

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 Sec. 5-4-1. Sentencing hearing.

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

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

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

9 (2) consider any presentence reports;

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

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

15 (4.5) consider substance abuse treatment, eligibility  
16 screening, and an assessment, if any, of the defendant by  
17 an agent designated by the State of Illinois to provide  
18 assessment services for the Illinois courts;

19 (5) hear arguments as to sentencing alternatives;

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

22 (7) afford the victim of a violent crime or a violation  
23 of Section 11-501 of the Illinois Vehicle Code, or a  
24 similar provision of a local ordinance, the opportunity to  
25 present an oral or written statement, as guaranteed by  
26 Article I, Section 8.1 of the Illinois Constitution and

1 provided in Section 6 of the Rights of Crime Victims and  
2 Witnesses Act. The court shall allow a victim to make an  
3 oral statement if the victim is present in the courtroom  
4 and requests to make an oral or written statement. An oral  
5 or written statement includes the victim or a  
6 representative of the victim reading the written  
7 statement. The court may allow persons impacted by the  
8 crime who are not victims under subsection (a) of Section 3  
9 of the Rights of Crime Victims and Witnesses Act to present  
10 an oral or written statement. A victim and any person  
11 making an oral statement shall not be put under oath or  
12 subject to cross-examination. All statements offered under  
13 this paragraph (7) shall become part of the record of the  
14 court. In this paragraph (7), "victim of a violent crime"  
15 means a person who is a victim of a violent crime for which  
16 the defendant has been convicted after a bench or jury  
17 trial or a person who is the victim of a violent crime with  
18 which the defendant was charged and the defendant has been  
19 convicted under a plea agreement of a crime that is not a  
20 violent crime as defined in subsection (c) of 3 of the  
21 Rights of Crime Victims and Witnesses Act;

22 (7.5) afford a qualified person affected by: (i) a  
23 violation of Section 405, 405.1, 405.2, or 407 of the  
24 Illinois Controlled Substances Act or a violation of  
25 Section 55 or Section 65 of the Methamphetamine Control and  
26 Community Protection Act; or (ii) a Class 4 felony

1 violation of Section 11-14, 11-14.3 except as described in  
2 subdivisions (a) (2) (A) and (a) (2) (B), 11-15, 11-17, 11-18,  
3 11-18.1, or 11-19 of the Criminal Code of 1961 or the  
4 Criminal Code of 2012, committed by the defendant the  
5 opportunity to make a statement concerning the impact on  
6 the qualified person and to offer evidence in aggravation  
7 or mitigation; provided that the statement and evidence  
8 offered in aggravation or mitigation shall first be  
9 prepared in writing in conjunction with the State's  
10 Attorney before it may be presented orally at the hearing.  
11 Sworn testimony offered by the qualified person is subject  
12 to the defendant's right to cross-examine. All statements  
13 and evidence offered under this paragraph (7.5) shall  
14 become part of the record of the court. In this paragraph  
15 (7.5), "qualified person" means any person who: (i) lived  
16 or worked within the territorial jurisdiction where the  
17 offense took place when the offense took place; or (ii) is  
18 familiar with various public places within the territorial  
19 jurisdiction where the offense took place when the offense  
20 took place. "Qualified person" includes any peace officer  
21 or any member of any duly organized State, county, or  
22 municipal peace officer unit assigned to the territorial  
23 jurisdiction where the offense took place when the offense  
24 took place;

25 (8) in cases of reckless homicide afford the victim's  
26 spouse, guardians, parents or other immediate family

1 members an opportunity to make oral statements;

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

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

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

20 (b-1) In imposing a sentence of imprisonment or periodic  
21 imprisonment for a Class 3 or Class 4 felony for which a  
22 sentence of probation or conditional discharge is an available  
23 sentence, if the defendant has no prior sentence of probation  
24 or conditional discharge and no prior conviction for a violent  
25 crime, the defendant shall not be sentenced to imprisonment  
26 before review and consideration of a presentence report and

1 determination and explanation of why the particular evidence,  
2 information, factor in aggravation, factual finding, or other  
3 reasons support a sentencing determination that one or more of  
4 the factors under subsection (a) of Section 5-6-1 of this Code  
5 apply and that probation or conditional discharge is not an  
6 appropriate sentence.

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

18 (c-1) In imposing a sentence for the offense of aggravated  
19 kidnapping for ransom, home invasion, armed robbery,  
20 aggravated vehicular hijacking, aggravated discharge of a  
21 firearm, or armed violence with a category I weapon or category  
22 II weapon, the trial judge shall make a finding as to whether  
23 the conduct leading to conviction for the offense resulted in  
24 great bodily harm to a victim, and shall enter that finding and  
25 the basis for that finding in the record.

26 (c-1.5) Notwithstanding any other provision of law to the

1 contrary, in imposing a sentence for an offense that requires a  
2 mandatory minimum sentence of imprisonment, the court may  
3 instead sentence the offender to probation, conditional  
4 discharge, or a lesser term of imprisonment it deems  
5 appropriate if: (1) the offense involves the use or possession  
6 of drugs, retail theft, or driving on a revoked license due to  
7 unpaid financial obligations; (2) the court finds that the  
8 defendant does not pose a risk to public safety; and (3) the  
9 interest of justice requires imposing a term of probation,  
10 conditional discharge, or a lesser term of imprisonment. The  
11 court must state on the record its reasons for imposing  
12 probation, conditional discharge, or a lesser term of  
13 imprisonment.

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

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

1 shall include the following:

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

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



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

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

1 comply with the institutional regulations receives lesser  
2 credit, the actual time served in prison will be longer."

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

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

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

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

1 prison time served is determined by the statutes of Illinois as  
2 applied to this sentence by the Illinois Department of  
3 Corrections and the Illinois Prisoner Review Board. In this  
4 case, the defendant shall receive no earned sentence credit  
5 under clause (3) of subsection (a) of Section 3-6-3 until he or  
6 she participates in and completes a substance abuse treatment  
7 program or receives a waiver from the Director of Corrections  
8 pursuant to clause (4.5) of subsection (a) of 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; 99-938, eff. 1-1-18;  
14          100-961, eff. 1-1-19; revised 10-3-18.)