

1 AN ACT in relation to criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by  
5 changing Section 24-1 as follows:

6 (720 ILCS 5/24-1) (from Ch. 38, par. 24-1)

7 Sec. 24-1. Unlawful Use of Weapons.

8 (a) A person commits the offense of unlawful use of  
9 weapons when he knowingly:

10 (1) Sells, manufactures, purchases, possesses or  
11 carries any bludgeon, black-jack, slung-shot, sand-club,  
12 sand-bag, metal knuckles, throwing star, or any knife,  
13 commonly referred to as a switchblade knife, which has a  
14 blade that opens automatically by hand pressure applied  
15 to a button, spring or other device in the handle of the  
16 knife, or a ballistic knife, which is a device that  
17 propels a knifelike blade as a projectile by means of a  
18 coil spring, elastic material or compressed gas; or

19 (2) Carries or possesses with intent to use the  
20 same unlawfully against another, a dagger, dirk, billy,  
21 dangerous knife, razor, stiletto, broken bottle or other  
22 piece of glass, stun gun or taser or any other dangerous  
23 or deadly weapon or instrument of like character; or

24 (3) Carries on or about his person or in any  
25 vehicle, a tear gas gun projector or bomb or any object  
26 containing noxious liquid gas or substance, other than an  
27 object containing a non-lethal noxious liquid gas or  
28 substance designed solely for personal defense carried by  
29 a person 18 years of age or older; or

30 (4) Carries or possesses in any vehicle or  
31 concealed on or about his person except when on his land

1 or in his own abode or fixed place of business any  
2 pistol, revolver, stun gun or taser or other firearm,  
3 except that this subsection (a) (4) does not apply to or  
4 affect transportation of weapons that meet one of the  
5 following conditions:

6 (i) are broken down in a non-functioning  
7 state; or

8 (ii) are not immediately accessible; or

9 (iii) are unloaded and enclosed in a case,  
10 firearm carrying box, shipping box, or other  
11 container by a person who has been issued a  
12 currently valid Firearm Owner's Identification Card;  
13 or

14 (5) Sets a spring gun; or

15 (6) Possesses any device or attachment of any kind  
16 designed, used or intended for use in silencing the  
17 report of any firearm; or

18 (7) Sells, manufactures, purchases, possesses or  
19 carries:

20 (i) a machine gun, which shall be defined for  
21 the purposes of this subsection as any weapon, which  
22 shoots, is designed to shoot, or can be readily  
23 restored to shoot, automatically more than one shot  
24 without manually reloading by a single function of  
25 the trigger, including the frame or receiver of any  
26 such weapon, or sells, manufactures, purchases,  
27 possesses, or carries any combination of parts  
28 designed or intended for use in converting any  
29 weapon into a machine gun, or any combination or  
30 parts from which a machine gun can be assembled if  
31 such parts are in the possession or under the  
32 control of a person;

33 (ii) any rifle having one or more barrels less  
34 than 16 inches in length or a shotgun having one or

1 more barrels less than 18 inches in length or any  
2 weapon made from a rifle or shotgun, whether by  
3 alteration, modification, or otherwise, if such a  
4 weapon as modified has an overall length of less  
5 than 26 inches; or

6 (iii) any bomb, bomb-shell, grenade, bottle or  
7 other container containing an explosive substance of  
8 over one-quarter ounce for like purposes, such as,  
9 but not limited to, black powder bombs and Molotov  
10 cocktails or artillery projectiles; or

11 (8) Carries or possesses any firearm, stun gun or  
12 taser or other deadly weapon in any place which is  
13 licensed to sell intoxicating beverages, or at any public  
14 gathering held pursuant to a license issued by any  
15 governmental body or any public gathering at which an  
16 admission is charged, excluding a place where a showing,  
17 demonstration or lecture involving the exhibition of  
18 unloaded firearms is conducted.

19 This subsection (a)(8) does not apply to any auction  
20 or raffle of a firearm held pursuant to a license or  
21 permit issued by a governmental body, nor does it apply  
22 to persons engaged in firearm safety training courses; or

23 (9) Carries or possesses in a vehicle or on or  
24 about his person any pistol, revolver, stun gun or taser  
25 or firearm or ballistic knife, when he is hooded, robed  
26 or masked in such manner as to conceal his identity; or

27 (10) Carries or possesses on or about his person,  
28 upon any public street, alley, or other public lands  
29 within the corporate limits of a city, village or  
30 incorporated town, except when an invitee thereon or  
31 therein, for the purpose of the display of such weapon or  
32 the lawful commerce in weapons, or except when on his  
33 land or in his own abode or fixed place of business, any  
34 pistol, revolver, stun gun or taser or other firearm,

1       except that this subsection (a) (10) does not apply to or  
2       affect transportation of weapons that meet one of the  
3       following conditions:

4               (i) are broken down in a non-functioning  
5       state; or

6               (ii) are not immediately accessible; or

7               (iii) are unloaded and enclosed in a case,  
8       firearm carrying box, shipping box, or other  
9       container by a person who has been issued a  
10      currently valid Firearm Owner's Identification Card.

11      A "stun gun or taser", as used in this paragraph (a)  
12      means (i) any device which is powered by electrical  
13      charging units, such as, batteries, and which fires one  
14      or several barbs attached to a length of wire and which,  
15      upon hitting a human, can send out a current capable of  
16      disrupting the person's nervous system in such a manner  
17      as to render him incapable of normal functioning or (ii)  
18      any device which is powered by electrical charging units,  
19      such as batteries, and which, upon contact with a human  
20      or clothing worn by a human, can send out current capable  
21      of disrupting the person's nervous system in such a  
22      manner as to render him incapable of normal functioning;  
23      or

24               (11) Sells, manufactures or purchases any explosive  
25      bullet. For purposes of this paragraph (a) "explosive  
26      bullet" means the projectile portion of an ammunition  
27      cartridge which contains or carries an explosive charge  
28      which will explode upon contact with the flesh of a human  
29      or an animal. "Cartridge" means a tubular metal case  
30      having a projectile affixed at the front thereof and a  
31      cap or primer at the rear end thereof, with the  
32      propellant contained in such tube between the projectile  
33      and the cap; or

34               (12) (Blank).

1           (b) Sentence. A person convicted of a violation of  
2 subsection 24-1(a)(1) through (5), subsection 24-1(a)(10), or  
3 subsection 24-1(a)(11) commits a Class A misdemeanor. A  
4 person convicted of a violation of subsection 24-1(a)(8) or  
5 24-1(a)(9) commits a Class 4 felony; a person convicted of a  
6 violation of subsection 24-1(a)(6) or 24-1(a)(7)(ii) or (iii)  
7 commits a Class 3 felony. A person convicted of a violation  
8 of subsection 24-1(a)(7)(i) commits a Class 2 felony, unless  
9 the weapon is possessed in the passenger compartment of a  
10 motor vehicle as defined in Section 1-146 of the Illinois  
11 Vehicle Code, or on the person, while the weapon is loaded,  
12 in which case it shall be a Class X felony. A person  
13 convicted of a second or subsequent violation of subsection  
14 24-1(a)(4), 24-1(a)(8), 24-1(a)(9), or 24-1(a)(10) commits a  
15 Class 3 felony.

16           (c) Violations in specific places.

17           (1) A person who violates subsection 24-1(a)(6) or  
18 24-1(a)(7) in any school, regardless of the time of day  
19 or the time of year, in residential property owned,  
20 operated or managed by a public housing agency or leased  
21 by a public housing agency as part of a scattered site or  
22 mixed-income development, in a public park, in a  
23 courthouse, on the real property comprising any school,  
24 regardless of the time of day or the time of year, on  
25 residential property owned, operated or managed by a  
26 public housing agency or leased by a public housing  
27 agency as part of a scattered site or mixed-income  
28 development, on the real property comprising any public  
29 park, on the real property comprising any courthouse, in  
30 any conveyance owned, leased or contracted by a school to  
31 transport students to or from school or a school related  
32 activity, or on any public way within 1,000 feet of the  
33 real property comprising any school, public park,  
34 courthouse, or residential property owned, operated, or

1 managed by a public housing agency or leased by a public  
2 housing agency as part of a scattered site or  
3 mixed-income development commits a Class 2 felony. A  
4 violation of this paragraph (1) of this subsection (c) by  
5 a person who was on probation, conditional discharge, or  
6 periodic imprisonment for a felony or by a person who was  
7 on probation, conditional discharge, periodic  
8 imprisonment, or supervision for a misdemeanor offense  
9 under subsection (a) is a Class 1 felony.

10 (1.5) A person who violates subsection 24-1(a)(4),  
11 24-1(a)(9), or 24-1(a)(10) in any school, regardless of  
12 the time of day or the time of year, in residential  
13 property owned, operated, or managed by a public housing  
14 agency or leased by a public housing agency as part of a  
15 scattered site or mixed-income development, in a public  
16 park, in a courthouse, on the real property comprising  
17 any school, regardless of the time of day or the time of  
18 year, on residential property owned, operated, or managed  
19 by a public housing agency or leased by a public housing  
20 agency as part of a scattered site or mixed-income  
21 development, on the real property comprising any public  
22 park, on the real property comprising any courthouse, in  
23 any conveyance owned, leased, or contracted by a school  
24 to transport students to or from school or a school  
25 related activity, or on any public way within 1,000 feet  
26 of the real property comprising any school, public park,  
27 courthouse, or residential property owned, operated, or  
28 managed by a public housing agency or leased by a public  
29 housing agency as part of a scattered site or  
30 mixed-income development commits a Class 3 felony. A  
31 violation of this paragraph (1.5) of this subsection (c)  
32 by a person who was on probation, conditional discharge,  
33 or periodic imprisonment for a felony or by a person who  
34 was on probation, conditional discharge, periodic

1 imprisonment, or supervision for a misdemeanor offense  
2 under subsection (a) is a Class 2 felony.

3 (2) A person who violates subsection 24-1(a)(1),  
4 24-1(a)(2), or 24-1(a)(3) in any school, regardless of  
5 the time of day or the time of year, in residential  
6 property owned, operated or managed by a public housing  
7 agency or leased by a public housing agency as part of a  
8 scattered site or mixed-income development, in a public  
9 park, in a courthouse, on the real property comprising  
10 any school, regardless of the time of day or the time of  
11 year, on residential property owned, operated or managed  
12 by a public housing agency or leased by a public housing  
13 agency as part of a scattered site or mixed-income  
14 development, on the real property comprising any public  
15 park, on the real property comprising any courthouse, in  
16 any conveyance owned, leased or contracted by a school to  
17 transport students to or from school or a school related  
18 activity, or on any public way within 1,000 feet of the  
19 real property comprising any school, public park,  
20 courthouse, or residential property owned, operated, or  
21 managed by a public housing agency or leased by a public  
22 housing agency as part of a scattered site or  
23 mixed-income development commits a Class 4 felony. A  
24 violation of this paragraph (2) of this subsection (c) by  
25 a person who was on probation, conditional discharge, or  
26 periodic imprisonment for a felony or by a person who was  
27 on probation, conditional discharge, periodic  
28 imprisonment, or supervision for a misdemeanor offense  
29 under subsection (a) is a Class 3 felony. "Courthouse"

30 means any building that is used by the Circuit,  
31 Appellate, or Supreme Court of this State for the conduct  
32 of official business.

33 (3) Paragraphs (1), (1.5), and (2) of this  
34 subsection (c) shall not apply to law enforcement

1 officers or security officers of such school, college, or  
2 university or to students carrying or possessing firearms  
3 for use in training courses, parades, hunting, target  
4 shooting on school ranges, or otherwise with the consent  
5 of school authorities and which firearms are transported  
6 unloaded enclosed in a suitable case, box, or  
7 transportation package.

8 (4) For the purposes of this subsection (c),  
9 "school" means any public or private elementary or  
10 secondary school, community college, college, or  
11 university.

12 (d) The presence in an automobile other than a public  
13 omnibus of any weapon, instrument or substance referred to in  
14 subsection (a)(7) is prima facie evidence that it is in the  
15 possession of, and is being carried by, all persons occupying  
16 such automobile at the time such weapon, instrument or  
17 substance is found, except under the following circumstances:  
18 (i) if such weapon, instrument or instrumentality is found  
19 upon the person of one of the occupants therein; or (ii) if  
20 such weapon, instrument or substance is found in an  
21 automobile operated for hire by a duly licensed driver in the  
22 due, lawful and proper pursuit of his trade, then such  
23 presumption shall not apply to the driver.

24 (e) Exemptions. Crossbows, Common or Compound bows and  
25 Underwater Spearguns are exempted from the definition of  
26 ballistic knife as defined in paragraph (1) of subsection (a)  
27 of this Section.

28 (Source: P.A. 90-686, eff. 1-1-99; 91-673, eff. 12-22-99;  
29 91-690, eff. 4-13-00.)

30 Section 10. The Unified Code of Corrections is amended  
31 by changing Sections 5-3-1, 5-3.2, 5-5-3, 5-6-3, and 5-6-4 as  
32 follows:



1 (730 ILCS 5/5-3-1) (from Ch. 38, par. 1005-3-1)  
 2 Sec. 5-3-1. Presentence Investigation. A defendant shall  
 3 not be sentenced for a felony before a written presentence  
 4 report of investigation is presented to and considered by the  
 5 court.

6 ~~However, the court need not order a presentence report of~~  
 7 ~~investigation where both parties agree to the imposition of a~~  
 8 ~~specific sentence, provided there is a finding made for the~~  
 9 ~~record as to the defendant's history of delinquency or~~  
 10 ~~criminality, including any previous sentence to a term of~~  
 11 ~~probation, periodic imprisonment, conditional discharge, or~~  
 12 ~~imprisonment.~~

13 The court may order a presentence investigation of any  
 14 defendant.

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

16 (730 ILCS 5/5-3-2) (from Ch. 38, par. 1005-3-2)

17 Sec. 5-3-2. Presentence Report.

18 (a) In felony cases, the presentence report shall set  
 19 forth:

20 (1) the defendant's history of delinquency or  
 21 criminality, physical and mental history and condition,  
 22 family situation and background, economic status,  
 23 education, occupation and personal habits;

24 (2) information about special resources within the  
 25 community which might be available to assist the  
 26 defendant's rehabilitation, including treatment centers,  
 27 residential facilities, vocational training services,  
 28 correctional manpower programs, employment opportunities,  
 29 special educational programs, alcohol and drug abuse  
 30 programming, psychiatric and marriage counseling, and  
 31 other programs and facilities which could aid the  
 32 defendant's successful reintegration into society;

33 (3) the effect the offense committed has had upon

1 the victim or victims thereof, and any compensatory  
2 benefit that various sentencing alternatives would confer  
3 on such victim or victims;

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

8 (5) when appropriate, a plan, based upon the  
9 personal, economic and social adjustment needs of the  
10 defendant, utilizing public and private community  
11 resources as an alternative to institutional sentencing;

12 (6) any other matters that the investigatory  
13 officer deems relevant or the court directs to be  
14 included; and

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

18 (8) whether the defendant has a Firearm Owner's  
19 Identification Card and whether the defendant possesses  
20 any firearms or other dangerous weapons, including  
21 information obtained from State and federal law  
22 enforcement agencies possessing records relating to the  
23 sale or transfer of weapons to the defendant.

24 (b) The investigation shall include a physical and  
25 mental examination of the defendant when so ordered by the  
26 court. If the court determines that such an examination  
27 should be made, it shall issue an order that the defendant  
28 submit to examination at such time and place as designated by  
29 the court and that such examination be conducted by a  
30 physician, psychologist or psychiatrist designated by the  
31 court. Such an examination may be conducted in a court  
32 clinic if so ordered by the court. The cost of such  
33 examination shall be paid by the county in which the trial is  
34 held.

1 (c) In misdemeanor, business offense or petty offense  
2 cases, except as specified in subsection (d) of this Section,  
3 when a presentence report has been ordered by the court, such  
4 presentence report shall contain information on the  
5 defendant's history of delinquency or criminality and shall  
6 further contain only those matters listed in any of  
7 paragraphs (1) through (6) of subsection (a) or in subsection  
8 (b) of this Section as are specified by the court in its  
9 order for the report.

10 (d) In cases under Section 12-15 and Section 12-30 of  
11 the Criminal Code of 1961, as amended, the presentence report  
12 shall set forth information about alcohol, drug abuse,  
13 psychiatric, and marriage counseling or other treatment  
14 programs and facilities, information on the defendant's  
15 history of delinquency or criminality, and shall contain  
16 those additional matters listed in any of paragraphs (1)  
17 through (6) of subsection (a) or in subsection (b) of this  
18 Section as are specified by the court.

19 (e) Nothing in this Section shall cause the defendant to  
20 be held without bail or to have his bail revoked for the  
21 purpose of preparing the presentence report or making an  
22 examination.

23 (f) The Court shall question the defendant as to whether  
24 information provided by the defendant to the court in the  
25 presentence report is truthful. The failure of the defendant  
26 to provide truthful information regarding his or her Firearm  
27 Owner's Identification Card or whether the defendant has a  
28 firearm in his or her possession is a Class 3 felony.

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

30 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)  
31 Sec. 5-5-3. Disposition.

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

1           (b) The following options shall be appropriate  
2 dispositions, alone or in combination, for all felonies and  
3 misdemeanors other than those identified in subsection (c) of  
4 this Section:

5           (1) A period of probation.

6           (2) A term of periodic imprisonment.

7           (3) A term of conditional discharge.

8           (4) A term of imprisonment.

9           (5) An order directing the offender to clean up and  
10 repair the damage, if the offender was convicted under  
11 paragraph (h) of Section 21-1 of the Criminal Code of  
12 1961.

13           (6) A fine.

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

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

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

1 under existing applicable alcoholism and drug treatment  
2 licensure standards.

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

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

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

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

34 (A) First degree murder where the death

1 penalty is not imposed.

2 (B) Attempted first degree murder.

3 (C) A Class X felony.

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

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

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

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

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

24 (I) Aggravated battery of a senior citizen.

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

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

33 Beginning July 1, 1994, for the purposes of  
34 this paragraph, "organized gang" has the meaning

1 ascribed to it in Section 10 of the Illinois  
2 Streetgang Terrorism Omnibus Prevention Act.

3 (K) Vehicular hijacking.

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

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

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

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

16 (P) A violation of paragraph (1), (2), (3),  
17 (4), (5), or (7) of subsection (a) of Section  
18 11-20.1 of the Criminal Code of 1961.

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

21 (R) A violation of Section 24-3A of the  
22 Criminal Code of 1961.

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

29 (4) A minimum term of imprisonment of not less than  
30 7 consecutive days or 30 days of community service shall  
31 be imposed for a violation of paragraph (c) of Section  
32 6-303 of the Illinois Vehicle Code.

33 (4.1) A minimum term of 30 consecutive days of  
34 imprisonment, 40 days of 24 hour periodic imprisonment or

1 720 hours of community service, as may be determined by  
2 the court, shall be imposed for a violation of Section  
3 11-501 of the Illinois Vehicle Code during a period in  
4 which the defendant's driving privileges are revoked or  
5 suspended, where the revocation or suspension was for a  
6 violation of Section 11-501 or Section 11-501.1 of that  
7 Code.

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

- 11 (A) a period of conditional discharge;
- 12 (B) a fine;
- 13 (C) make restitution to the victim under  
14 Section 5-5-6 of this Code.

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

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

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



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

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

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

21           (1) the court finds (A) or (B) or both are  
22 appropriate:

23                   (A) the defendant is willing to undergo a  
24 court approved counseling program for a minimum  
25 duration of 2 years; or

26                   (B) the defendant is willing to participate in  
27 a court approved plan including but not limited to  
28 the defendant's:

29                           (i) removal from the household;

30                           (ii) restricted contact with the victim;

31                           (iii) continued financial support of the  
32 family;

33                           (iv) restitution for harm done to the  
34 victim; and

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

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

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

17 For the purposes of this Section, "family member" and  
18 "victim" shall have the meanings ascribed to them in Section  
19 12-12 of the Criminal Code of 1961.

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

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

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

29 (g-5) When an inmate is tested for an airborne  
30 communicable disease, as determined by the Illinois  
31 Department of Public Health including but not limited to  
32 tuberculosis, the results of the test shall be personally  
33 delivered by the warden or his or her designee in a sealed  
34 envelope to the judge of the court in which the inmate must

1 appear for the judge's inspection in camera if requested by  
2 the judge. Acting in accordance with the best interests of  
3 those in the courtroom, the judge shall have the discretion  
4 to determine what if any precautions need to be taken to  
5 prevent transmission of the disease in the courtroom.

6 (h) Whenever a defendant is convicted of an offense  
7 under Section 1 or 2 of the Hypodermic Syringes and Needles  
8 Act, the defendant shall undergo medical testing to determine  
9 whether the defendant has been exposed to human  
10 immunodeficiency virus (HIV) or any other identified  
11 causative agent of acquired immunodeficiency syndrome (AIDS).  
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 public,  
18 the judge shall have the discretion to determine to whom, if  
19 anyone, the results of the testing may be revealed. The court  
20 shall notify the defendant of a positive test showing an  
21 infection with the human immunodeficiency virus (HIV). The  
22 court shall provide information on the availability of HIV  
23 testing and counseling at Department of Public Health  
24 facilities to all parties to whom the results of the testing  
25 are revealed and shall direct the State's Attorney to provide  
26 the information to the victim when possible. A State's  
27 Attorney may petition the court to obtain the results of any  
28 HIV test administered under this Section, and the court  
29 shall grant the disclosure if the State's Attorney shows it  
30 is relevant in order to prosecute a charge of criminal  
31 transmission of HIV under Section 12-16.2 of the Criminal  
32 Code of 1961 against the defendant. The court shall order  
33 that the cost of any such test shall be paid by the county  
34 and may be taxed as costs against the convicted defendant.

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

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

32 (j-5) A defendant at least 17 years of age who is  
33 convicted of a felony and who has not been previously  
34 convicted of a misdemeanor or felony and who is sentenced to

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

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

1 (1) (A) Except as provided in paragraph (C) of  
2 subsection (1), whenever a defendant, who is an alien as  
3 defined by the Immigration and Nationality Act, is  
4 convicted of any felony or misdemeanor offense, the court  
5 after sentencing the defendant may, upon motion of the  
6 State's Attorney, hold sentence in abeyance and remand  
7 the defendant to the custody of the Attorney General of  
8 the United States or his or her designated agent to be  
9 deported when:

10 (1) a final order of deportation has been  
11 issued against the defendant pursuant to proceedings  
12 under the Immigration and Nationality Act, and

13 (2) the deportation of the defendant would not  
14 deprecate the seriousness of the defendant's conduct  
15 and would not be inconsistent with the ends of  
16 justice.

17 Otherwise, the defendant shall be sentenced as  
18 provided in this Chapter V.

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

27 (1) a final order of deportation has been  
28 issued against the defendant pursuant to proceedings  
29 under the Immigration and Nationality Act, and

30 (2) the deportation of the defendant would not  
31 deprecate the seriousness of the defendant's conduct  
32 and would not be inconsistent with the ends of  
33 justice.

34 (C) This subsection (1) does not apply to offenders

1 who are subject to the provisions of paragraph (2) of  
2 subsection (a) of Section 3-6-3.

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

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

19 (n) If a person is convicted of a felony involving the  
20 use of a firearm or other dangerous weapon, the clerk of the  
21 circuit court shall, within 24 hours of the conviction,  
22 notify the Department of State Police.

23 (o) If a person who is convicted of a felony possesses a  
24 Firearm Owner's Identification Card or firearms or other  
25 dangerous weapons, or both, the court shall require the  
26 defendant to transfer the firearms or other dangerous weapons  
27 to a Firearm Owner's Identification Card holder within 15  
28 days after the defendant's conviction or turn over the  
29 firearms or other dangerous weapons immediately to the court  
30 or a law enforcement agency with the approval of the court  
31 and to surrender his or her Firearm Owner's Identification  
32 Card to the Department of State Police. The defendant may  
33 not turn over his or her firearms or other dangerous weapons  
34 to a family or household member as defined in Article 112A of



1 the Code of Criminal Procedure of 1963. If these conditions  
 2 are not met within that 15-day period, a person convicted of  
 3 a felony must permit a local law enforcement agency to search  
 4 his or her residence, person, and place of business for  
 5 firearms and other dangerous weapons and to confiscate the  
 6 firearms and other dangerous weapons and to seize any Firearm  
 7 Owner's Identification Card issued to the defendant.

8 (Source: P.A. 90-14, eff. 7-1-97; 90-68, eff. 7-8-97; 90-680,  
 9 eff. 1-1-99; 90-685, eff. 1-1-99; 90-787, eff. 8-14-98;  
 10 91-357, eff. 7-29-99; 91-404, eff. 1-1-00; 91-663, eff.  
 11 12-22-99; 91-695, eff. 4-13-00.)

12 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

13 Sec. 5-6-3. Conditions of Probation and of Conditional  
 14 Discharge.

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

17 (1) not violate any criminal statute of any  
 18 jurisdiction;

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

21 (3) refrain from possessing a firearm or other  
 22 dangerous weapon;

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

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

32 (6) perform no less than 30 hours of community  
 33 service and not more than 120 hours of community service,

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

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

1 cost of the educational courses or GED test, if a fee is  
 2 charged for those courses or test. The court shall  
 3 resentence the offender whose probation or conditional  
 4 discharge has been revoked as provided in Section 5-6-4.  
 5 This clause (7) does not apply to a person who has a high  
 6 school diploma or has successfully passed the GED test.  
 7 This clause (7) does not apply to a person who is  
 8 determined by the court to be developmentally disabled or  
 9 otherwise mentally incapable of completing the  
 10 educational or vocational program; and

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

22 (9) surrender his or her Firearm Owner's  
 23 Identification Card; and

24 (10) permit local law enforcement officers to  
 25 search his or her person, residence, or place of business  
 26 for any firearms or other dangerous weapons.

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

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

- 1           (2) pay a fine and costs;
- 2           (3) work or pursue a course of study or vocational
- 3 training;
- 4           (4) undergo medical, psychological or psychiatric
- 5 treatment; or treatment for drug addiction or alcoholism;
- 6           (5) attend or reside in a facility established for
- 7 the instruction or residence of defendants on probation;
- 8           (6) support his dependents;
- 9           (7) and in addition, if a minor:
  - 10           (i) reside with his parents or in a foster
  - 11 home;
  - 12           (ii) attend school;
  - 13           (iii) attend a non-residential program for
  - 14 youth;
  - 15           (iv) contribute to his own support at home or
  - 16 in a foster home;
- 17           (8) make restitution as provided in Section 5-5-6
- 18 of this Code;
- 19           (9) perform some reasonable public or community
- 20 service;
- 21           (10) serve a term of home confinement. In addition
- 22 to any other applicable condition of probation or
- 23 conditional discharge, the conditions of home confinement
- 24 shall be that the offender:
  - 25           (i) remain within the interior premises of the
  - 26 place designated for his confinement during the
  - 27 hours designated by the court;
  - 28           (ii) admit any person or agent designated by
  - 29 the court into the offender's place of confinement
  - 30 at any time for purposes of verifying the offender's
  - 31 compliance with the conditions of his confinement;
  - 32 and
  - 33           (iii) if further deemed necessary by the court
  - 34 or the Probation or Court Services Department, be

1 placed on an approved electronic monitoring device,  
2 subject to Article 8A of Chapter V;

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

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

1 shall use the monies collected to defray the costs  
2 of corrections. The county treasurer shall deposit  
3 the fee collected in the county working cash fund  
4 under Section 6-27001 or Section 6-29002 of the  
5 Counties Code, as the case may be.

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

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

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

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

33 (15) refrain from having any contact, directly or  
34 indirectly, with certain specified persons or particular

1 types of persons, including but not limited to members of  
2 street gangs and drug users or dealers;

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

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

19 (d) An offender sentenced to probation or to conditional  
20 discharge shall be given a certificate setting forth the  
21 conditions thereof.

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

28 Persons committed to imprisonment as a condition of  
29 probation or conditional discharge shall not be committed to  
30 the Department of Corrections.

31 (f) The court may combine a sentence of periodic  
32 imprisonment under Article 7 or a sentence to a county impact  
33 incarceration program under Article 8 with a sentence of  
34 probation or conditional discharge.

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

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

33           (i) The court shall impose upon an offender sentenced to  
34 probation after January 1, 1989 or to conditional discharge



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

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

23 (Source: P.A. 90-14, eff. 7-1-97; 90-399, eff. 1-1-98;  
24 90-504, eff. 1-1-98; 90-655, eff. 7-30-98; 91-325, eff.  
25 7-29-99; 91-696, eff. 4-13-00; 91-903, eff. 1-1-01.)

26 (730 ILCS 5/5-6-4) (from Ch. 38, par. 1005-6-4)  
27 Sec. 5-6-4. Violation, Modification or Revocation of  
28 Probation, of Conditional Discharge or Supervision or of a  
29 sentence of county impact incarceration - Hearing.

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

1           (1) in the case of probation violations, order the  
2 issuance of a notice to the offender to be present by the  
3 County Probation Department or such other agency  
4 designated by the court to handle probation matters; and  
5 in the case of conditional discharge or supervision  
6 violations, such notice to the offender shall be issued  
7 by the Circuit Court Clerk; and in the case of a  
8 violation of a sentence of county impact incarceration,  
9 such notice shall be issued by the Sheriff;

10           (2) order a summons to the offender to be present  
11 for hearing; or

12           (3) order a warrant for the offender's arrest where  
13 there is danger of his fleeing the jurisdiction or  
14 causing serious harm to others or when the offender fails  
15 to answer a summons or notice from the clerk of the court  
16 or Sheriff.

17           Personal service of the petition for violation of  
18 probation or the issuance of such warrant, summons or notice  
19 shall toll the period of probation, conditional discharge,  
20 supervision, or sentence of county impact incarceration until  
21 the final determination of the charge, and the term of  
22 probation, conditional discharge, supervision, or sentence of  
23 county impact incarceration shall not run until the hearing  
24 and disposition of the petition for violation.

25           (b) The court shall conduct a hearing of the alleged  
26 violation. The court shall admit the offender to bail pending  
27 the hearing unless the alleged violation is itself a criminal  
28 offense in which case the offender shall be admitted to bail  
29 on such terms as are provided in the Code of Criminal  
30 Procedure of 1963, as amended. In any case where an offender  
31 remains incarcerated only as a result of his alleged  
32 violation of the court's earlier order of probation,  
33 supervision, conditional discharge, or county impact  
34 incarceration such hearing shall be held within 14 days of

1 the onset of said incarceration, unless the alleged violation  
2 is the commission of another offense by the offender during  
3 the period of probation, supervision or conditional discharge  
4 in which case such hearing shall be held within the time  
5 limits described in Section 103-5 of the Code of Criminal  
6 Procedure of 1963, as amended.

7 (c) The State has the burden of going forward with the  
8 evidence and proving the violation by the preponderance of  
9 the evidence. The evidence shall be presented in open court  
10 with the right of confrontation, cross-examination, and  
11 representation by counsel.

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

17 (e) If the court finds that the offender has violated a  
18 condition at any time prior to the expiration or termination  
19 of the period, it may continue him on the existing sentence,  
20 with or without modifying or enlarging the conditions, or may  
21 impose any other sentence that was available under Section  
22 5-5-3 at the time of initial sentencing. If the court finds  
23 that the person has failed to successfully complete his or  
24 her sentence to a county impact incarceration program, the  
25 court may impose any other sentence that was available under  
26 Section 5-5-3 at the time of initial sentencing, except for a  
27 sentence of probation or conditional discharge.

28 (f) The conditions of probation, of conditional  
29 discharge, of supervision, or of a sentence of county impact  
30 incarceration may be modified by the court on motion of the  
31 supervising agency or on its own motion or at the request of  
32 the offender after notice and a hearing.

33 (g) A judgment revoking supervision, probation,  
34 conditional discharge, or a sentence of county impact

1 incarceration is a final appealable order.

2 (h) Resentencing after revocation of probation,  
3 conditional discharge, supervision, or a sentence of county  
4 impact incarceration shall be under Article 4. Time served on  
5 probation, conditional discharge or supervision shall not be  
6 credited by the court against a sentence of imprisonment or  
7 periodic imprisonment unless the court orders otherwise.

8 (i) Instead of filing a violation of probation,  
9 conditional discharge, supervision, or a sentence of county  
10 impact incarceration, an agent or employee of the supervising  
11 agency with the concurrence of his or her supervisor may  
12 serve on the defendant a Notice of Intermediate Sanctions.  
13 The Notice shall contain the technical violation or  
14 violations involved, the date or dates of the violation or  
15 violations, and the intermediate sanctions to be imposed.  
16 Upon receipt of the Notice, the defendant shall immediately  
17 accept or reject the intermediate sanctions. If the  
18 sanctions are accepted, they shall be imposed immediately.  
19 If the intermediate sanctions are rejected or the defendant  
20 does not respond to the Notice, a violation of probation,  
21 conditional discharge, supervision, or a sentence of county  
22 impact incarceration shall be immediately filed with the  
23 court. The State's Attorney and the sentencing court shall  
24 be notified of the Notice of Sanctions. Upon successful  
25 completion of the intermediate sanctions, a court may not  
26 revoke probation, conditional discharge, supervision, or a  
27 sentence of county impact incarceration or impose additional  
28 sanctions for the same violation. A notice of intermediate  
29 sanctions may not be issued for any violation of probation,  
30 conditional discharge, supervision, or a sentence of county  
31 impact incarceration which could warrant an additional,  
32 separate felony charge. The intermediate sanctions shall  
33 include a term of home detention as provided in Article 8A of  
34 Chapter V of this Code for multiple or repeat violations of

1 the terms and conditions of a sentence of probation,  
2 conditional discharge, or supervision.

3 (j) Probation, conditional discharge, or periodic  
4 imprisonment shall be revoked for failure to comply with  
5 conditions of a sentence imposed for a felony involving the  
6 use of a firearm or other dangerous weapon.

7 (Source: P.A. 89-198, eff. 7-21-95; 89-587, eff. 7-31-96;  
8 89-647, eff. 1-1-97; 90-14, eff. 7-1-97.)