25 (C) A Class X felony.

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

31 (E) A violation of Section 5.1 or 9 of the
32 Cannabis Control Act.

33 (F) A Class 2 or greater felony if the
34 offender had been convicted of a Class 2 or greater

1 felony within 10 years of the date on which the
2 offender committed the offense for which he or she
3 is being sentenced, except as otherwise provided in
4 Section 40-10 of the Alcoholism and Other Drug Abuse
5 and Dependency Act.

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

9 (H) Criminal sexual assault, except as
10 otherwise provided in subsection (e) of this
11 Section.

12 (I) Aggravated battery of a senior citizen.

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

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

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

25 (K) Vehicular hijacking.

26 (L) A second or subsequent conviction for the
27 offense of hate crime when the underlying offense
28 upon which the hate crime is based is felony
29 aggravated assault or felony mob action.

30 (M) A second or subsequent conviction for the
31 offense of institutional vandalism if the damage to
32 the property exceeds \$300.

33 (N) A Class 3 felony violation of paragraph
34 (1) of subsection (a) of Section 2 of the Firearm

1 Owners Identification Card Act.

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

4 (P) A violation of paragraph (1), (2), (3),
5 (4), (5), or (7) of subsection (a) of Section
6 11-20.1 of the Criminal Code of 1961.

7 (Q) A violation of Section 20-1.2 of the
8 Criminal Code of 1961.

9 (R) A violation of Section 24-3A of the
10 Criminal Code of 1961.

11 (3) A minimum term of imprisonment of not less than
12 48 consecutive hours or 100 hours of community service as
13 may be determined by the court shall be imposed for a
14 second or subsequent violation committed within 5 years
15 of a previous violation of Section 11-501 of the Illinois
16 Vehicle Code or a similar provision of a local ordinance.

17 (4) A minimum term of imprisonment of not less than
18 7 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 (5) The court may sentence an offender convicted of
31 a business offense or a petty offense or a corporation or
32 unincorporated association convicted of any offense to:

33 (A) a period of conditional discharge;

34 (B) a fine;

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

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

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

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

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

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

1 Unified Code of Corrections.

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

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

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

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

17 (i) removal from the household;

18 (ii) restricted contact with the victim;

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

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

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

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

32 Probation may be revoked or modified pursuant to Section
33 5-6-4; except where the court determines at the hearing that
34 the defendant violated a condition of his or her probation

1 restricting contact with the victim or other family members
2 or commits another offense with the victim or other family
3 members, the court shall revoke the defendant's probation and
4 impose a term of imprisonment.

5 For the purposes of this Section, "family member" and
6 "victim" shall have the meanings ascribed to them in Section
7 12-12 of the Criminal Code of 1961.

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

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

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

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

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

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

23 (i) All fines and penalties imposed under this Section
24 for any violation of Chapters 3, 4, 6, and 11 of the Illinois
25 Vehicle Code, or a similar provision of a local ordinance,
26 and any violation of the Child Passenger Protection Act, or a
27 similar provision of a local ordinance, shall be collected
28 and disbursed by the circuit clerk as provided under Section
29 27.5 of the Clerks of Courts Act.

30 (j) In cases when prosecution for any violation of
31 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,
32 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,
33 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or
34 12-16 of the Criminal Code of 1961, any violation of the

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

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

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

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

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

7 (B) If the defendant has already been sentenced for
8 a felony or misdemeanor offense, or has been placed on
9 probation under Section 10 of the Cannabis Control Act or
10 Section 410 of the Illinois Controlled Substances Act,
11 the court may, upon motion of the State's Attorney to
12 suspend the sentence imposed, commit the defendant to the
13 custody of the Attorney General of the United States or
14 his or her designated agent 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 (C) This subsection (1) does not apply to offenders
23 who are subject to the provisions of paragraph (2) of
24 subsection (a) of Section 3-6-3.

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

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

7 (n) As part of a sentence for a defendant convicted of
8 any felony, the defendant must be ordered to surrender any
9 firearms in his possession and to mail his or her Firearm
10 Owner's Identification Card to the Department of State
11 Police, postmarked no later than 24 hours after the date of
12 sentencing.

13 (o) Upon conviction of a felony, the clerk of the
14 circuit court shall, within 24 hours of the date of
15 conviction, notify the Department of State Police of the
16 conviction.

17 (p) For any defendant convicted of a felony, a law
18 enforcement agency may, without the defendant's consent,
19 search the defendant's person, residence or other real or
20 personal property and seize any firearms found.

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

25 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)
26 Sec. 5-6-3. Conditions of Probation and of Conditional
27 Discharge.

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

30 (1) not violate any criminal statute of any
31 jurisdiction;

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

1 (3) refrain from possessing a firearm or other
2 dangerous weapon;

3 (4) not leave the State without the consent of the
4 court or, in circumstances in which the reason for the
5 absence is of such an emergency nature that prior consent
6 by the court is not possible, without the prior
7 notification and approval of the person's probation
8 officer;

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

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

30 (7) if he or she is at least 17 years of age and
31 has been sentenced to probation or conditional discharge
32 for a misdemeanor or felony in a county of 3,000,000 or
33 more inhabitants and has not been previously convicted of
34 a misdemeanor or felony, may be required by the

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

24 (8) if convicted of possession of a substance
25 prohibited by the Cannabis Control Act or Illinois
26 Controlled Substances Act after a previous conviction or
27 disposition of supervision for possession of a substance
28 prohibited by the Cannabis Control Act or Illinois
29 Controlled Substances Act or after a sentence of
30 probation under Section 10 of the Cannabis Control Act or
31 Section 410 of the Illinois Controlled Substances Act and
32 upon a finding by the court that the person is addicted,
33 undergo treatment at a substance abuse program approved
34 by the court; i-

1 (9) surrender any weapons in his or her possession
2 and mail his or her Firearm Owner's Identification Card
3 to the Department of State Police, as provided by
4 subsection (n) of Section 5-5-3; and

5 (10) Allow a law enforcement officer to search his
6 person, residence, or other real or personal property for
7 any firearms.

8 (b) The Court may in addition to other reasonable
9 conditions relating to the nature of the offense or the
10 rehabilitation of the defendant as determined for each
11 defendant in the proper discretion of the Court require that
12 the person:

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

16 (2) pay a fine and costs;

17 (3) work or pursue a course of study or vocational
18 training;

19 (4) undergo medical, psychological or psychiatric
20 treatment; or treatment for drug addiction or alcoholism;

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

23 (6) support his dependents;

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

25 (i) reside with his parents or in a foster
26 home;

27 (ii) attend school;

28 (iii) attend a non-residential program for
29 youth;

30 (iv) contribute to his own support at home or
31 in a foster home;

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

34 (9) perform some reasonable public or community

1 service;

2 (10) serve a term of home confinement. In addition
3 to any other applicable condition of probation or
4 conditional discharge, the conditions of home confinement
5 shall be that the offender:

6 (i) remain within the interior premises of the
7 place designated for his confinement during the
8 hours designated by the court;

9 (ii) admit any person or agent designated by
10 the court into the offender's place of confinement
11 at any time for purposes of verifying the offender's
12 compliance with the conditions of his confinement;
13 and

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

18 (iv) for persons convicted of any alcohol,
19 cannabis or controlled substance violation who are
20 placed on an approved monitoring device as a
21 condition of probation or conditional discharge, the
22 court shall impose a reasonable fee for each day of
23 the use of the device, as established by the county
24 board in subsection (g) of this Section, unless
25 after determining the inability of the offender to
26 pay the fee, the court assesses a lesser fee or no
27 fee as the case may be. This fee shall be imposed in
28 addition to the fees imposed under subsections (g)
29 and (i) of this Section. The fee shall be collected
30 by the clerk of the circuit court. The clerk of the
31 circuit court shall pay all monies collected from
32 this fee to the county treasurer for deposit in the
33 substance abuse services fund under Section 5-1086.1
34 of the Counties Code; and

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

21 (11) comply with the terms and conditions of an
22 order of protection issued by the court pursuant to the
23 Illinois Domestic Violence Act of 1986, as now or
24 hereafter amended, or an order of protection issued by
25 the court of another state, tribe, or United States
26 territory. A copy of the order of protection shall be
27 transmitted to the probation officer or agency having
28 responsibility for the case;

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

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

6 (14) refrain from entering into a designated
7 geographic area except upon such terms as the court finds
8 appropriate. Such terms may include consideration of the
9 purpose of the entry, the time of day, other persons
10 accompanying the defendant, and advance approval by a
11 probation officer, if the defendant has been placed on
12 probation or advance approval by the court, if the
13 defendant was placed on conditional discharge;

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

18 (16) refrain from having in his or her body the
19 presence of any illicit drug prohibited by the Cannabis
20 Control Act or the Illinois Controlled Substances Act,
21 unless prescribed by a physician, and submit samples of
22 his or her blood or urine or both for tests to determine
23 the presence of any illicit drug.

24 (c) The court may as a condition of probation or of
25 conditional discharge require that a person under 18 years of
26 age found guilty of any alcohol, cannabis or controlled
27 substance violation, refrain from acquiring a driver's
28 license during the period of probation or conditional
29 discharge. If such person is in possession of a permit or
30 license, the court may require that the minor refrain from
31 driving or operating any motor vehicle during the period of
32 probation or conditional discharge, except as may be
33 necessary in the course of the minor's lawful employment.

34 (d) An offender sentenced to probation or to conditional

1 discharge shall be given a certificate setting forth the
2 conditions thereof.

3 (e) The court shall not require as a condition of the
4 sentence of probation or conditional discharge that the
5 offender be committed to a period of imprisonment in excess
6 of 6 months. This 6 month limit shall not include periods of
7 confinement given pursuant to a sentence of county impact
8 incarceration under Section 5-8-1.2.

9 Persons committed to imprisonment as a condition of
10 probation or conditional discharge shall not be committed to
11 the Department of Corrections.

12 (f) The court may combine a sentence of periodic
13 imprisonment under Article 7 or a sentence to a county impact
14 incarceration program under Article 8 with a sentence of
15 probation or conditional discharge.

16 (g) An offender sentenced to probation or to conditional
17 discharge and who during the term of either undergoes
18 mandatory drug or alcohol testing, or both, or is assigned to
19 be placed on an approved electronic monitoring device, shall
20 be ordered to pay all costs incidental to such mandatory drug
21 or alcohol testing, or both, and all costs incidental to such
22 approved electronic monitoring in accordance with the
23 defendant's ability to pay those costs. The county board
24 with the concurrence of the Chief Judge of the judicial
25 circuit in which the county is located shall establish
26 reasonable fees for the cost of maintenance, testing, and
27 incidental expenses related to the mandatory drug or alcohol
28 testing, or both, and all costs incidental to approved
29 electronic monitoring, involved in a successful probation
30 program for the county. The concurrence of the Chief Judge
31 shall be in the form of an administrative order. The fees
32 shall be collected by the clerk of the circuit court. The
33 clerk of the circuit court shall pay all moneys collected
34 from these fees to the county treasurer who shall use the

1 moneys collected to defray the costs of drug testing, alcohol
2 testing, and electronic monitoring. The county treasurer
3 shall deposit the fees collected in the county working cash
4 fund under Section 6-27001 or Section 6-29002 of the Counties
5 Code, as the case may be.

6 (h) Jurisdiction over an offender may be transferred
7 from the sentencing court to the court of another circuit
8 with the concurrence of both courts, or to another state
9 under an Interstate Probation Reciprocal Agreement as
10 provided in Section 3-3-11. Further transfers or retransfers
11 of jurisdiction are also authorized in the same manner. The
12 court to which jurisdiction has been transferred shall have
13 the same powers as the sentencing court.

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

31 (j) All fines and costs imposed under this Section for
32 any violation of Chapters 3, 4, 6, and 11 of the Illinois
33 Vehicle Code, or a similar provision of a local ordinance,
34 and any violation of the Child Passenger Protection Act, or a

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

4 (Source: P.A. 90-14, eff. 7-1-97; 90-399, eff. 1-1-98;
5 90-504, eff. 1-1-98; 90-655, eff. 7-30-98; 91-325, eff.
6 7-29-99; 91-696, eff. 4-13-00; 91-903, eff. 1-1-01.)

7 (730 ILCS 5/5-6-4) (from Ch. 38, par. 1005-6-4)
8 Sec. 5-6-4. Violation, Modification or Revocation of
9 Probation, of Conditional Discharge or Supervision or of a
10 sentence of county impact incarceration - Hearing.

11 (a) Except in cases where conditional discharge or
12 supervision was imposed for a petty offense as defined in
13 Section 5-1-17, when a petition is filed charging a violation
14 of a condition, the court may:

15 (1) in the case of probation violations, order the
16 issuance of a notice to the offender to be present by the
17 County Probation Department or such other agency
18 designated by the court to handle probation matters; and
19 in the case of conditional discharge or supervision
20 violations, such notice to the offender shall be issued
21 by the Circuit Court Clerk; and in the case of a
22 violation of a sentence of county impact incarceration,
23 such notice shall be issued by the Sheriff;

24 (2) order a summons to the offender to be present
25 for hearing; or

26 (3) order a warrant for the offender's arrest where
27 there is danger of his fleeing the jurisdiction or
28 causing serious harm to others or when the offender fails
29 to answer a summons or notice from the clerk of the court
30 or Sheriff.

31 Personal service of the petition for violation of
32 probation or the issuance of such warrant, summons or notice
33 shall toll the period of probation, conditional discharge,

1 supervision, or sentence of county impact incarceration until
2 the final determination of the charge, and the term of
3 probation, conditional discharge, supervision, or sentence of
4 county impact incarceration shall not run until the hearing
5 and disposition of the petition for violation.

6 (b) The court shall conduct a hearing of the alleged
7 violation. The court shall admit the offender to bail pending
8 the hearing unless the alleged violation is itself a criminal
9 offense in which case the offender shall be admitted to bail
10 on such terms as are provided in the Code of Criminal
11 Procedure of 1963, as amended. In any case where an offender
12 remains incarcerated only as a result of his alleged
13 violation of the court's earlier order of probation,
14 supervision, conditional discharge, or county impact
15 incarceration such hearing shall be held within 14 days of
16 the onset of said incarceration, unless the alleged violation
17 is the commission of another offense by the offender during
18 the period of probation, supervision or conditional discharge
19 in which case such hearing shall be held within the time
20 limits described in Section 103-5 of the Code of Criminal
21 Procedure of 1963, as amended.

22 (c) The State has the burden of going forward with the
23 evidence and proving the violation by the preponderance of
24 the evidence. The evidence shall be presented in open court
25 with the right of confrontation, cross-examination, and
26 representation by counsel.

27 (d) Probation, conditional discharge, periodic
28 imprisonment and supervision shall not be revoked for failure
29 to comply with conditions of a sentence or supervision, which
30 imposes financial obligations upon the offender unless such
31 failure is due to his willful refusal to pay.

32 (d-5) Probation, conditional discharge, or periodic
33 imprisonment imposed for a felony offense shall be revoked if
34 the defendant possesses any firearm.

1 (e) If the court finds that the offender has violated a
2 condition at any time prior to the expiration or termination
3 of the period, it may continue him on the existing sentence,
4 with or without modifying or enlarging the conditions, or may
5 impose any other sentence that was available under Section
6 5-5-3 at the time of initial sentencing. If the court finds
7 that the person has failed to successfully complete his or
8 her sentence to a county impact incarceration program, the
9 court may impose any other sentence that was available under
10 Section 5-5-3 at the time of initial sentencing, except for a
11 sentence of probation or conditional discharge.

12 (f) The conditions of probation, of conditional
13 discharge, of supervision, or of a sentence of county impact
14 incarceration may be modified by the court on motion of the
15 supervising agency or on its own motion or at the request of
16 the offender after notice and a hearing.

17 (g) A judgment revoking supervision, probation,
18 conditional discharge, or a sentence of county impact
19 incarceration is a final appealable order.

20 (h) Resentencing after revocation of probation,
21 conditional discharge, supervision, or a sentence of county
22 impact incarceration shall be under Article 4. Time served on
23 probation, conditional discharge or supervision shall not be
24 credited by the court against a sentence of imprisonment or
25 periodic imprisonment unless the court orders otherwise.

26 (i) Instead of filing a violation of probation,
27 conditional discharge, supervision, or a sentence of county
28 impact incarceration, an agent or employee of the supervising
29 agency with the concurrence of his or her supervisor may
30 serve on the defendant a Notice of Intermediate Sanctions.
31 The Notice shall contain the technical violation or
32 violations involved, the date or dates of the violation or
33 violations, and the intermediate sanctions to be imposed.
34 Upon receipt of the Notice, the defendant shall immediately

1 accept or reject the intermediate sanctions. If the
2 sanctions are accepted, they shall be imposed immediately.
3 If the intermediate sanctions are rejected or the defendant
4 does not respond to the Notice, a violation of probation,
5 conditional discharge, supervision, or a sentence of county
6 impact incarceration shall be immediately filed with the
7 court. The State's Attorney and the sentencing court shall
8 be notified of the Notice of Sanctions. Upon successful
9 completion of the intermediate sanctions, a court may not
10 revoke probation, conditional discharge, supervision, or a
11 sentence of county impact incarceration or impose additional
12 sanctions for the same violation. A notice of intermediate
13 sanctions may not be issued for any violation of probation,
14 conditional discharge, supervision, or a sentence of county
15 impact incarceration which could warrant an additional,
16 separate felony charge. The intermediate sanctions shall
17 include a term of home detention as provided in Article 8A of
18 Chapter V of this Code for multiple or repeat violations of
19 the terms and conditions of a sentence of probation,
20 conditional discharge, or supervision.

21 (Source: P.A. 89-198, eff. 7-21-95; 89-587, eff. 7-31-96;
22 89-647, eff. 1-1-97; 90-14, eff. 7-1-97.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.