

1 AN ACT in relation to driving under the influence of  
2 alcohol and drugs.

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

5 Section 5. The Illinois Vehicle Code is amended by  
6 changing Sections 6-205, 6-208.1, 6-208.2, and 11-501 as  
7 follows:

8 (625 ILCS 5/6-205) (from Ch. 95 1/2, par. 6-205)  
9 Sec. 6-205. Mandatory revocation of license or permit;  
10 Hardship cases.

11 (a) Except as provided in this Section, the Secretary of  
12 State shall immediately revoke the license or permit of any  
13 driver upon receiving a report of the driver's conviction of  
14 any of the following offenses:

15 1. Reckless homicide resulting from the operation  
16 of a motor vehicle;

17 2. Violation of Section 11-501 of this Code or a  
18 similar provision of a local ordinance relating to the  
19 offense of operating or being in physical control of a  
20 vehicle while under the influence of alcohol, other drug  
21 or drugs, intoxicating compound or compounds, or any  
22 combination thereof;

23 3. Any felony under the laws of any State or the  
24 federal government in the commission of which a motor  
25 vehicle was used;

26 4. Violation of Section 11-401 of this Code  
27 relating to the offense of leaving the scene of a traffic  
28 accident involving death or personal injury;

29 5. Perjury or the making of a false affidavit or  
30 statement under oath to the Secretary of State under this  
31 Code or under any other law relating to the ownership or

1 operation of motor vehicles;

2 6. Conviction upon 3 charges of violation of  
3 Section 11-503 of this Code relating to the offense of  
4 reckless driving committed within a period of 12 months;

5 7. Conviction of the offense of automobile theft as  
6 defined in Section 4-102 of this Code;

7 8. Violation of Section 11-504 of this Code  
8 relating to the offense of drag racing;

9 9. Violation of Chapters 8 and 9 of this Code;

10 10. Violation of Section 12-5 of the Criminal Code  
11 of 1961 arising from the use of a motor vehicle;

12 11. Violation of Section 11-204.1 of this Code  
13 relating to aggravated fleeing or attempting to elude a  
14 police officer;

15 12. Violation of paragraph (1) of subsection (b) of  
16 Section 6-507, or a similar law of any other state,  
17 relating to the unlawful operation of a commercial motor  
18 vehicle;

19 13. Violation of paragraph (a) of Section 11-502 of  
20 this Code or a similar provision of a local ordinance if  
21 the driver has been previously convicted of a violation  
22 of that Section or a similar provision of a local  
23 ordinance and the driver was less than 21 years of age at  
24 the time of the offense.

25 (b) The Secretary of State shall also immediately revoke  
26 the license or permit of any driver in the following  
27 situations:

28 1. Of any minor upon receiving the notice provided  
29 for in Section 5-901 of the Juvenile Court Act of 1987  
30 that the minor has been adjudicated under that Act as  
31 having committed an offense relating to motor vehicles  
32 prescribed in Section 4-103 of this Code;

33 2. Of any person when any other law of this State  
34 requires either the revocation or suspension of a license

1 or permit.

2 (c) Whenever a person is convicted of any of the  
3 offenses enumerated in this Section, the court may recommend  
4 and the Secretary of State in his discretion, without regard  
5 to whether the recommendation is made by the court, may, upon  
6 application, issue to the person a restricted driving permit  
7 granting the privilege of driving a motor vehicle between the  
8 petitioner's residence and petitioner's place of employment  
9 or within the scope of the petitioner's employment related  
10 duties, or to allow transportation for the petitioner or a  
11 household member of the petitioner's family for the receipt  
12 of necessary medical care or, if the professional evaluation  
13 indicates, provide transportation for the petitioner for  
14 alcohol remedial or rehabilitative activity, or for the  
15 petitioner to attend classes, as a student, in an accredited  
16 educational institution; if the petitioner is able to  
17 demonstrate that no alternative means of transportation is  
18 reasonably available and the petitioner will not endanger the  
19 public safety or welfare; provided that the Secretary's  
20 discretion shall be limited to cases where undue hardship  
21 would result from a failure to issue the restricted driving  
22 permit. In each case the Secretary of State may issue a  
23 restricted driving permit for a period he deems appropriate,  
24 except that the permit shall expire within one year from the  
25 date of issuance. A restricted driving permit issued under  
26 this Section shall be subject to cancellation, revocation,  
27 and suspension by the Secretary of State in like manner and  
28 for like cause as a driver's license issued under this Code  
29 may be cancelled, revoked, or suspended; except that a  
30 conviction upon one or more offenses against laws or  
31 ordinances regulating the movement of traffic shall be deemed  
32 sufficient cause for the revocation, suspension, or  
33 cancellation of a restricted driving permit. The Secretary of  
34 State may, as a condition to the issuance of a restricted

1 driving permit, require the applicant to participate in a  
2 designated driver remedial or rehabilitative program. The  
3 Secretary of State is authorized to cancel a restricted  
4 driving permit if the permit holder does not successfully  
5 complete the program. However, if an individual's driving  
6 privileges have been revoked in accordance with paragraph 13  
7 of subsection (a) of this Section, no restricted driving  
8 permit shall be issued until the individual has served 6  
9 months of the revocation period.

10 (d) Whenever a person under the age of 21 is convicted  
11 under Section 11-501 of this Code or a similar provision of a  
12 local ordinance, the Secretary of State shall revoke the  
13 driving privileges of that person. One year after the date  
14 of revocation, and upon application, the Secretary of State  
15 may, if satisfied that the person applying will not endanger  
16 the public safety or welfare, issue a restricted driving  
17 permit granting the privilege of driving a motor vehicle only  
18 between the hours of 5 a.m. and 9 p.m. or as otherwise  
19 provided by this Section for a period of one year. After  
20 this one year period, and upon reapplication for a license as  
21 provided in Section 6-106, upon payment of the appropriate  
22 reinstatement fee provided under paragraph (b) of Section  
23 6-118, the Secretary of State, in his discretion, may issue  
24 the applicant a license, or extend the restricted driving  
25 permit as many times as the Secretary of State deems  
26 appropriate, by additional periods of not more than 12 months  
27 each, until the applicant attains 21 years of age. A  
28 restricted driving permit issued under this Section shall be  
29 subject to cancellation, revocation, and suspension by the  
30 Secretary of State in like manner and for like cause as a  
31 driver's license issued under this Code may be cancelled,  
32 revoked, or suspended; except that a conviction upon one or  
33 more offenses against laws or ordinances regulating the  
34 movement of traffic shall be deemed sufficient cause for the

1 revocation, suspension, or cancellation of a restricted  
2 driving permit. Any person under 21 years of age who has a  
3 driver's license revoked for a second or subsequent  
4 conviction for driving under the influence, prior to the age  
5 of 21, shall not be eligible to submit an application for a  
6 full reinstatement of driving privileges or a restricted  
7 driving permit until age 21 or one additional year from the  
8 date of the latest such revocation, whichever is the longer.  
9 The revocation periods contained in this subparagraph shall  
10 apply to similar out-of-state convictions.

11 (e) This Section is subject to the provisions of the  
12 Driver License Compact.

13 (f) Any revocation imposed upon any person under  
14 subsections 2 and 3 of paragraph (b) that is in effect on  
15 December 31, 1988 shall be converted to a suspension for a  
16 like period of time.

17 (g) The Secretary of State shall not issue a restricted  
18 driving permit to a person under the age of 16 years whose  
19 driving privileges have been revoked under any provisions of  
20 this Code.

21 (h) The Secretary of State shall require the ~~may use~~ of  
22 ignition interlock devices on all vehicles owned by an  
23 individual ~~device-requirements-when-granting--driving--relief~~  
24 ~~to--individuals~~ who has ~~have~~ been convicted of ~~arrested-for~~ a  
25 second or subsequent offense under Section 11-501 of this  
26 Code or a similar provision of a local ordinance. The  
27 Secretary shall establish by rule and regulation the  
28 procedures for certification and use of the interlock system.

29 (i) The Secretary of State may not issue a restricted  
30 driving permit for a period of one year after a second or  
31 subsequent revocation of driving privileges under clause  
32 (a)(2) of this Section; however, one year after the date of a  
33 second or subsequent revocation of driving privileges under  
34 clause (a)(2) of this Section, the Secretary of State may,

1 upon application, issue a restricted driving permit under the  
2 terms and conditions of subsection (c).

3 (Source: P.A. 90-369, eff. 1-1-98; 90-590, eff. 1-1-99;  
4 90-611, eff. 1-1-99; 90-779, eff. 1-1-99; 91-357, eff.  
5 7-29-99.)

6 (625 ILCS 5/6-208.1) (from Ch. 95 1/2, par. 6-208.1)  
7 Sec. 6-208.1. Period of statutory summary alcohol, other  
8 drug, or intoxicating compound related suspension.

9 (a) Unless the statutory summary suspension has been  
10 rescinded, any person whose privilege to drive a motor  
11 vehicle on the public highways has been summarily suspended,  
12 pursuant to Section 11-501.1, shall not be eligible for  
13 restoration of the privilege until the expiration of:

14 1. Six months from the effective date of the  
15 statutory summary suspension for a refusal or failure to  
16 complete a test or tests to determine the alcohol, drug,  
17 or intoxicating compound concentration, pursuant to  
18 Section 11-501.1; or

19 2. Three months from the effective date of the  
20 statutory summary suspension imposed following the  
21 person's submission to a chemical test which disclosed an  
22 alcohol concentration of 0.08 or more, or any amount of a  
23 drug, substance, or intoxicating compound in such  
24 person's breath, blood, or urine resulting from the  
25 unlawful use or consumption of cannabis listed in the  
26 Cannabis Control Act, a controlled substance listed in  
27 the Illinois Controlled Substances Act, or an  
28 intoxicating compound listed in the Use of Intoxicating  
29 Compounds Act, pursuant to Section 11-501.1; or

30 3. Three years from the effective date of the  
31 statutory summary suspension for any person other than a  
32 first offender who refuses or fails to complete a test or  
33 tests to determine the alcohol, drug, or intoxicating

1 compound concentration pursuant to Section 11-501.1; or  
2 4. One year from the effective date of the summary  
3 suspension imposed for any person other than a first  
4 offender following submission to a chemical test which  
5 disclosed an alcohol concentration of 0.08 or more  
6 pursuant to Section 11-501.1 or any amount of a drug,  
7 substance or compound in such person's blood or urine  
8 resulting from the unlawful use or consumption of  
9 cannabis listed in the Cannabis Control Act, a controlled  
10 substance listed in the Illinois Controlled Substances  
11 Act, or an intoxicating compound listed in the Use of  
12 Intoxicating Compounds Act.

13 (b) Following a statutory summary suspension of the  
14 privilege to drive a motor vehicle under Section 11-501.1,  
15 full driving privileges shall be restored unless the person  
16 is otherwise disqualified by this Code. If the court has  
17 reason to believe that the person's driving privilege should  
18 not be restored, the court shall notify the Secretary of  
19 State prior to the expiration of the statutory summary  
20 suspension so appropriate action may be taken pursuant to  
21 this Code.

22 (c) Full driving privileges may not be restored until  
23 all applicable reinstatement fees, as provided by this Code,  
24 have been paid to the Secretary of State and the appropriate  
25 entry made to the driver's record.

26 (d) Where a driving privilege has been summarily  
27 suspended under Section 11-501.1 and the person is  
28 subsequently convicted of violating Section 11-501, or a  
29 similar provision of a local ordinance, for the same  
30 incident, any period served on statutory summary suspension  
31 shall be credited toward the minimum period of revocation of  
32 driving privileges imposed pursuant to Section 6-205.

33 (e) Following a statutory summary suspension of driving  
34 privileges pursuant to Section 11-501.1, for a first

1 offender, the circuit court may, after at least 30 days from  
2 the effective date of the statutory summary suspension, issue  
3 a judicial driving permit as provided in Section 6-206.1.

4 (f) Subsequent to an arrest of a first offender, for any  
5 offense as defined in Section 11-501 or a similar provision  
6 of a local ordinance, following a statutory summary  
7 suspension of driving privileges pursuant to Section  
8 11-501.1, for a first offender, the circuit court may issue a  
9 court order directing the Secretary of State to issue a  
10 judicial driving permit as provided in Section 6-206.1.  
11 However, this JDP shall not be effective prior to the 31st  
12 day of the statutory summary suspension.

13 (g) Following a statutory summary suspension of driving  
14 privileges pursuant to Section 11-501.1 where the person was  
15 not a first offender, as defined in Section 11-500 and such  
16 ~~person refused or failed to complete a test or tests to~~  
17 ~~determine the alcohol, drug, or intoxicating compound~~  
18 ~~concentration pursuant to Section 11-501.1, the Secretary of~~  
19 ~~State may not issue a restricted driving permit if at least 2~~  
20 ~~years have elapsed since the effective date of the statutory~~  
21 ~~summary suspension.~~

22 (h) (Blank). ~~Following a statutory summary suspension of~~  
23 ~~driving privileges pursuant to Section 11-501.1 where the~~  
24 ~~person was not a first offender as defined in Section 11-500~~  
25 ~~and such person submitted to a chemical test which disclosed~~  
26 ~~an alcohol concentration of 0.08 or more pursuant to Section~~  
27 ~~11-501.1, the Secretary of State may, after at least 90 days~~  
28 ~~from the effective date of the statutory summary suspension,~~  
29 ~~issue a restricted driving permit.~~

30 (Source: P.A. 90-43, eff. 7-2-97; 90-738, eff. 1-1-99;  
31 90-779, eff. 1-1-99; 91-357, eff. 7-29-99.)

32 (625 ILCS 5/6-208.2)

33 Sec. 6-208.2. Restoration of driving privileges; persons



1 under age 21.

2 (a) Unless the suspension based upon consumption of  
3 alcohol by a minor or refusal to submit to testing has been  
4 rescinded by the Secretary of State in accordance with item  
5 (c)(3) of Section 6-206 of this Code, a person whose  
6 privilege to drive a motor vehicle on the public highways has  
7 been suspended under Section 11-501.8 is not eligible for  
8 restoration of the privilege until the expiration of:

9 1. Six months from the effective date of the  
10 suspension for a refusal or failure to complete a test or  
11 tests to determine the alcohol concentration under  
12 Section 11-501.8;

13 2. Three months from the effective date of the  
14 suspension imposed following the person's submission to a  
15 chemical test which disclosed an alcohol concentration  
16 greater than 0.00 under Section 11-501.8;

17 3. Two years from the effective date of the  
18 suspension for a person who has been previously suspended  
19 under Section 11-501.8 and who refuses or fails to  
20 complete a test or tests to determine the alcohol  
21 concentration under Section 11-501.8; or

22 4. One year from the effective date of the  
23 suspension imposed for a person who has been previously  
24 suspended under Section 11-501.8 following submission to  
25 a chemical test that disclosed an alcohol concentration  
26 greater than 0.00 under Section 11-501.8.

27 (b) Following a suspension of the privilege to drive a  
28 motor vehicle under Section 11-501.8, full driving privileges  
29 shall be restored unless the person is otherwise disqualified  
30 by this Code.

31 (c) Full driving privileges may not be restored until  
32 all applicable reinstatement fees, as provided by this Code,  
33 have been paid to the Secretary of State and the appropriate  
34 entry made to the driver's record. The Secretary of State may

1 also, as a condition of the reissuance of a driver's license  
2 or permit to an individual under the age of 18 years whose  
3 driving privileges have been suspended pursuant to Section  
4 11-501.8, require the applicant to participate in a driver  
5 remedial education course and be retested under Section  
6 6-109.

7 (d) Where a driving privilege has been suspended under  
8 Section 11-501.8 and the person is subsequently convicted of  
9 violating Section 11-501, or a similar provision of a local  
10 ordinance, for the same incident, any period served on that  
11 suspension shall be credited toward the minimum period of  
12 revocation of driving privileges imposed under Section 6-205.

13 (e) Following a suspension of driving privileges under  
14 Section 11-501.8 for a person who has not had his or her  
15 driving privileges previously suspended under that Section,  
16 the Secretary of State may issue a restricted driving permit  
17 after at least 30 days from the effective date of the  
18 suspension.

19 (f) Following a second or subsequent suspension of  
20 driving privileges under Section 11-501.8 ~~that-is-based-upon~~  
21 ~~the-person-having-refused-or-failed-to-complete-a-test-or~~  
22 ~~tests-to-determine-the-alcohol-concentration-under-Section~~  
23 ~~11-501.8,~~ the Secretary of State may issue a restricted  
24 driving permit after at least 12 6 months from the effective  
25 date of the suspension.

26 (g) (Blank). ~~Following-a-second-or-subsequent-suspension~~  
27 ~~of-driving-privileges-under-Section-11-501.8-that-is-based~~  
28 ~~upon-the-person-having-submitted-to-a-chemical-test-that~~  
29 ~~disclosed-an-alcohol-concentration-greater-than-0.00-under~~  
30 ~~Section-11-501.8,-the-Secretary-of-State-may-issue-a~~  
31 ~~restricted-driving-permit-after-at-least-90-days-from-the~~  
32 ~~effective-date-of-the-suspension.~~

33 (h) Any restricted driving permit considered under this  
34 Section is subject to the provisions of item (e) of Section

1 11-501.8.

2 (Source: P.A. 90-774, eff. 8-14-98.)

3 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

4 Sec. 11-501. Driving while under the influence of  
5 alcohol, other drug or drugs, intoxicating compound or  
6 compounds or any combination thereof.

7 (a) A person shall not drive or be in actual physical  
8 control of any vehicle within this State while:

9 (1) the alcohol concentration in the person's blood  
10 or breath is 0.08 or more based on the definition of  
11 blood and breath units in Section 11-501.2;

12 (2) under the influence of alcohol;

13 (3) under the influence of any intoxicating  
14 compound or combination of intoxicating compounds to a  
15 degree that renders the person incapable of driving  
16 safely;

17 (4) under the influence of any other drug or  
18 combination of drugs to a degree that renders the person  
19 incapable of safely driving;

20 (5) under the combined influence of alcohol, other  
21 drug or drugs, or intoxicating compound or compounds to a  
22 degree that renders the person incapable of safely  
23 driving; or

24 (6) there is any amount of a drug, substance, or  
25 compound in the person's breath, blood, or urine  
26 resulting from the unlawful use or consumption of  
27 cannabis listed in the Cannabis Control Act, a controlled  
28 substance listed in the Illinois Controlled Substances  
29 Act, or an intoxicating compound listed in the Use of  
30 Intoxicating Compounds Act.

31 (b) The fact that any person charged with violating this  
32 Section is or has been legally entitled to use alcohol, other  
33 drug or drugs, or intoxicating compound or compounds, or any

1 combination thereof, shall not constitute a defense against  
2 any charge of violating this Section.

3 (c) Except as provided under paragraphs (c-3) and (d) of  
4 this Section, every person convicted of violating this  
5 Section or a similar provision of a local ordinance, shall be  
6 guilty of a Class A misdemeanor and, in addition to any other  
7 criminal or administrative action, for any second conviction  
8 of violating this Section or a similar provision of a law of  
9 another state or local ordinance committed within 5 years of  
10 a previous violation of this Section or a similar provision  
11 of a local ordinance shall be mandatorily sentenced to a  
12 minimum of 5 days ~~48-continuous-hours~~ of imprisonment or  
13 assigned to a minimum of 30 days ~~100--hours~~ of community  
14 service as may be determined by the court. Every person  
15 convicted of violating this Section or a similar provision of  
16 a local ordinance shall be subject to an additional a  
17 mandatory minimum fine of \$500 and an additional a mandatory  
18 5 days of community service in a program benefiting children  
19 if the person committed a violation of paragraph (a) or a  
20 similar provision of a local ordinance while transporting a  
21 person under age 16. Every person convicted a second time  
22 for violating this Section or a similar provision of a local  
23 ordinance within 5 years of a previous violation of this  
24 Section or a similar provision of a law of another state or  
25 local ordinance shall be subject to an additional a mandatory  
26 minimum fine of \$500 and an additional 10 days of mandatory  
27 community service in a program benefiting children if the  
28 current offense was committed while transporting a person  
29 under age 16. The imprisonment or assignment under this  
30 subsection shall not be subject to suspension nor shall the  
31 person be eligible for probation in order to reduce the  
32 sentence or assignment.

33 (c-1) (1) A person who violates this Section during a  
34 period in which his or her driving privileges are revoked

1 or suspended, where the revocation or suspension was for  
 2 a violation of this Section, Section 11-501.1, paragraph  
 3 (b) of Section 11-401, or Section 9-3 of the Criminal  
 4 Code of 1961 is guilty of a Class 4 felony.

5 (2) A person who violates this Section a third time  
 6 during a period in which his or her driving privileges  
 7 are revoked or suspended where the revocation or  
 8 suspension was for a violation of this Section, Section  
 9 11-501.1, paragraph (b) of Section 11-401, or Section 9-3  
 10 of the Criminal Code of 1961 is guilty of a Class 3  
 11 felony.

12 (3) A person who violates this Section a fourth or  
 13 subsequent time during a period in which his or her  
 14 driving privileges are revoked or suspended where the  
 15 revocation or suspension was for a violation of this  
 16 Section, Section 11-501.1, paragraph (b) of Section  
 17 11-401, or Section 9-3 of the Criminal Code of 1961 is  
 18 guilty of a Class 2 felony.

19 (c-2) (Blank).

20 (c-3) Every person convicted of violating this Section  
 21 or a similar provision of a local ordinance who had a child  
 22 under age 16 in the vehicle at the time of the offense shall  
 23 have his or her punishment under this Act enhanced by 2 days  
 24 of imprisonment for a first offense, 10 days of imprisonment  
 25 for a second offense, 30 days of imprisonment for a third  
 26 offense, and 90 days of imprisonment for a fourth or  
 27 subsequent offense, in addition to the fine and community  
 28 service required under subsection (c) and the possible  
 29 imprisonment required under subsection (d). The imprisonment  
 30 or assignment under this subsection shall not be subject to  
 31 suspension nor shall the person be eligible for probation in  
 32 order to reduce the sentence or assignment.

33 (d) (1) Every person convicted of committing a violation  
 34 of this Section shall be guilty of aggravated driving under

1 the influence of alcohol, other drug or drugs, or  
2 intoxicating compound or compounds, or any combination  
3 thereof if:

4 (A) the person committed a violation of this  
5 Section, or a similar provision of a law of another state  
6 or a local ordinance when the cause of action is the same  
7 as or substantially similar to this Section, for the  
8 third or subsequent time;

9 (B) the person committed a violation of paragraph  
10 (a) while driving a school bus with children on board;

11 (C) the person in committing a violation of  
12 paragraph (a) was involved in a motor vehicle accident  
13 that resulted in great bodily harm or permanent  
14 disability or disfigurement to another, when the  
15 violation was a proximate cause of the injuries; or

16 (D) the person committed a violation of paragraph  
17 (a) for a second time and has been previously convicted  
18 of violating Section 9-3 of the Criminal Code of 1961  
19 relating to reckless homicide in which the person was  
20 determined to have been under the influence of alcohol,  
21 other drug or drugs, or intoxicating compound or  
22 compounds as an element of the offense or the person has  
23 previously been convicted under subparagraph (C) of this  
24 paragraph (1).

25 (2) Aggravated driving under the influence of alcohol,  
26 other drug or drugs, or intoxicating compound or compounds,  
27 or any combination thereof is a Class 4 felony for which a  
28 person, if sentenced to a term of imprisonment, shall be  
29 sentenced to not less than one year and not more than 3 years  
30 for a violation of subparagraph (A), (B) or (D) of paragraph  
31 (1) of this subsection (d) and not less than one year and not  
32 more than 12 years for a violation of subparagraph (C) of  
33 paragraph (1) of this subsection (d). For any prosecution  
34 under this subsection (d), a certified copy of the driving

1 abstract of the defendant shall be admitted as proof of any  
2 prior conviction.

3 (e) After a finding of guilt and prior to any final  
4 sentencing, or an order for supervision, for an offense based  
5 upon an arrest for a violation of this Section or a similar  
6 provision of a local ordinance, individuals shall be required  
7 to undergo a professional evaluation to determine if an  
8 alcohol, drug, or intoxicating compound abuse problem exists  
9 and the extent of the problem, and undergo the imposition of  
10 treatment as appropriate. Programs conducting these  
11 evaluations shall be licensed by the Department of Human  
12 Services. The cost of any professional evaluation shall be  
13 paid for by the individual required to undergo the  
14 professional evaluation.

15 (f) Every person found guilty of violating this Section,  
16 whose operation of a motor vehicle while in violation of this  
17 Section proximately caused any incident resulting in an  
18 appropriate emergency response, shall be liable for the  
19 expense of an emergency response as provided under Section  
20 5-5-3 of the Unified Code of Corrections.

21 (g) The Secretary of State shall revoke the driving  
22 privileges of any person convicted under this Section or a  
23 similar provision of a local ordinance.

24 (h) Every person sentenced under paragraph (2) or (3) of  
25 subsection (c-1) of this Section or subsection (d) of this  
26 Section and who receives a term of probation or conditional  
27 discharge shall be required to serve a minimum term of either  
28 60 30 days community service or 10 days~~7--beginning--July--17~~  
29 ~~19937--48--consecutive-hours~~ of imprisonment as a condition of  
30 the probation or conditional discharge. This mandatory  
31 minimum term of imprisonment or assignment of community  
32 service shall not be suspended and shall not be subject to  
33 reduction by the court.

34 (i) The Secretary of State shall require the use of may

1 use ignition interlock devices on all vehicles owned by an  
2 individual ~~device-requirements-when-granting--driving--relief~~  
3 ~~to--individuals~~ who has have been convicted of arrested-for a  
4 second or subsequent offense of this Section or a similar  
5 provision of a local ordinance. The Secretary shall  
6 establish by rule and regulation the procedures for  
7 certification and use of the interlock system.

8 (j) In addition to any other penalties and liabilities,  
9 a person who is found guilty of or pleads guilty to violating  
10 this Section, including any person placed on court  
11 supervision for violating this Section, shall be fined \$100,  
12 payable to the circuit clerk, who shall distribute the money  
13 to the law enforcement agency that made the arrest. In the  
14 event that more than one agency is responsible for the  
15 arrest, the \$100 shall be shared equally. Any moneys  
16 received by a law enforcement agency under this subsection  
17 (j) shall be used to purchase law enforcement equipment that  
18 will assist in the prevention of alcohol related criminal  
19 violence throughout the State. This shall include, but is  
20 not limited to, in-car video cameras, radar and laser speed  
21 detection devices, and alcohol breath testers. Any moneys  
22 received by the Department of State Police under this  
23 subsection (j) shall be deposited into the State Police DUI  
24 Fund and shall be used to purchase law enforcement equipment  
25 that will assist in the prevention of alcohol related  
26 criminal violence throughout the State.

27 (Source: P.A. 90-43, eff. 7-2-97; 90-400, eff. 8-15-97;  
28 90-611, eff. 1-1-99; 90-655, eff. 7-30-98; 90-738, eff.  
29 1-1-99; 90-779, eff. 1-1-99; 91-126, eff. 7-16-99; 91-357,  
30 eff. 7-29-99; 91-692, eff. 4-13-00; 91-822, eff. 6-13-00.)

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



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

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

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

9 (1) A period of probation.

10 (2) A term of periodic imprisonment.

11 (3) A term of conditional discharge.

12 (4) A term of imprisonment.

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

17 (6) A fine.

18 (7) An order directing the offender to make  
19 restitution to the victim under Section 5-5-6 of this  
20 Code.

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

23 Whenever an individual is sentenced for an offense based  
24 upon an arrest for a violation of Section 11-501 of the  
25 Illinois Vehicle Code, or a similar provision of a local  
26 ordinance, and the professional evaluation recommends  
27 remedial or rehabilitative treatment or education, neither  
28 the treatment nor the education shall be the sole disposition  
29 and either or both may be imposed only in conjunction with  
30 another disposition. The court shall monitor compliance with  
31 any remedial education or treatment recommendations contained  
32 in the professional evaluation. Programs conducting alcohol  
33 or other drug evaluation or remedial education must be  
34 licensed by the Department of Human Services. However, if

1 the individual is not a resident of Illinois, the court may  
2 accept an alcohol or other drug evaluation or remedial  
3 education program in the state of such individual's  
4 residence. Programs providing treatment must be licensed  
5 under existing applicable alcoholism and drug treatment  
6 licensure standards.

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

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

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

31 (2) A period of probation, a term of periodic  
32 imprisonment or conditional discharge shall not be  
33 imposed for the following offenses. The court shall  
34 sentence the offender to not less than the minimum term

1 of imprisonment set forth in this Code for the following  
2 offenses, and may order a fine or restitution or both in  
3 conjunction with such term of imprisonment:

4 (A) First degree murder where the death  
5 penalty is not imposed.

6 (B) Attempted first degree murder.

7 (C) A Class X felony.

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

13 (E) A violation of Section 5.1 or 9 of the  
14 Cannabis Control Act.

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

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

25 (H) Criminal sexual assault, except as  
26 otherwise provided in subsection (e) of this  
27 Section.

28 (I) Aggravated battery of a senior citizen.

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

31 Before July 1, 1994, for the purposes of this  
32 paragraph, "organized gang" means an association of  
33 5 or more persons, with an established hierarchy,  
34 that encourages members of the association to

1           perpetrate crimes or provides support to the members  
2           of the association who do commit crimes.

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

7           (K) Vehicular hijacking.

8           (L) A second or subsequent conviction for the  
9           offense of hate crime when the underlying offense  
10          upon which the hate crime is based is felony  
11          aggravated assault or felony mob action.

12          (M) A second or subsequent conviction for the  
13          offense of institutional vandalism if the damage to  
14          the property exceeds \$300.

15          (N) A Class 3 felony violation of paragraph  
16          (1) of subsection (a) of Section 2 of the Firearm  
17          Owners Identification Card Act.

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

20          (P) A violation of paragraph (1), (2), (3),  
21          (4), (5), or (7) of subsection (a) of Section  
22          11-20.1 of the Criminal Code of 1961.

23          (Q) A violation of Section 20-1.2 of the  
24          Criminal Code of 1961.

25          (R) A violation of Section 24-3A of the  
26          Criminal Code of 1961.

27          (3) A minimum term of imprisonment of not less than  
28          5 days ~~48--eensecutive--hours~~ or 30 days ~~100-hours~~ of  
29          community service as may be determined by the court shall  
30          be imposed for a second ~~or-subsequent~~ violation committed  
31          within 5 years of a previous violation of Section 11-501  
32          of the Illinois Vehicle Code or a similar provision of a  
33          local ordinance. In the case of a third or subsequent  
34          violation committed within 5 years of a previous

1 violation of Section 11-501 of the Illinois Vehicle Code  
 2 or a similar provision of a local ordinance, a minimum  
 3 term of either 10 days of imprisonment or 60 days of  
 4 community service shall be imposed.

5 (4) A minimum term of imprisonment of not less than  
 6 7 consecutive days or 30 days of community service shall  
 7 be imposed for a violation of paragraph (c) of Section  
 8 6-303 of the Illinois Vehicle Code.

9 (4.1) A minimum term of 30 consecutive days of  
 10 imprisonment, 40 days of 24 hour periodic imprisonment or  
 11 720 hours of community service, as may be determined by  
 12 the court, shall be imposed for a violation of Section  
 13 11-501 of the Illinois Vehicle Code during a period in  
 14 which the defendant's driving privileges are revoked or  
 15 suspended, where the revocation or suspension was for a  
 16 violation of Section 11-501 or Section 11-501.1 of that  
 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 (6) In no case shall an offender be eligible for a  
 26 disposition of probation or conditional discharge for a  
 27 Class 1 felony committed while he was serving a term of  
 28 probation or conditional discharge for a felony.

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

33 (8) When a defendant, over the age of 21 years, is  
 34 convicted of a Class 1 or Class 2 felony, after having

1 twice been convicted of any Class 2 or greater Class  
2 felonies in Illinois, and such charges are separately  
3 brought and tried and arise out of different series of  
4 acts, such defendant shall be sentenced as a Class X  
5 offender. This paragraph shall not apply unless (1) the  
6 first felony was committed after the effective date of  
7 this amendatory Act of 1977; and (2) the second felony  
8 was committed after conviction on the first; and (3) the  
9 third felony was committed after conviction on the  
10 second.

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

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

24 (e) In cases where prosecution for criminal sexual  
25 assault or aggravated criminal sexual abuse under Section  
26 12-13 or 12-16 of the Criminal Code of 1961 results in  
27 conviction of a defendant who was a family member of the  
28 victim at the time of the commission of the offense, the  
29 court shall consider the safety and welfare of the victim and  
30 may impose a sentence of probation only where:

31 (1) the court finds (A) or (B) or both are  
32 appropriate:

33 (A) the defendant is willing to undergo a  
34 court approved counseling program for a minimum

1 duration of 2 years; or

2 (B) the defendant is willing to participate in  
3 a court approved plan including but not limited to  
4 the defendant's:

5 (i) removal from the household;

6 (ii) restricted contact with the victim;

7 (iii) continued financial support of the  
8 family;

9 (iv) restitution for harm done to the  
10 victim; and

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

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

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

27 For the purposes of this Section, "family member" and  
28 "victim" shall have the meanings ascribed to them in Section  
29 12-12 of the Criminal Code of 1961.

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

34 (g) Whenever a defendant is convicted of an offense

1 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,  
2 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,  
3 12-15 or 12-16 of the Criminal Code of 1961, the defendant  
4 shall undergo medical testing to determine whether the  
5 defendant has any sexually transmissible disease, including a  
6 test for infection with human immunodeficiency virus (HIV) or  
7 any other identified causative agent of acquired  
8 immunodeficiency syndrome (AIDS). Any such medical test  
9 shall be performed only by appropriately licensed medical  
10 practitioners and may include an analysis of any bodily  
11 fluids as well as an examination of the defendant's person.  
12 Except as otherwise provided by law, the results of such test  
13 shall be kept strictly confidential by all medical personnel  
14 involved in the testing and must be personally delivered in a  
15 sealed envelope to the judge of the court in which the  
16 conviction was entered for the judge's inspection in camera.  
17 Acting in accordance with the best interests of the victim  
18 and the public, the judge shall have the discretion to  
19 determine to whom, if anyone, the results of the testing may  
20 be revealed. The court shall notify the defendant of the test  
21 results. The court shall also notify the victim if requested  
22 by the victim, and if the victim is under the age of 15 and  
23 if requested by the victim's parents or legal guardian, the  
24 court shall notify the victim's parents or legal guardian of  
25 the test results. The court shall provide information on the  
26 availability of HIV testing and counseling at Department of  
27 Public Health facilities to all parties to whom the results  
28 of the testing are revealed and shall direct the State's  
29 Attorney to provide the information to the victim when  
30 possible. A State's Attorney may petition the court to obtain  
31 the results of any HIV test administered under this Section,  
32 and the court shall grant the disclosure if the State's  
33 Attorney shows it is relevant in order to prosecute a charge  
34 of criminal transmission of HIV under Section 12-16.2 of the



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

5 (g-5) When an inmate is tested for an airborne  
6 communicable disease, as determined by the Illinois  
7 Department of Public Health including but not limited to  
8 tuberculosis, the results of the test shall be personally  
9 delivered by the warden or his or her designee in a sealed  
10 envelope to the judge of the court in which the inmate must  
11 appear for the judge's inspection in camera if requested by  
12 the judge. Acting in accordance with the best interests of  
13 those in the courtroom, the judge shall have the discretion  
14 to determine what if any precautions need to be taken to  
15 prevent transmission of the disease in the courtroom.

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

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

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

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

1 to the defendant's employer by certified mail. If the  
2 employer of the defendant is a school, the Clerk of the Court  
3 shall direct the mailing of a copy of the judgment of  
4 conviction or order of supervision or probation to the  
5 appropriate regional superintendent of schools. The regional  
6 superintendent of schools shall notify the State Board of  
7 Education of any notification under this subsection.

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

1 3-3-9. This subsection (j-5) does not apply to a defendant  
2 who has a high school diploma or has successfully passed the  
3 GED test. This subsection (j-5) does not apply to a defendant  
4 who is determined by the court to be developmentally disabled  
5 or otherwise mentally incapable of completing the educational  
6 or vocational program.

7 (k) A court may not impose a sentence or disposition for  
8 a felony or misdemeanor that requires the defendant to be  
9 implanted or injected with or to use any form of birth  
10 control.

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

20 (1) a final order of deportation has been  
21 issued against the defendant pursuant to proceedings  
22 under the Immigration and Nationality Act, and

23 (2) the deportation of the defendant would not  
24 deprecate the seriousness of the defendant's conduct  
25 and would not be inconsistent with the ends of  
26 justice.

27 Otherwise, the defendant shall be sentenced as  
28 provided in this Chapter V.

29 (B) If the defendant has already been sentenced for  
30 a felony or misdemeanor offense, or has been placed on  
31 probation under Section 10 of the Cannabis Control Act or  
32 Section 410 of the Illinois Controlled Substances Act,  
33 the court may, upon motion of the State's Attorney to  
34 suspend the sentence imposed, commit the defendant to the

1 custody of the Attorney General of the United States or  
2 his or her designated agent when:

3 (1) a final order of deportation has been  
4 issued against the defendant pursuant to proceedings  
5 under the Immigration and Nationality Act, and

6 (2) the deportation of the defendant would not  
7 deprecate the seriousness of the defendant's conduct  
8 and would not be inconsistent with the ends of  
9 justice.

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

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

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

29 (Source: P.A. 90-14, eff. 7-1-97; 90-68, eff. 7-8-97; 90-680,  
30 eff. 1-1-99; 90-685, eff. 1-1-99; 90-787, eff. 8-14-98;  
31 91-357, eff. 7-29-99; 91-404, eff. 1-1-00; 91-663, eff.  
32 12-22-99; 91-695, eff. 4-13-00.)

33 Section 99. Effective date. This Act takes effect upon

1 becoming law.