

1 AN ACT concerning criminal law.

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

4 Section 5. The Unified Code of Corrections is amended by  
5 changing Section 5-4-1 as follows:

6 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

7 (Text of Section before amendment by P.A. 99-938)

8 Sec. 5-4-1. Sentencing hearing.

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

1 Corrections impact incarceration program as provided in  
2 Section 5-8-1.1 or 5-8-1.3. The court may in its sentencing  
3 order recommend a defendant for placement in a Department of  
4 Corrections substance abuse treatment program as provided in  
5 paragraph (a) of subsection (1) of Section 3-2-2 conditioned  
6 upon the defendant being accepted in a program by the  
7 Department of Corrections. At the hearing the court shall:

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

10 (2) consider any presentence reports;

11 (3) consider the financial impact of incarceration  
12 based on the financial impact statement filed with the  
13 clerk of the court by the Department of Corrections;

14 (4) consider evidence and information offered by the  
15 parties in aggravation and mitigation;

16 (4.5) consider substance abuse treatment, eligibility  
17 screening, and an assessment, if any, of the defendant by  
18 an agent designated by the State of Illinois to provide  
19 assessment services for the Illinois courts;

20 (5) hear arguments as to sentencing alternatives;

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

23 (7) afford the victim of a violent crime or a violation  
24 of Section 11-501 of the Illinois Vehicle Code, or a  
25 similar provision of a local ordinance, or a qualified  
26 individual affected by: (i) a violation of Section 405,

1 405.1, 405.2, or 407 of the Illinois Controlled Substances  
2 Act or a violation of Section 55 or Section 65 of the  
3 Methamphetamine Control and Community Protection Act, or  
4 (ii) a Class 4 felony violation of Section 11-14, 11-14.3  
5 except as described in subdivisions (a)(2)(A) and  
6 (a)(2)(B), 11-15, 11-17, 11-18, 11-18.1, or 11-19 of the  
7 Criminal Code of 1961 or the Criminal Code of 2012,  
8 committed by the defendant the opportunity to make a  
9 statement concerning the impact on the victim and to offer  
10 evidence in aggravation or mitigation; provided that the  
11 statement and evidence offered in aggravation or  
12 mitigation must first be prepared in writing in conjunction  
13 with the State's Attorney before it may be presented orally  
14 at the hearing. Any sworn testimony offered by the victim  
15 is subject to the defendant's right to cross-examine. All  
16 statements and evidence offered under this paragraph (7)  
17 shall become part of the record of the court. For the  
18 purpose of this paragraph (7), "qualified individual"  
19 means any person who (i) lived or worked within the  
20 territorial jurisdiction where the offense took place when  
21 the offense took place; and (ii) is familiar with various  
22 public places within the territorial jurisdiction where  
23 the offense took place when the offense took place. For the  
24 purposes of this paragraph (7), "qualified individual"  
25 includes any peace officer, or any member of any duly  
26 organized State, county, or municipal peace unit assigned

1 to the territorial jurisdiction where the offense took  
2 place when the offense took place;

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

6 (9) in cases involving a felony sex offense as defined  
7 under the Sex Offender Management Board Act, consider the  
8 results of the sex offender evaluation conducted pursuant  
9 to Section 5-3-2 of this Act; and

10 (10) make a finding of whether a motor vehicle was used  
11 in the commission of the offense for which the defendant is  
12 being sentenced.

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

24 (b-1) In imposing a sentence of imprisonment or periodic  
25 imprisonment for a Class 3 or Class 4 felony for which a  
26 sentence of probation or conditional discharge is an available

1 sentence, if the defendant has no prior sentence of probation  
2 or conditional discharge and no prior conviction for a violent  
3 crime, the defendant shall not be sentenced to imprisonment  
4 before review and consideration of a presentence report and  
5 determination and explanation of why the particular evidence,  
6 information, factor in aggravation, factual finding, or other  
7 reasons support a sentencing determination that one or more of  
8 the factors under subsection (a) of Section 5-6-1 of this Code  
9 apply and that probation or conditional discharge is not an  
10 appropriate sentence.

11 (c) In imposing a sentence for a violent crime or for an  
12 offense of operating or being in physical control of a vehicle  
13 while under the influence of alcohol, any other drug or any  
14 combination thereof, or a similar provision of a local  
15 ordinance, when such offense resulted in the personal injury to  
16 someone other than the defendant, the trial judge shall specify  
17 on the record the particular evidence, information, factors in  
18 mitigation and aggravation or other reasons that led to his  
19 sentencing determination. The full verbatim record of the  
20 sentencing hearing shall be filed with the clerk of the court  
21 and shall be a public record.

22 (c-1) In imposing a sentence for the offense of aggravated  
23 kidnapping for ransom, home invasion, armed robbery,  
24 aggravated vehicular hijacking, aggravated discharge of a  
25 firearm, or armed violence with a category I weapon or category  
26 II weapon, the trial judge shall make a finding as to whether

1 the conduct leading to conviction for the offense resulted in  
2 great bodily harm to a victim, and shall enter that finding and  
3 the basis for that finding in the record.

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

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

18 "The purpose of this statement is to inform the public of  
19 the actual period of time this defendant is likely to spend in  
20 prison as a result of this sentence. The actual period of  
21 prison time served is determined by the statutes of Illinois as  
22 applied to this sentence by the Illinois Department of  
23 Corrections and the Illinois Prisoner Review Board. In this  
24 case, assuming the defendant receives all of his or her  
25 sentence credit, the period of estimated actual custody is ...  
26 years and ... months, less up to 180 days additional sentence

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

8 When the sentence is imposed for one of the offenses  
9 enumerated in paragraph (a)(3) of Section 3-6-3, other than  
10 when the sentence is imposed for one of the offenses enumerated  
11 in paragraph (a)(2) of Section 3-6-3 committed on or after June  
12 19, 1998, and other than when the sentence is imposed for  
13 reckless homicide as defined in subsection (e) of Section 9-3  
14 of the Criminal Code of 1961 or the Criminal Code of 2012 if  
15 the offense was committed on or after January 1, 1999, and  
16 other than when the sentence is imposed for aggravated arson if  
17 the offense was committed on or after July 27, 2001 (the  
18 effective date of Public Act 92-176), and other than when the  
19 sentence is imposed for aggravated driving under the influence  
20 of alcohol, other drug or drugs, or intoxicating compound or  
21 compounds, or any combination thereof as defined in  
22 subparagraph (C) of paragraph (1) of subsection (d) of Section  
23 11-501 of the Illinois Vehicle Code committed on or after  
24 January 1, 2011 (the effective date of Public Act 96-1230), the  
25 judge's statement, to be given after pronouncing the sentence,  
26 shall include the following:

1           "The purpose of this statement is to inform the public of  
2 the actual period of time this defendant is likely to spend in  
3 prison as a result of this sentence. The actual period of  
4 prison time served is determined by the statutes of Illinois as  
5 applied to this sentence by the Illinois Department of  
6 Corrections and the Illinois Prisoner Review Board. In this  
7 case, assuming the defendant receives all of his or her  
8 sentence credit, the period of estimated actual custody is ...  
9 years and ... months, less up to 90 days additional sentence  
10 credit for good conduct. If the defendant, because of his or  
11 her own misconduct or failure to comply with the institutional  
12 regulations, does not receive those credits, the actual time  
13 served in prison will be longer. The defendant may also receive  
14 an additional one-half day sentence credit for each day of  
15 participation in vocational, industry, substance abuse, and  
16 educational programs as provided for by Illinois statute."

17           When the sentence is imposed for one of the offenses  
18 enumerated in paragraph (a)(2) of Section 3-6-3, other than  
19 first degree murder, and the offense was committed on or after  
20 June 19, 1998, and when the sentence is imposed for reckless  
21 homicide as defined in subsection (e) of Section 9-3 of the  
22 Criminal Code of 1961 or the Criminal Code of 2012 if the  
23 offense was committed on or after January 1, 1999, and when the  
24 sentence is imposed for aggravated driving under the influence  
25 of alcohol, other drug or drugs, or intoxicating compound or  
26 compounds, or any combination thereof as defined in



1 subparagraph (F) of paragraph (1) of subsection (d) of Section  
2 11-501 of the Illinois Vehicle Code, and when the sentence is  
3 imposed for aggravated arson if the offense was committed on or  
4 after July 27, 2001 (the effective date of Public Act 92-176),  
5 and when the sentence is imposed for aggravated driving under  
6 the influence of alcohol, other drug or drugs, or intoxicating  
7 compound or compounds, or any combination thereof as defined in  
8 subparagraph (C) of paragraph (1) of subsection (d) of Section  
9 11-501 of the Illinois Vehicle Code committed on or after  
10 January 1, 2011 (the effective date of Public Act 96-1230), the  
11 judge's statement, to be given after pronouncing the sentence,  
12 shall include the following:

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

1 credit, the actual time served in prison will be longer."

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

6 "The purpose of this statement is to inform the public of  
7 the actual period of time this defendant is likely to spend in  
8 prison as a result of this sentence. The actual period of  
9 prison time served is determined by the statutes of Illinois as  
10 applied to this sentence by the Illinois Department of  
11 Corrections and the Illinois Prisoner Review Board. In this  
12 case, the defendant is not entitled to sentence credit.  
13 Therefore, this defendant will serve 100% of his or her  
14 sentence."

15 When the sentencing order recommends placement in a  
16 substance abuse program for any offense that results in  
17 incarceration in a Department of Corrections facility and the  
18 crime was committed on or after September 1, 2003 (the  
19 effective date of Public Act 93-354), the judge's statement, in  
20 addition to any other judge's statement required under this  
21 Section, to be given after pronouncing the sentence, shall  
22 include the following:

23 "The purpose of this statement is to inform the public of  
24 the actual period of time this defendant is likely to spend in  
25 prison as a result of this sentence. The actual period of  
26 prison time served is determined by the statutes of Illinois as

1 applied to this sentence by the Illinois Department of  
2 Corrections and the Illinois Prisoner Review Board. In this  
3 case, the defendant shall receive no sentence credit for good  
4 conduct under clause (3) of subsection (a) of Section 3-6-3  
5 until he or she participates in and completes a substance abuse  
6 treatment program or receives a waiver from the Director of  
7 Corrections pursuant to clause (4.5) of subsection (a) of  
8 Section 3-6-3."

9 (c-4) Before the sentencing hearing and as part of the  
10 presentence investigation under Section 5-3-1, the court shall  
11 inquire of the defendant whether the defendant is currently  
12 serving in or is a veteran of the Armed Forces of the United  
13 States. If the defendant is currently serving in the Armed  
14 Forces of the United States or is a veteran of the Armed Forces  
15 of the United States and has been diagnosed as having a mental  
16 illness by a qualified psychiatrist or clinical psychologist or  
17 physician, the court may:

18 (1) order that the officer preparing the presentence  
19 report consult with the United States Department of  
20 Veterans Affairs, Illinois Department of Veterans'  
21 Affairs, or another agency or person with suitable  
22 knowledge or experience for the purpose of providing the  
23 court with information regarding treatment options  
24 available to the defendant, including federal, State, and  
25 local programming; and

26 (2) consider the treatment recommendations of any

1           diagnosing or treating mental health professionals  
2           together with the treatment options available to the  
3           defendant in imposing sentence.

4           For the purposes of this subsection (c-4), "qualified  
5           psychiatrist" means a reputable physician licensed in Illinois  
6           to practice medicine in all its branches, who has specialized  
7           in the diagnosis and treatment of mental and nervous disorders  
8           for a period of not less than 5 years.

9           (c-6) In imposing a sentence, the trial judge shall  
10          specify, on the record, the particular evidence and other  
11          reasons which led to his or her determination that a motor  
12          vehicle was used in the commission of the offense.

13          (d) When the defendant is committed to the Department of  
14          Corrections, the State's Attorney shall and counsel for the  
15          defendant may file a statement with the clerk of the court to  
16          be transmitted to the department, agency or institution to  
17          which the defendant is committed to furnish such department,  
18          agency or institution with the facts and circumstances of the  
19          offense for which the person was committed together with all  
20          other factual information accessible to them in regard to the  
21          person prior to his commitment relative to his habits,  
22          associates, disposition and reputation and any other facts and  
23          circumstances which may aid such department, agency or  
24          institution during its custody of such person. The clerk shall  
25          within 10 days after receiving any such statements transmit a  
26          copy to such department, agency or institution and a copy to

1 the other party, provided, however, that this shall not be  
2 cause for delay in conveying the person to the department,  
3 agency or institution to which he has been committed.

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

7 (1) the sentence imposed;

8 (2) any statement by the court of the basis for  
9 imposing the sentence;

10 (3) any presentence reports;

11 (3.5) any sex offender evaluations;

12 (3.6) any substance abuse treatment eligibility  
13 screening and assessment of the defendant by an agent  
14 designated by the State of Illinois to provide assessment  
15 services for the Illinois courts;

16 (4) the number of days, if any, which the defendant has  
17 been in custody and for which he is entitled to credit  
18 against the sentence, which information shall be provided  
19 to the clerk by the sheriff;

20 (4.1) any finding of great bodily harm made by the  
21 court with respect to an offense enumerated in subsection  
22 (c-1);

23 (5) all statements filed under subsection (d) of this  
24 Section;

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

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

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

6           (9) all additional matters which the court directs the  
7           clerk to transmit.

8           (f) In cases in which the court finds that a motor vehicle  
9           was used in the commission of the offense for which the  
10          defendant is being sentenced, the clerk of the court shall,  
11          within 5 days thereafter, forward a report of such conviction  
12          to the Secretary of State.

13          (Source: P.A. 99-861, eff. 1-1-17.)

14          (Text of Section after amendment by P.A. 99-938)

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

16          (a) Except when the death penalty is sought under hearing  
17          procedures otherwise specified, after a determination of  
18          guilt, a hearing shall be held to impose the sentence. However,  
19          prior to the imposition of sentence on an individual being  
20          sentenced for an offense based upon a charge for a violation of  
21          Section 11-501 of the Illinois Vehicle Code or a similar  
22          provision of a local ordinance, the individual must undergo a  
23          professional evaluation to determine if an alcohol or other  
24          drug abuse problem exists and the extent of such a problem.  
25          Programs conducting these evaluations shall be licensed by the

1 Department of Human Services. However, if the individual is not  
2 a resident of Illinois, the court may, in its discretion,  
3 accept an evaluation from a program in the state of such  
4 individual's residence. The court may in its sentencing order  
5 approve an eligible defendant for placement in a Department of  
6 Corrections impact incarceration program as provided in  
7 Section 5-8-1.1 or 5-8-1.3. The court may in its sentencing  
8 order recommend a defendant for placement in a Department of  
9 Corrections substance abuse treatment program as provided in  
10 paragraph (a) of subsection (1) of Section 3-2-2 conditioned  
11 upon the defendant being accepted in a program by the  
12 Department of Corrections. At the hearing the court shall:

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

15 (2) consider any presentence reports;

16 (3) consider the financial impact of incarceration  
17 based on the financial impact statement filed with the  
18 clerk of the court by the Department of Corrections;

19 (4) consider evidence and information offered by the  
20 parties in aggravation and mitigation;

21 (4.5) consider substance abuse treatment, eligibility  
22 screening, and an assessment, if any, of the defendant by  
23 an agent designated by the State of Illinois to provide  
24 assessment services for the Illinois courts;

25 (5) hear arguments as to sentencing alternatives;

26 (6) afford the defendant the opportunity to make a

1 statement in his own behalf;

2 (7) afford the victim of a violent crime or a violation  
3 of Section 11-501 of the Illinois Vehicle Code, or a  
4 similar provision of a local ordinance, or a qualified  
5 individual affected by: (i) a violation of Section 405,  
6 405.1, 405.2, or 407 of the Illinois Controlled Substances  
7 Act or a violation of Section 55 or Section 65 of the  
8 Methamphetamine Control and Community Protection Act, or  
9 (ii) a Class 4 felony violation of Section 11-14, 11-14.3  
10 except as described in subdivisions (a)(2)(A) and  
11 (a)(2)(B), 11-15, 11-17, 11-18, 11-18.1, or 11-19 of the  
12 Criminal Code of 1961 or the Criminal Code of 2012,  
13 committed by the defendant the opportunity to make a  
14 statement concerning the impact on the victim and to offer  
15 evidence in aggravation or mitigation; provided that the  
16 statement and evidence offered in aggravation or  
17 mitigation must first be prepared in writing in conjunction  
18 with the State's Attorney before it may be presented orally  
19 at the hearing. Any sworn testimony offered by the victim  
20 is subject to the defendant's right to cross-examine. All  
21 statements and evidence offered under this paragraph (7)  
22 shall become part of the record of the court. For the  
23 purpose of this paragraph (7), "qualified individual"  
24 means any person who (i) lived or worked within the  
25 territorial jurisdiction where the offense took place when  
26 the offense took place; and (ii) is familiar with various



1 public places within the territorial jurisdiction where  
2 the offense took place when the offense took place. For the  
3 purposes of this paragraph (7), "qualified individual"  
4 includes any peace officer, or any member of any duly  
5 organized State, county, or municipal peace unit assigned  
6 to the territorial jurisdiction where the offense took  
7 place when the offense took place;

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

11 (9) in cases involving a felony sex offense as defined  
12 under the Sex Offender Management Board Act, consider the  
13 results of the sex offender evaluation conducted pursuant  
14 to Section 5-3-2 of this Act; and

15 (10) make a finding of whether a motor vehicle was used  
16 in the commission of the offense for which the defendant is  
17 being sentenced.

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

1 court of the disposition of any other defendants who have been  
2 sentenced.

3 (b-1) In imposing a sentence of imprisonment or periodic  
4 imprisonment for a Class 3 or Class 4 felony for which a  
5 sentence of probation or conditional discharge is an available  
6 sentence, if the defendant has no prior sentence of probation  
7 or conditional discharge and no prior conviction for a violent  
8 crime, the defendant shall not be sentenced to imprisonment  
9 before review and consideration of a presentence report and  
10 determination and explanation of why the particular evidence,  
11 information, factor in aggravation, factual finding, or other  
12 reasons support a sentencing determination that one or more of  
13 the factors under subsection (a) of Section 5-6-1 of this Code  
14 apply and that probation or conditional discharge is not an  
15 appropriate sentence.

16 (c) In imposing a sentence for a violent crime or for an  
17 offense of operating or being in physical control of a vehicle  
18 while under the influence of alcohol, any other drug or any  
19 combination thereof, or a similar provision of a local  
20 ordinance, when such offense resulted in the personal injury to  
21 someone other than the defendant, the trial judge shall specify  
22 on the record the particular evidence, information, factors in  
23 mitigation and aggravation or other reasons that led to his  
24 sentencing determination. The full verbatim record of the  
25 sentencing hearing shall be filed with the clerk of the court  
26 and shall be a public record.

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

9 (c-1.5) Notwithstanding any other provision of law to the  
10 contrary, in imposing a sentence for an offense that requires a  
11 mandatory minimum sentence of imprisonment or probation or  
12 conditional discharge of 2 years or more, the court may  
13 sentence the offender to probation or conditional discharge or  
14 other non-imprisonment sentence it deems appropriate instead  
15 of to a sentence of imprisonment or to a lesser sentence of  
16 imprisonment, probation, or conditional discharge than the  
17 minimum sentence of imprisonment, probation, or conditional  
18 discharge provided for the offense if the court finds that the  
19 defendant does not pose a risk to public safety and the  
20 interest of justice requires the non-imposition of the  
21 mandatory sentence of imprisonment or a lesser sentence of  
22 imprisonment, probation, or conditional discharge. The court  
23 must state on the record its reasons for not imposing the  
24 minimum sentence of imprisonment or a lesser sentence of  
25 imprisonment, probation, or conditional discharge. If the  
26 defendant has been charged with an offense involving the use,

1 possession, or discharge of a firearm, the court may not  
2 deviate from a mandatory minimum sentence or probation or  
3 conditional discharge requirement, unless it is the  
4 recommendation of a presentence investigation and there is  
5 clear articulable evidence that the defendant is not a threat  
6 to the public safety. This must be fully stated by the court  
7 into the record at the time of sentencing. An offender  
8 convicted of a sex offense under Article 11 of the Criminal  
9 Code of 2012 or an offense involving the infliction of great  
10 bodily harm may not be sentenced to a lesser term of  
11 imprisonment, probation, or conditional discharge under this  
12 subsection (c-1.5).

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

23 The judge's statement, to be given after pronouncing the  
24 sentence, other than when the sentence is imposed for one of  
25 the offenses enumerated in paragraph (a) (4) of Section 3-6-3,  
26 shall include the following:

1           "The purpose of this statement is to inform the public of  
2 the actual period of time this defendant is likely to spend in  
3 prison as a result of this sentence. The actual period of  
4 prison time served is determined by the statutes of Illinois as  
5 applied to this sentence by the Illinois Department of  
6 Corrections and the Illinois Prisoner Review Board. In this  
7 case, assuming the defendant receives all of his or her  
8 sentence credit, the period of estimated actual custody is ...  
9 years and ... months, less up to 180 days additional earned  
10 sentence credit. If the defendant, because of his or her own  
11 misconduct or failure to comply with the institutional  
12 regulations, does not receive those credits, the actual time  
13 served in prison will be longer. The defendant may also receive  
14 an additional one-half day sentence credit for each day of  
15 participation in vocational, industry, substance abuse, and  
16 educational programs as provided for by Illinois statute."

17           When the sentence is imposed for one of the offenses  
18 enumerated in paragraph (a)(2) of Section 3-6-3, other than  
19 first degree murder, and the offense was committed on or after  
20 June 19, 1998, and when the sentence is imposed for reckless  
21 homicide as defined in subsection (e) of Section 9-3 of the  
22 Criminal Code of 1961 or the Criminal Code of 2012 if the  
23 offense was committed on or after January 1, 1999, and when the  
24 sentence is imposed for aggravated driving under the influence  
25 of alcohol, other drug or drugs, or intoxicating compound or  
26 compounds, or any combination thereof as defined in

1 subparagraph (F) of paragraph (1) of subsection (d) of Section  
2 11-501 of the Illinois Vehicle Code, and when the sentence is  
3 imposed for aggravated arson if the offense was committed on or  
4 after July 27, 2001 (the effective date of Public Act 92-176),  
5 and when the sentence is imposed for aggravated driving under  
6 the influence of alcohol, other drug or drugs, or intoxicating  
7 compound or compounds, or any combination thereof as defined in  
8 subparagraph (C) of paragraph (1) of subsection (d) of Section  
9 11-501 of the Illinois Vehicle Code committed on or after  
10 January 1, 2011 (the effective date of Public Act 96-1230), the  
11 judge's statement, to be given after pronouncing the sentence,  
12 shall include the following:

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

1 credit, the actual time served in prison will be longer."

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

6 "The purpose of this statement is to inform the public of  
7 the actual period of time this defendant is likely to spend in  
8 prison as a result of this sentence. The actual period of  
9 prison time served is determined by the statutes of Illinois as  
10 applied to this sentence by the Illinois Department of  
11 Corrections and the Illinois Prisoner Review Board. In this  
12 case, the defendant is not entitled to sentence credit.  
13 Therefore, this defendant will serve 100% of his or her  
14 sentence."

15 When the sentencing order recommends placement in a  
16 substance abuse program for any offense that results in  
17 incarceration in a Department of Corrections facility and the  
18 crime was committed on or after September 1, 2003 (the  
19 effective date of Public Act 93-354), the judge's statement, in  
20 addition to any other judge's statement required under this  
21 Section, to be given after pronouncing the sentence, shall  
22 include the following:

23 "The purpose of this statement is to inform the public of  
24 the actual period of time this defendant is likely to spend in  
25 prison as a result of this sentence. The actual period of  
26 prison time served is determined by the statutes of Illinois as

1 applied to this sentence by the Illinois Department of  
2 Corrections and the Illinois Prisoner Review Board. In this  
3 case, the defendant shall receive no earned sentence credit  
4 under clause (3) of subsection (a) of Section 3-6-3 until he or  
5 she participates in and completes a substance abuse treatment  
6 program or receives a waiver from the Director of Corrections  
7 pursuant to clause (4.5) of subsection (a) of Section 3-6-3."

8 (c-4) Before the sentencing hearing and as part of the  
9 presentence investigation under Section 5-3-1, the court shall  
10 inquire of the defendant whether the defendant is currently  
11 serving in or is a veteran of the Armed Forces of the United  
12 States. If the defendant is currently serving in the Armed  
13 Forces of the United States or is a veteran of the Armed Forces  
14 of the United States and has been diagnosed as having a mental  
15 illness by a qualified psychiatrist or clinical psychologist or  
16 physician, the court may:

17 (1) order that the officer preparing the presentence  
18 report consult with the United States Department of  
19 Veterans Affairs, Illinois Department of Veterans'  
20 Affairs, or another agency or person with suitable  
21 knowledge or experience for the purpose of providing the  
22 court with information regarding treatment options  
23 available to the defendant, including federal, State, and  
24 local programming; and

25 (2) consider the treatment recommendations of any  
26 diagnosing or treating mental health professionals



1           together with the treatment options available to the  
2           defendant in imposing sentence.

3           For the purposes of this subsection (c-4), "qualified  
4           psychiatrist" means a reputable physician licensed in Illinois  
5           to practice medicine in all its branches, who has specialized  
6           in the diagnosis and treatment of mental and nervous disorders  
7           for a period of not less than 5 years.

8           (c-6) In imposing a sentence, the trial judge shall  
9           specify, on the record, the particular evidence and other  
10          reasons which led to his or her determination that a motor  
11          vehicle was used in the commission of the offense.

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

1 cause for delay in conveying the person to the department,  
2 agency or institution to which he has been committed.

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

6 (1) the sentence imposed;

7 (2) any statement by the court of the basis for  
8 imposing the sentence;

9 (3) any presentence reports;

10 (3.5) any sex offender evaluations;

11 (3.6) any substance abuse treatment eligibility  
12 screening and assessment of the defendant by an agent  
13 designated by the State of Illinois to provide assessment  
14 services for the Illinois courts;

15 (4) the number of days, if any, which the defendant has  
16 been in custody and for which he is entitled to credit  
17 against the sentence, which information shall be provided  
18 to the clerk by the sheriff;

19 (4.1) any finding of great bodily harm made by the  
20 court with respect to an offense enumerated in subsection  
21 (c-1);

22 (5) all statements filed under subsection (d) of this  
23 Section;

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

26 (7) the municipality where the arrest of the offender

1 or the commission of the offense has occurred, where such  
2 municipality has a population of more than 25,000 persons;

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

5 (9) all additional matters which the court directs the  
6 clerk to transmit.

7 (f) In cases in which the court finds that a motor vehicle  
8 was used in the commission of the offense for which the  
9 defendant is being sentenced, the clerk of the court shall,  
10 within 5 days thereafter, forward a report of such conviction  
11 to the Secretary of State.

12 (Source: P.A. 99-861, eff. 1-1-17; 99-938, eff. 1-1-18.)

13 Section 95. No acceleration or delay. Where this Act makes  
14 changes in a statute that is represented in this Act by text  
15 that is not yet or no longer in effect (for example, a Section  
16 represented by multiple versions), the use of that text does  
17 not accelerate or delay the taking effect of (i) the changes  
18 made by this Act or (ii) provisions derived from any other  
19 Public Act.