

1 AN ACT concerning health.

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

4 Section 1. Findings. On October 10, 2010 the President  
5 signed into law Public Law 111-256 (Rosa's Law) which changes  
6 references to "mental retardation" under most federal laws, but  
7 not the Social Security Act, to "intellectual disability" and  
8 changes references to "a mentally retarded individual" under  
9 most federal laws, but not the Social Security Act, to "an  
10 individual with an intellectual disability". The purpose of  
11 this amendatory Act is to conform to the changes made by Public  
12 Law 111-256 and to changes anticipated under federal law.

13 Section 2. Rule of construction. This amendatory Act shall  
14 be construed to make amendments to provisions of State law to  
15 substitute the term "intellectual disability" for "mental  
16 retardation", "intellectually disabled" for "mentally  
17 retarded", and "ID/DD Community Care Act" for "MR/DD Community  
18 Care Act" without any intent to change the substantive rights,  
19 responsibilities, coverage, eligibility, or definitions  
20 referred to in the amended provisions represented in this  
21 amendatory Act.

22 Section 3. The Statute on Statutes is amended by adding

1 Section 1.37 as follows:

2 (5 ILCS 70/1.37 new)

3 Sec. 1.37. Intellectual disability. Except where the  
4 context indicates otherwise, in any rule, contract, or other  
5 document a reference to the term "mental retardation" shall be  
6 considered a reference to the term "intellectual disability"  
7 and a reference to the term "mentally retarded" shall be  
8 considered a reference to the term "intellectually disabled".  
9 The use of either "mental retardation" or "intellectually  
10 disabled", or "mentally retarded" or "intellectually disabled"  
11 shall not invalidate any rule, contract, or other document.

12 Section 4. The Illinois Administrative Procedure Act is  
13 amended by adding Section 5-146 as follows:

14 (5 ILCS 100/5-146 new)

15 Sec. 5-146. Rule change; intellectual disability. Any  
16 State agency with a rule that contains the term "mentally  
17 retarded" or "mental retardation" shall amend the text of the  
18 rule to substitute the term "intellectually disabled" for  
19 "mentally retarded" and "intellectual disability" for "mental  
20 retardation", and shall make any other changes that may be  
21 necessary to conform to the changes made by this amendatory Act  
22 of the 97th General Assembly.

1 Section 5. The Supported Employees Act is amended by  
2 changing Section 3 as follows:

3 (5 ILCS 390/3) (from Ch. 127, par. 3903)

4 Sec. 3. As used in this Act:

5 (a) "Agency" means those Departments, Boards, Commissions  
6 and Authorities that are under the jurisdiction and control of  
7 the Governor and are subject to the provisions and requirements  
8 of the Personnel Code, the State Universities Civil Service Act  
9 and the Secretary of State Merit Employment Code.

10 (b) "Department" means the Department of Central  
11 Management Services.

12 (c) "Director" means the Director of the Department of  
13 Central Management Services.

14 (d) "Supported employee" means any individual who:

15 (1) has a severe physical or mental disability which  
16 seriously limits functional capacities including but not  
17 limited to mobility, communication, self-care,  
18 self-direction, work tolerance or work skills, in terms of  
19 employability as defined, determined and certified by the  
20 Department of Human Services; and

21 (2) has one or more physical or mental disabilities  
22 resulting from amputation; arthritis; blindness; cancer;  
23 cerebral palsy; cystic fibrosis; deafness; heart disease;  
24 hemiplegia; respiratory or pulmonary dysfunction; an  
25 intellectual disability ~~mental~~ retardation; mental

1 illness; multiple sclerosis; muscular dystrophy;  
2 musculoskeletal disorders; neurological disorders,  
3 including stroke and epilepsy; paraplegia; quadriplegia  
4 and other spinal cord conditions; sickle cell anemia; and  
5 end-stage renal disease; or another disability or  
6 combination of disabilities determined on the basis of an  
7 evaluation of rehabilitation potential to cause comparable  
8 substantial functional limitation.

9 (e) "Supported employment" means competitive work in  
10 integrated work settings:

11 (1) for individuals with severe handicaps for whom  
12 competitive employment has not traditionally occurred, or

13 (2) for individuals for whom competitive employment  
14 has been interrupted or intermittent as a result of a  
15 severe disability, and who because of their handicap, need  
16 on-going support services to perform such work. The term  
17 includes transitional employment for individuals with  
18 chronic mental illness.

19 (f) "Participation in a supported employee program" means  
20 participation as a supported employee that is not based on the  
21 expectation that an individual will have the skills to perform  
22 all the duties in a job class, but on the assumption that with  
23 support and adaptation, or both, a job can be designed to take  
24 advantage of the supported employee's special strengths.

25 (g) "Funder" means any entity either State, local or  
26 federal, or private not-for-profit or for-profit that provides

1 monies to programs that provide services related to supported  
2 employment.

3 (h) "Provider" means any entity either public or private  
4 that provides technical support and services to any department  
5 or agency subject to the control of the Governor, the Secretary  
6 of State or the University Civil Service System.

7 (Source: P.A. 89-507, eff. 7-1-97.)

8 Section 7. The Election Code is amended by changing  
9 Sections 3-3, 4-6.3, 4-10, 5-9, 5-16.3, 6-50.3, 6-56, 19-4,  
10 19-12.1, and 19-12.2 as follows:

11 (10 ILCS 5/3-3) (from Ch. 46, par. 3-3)

12 Sec. 3-3. Every honorably discharged soldier or sailor who  
13 is an inmate of any soldiers' and sailors' home within the  
14 State of Illinois, any person who is a resident of a facility  
15 licensed or certified pursuant to the Nursing Home Care Act or  
16 the ID/DD ~~MR/DD~~ Community Care Act, or any person who is a  
17 resident of a community-integrated living arrangement, as  
18 defined in Section 3 of the Community-Integrated Living  
19 Arrangements Licensure and Certification Act, for 30 days or  
20 longer, and who is a citizen of the United States and has  
21 resided in this State and in the election district 30 days next  
22 preceding any election shall be entitled to vote in the  
23 election district in which any such home or  
24 community-integrated living arrangement in which he is an

1 inmate or resident is located, for all officers that now are or  
2 hereafter may be elected by the people, and upon all questions  
3 that may be submitted to the vote of the people: Provided, that  
4 he shall declare upon oath, that it was his bona fide intention  
5 at the time he entered said home or community-integrated living  
6 arrangement to become a resident thereof.

7 (Source: P.A. 96-339, eff. 7-1-10; 96-563, eff. 1-1-10;  
8 96-1000, eff. 7-2-10.)

9 (10 ILCS 5/4-6.3) (from Ch. 46, par. 4-6.3)

10 Sec. 4-6.3. The county clerk may establish a temporary  
11 place of registration for such times and at such locations  
12 within the county as the county clerk may select. However, no  
13 temporary place of registration may be in operation during the  
14 27 days preceding an election. Notice of the time and place of  
15 registration under this Section shall be published by the  
16 county clerk in a newspaper having a general circulation in the  
17 county not less than 3 nor more than 15 days before the holding  
18 of such registration.

19 Temporary places of registration shall be established so  
20 that the areas of concentration of population or use by the  
21 public are served, whether by facilities provided in places of  
22 private business or in public buildings or in mobile units.  
23 Areas which may be designated as temporary places of  
24 registration include, but are not limited to, facilities  
25 licensed or certified pursuant to the Nursing Home Care Act or

1 the ID/DD ~~MR/DD~~ Community Care Act, Soldiers' and Sailors'  
2 Homes, shopping centers, business districts, public buildings  
3 and county fairs.

4 Temporary places of registration shall be available to the  
5 public not less than 2 hours per year for each 1,000 population  
6 or fraction thereof in the county.

7 All temporary places of registration shall be manned by  
8 deputy county clerks or deputy registrars appointed pursuant to  
9 Section 4-6.2.

10 (Source: P.A. 96-339, eff. 7-1-10.)

11 (10 ILCS 5/4-10) (from Ch. 46, par. 4-10)

12 Sec. 4-10. Except as herein provided, no person shall be  
13 registered, unless he applies in person to a registration  
14 officer, answers such relevant questions as may be asked of him  
15 by the registration officer, and executes the affidavit of  
16 registration. The registration officer shall require the  
17 applicant to furnish two forms of identification, and except in  
18 the case of a homeless individual, one of which must include  
19 his or her residence address. These forms of identification  
20 shall include, but not be limited to, any of the following:  
21 driver's license, social security card, public aid  
22 identification card, utility bill, employee or student  
23 identification card, lease or contract for a residence, credit  
24 card, or a civic, union or professional association membership  
25 card. The registration officer shall require a homeless

1 individual to furnish evidence of his or her use of the mailing  
2 address stated. This use may be demonstrated by a piece of mail  
3 addressed to that individual and received at that address or by  
4 a statement from a person authorizing use of the mailing  
5 address. The registration officer shall require each applicant  
6 for registration to read or have read to him the affidavit of  
7 registration before permitting him to execute the affidavit.

8 One of the registration officers or a deputy registration  
9 officer, county clerk, or clerk in the office of the county  
10 clerk, shall administer to all persons who shall personally  
11 apply to register the following oath or affirmation:

12 "You do solemnly swear (or affirm) that you will fully and  
13 truly answer all such questions as shall be put to you touching  
14 your name, place of residence, place of birth, your  
15 qualifications as an elector and your right as such to register  
16 and vote under the laws of the State of Illinois."

17 The registration officer shall satisfy himself that each  
18 applicant for registration is qualified to register before  
19 registering him. If the registration officer has reason to  
20 believe that the applicant is a resident of a Soldiers' and  
21 Sailors' Home or any facility which is licensed or certified  
22 pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
23 Community Care Act, the following question shall be put, "When  
24 you entered the home which is your present address, was it your  
25 bona fide intention to become a resident thereof?" Any voter of  
26 a township, city, village or incorporated town in which such



1 applicant resides, shall be permitted to be present at the  
2 place of any precinct registration and shall have the right to  
3 challenge any applicant who applies to be registered.

4 In case the officer is not satisfied that the applicant is  
5 qualified he shall forthwith notify such applicant in writing  
6 to appear before the county clerk to complete his registration.  
7 Upon the card of such applicant shall be written the word  
8 "incomplete" and no such applicant shall be permitted to vote  
9 unless such registration is satisfactorily completed as  
10 hereinafter provided. No registration shall be taken and marked  
11 as incomplete if information to complete it can be furnished on  
12 the date of the original application.

13 Any person claiming to be an elector in any election  
14 precinct and whose registration card is marked "Incomplete" may  
15 make and sign an application in writing, under oath, to the  
16 county clerk in substance in the following form:

17 "I do solemnly swear that I, ....., did on (insert date)  
18 make application to the board of registry of the .... precinct  
19 of the township of .... (or to the county clerk of .... county)  
20 and that said board or clerk refused to complete my  
21 registration as a qualified voter in said precinct. That I  
22 reside in said precinct, that I intend to reside in said  
23 precinct, and am a duly qualified voter of said precinct and am  
24 entitled to be registered to vote in said precinct at the next  
25 election.

26 (Signature of applicant) ....."

1 All such applications shall be presented to the county  
2 clerk or to his duly authorized representative by the  
3 applicant, in person between the hours of 9:00 a.m. and 5:00  
4 p.m. on any day after the days on which the 1969 and 1970  
5 precinct re-registrations are held but not on any day within 27  
6 days preceding the ensuing general election and thereafter for  
7 the registration provided in Section 4-7 all such applications  
8 shall be presented to the county clerk or his duly authorized  
9 representative by the applicant in person between the hours of  
10 9:00 a.m. and 5:00 p.m. on any day prior to 27 days preceding  
11 the ensuing general election. Such application shall be heard  
12 by the county clerk or his duly authorized representative at  
13 the time the application is presented. If the applicant for  
14 registration has registered with the county clerk, such  
15 application may be presented to and heard by the county clerk  
16 or by his duly authorized representative upon the dates  
17 specified above or at any time prior thereto designated by the  
18 county clerk.

19 Any otherwise qualified person who is absent from his  
20 county of residence either due to business of the United States  
21 or because he is temporarily outside the territorial limits of  
22 the United States may become registered by mailing an  
23 application to the county clerk within the periods of  
24 registration provided for in this Article, or by simultaneous  
25 application for absentee registration and absentee ballot as

1 provided in Article 20 of this Code.

2 Upon receipt of such application the county clerk shall  
3 immediately mail an affidavit of registration in duplicate,  
4 which affidavit shall contain the following and such other  
5 information as the State Board of Elections may think it proper  
6 to require for the identification of the applicant:

7 Name. The name of the applicant, giving surname and first  
8 or Christian name in full, and the middle name or the initial  
9 for such middle name, if any.

10 Sex.

11 Residence. The name and number of the street, avenue or  
12 other location of the dwelling, and such additional clear and  
13 definite description as may be necessary to determine the exact  
14 location of the dwelling of the applicant. Where the location  
15 cannot be determined by street and number, then the Section,  
16 congressional township and range number may be used, or such  
17 other information as may be necessary, including post office  
18 mailing address.

19 Term of residence in the State of Illinois and the  
20 precinct.

21 Nativity. The State or country in which the applicant was  
22 born.

23 Citizenship. Whether the applicant is native born or  
24 naturalized. If naturalized, the court, place and date of  
25 naturalization.

26 Age. Date of birth, by month, day and year.

1 Out of State address of .....

2 AFFIDAVIT OF REGISTRATION

3 State of .....

4 )ss

5 County of .....

6 I hereby swear (or affirm) that I am a citizen of the  
7 United States; that on the day of the next election I shall  
8 have resided in the State of Illinois and in the election  
9 precinct 30 days; that I am fully qualified to vote, that I am  
10 not registered to vote anywhere else in the United States, that  
11 I intend to remain a resident of the State of Illinois and of  
12 the election precinct, that I intend to return to the State of  
13 Illinois, and that the above statements are true.

14 .....

15 (His or her signature or mark)

16 Subscribed and sworn to before me, an officer qualified to  
17 administer oaths, on (insert date).

18 .....

19 Signature of officer administering oath.

20 Upon receipt of the executed duplicate affidavit of  
21 Registration, the county clerk shall transfer the information  
22 contained thereon to duplicate Registration Cards provided for  
23 in Section 4-8 of this Article and shall attach thereto a copy  
24 of each of the duplicate affidavit of registration and  
25 thereafter such registration card and affidavit shall  
26 constitute the registration of such person the same as if he

1 had applied for registration in person.

2 (Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10;  
3 96-1000, eff. 7-2-10.)

4 (10 ILCS 5/5-9) (from Ch. 46, par. 5-9)

5 Sec. 5-9. Except as herein provided, no person shall be  
6 registered unless he applies in person to registration officer,  
7 answers such relevant questions as may be asked of him by the  
8 registration officer, and executes the affidavit of  
9 registration. The registration officer shall require the  
10 applicant to furnish two forms of identification, and except in  
11 the case of a homeless individual, one of which must include  
12 his or her residence address. These forms of identification  
13 shall include, but not be limited to, any of the following:  
14 driver's license, social security card, public aid  
15 identification card, utility bill, employee or student  
16 identification card, lease or contract for a residence, credit  
17 card, or a civic, union or professional association membership  
18 card. The registration officer shall require a homeless  
19 individual to furnish evidence of his or her use of the mailing  
20 address stated. This use may be demonstrated by a piece of mail  
21 addressed to that individual and received at that address or by  
22 a statement from a person authorizing use of the mailing  
23 address. The registration officer shall require each applicant  
24 for registration to read or have read to him the affidavit of  
25 registration before permitting him to execute the affidavit.

1           One of the Deputy Registrars, the Judge of Registration, or  
2           an Officer of Registration, County Clerk, or clerk in the  
3           office of the County Clerk, shall administer to all persons who  
4           shall personally apply to register the following oath or  
5           affirmation:

6           "You do solemnly swear (or affirm) that you will fully and  
7           truly answer all such questions as shall be put to you touching  
8           your place of residence, name, place of birth, your  
9           qualifications as an elector and your right as such to register  
10          and vote under the laws of the State of Illinois."

11          The Registration Officer shall satisfy himself that each  
12          applicant for registration is qualified to register before  
13          registering him. If the registration officer has reason to  
14          believe that the applicant is a resident of a Soldiers' and  
15          Sailors' Home or any facility which is licensed or certified  
16          pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
17          Community Care Act, the following question shall be put, "When  
18          you entered the home which is your present address, was it your  
19          bona fide intention to become a resident thereof?" Any voter of  
20          a township, city, village or incorporated town in which such  
21          applicant resides, shall be permitted to be present at the  
22          place of precinct registration, and shall have the right to  
23          challenge any applicant who applies to be registered.

24          In case the officer is not satisfied that the applicant is  
25          qualified, he shall forthwith in writing notify such applicant  
26          to appear before the County Clerk to furnish further proof of

1 his qualifications. Upon the card of such applicant shall be  
 2 written the word "Incomplete" and no such applicant shall be  
 3 permitted to vote unless such registration is satisfactorily  
 4 completed as hereinafter provided. No registration shall be  
 5 taken and marked as "incomplete" if information to complete it  
 6 can be furnished on the date of the original application.

7 Any person claiming to be an elector in any election  
 8 precinct in such township, city, village or incorporated town  
 9 and whose registration is marked "Incomplete" may make and sign  
 10 an application in writing, under oath, to the County Clerk in  
 11 substance in the following form:

12 "I do solemnly swear that I, ....., did on (insert  
 13 date) make application to the Board of Registry of the .....  
 14 precinct of ..... ward of the City of .... or of the  
 15 ..... District ..... Town of ..... (or to the  
 16 County Clerk of ..... ) and ..... County; that  
 17 said Board or Clerk refused to complete my registration as a  
 18 qualified voter in said precinct, that I reside in said  
 19 precinct (or that I intend to reside in said precinct), am a  
 20 duly qualified voter and entitled to vote in said precinct at  
 21 the next election.

22 .....  
 23 (Signature of Applicant)"

24 All such applications shall be presented to the County  
 25 Clerk by the applicant, in person between the hours of nine  
 26 o'clock a.m. and five o'clock p.m., on Monday and Tuesday of

1 the third week subsequent to the weeks in which the 1961 and  
2 1962 precinct re-registrations are to be held, and thereafter  
3 for the registration provided in Section 5-17 of this Article,  
4 all such applications shall be presented to the County Clerk by  
5 the applicant in person between the hours of nine o'clock a.m.  
6 and nine o'clock p.m. on Monday and Tuesday of the third week  
7 prior to the date on which such election is to be held.

8 Any otherwise qualified person who is absent from his  
9 county of residence either due to business of the United States  
10 or because he is temporarily outside the territorial limits of  
11 the United States may become registered by mailing an  
12 application to the county clerk within the periods of  
13 registration provided for in this Article or by simultaneous  
14 application for absentee registration and absentee ballot as  
15 provided in Article 20 of this Code.

16 Upon receipt of such application the county clerk shall  
17 immediately mail an affidavit of registration in duplicate,  
18 which affidavit shall contain the following and such other  
19 information as the State Board of Elections may think it proper  
20 to require for the identification of the applicant:

21 Name. The name of the applicant, giving surname and first  
22 or Christian name in full, and the middle name or the initial  
23 for such middle name, if any.

24 Sex.

25 Residence. The name and number of the street, avenue or  
26 other location of the dwelling, and such additional clear and



1 definite description as may be necessary to determine the exact  
 2 location of the dwelling of the applicant. Where the location  
 3 cannot be determined by street and number, then the Section,  
 4 congressional township and range number may be used, or such  
 5 other information as may be necessary, including post office  
 6 mailing address.

7 Term of residence in the State of Illinois and the  
 8 precinct.

9 Nativity. The State or country in which the applicant was  
 10 born.

11 Citizenship. Whether the applicant is native born or  
 12 naturalized. If naturalized, the court, place and date of  
 13 naturalization.

14 Age. Date of birth, by month, day and year.

15 Out of State address of .....

16 AFFIDAVIT OF REGISTRATION

17 State of .....)

18 )ss

19 County of .....)

20 I hereby swear (or affirm) that I am a citizen of the  
 21 United States; that on the day of the next election I shall  
 22 have resided in the State of Illinois for 6 months and in the  
 23 election precinct 30 days; that I am fully qualified to vote,  
 24 that I am not registered to vote anywhere else in the United  
 25 States, that I intend to remain a resident of the State of  
 26 Illinois and of the election precinct, that I intend to return

1 to the State of Illinois, and that the above statements are  
2 true.

3 .....

4 (His or her signature or mark)

5 Subscribed and sworn to before me, an officer qualified to  
6 administer oaths, on (insert date).

7 .....

8 Signature of officer administering oath.

9

10 Upon receipt of the executed duplicate affidavit of  
11 Registration, the county clerk shall transfer the information  
12 contained thereon to duplicate Registration Cards provided for  
13 in Section 5-7 of this Article and shall attach thereto a copy  
14 of each of the duplicate affidavit of registration and  
15 thereafter such registration card and affidavit shall  
16 constitute the registration of such person the same as if he  
17 had applied for registration in person.

18 (Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10;  
19 96-1000, eff. 7-2-10.)

20 (10 ILCS 5/5-16.3) (from Ch. 46, par. 5-16.3)

21 Sec. 5-16.3. The county clerk may establish temporary  
22 places of registration for such times and at such locations  
23 within the county as the county clerk may select. However, no  
24 temporary place of registration may be in operation during the

1 27 days preceding an election. Notice of time and place of  
2 registration at any such temporary place of registration under  
3 this Section shall be published by the county clerk in a  
4 newspaper having a general circulation in the county not less  
5 than 3 nor more than 15 days before the holding of such  
6 registration.

7 Temporary places of registration shall be established so  
8 that the areas of concentration of population or use by the  
9 public are served, whether by facilities provided in places of  
10 private business or in public buildings or in mobile units.  
11 Areas which may be designated as temporary places of  
12 registration include, but are not limited to, facilities  
13 licensed or certified pursuant to the Nursing Home Care Act or  
14 the ID/DD ~~MR/DD~~ Community Care Act, Soldiers' and Sailors'  
15 Homes, shopping centers, business districts, public buildings  
16 and county fairs.

17 Temporary places of registration shall be available to the  
18 public not less than 2 hours per year for each 1,000 population  
19 or fraction thereof in the county.

20 All temporary places of registration shall be manned by  
21 deputy county clerks or deputy registrars appointed pursuant to  
22 Section 5-16.2.

23 (Source: P.A. 96-339, eff. 7-1-10.)

24 (10 ILCS 5/6-50.3) (from Ch. 46, par. 6-50.3)

25 Sec. 6-50.3. The board of election commissioners may

1 establish temporary places of registration for such times and  
2 at such locations as the board may select. However, no  
3 temporary place of registration may be in operation during the  
4 27 days preceding an election. Notice of the time and place of  
5 registration at any such temporary place of registration under  
6 this Section shall be published by the board of election  
7 commissioners in a newspaper having a general circulation in  
8 the city, village or incorporated town not less than 3 nor more  
9 than 15 days before the holding of such registration.

10 Temporary places of registration shall be established so  
11 that the areas of concentration of population or use by the  
12 public are served, whether by facilities provided in places of  
13 private business or in public buildings or in mobile units.  
14 Areas which may be designated as temporary places of  
15 registration include, but are not limited to facilities  
16 licensed or certified pursuant to the Nursing Home Care Act or  
17 the ID/DD ~~MR/DD~~ Community Care Act, Soldiers' and Sailors'  
18 Homes, shopping centers, business districts, public buildings  
19 and county fairs.

20 Temporary places of registration shall be available to the  
21 public not less than 2 hours per year for each 1,000 population  
22 or fraction thereof in the county.

23 All temporary places of registration shall be manned by  
24 employees of the board of election commissioners or deputy  
25 registrars appointed pursuant to Section 6-50.2.

26 (Source: P.A. 96-339, eff. 7-1-10.)

1 (10 ILCS 5/6-56) (from Ch. 46, par. 6-56)

2 Sec. 6-56. Not more than 30 nor less than 28 days before  
3 any election under this Article, all owners, managers,  
4 administrators or operators of hotels, lodging houses, rooming  
5 houses, furnished apartments or facilities licensed or  
6 certified under the Nursing Home Care Act, which house 4 or  
7 more persons, outside the members of the family of such owner,  
8 manager, administrator or operator, shall file with the board  
9 of election commissioners a report, under oath, together with  
10 one copy thereof, in such form as may be required by the board  
11 of election commissioners, of the names and descriptions of all  
12 lodgers, guests or residents claiming a voting residence at the  
13 hotels, lodging houses, rooming houses, furnished apartments,  
14 or facility licensed or certified under the Nursing Home Care  
15 Act or the ID/DD ~~MR/DD~~ Community Care Act under their control.  
16 In counties having a population of 500,000 or more such report  
17 shall be made on forms mailed to them by the board of election  
18 commissioners. The board of election commissioners shall sort  
19 and assemble the sworn copies of the reports in numerical order  
20 according to ward and according to precincts within each ward  
21 and shall, not later than 5 days after the last day allowed by  
22 this Article for the filing of the reports, maintain one  
23 assembled set of sworn duplicate reports available for public  
24 inspection until 60 days after election days. Except as is  
25 otherwise expressly provided in this Article, the board shall

1 not be required to perform any duties with respect to the sworn  
2 reports other than to mail, sort, assemble, post and file them  
3 as hereinabove provided.

4 Except in such cases where a precinct canvass is being  
5 conducted by the Board of Election Commissioners prior to a  
6 Primary or Election, the board of election commissioners shall  
7 compare the original copy of each such report with the list of  
8 registered voters from such addresses. Every person registered  
9 from such address and not listed in such report or whose name  
10 is different from any name so listed, shall immediately after  
11 the last day of registration be sent a notice through the  
12 United States mail, at the address appearing upon his  
13 registration record card, requiring him to appear before the  
14 board of election commissioners on one of the days specified in  
15 Section 6-45 of this Article and show cause why his  
16 registration should not be cancelled. The provisions of  
17 Sections 6-45, 6-46 and 6-47 of this Article shall apply to  
18 such hearing and proceedings subsequent thereto.

19 Any owner, manager or operator of any such hotel, lodging  
20 house, rooming house or furnished apartment who shall fail or  
21 neglect to file such statement and copy thereof as in this  
22 Article provided, may, upon written information of the attorney  
23 for the election commissioners, be cited by the election  
24 commissioners or upon the complaint of any voter of such city,  
25 village or incorporated town, to appear before them and furnish  
26 such sworn statement and copy thereof and make such oral

1 statements under oath regarding such hotel, lodging house,  
2 rooming house or furnished apartment, as the election  
3 commissioners may require. The election commissioners shall  
4 sit to hear such citations on the Friday of the fourth week  
5 preceding the week in which such election is to be held. Such  
6 citation shall be served not later than the day preceding the  
7 day on which it is returnable.

8 (Source: P.A. 96-339, eff. 7-1-10.)

9 (10 ILCS 5/19-4) (from Ch. 46, par. 19-4)

10 Sec. 19-4. Mailing or delivery of ballots - Time.)  
11 Immediately upon the receipt of such application either by  
12 mail, not more than 40 days nor less than 5 days prior to such  
13 election, or by personal delivery not more than 40 days nor  
14 less than one day prior to such election, at the office of such  
15 election authority, it shall be the duty of such election  
16 authority to examine the records to ascertain whether or not  
17 such applicant is lawfully entitled to vote as requested,  
18 including a verification of the applicant's signature by  
19 comparison with the signature on the official registration  
20 record card, and if found so to be entitled to vote, to post  
21 within one business day thereafter the name, street address,  
22 ward and precinct number or township and district number, as  
23 the case may be, of such applicant given on a list, the pages  
24 of which are to be numbered consecutively to be kept by such  
25 election authority for such purpose in a conspicuous, open and

1 public place accessible to the public at the entrance of the  
2 office of such election authority, and in such a manner that  
3 such list may be viewed without necessity of requesting  
4 permission therefor. Within one day after posting the name and  
5 other information of an applicant for an absentee ballot, the  
6 election authority shall transmit that name and other posted  
7 information to the State Board of Elections, which shall  
8 maintain those names and other information in an electronic  
9 format on its website, arranged by county and accessible to  
10 State and local political committees. Within 2 business days  
11 after posting a name and other information on the list within  
12 its office, the election authority shall mail, postage prepaid,  
13 or deliver in person in such office an official ballot or  
14 ballots if more than one are to be voted at said election. Mail  
15 delivery of Temporarily Absent Student ballot applications  
16 pursuant to Section 19-12.3 shall be by nonforwardable mail.  
17 However, for the consolidated election, absentee ballots for  
18 certain precincts may be delivered to applicants not less than  
19 25 days before the election if so much time is required to have  
20 prepared and printed the ballots containing the names of  
21 persons nominated for offices at the consolidated primary. The  
22 election authority shall enclose with each absentee ballot or  
23 application written instructions on how voting assistance  
24 shall be provided pursuant to Section 17-14 and a document,  
25 written and approved by the State Board of Elections,  
26 enumerating the circumstances under which a person is



1 authorized to vote by absentee ballot pursuant to this Article;  
2 such document shall also include a statement informing the  
3 applicant that if he or she falsifies or is solicited by  
4 another to falsify his or her eligibility to cast an absentee  
5 ballot, such applicant or other is subject to penalties  
6 pursuant to Section 29-10 and Section 29-20 of the Election  
7 Code. Each election authority shall maintain a list of the  
8 name, street address, ward and precinct, or township and  
9 district number, as the case may be, of all applicants who have  
10 returned absentee ballots to such authority, and the name of  
11 such absent voter shall be added to such list within one  
12 business day from receipt of such ballot. If the absentee  
13 ballot envelope indicates that the voter was assisted in  
14 casting the ballot, the name of the person so assisting shall  
15 be included on the list. The list, the pages of which are to be  
16 numbered consecutively, shall be kept by each election  
17 authority in a conspicuous, open, and public place accessible  
18 to the public at the entrance of the office of the election  
19 authority and in a manner that the list may be viewed without  
20 necessity of requesting permission for viewing.

21 Each election authority shall maintain a list for each  
22 election of the voters to whom it has issued absentee ballots.  
23 The list shall be maintained for each precinct within the  
24 jurisdiction of the election authority. Prior to the opening of  
25 the polls on election day, the election authority shall deliver  
26 to the judges of election in each precinct the list of

1 registered voters in that precinct to whom absentee ballots  
2 have been issued by mail.

3 Each election authority shall maintain a list for each  
4 election of voters to whom it has issued temporarily absent  
5 student ballots. The list shall be maintained for each election  
6 jurisdiction within which such voters temporarily abide.  
7 Immediately after the close of the period during which  
8 application may be made by mail for absentee ballots, each  
9 election authority shall mail to each other election authority  
10 within the State a certified list of all such voters  
11 temporarily abiding within the jurisdiction of the other  
12 election authority.

13 In the event that the return address of an application for  
14 ballot by a physically incapacitated elector is that of a  
15 facility licensed or certified under the Nursing Home Care Act  
16 or the ID/DD ~~MR/DD~~ Community Care Act, within the jurisdiction  
17 of the election authority, and the applicant is a registered  
18 voter in the precinct in which such facility is located, the  
19 ballots shall be prepared and transmitted to a responsible  
20 judge of election no later than 9 a.m. on the Saturday, Sunday  
21 or Monday immediately preceding the election as designated by  
22 the election authority under Section 19-12.2. Such judge shall  
23 deliver in person on the designated day the ballot to the  
24 applicant on the premises of the facility from which  
25 application was made. The election authority shall by mail  
26 notify the applicant in such facility that the ballot will be

1 delivered by a judge of election on the designated day.

2 All applications for absentee ballots shall be available at  
3 the office of the election authority for public inspection upon  
4 request from the time of receipt thereof by the election  
5 authority until 30 days after the election, except during the  
6 time such applications are kept in the office of the election  
7 authority pursuant to Section 19-7, and except during the time  
8 such applications are in the possession of the judges of  
9 election.

10 (Source: P.A. 96-339, eff. 7-1-10.)

11 (10 ILCS 5/19-12.1) (from Ch. 46, par. 19-12.1)

12 Sec. 19-12.1. Any qualified elector who has secured an  
13 Illinois Disabled Person Identification Card in accordance  
14 with The Illinois Identification Card Act, indicating that the  
15 person named thereon has a Class 1A or Class 2 disability or  
16 any qualified voter who has a permanent physical incapacity of  
17 such a nature as to make it improbable that he will be able to  
18 be present at the polls at any future election, or any voter  
19 who is a resident of a facility licensed or certified pursuant  
20 to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care  
21 Act and has a condition or disability of such a nature as to  
22 make it improbable that he will be able to be present at the  
23 polls at any future election, may secure a disabled voter's or  
24 nursing home resident's identification card, which will enable  
25 him to vote under this Article as a physically incapacitated or

1 nursing home voter.

2 Application for a disabled voter's or nursing home  
3 resident's identification card shall be made either: (a) in  
4 writing, with voter's sworn affidavit, to the county clerk or  
5 board of election commissioners, as the case may be, and shall  
6 be accompanied by the affidavit of the attending physician  
7 specifically describing the nature of the physical incapacity  
8 or the fact that the voter is a nursing home resident and is  
9 physically unable to be present at the polls on election days;  
10 or (b) by presenting, in writing or otherwise, to the county  
11 clerk or board of election commissioners, as the case may be,  
12 proof that the applicant has secured an Illinois Disabled  
13 Person Identification Card indicating that the person named  
14 thereon has a Class 1A or Class 2 disability. Upon the receipt  
15 of either the sworn-to application and the physician's  
16 affidavit or proof that the applicant has secured an Illinois  
17 Disabled Person Identification Card indicating that the person  
18 named thereon has a Class 1A or Class 2 disability, the county  
19 clerk or board of election commissioners shall issue a disabled  
20 voter's or nursing home resident's identification card. Such  
21 identification cards shall be issued for a period of 5 years,  
22 upon the expiration of which time the voter may secure a new  
23 card by making application in the same manner as is prescribed  
24 for the issuance of an original card, accompanied by a new  
25 affidavit of the attending physician. The date of expiration of  
26 such five-year period shall be made known to any interested

1 person by the election authority upon the request of such  
2 person. Applications for the renewal of the identification  
3 cards shall be mailed to the voters holding such cards not less  
4 than 3 months prior to the date of expiration of the cards.

5 Each disabled voter's or nursing home resident's  
6 identification card shall bear an identification number, which  
7 shall be clearly noted on the voter's original and duplicate  
8 registration record cards. In the event the holder becomes  
9 physically capable of resuming normal voting, he must surrender  
10 his disabled voter's or nursing home resident's identification  
11 card to the county clerk or board of election commissioners  
12 before the next election.

13 The holder of a disabled voter's or nursing home resident's  
14 identification card may make application by mail for an  
15 official ballot within the time prescribed by Section 19-2.  
16 Such application shall contain the same information as is  
17 included in the form of application for ballot by a physically  
18 incapacitated elector prescribed in Section 19-3 except that it  
19 shall also include the applicant's disabled voter's  
20 identification card number and except that it need not be sworn  
21 to. If an examination of the records discloses that the  
22 applicant is lawfully entitled to vote, he shall be mailed a  
23 ballot as provided in Section 19-4. The ballot envelope shall  
24 be the same as that prescribed in Section 19-5 for physically  
25 disabled voters, and the manner of voting and returning the  
26 ballot shall be the same as that provided in this Article for

1 other absentee ballots, except that a statement to be  
2 subscribed to by the voter but which need not be sworn to shall  
3 be placed on the ballot envelope in lieu of the affidavit  
4 prescribed by Section 19-5.

5 Any person who knowingly subscribes to a false statement in  
6 connection with voting under this Section shall be guilty of a  
7 Class A misdemeanor.

8 For the purposes of this Section, "nursing home resident"  
9 includes a resident of a facility licensed under the ID/DD  
10 ~~MR/DD~~ Community Care Act.

11 (Source: P.A. 96-339, eff. 7-1-10.)

12 (10 ILCS 5/19-12.2) (from Ch. 46, par. 19-12.2)

13 Sec. 19-12.2. Voting by physically incapacitated electors  
14 who have made proper application to the election authority not  
15 later than 5 days before the regular primary and general  
16 election of 1980 and before each election thereafter shall be  
17 conducted on the premises of facilities licensed or certified  
18 pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
19 Community Care Act for the sole benefit of residents of such  
20 facilities. Such voting shall be conducted during any  
21 continuous period sufficient to allow all applicants to cast  
22 their ballots between the hours of 9 a.m. and 7 p.m. either on  
23 the Friday, Saturday, Sunday or Monday immediately preceding  
24 the regular election. This absentee voting on one of said days  
25 designated by the election authority shall be supervised by two

1 election judges who must be selected by the election authority  
2 in the following order of priority: (1) from the panel of  
3 judges appointed for the precinct in which such facility is  
4 located, or from a panel of judges appointed for any other  
5 precinct within the jurisdiction of the election authority in  
6 the same ward or township, as the case may be, in which the  
7 facility is located or, only in the case where a judge or  
8 judges from the precinct, township or ward are unavailable to  
9 serve, (3) from a panel of judges appointed for any other  
10 precinct within the jurisdiction of the election authority. The  
11 two judges shall be from different political parties. Not less  
12 than 30 days before each regular election, the election  
13 authority shall have arranged with the chief administrative  
14 officer of each facility in his or its election jurisdiction a  
15 mutually convenient time period on the Friday, Saturday, Sunday  
16 or Monday immediately preceding the election for such voting on  
17 the premises of the facility and shall post in a prominent  
18 place in his or its office a notice of the agreed day and time  
19 period for conducting such voting at each facility; provided  
20 that the election authority shall not later than noon on the  
21 Thursday before the election also post the names and addresses  
22 of those facilities from which no applications were received  
23 and in which no supervised absentee voting will be conducted.  
24 All provisions of this Code applicable to pollwatchers shall be  
25 applicable herein. To the maximum extent feasible, voting  
26 booths or screens shall be provided to insure the privacy of

1 the voter. Voting procedures shall be as described in Article  
2 17 of this Code, except that ballots shall be treated as  
3 absentee ballots and shall not be counted until the close of  
4 the polls on the following day. After the last voter has  
5 concluded voting, the judges shall seal the ballots in an  
6 envelope and affix their signatures across the flap of the  
7 envelope. Immediately thereafter, the judges shall bring the  
8 sealed envelope to the office of the election authority who  
9 shall deliver such ballots to the election authority's central  
10 ballot counting location prior to the closing of the polls on  
11 the day of election. The judges of election shall also report  
12 to the election authority the name of any applicant in the  
13 facility who, due to unforeseen circumstance or condition or  
14 because of a religious holiday, was unable to vote. In this  
15 event, the election authority may appoint a qualified person  
16 from his or its staff to deliver the ballot to such applicant  
17 on the day of election. This staff person shall follow the same  
18 procedures prescribed for judges conducting absentee voting in  
19 such facilities and shall return the ballot to the central  
20 ballot counting location before the polls close. However, if  
21 the facility from which the application was made is also used  
22 as a regular precinct polling place for that voter, voting  
23 procedures heretofore prescribed may be implemented by 2 of the  
24 election judges of opposite party affiliation assigned to that  
25 polling place during the hours of voting on the day of the  
26 election. Judges of election shall be compensated not less than



1 \$25.00 for conducting absentee voting in such facilities.

2 Not less than 120 days before each regular election, the  
3 Department of Public Health shall certify to the State Board of  
4 Elections a list of the facilities licensed or certified  
5 pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
6 Community Care Act, and shall indicate the approved bed  
7 capacity and the name of the chief administrative officer of  
8 each such facility, and the State Board of Elections shall  
9 certify the same to the appropriate election authority within  
10 20 days thereafter.

11 (Source: P.A. 96-339, eff. 7-1-10.)

12 Section 10. The Secretary of State Merit Employment Code is  
13 amended by changing Section 18c as follows:

14 (15 ILCS 310/18c) (from Ch. 124, par. 118c)

15 Sec. 18c. Supported employees.

16 (a) The Director shall develop and implement a supported  
17 employment program. It shall be the goal of the program to  
18 appoint a minimum of 10 supported employees to Secretary of  
19 State positions before June 30, 1992.

20 (b) The Director shall designate a liaison to work with  
21 State agencies and departments under the jurisdiction of the  
22 Secretary of State and any funder or provider or both in the  
23 implementation of a supported employment program.

24 (c) As used in this Section:

1 (1) "Supported employee" means any individual who:

2 (A) has a severe physical or mental disability  
3 which seriously limits functional capacities including  
4 but not limited to mobility, communication, self-care,  
5 self-direction, work tolerance or work skills, in  
6 terms of employability as defined, determined and  
7 certified by the Department of Human Services; and

8 (B) has one or more physical or mental disabilities  
9 resulting from amputation; arthritis; blindness;  
10 cancer; cerebral palsy; cystic fibrosis; deafness;  
11 heart disease; hemiplegia; respiratory or pulmonary  
12 dysfunction; an intellectual disability ~~mental~~  
13 ~~retardation~~; mental illness; multiple sclerosis;  
14 muscular dystrophy; musculoskeletal disorders;  
15 neurological disorders, including stroke and epilepsy;  
16 paraplegia; quadriplegia and other spinal cord  
17 conditions; sickle cell anemia; and end-stage renal  
18 disease; or another disability or combination of  
19 disabilities determined on the basis of an evaluation  
20 of rehabilitation potential to cause comparable  
21 substantial functional limitation.

22 (2) "Supported employment" means competitive work in  
23 integrated work settings:

24 (A) for individuals with severe handicaps for whom  
25 competitive employment has not traditionally occurred,  
26 or

1 (B) for individuals for whom competitive  
2 employment has been interrupted or intermittent as a  
3 result of a severe disability, and who because of their  
4 handicap, need on-going support services to perform  
5 such work. The term includes transitional employment  
6 for individuals with chronic mental illness.

7 (3) "Participation in a supported employee program"  
8 means participation as a supported employee that is not  
9 based on the expectation that an individual will have the  
10 skills to perform all the duties in a job class, but on the  
11 assumption that with support and adaptation, or both, a job  
12 can be designed to take advantage of the supported  
13 employee's special strengths.

14 (4) "Funder" means any entity either State, local or  
15 federal, or private not-for-profit or for-profit that  
16 provides monies to programs that provide services related  
17 to supported employment.

18 (5) "Provider" means any entity either public or  
19 private that provides technical support and services to any  
20 department or agency subject to the control of the  
21 Governor, the Secretary of State or the University Civil  
22 Service System.

23 (d) The Director shall establish job classifications for  
24 supported employees who may be appointed into the  
25 classifications without open competitive testing requirements.  
26 Supported employees shall serve in a trial employment capacity

1 for not less than 3 or more than 12 months.

2 (e) The Director shall maintain a record of all individuals  
3 hired as supported employees. The record shall include:

4 (1) the number of supported employees initially  
5 appointed;

6 (2) the number of supported employees who successfully  
7 complete the trial employment periods; and

8 (3) the number of permanent targeted positions by  
9 titles.

10 (f) The Director shall submit an annual report to the  
11 General Assembly regarding the employment progress of  
12 supported employees, with recommendations for legislative  
13 action.

14 (Source: P.A. 89-507, eff. 7-1-97.)

15 Section 15. The Illinois Identification Card Act is amended  
16 by changing Section 4A as follows:

17 (15 ILCS 335/4A) (from Ch. 124, par. 24A)

18 Sec. 4A. (a) "Disabled person" as used in this Act means  
19 any person who is, and who is expected to indefinitely continue  
20 to be, subject to any of the following five types of  
21 disabilities:

22 Type One: Physical disability. A physical disability is a  
23 physical impairment, disease, or loss, which is of a permanent  
24 nature, and which substantially impairs normal physical

1 ability or motor skills. The Secretary of State shall establish  
2 standards not inconsistent with this provision necessary to  
3 determine the presence of a physical disability.

4       Type Two: Developmental disability. A developmental  
5 disability is a disability which originates before the age of  
6 18 years, and results in or has resulted in impairment similar  
7 to that caused by an intellectual disability ~~mental retardation~~  
8 and which requires services similar to those required by  
9 intellectually disabled ~~mentally retarded~~ persons and which is  
10 attributable to an intellectual disability ~~mental retardation~~,  
11 cerebral palsy, epilepsy, autism, or other conditions or  
12 similar disorders. The Secretary of State shall establish  
13 standards not inconsistent with this provision necessary to  
14 determine the presence of a developmental disability.

15       Type Three: Visual disability. A visual disability is a  
16 disability resulting in complete absence of vision, or vision  
17 that with corrective glasses is so defective as to prevent  
18 performance of tasks or activities for which eyesight is  
19 essential. The Secretary of State shall establish standards not  
20 inconsistent with this Section necessary to determine the  
21 presence of a visual disability.

22       Type Four: Hearing disability. A hearing disability is a  
23 disability resulting in complete absence of hearing, or hearing  
24 that with sound enhancing or magnifying equipment is so  
25 impaired as to require the use of sensory input other than  
26 hearing as the principal means of receiving spoken language.

1 The Secretary of State shall establish standards not  
2 inconsistent with this Section necessary to determine the  
3 presence of a hearing disability.

4 Type Five: Mental Disability. A mental disability is an  
5 emotional or psychological impairment or disease, which  
6 substantially impairs the ability to meet individual or  
7 societal needs. The Secretary of State shall establish  
8 standards not inconsistent with this provision necessary to  
9 determine the presence of a mental disability.

10 (b) For purposes of this Act, a disability shall be  
11 classified as follows: Class 1 disability: A Class 1 disability  
12 is any type disability which does not render a person unable to  
13 engage in any substantial gainful activity or which does not  
14 impair his ability to live independently or to perform labor or  
15 services for which he is qualified. The Secretary of State  
16 shall establish standards not inconsistent with this Section  
17 necessary to determine the presence of a Class 1 disability.  
18 Class 1A disability: A Class 1A disability is a Class 1  
19 disability which renders a person unable to walk 200 feet or  
20 more unassisted by another person or without the aid of a  
21 walker, crutches, braces, prosthetic device or a wheelchair or  
22 without great difficulty or discomfort due to the following  
23 impairments: neurologic, orthopedic, respiratory, cardiac,  
24 arthritic disorder, or the loss of function or absence of a  
25 limb or limbs. The Secretary of State shall establish standards  
26 not inconsistent with this Section necessary to determine the

1 presence of a Class 1A disability. Class 2 disability: A Class  
2 2 disability is any type disability which renders a person  
3 unable to engage in any substantial gainful activity, which  
4 substantially impairs his ability to live independently  
5 without supervision or in-home support services, or which  
6 substantially impairs his ability to perform labor or services  
7 for which he is qualified or significantly restricts the labor  
8 or services which he is able to perform. The Secretary of State  
9 shall establish standards not inconsistent with this Section  
10 necessary to determine the presence of a Class 2 disability.  
11 Class 2A disability: A Class 2A disability is a Class 2  
12 disability which renders a person unable to walk 200 feet or  
13 more unassisted by another person or without the aid of a  
14 walker, crutches, braces, prosthetic device or a wheelchair or  
15 without great difficulty or discomfort due to the following  
16 impairments: neurologic, orthopedic, respiratory, cardiac,  
17 arthritic disorder, blindness, or the loss of function or  
18 absence of a limb or limbs. The Secretary of State shall  
19 establish standards not inconsistent with this Section  
20 necessary to determine the presence of a Class 2A disability.

21 (Source: P.A. 85-354.)

22 Section 17. The Illinois Act on the Aging is amended by  
23 changing Section 4.08 as follows:

24 (20 ILCS 105/4.08)

1           Sec. 4.08. Rural and small town meals program. Subject to  
2 appropriation, the Department may establish a program to ensure  
3 the availability of congregate or home-delivered meals in  
4 communities with populations of under 5,000 that are not  
5 located within the large urban counties of Cook, DuPage, Kane,  
6 Lake, or Will.

7           The Department may meet these requirements by entering into  
8 agreements with Area Agencies on Aging or Department designees,  
9 which shall in turn enter into grants or contractual agreements  
10 with such local entities as restaurants, cafes, churches,  
11 facilities licensed under the Nursing Home Care Act, the ID/DD  
12 ~~MR/DD~~ Community Care Act, the Assisted Living and Shared  
13 Housing Act, or the Hospital Licensing Act, facilities  
14 certified by the Department of Healthcare and Family Services,  
15 senior centers, or Older American Act designated nutrition  
16 service providers.

17           First consideration shall be given to entities that can  
18 cost effectively meet the needs of seniors in the community by  
19 preparing the food locally.

20           In no instance shall funds provided pursuant to this  
21 Section be used to replace funds allocated to a given area or  
22 program as of the effective date of this amendatory Act of the  
23 95th General Assembly.

24           The Department shall establish guidelines and standards by  
25 administrative rule, which shall include submission of an  
26 expenditure plan by the recipient of the funds.



1 (Source: P.A. 95-68, eff. 8-13-07; 95-876, eff. 8-21-08;  
2 96-339, eff. 7-1-10.)

3 Section 20. The Mental Health and Developmental  
4 Disabilities Administrative Act is amended by changing  
5 Sections 7, 15, 34, 43, 45, 46, and 57.6 as follows:

6 (20 ILCS 1705/7) (from Ch. 91 1/2, par. 100-7)

7 Sec. 7. To receive and provide the highest possible quality  
8 of humane and rehabilitative care and treatment to all persons  
9 admitted or committed or transferred in accordance with law to  
10 the facilities, divisions, programs, and services under the  
11 jurisdiction of the Department. No resident of another state  
12 shall be received or retained to the exclusion of any resident  
13 of this State. No resident of another state shall be received  
14 or retained to the exclusion of any resident of this State. All  
15 recipients of 17 years of age and under in residence in a  
16 Department facility other than a facility for the care of the  
17 intellectually disabled ~~mentally retarded~~ shall be housed in  
18 quarters separated from older recipients except for: (a)  
19 recipients who are placed in medical-surgical units because of  
20 physical illness; and (b) recipients between 13 and 18 years of  
21 age who need temporary security measures.

22 All recipients in a Department facility shall be given a  
23 dental examination by a licensed dentist or registered dental  
24 hygienist at least once every 18 months and shall be assigned

1 to a dentist for such dental care and treatment as is  
2 necessary.

3 All medications administered to recipients shall be  
4 administered only by those persons who are legally qualified to  
5 do so by the laws of the State of Illinois. Medication shall  
6 not be prescribed until a physical and mental examination of  
7 the recipient has been completed. If, in the clinical judgment  
8 of a physician, it is necessary to administer medication to a  
9 recipient before the completion of the physical and mental  
10 examination, he may prescribe such medication but he must file  
11 a report with the facility director setting forth the reasons  
12 for prescribing such medication within 24 hours of the  
13 prescription. A copy of the report shall be part of the  
14 recipient's record.

15 No later than January 1, 2005, the Department shall adopt a  
16 model protocol and forms for recording all patient diagnosis,  
17 care, and treatment at each State-operated facility for the  
18 mentally ill and developmentally disabled under the  
19 jurisdiction of the Department. The model protocol and forms  
20 shall be used by each facility unless the Department determines  
21 that equivalent alternatives justify an exemption.

22 Every facility under the jurisdiction of the Department  
23 shall maintain a copy of each report of suspected abuse or  
24 neglect of the patient. Copies of those reports shall be made  
25 available to the State Auditor General in connection with his  
26 biennial program audit of the facility as required by Section

1 3-2 of the Illinois State Auditing Act.

2 No later than January 1 2004, the Department shall report  
3 to the Governor and the General Assembly whether each  
4 State-operated facility for the mentally ill and  
5 developmentally disabled under the jurisdiction of the  
6 Department and all services provided in those facilities comply  
7 with all of the applicable standards adopted by the Social  
8 Security Administration under Subchapter XVIII (Medicare) of  
9 the Social Security Act (42 U.S.C. 1395-1395ccc), if the  
10 facility and services may be eligible for federal financial  
11 participation under that federal law. For those facilities that  
12 do comply, the report shall indicate what actions need to be  
13 taken to ensure continued compliance. For those facilities that  
14 do not comply, the report shall indicate what actions need to  
15 be taken to bring each facility into compliance.

16 (Source: P.A. 93-636, eff. 6-1-04.)

17 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

18 Sec. 15. Before any person is released from a facility  
19 operated by the State pursuant to an absolute discharge or a  
20 conditional discharge from hospitalization under this Act, the  
21 facility director of the facility in which such person is  
22 hospitalized shall determine that such person is not currently  
23 in need of hospitalization and:

24 (a) is able to live independently in the community; or

25 (b) requires further oversight and supervisory care

1 for which arrangements have been made with responsible  
2 relatives or supervised residential program approved by  
3 the Department; or

4 (c) requires further personal care or general  
5 oversight as defined by the ID/DD ~~MR/DD~~ Community Care Act,  
6 for which placement arrangements have been made with a  
7 suitable family home or other licensed facility approved by  
8 the Department under this Section; or

9 (d) requires community mental health services for  
10 which arrangements have been made with a community mental  
11 health provider in accordance with criteria, standards,  
12 and procedures promulgated by rule.

13 Such determination shall be made in writing and shall  
14 become a part of the facility record of such absolutely or  
15 conditionally discharged person. When the determination  
16 indicates that the condition of the person to be granted an  
17 absolute discharge or a conditional discharge is described  
18 under subparagraph (c) or (d) of this Section, the name and  
19 address of the continuing care facility or home to which such  
20 person is to be released shall be entered in the facility  
21 record. Where a discharge from a mental health facility is made  
22 under subparagraph (c), the Department shall assign the person  
23 so discharged to an existing community based not-for-profit  
24 agency for participation in day activities suitable to the  
25 person's needs, such as but not limited to social and  
26 vocational rehabilitation, and other recreational, educational

1 and financial activities unless the community based  
2 not-for-profit agency is unqualified to accept such  
3 assignment. Where the clientele of any not-for-profit agency  
4 increases as a result of assignments under this amendatory Act  
5 of 1977 by more than 3% over the prior year, the Department  
6 shall fully reimburse such agency for the costs of providing  
7 services to such persons in excess of such 3% increase. The  
8 Department shall keep written records detailing how many  
9 persons have been assigned to a community based not-for-profit  
10 agency and how many persons were not so assigned because the  
11 community based agency was unable to accept the assignments, in  
12 accordance with criteria, standards, and procedures  
13 promulgated by rule. Whenever a community based agency is found  
14 to be unable to accept the assignments, the name of the agency  
15 and the reason for the finding shall be included in the report.

16 Insofar as desirable in the interests of the former  
17 recipient, the facility, program or home in which the  
18 discharged person is to be placed shall be located in or near  
19 the community in which the person resided prior to  
20 hospitalization or in the community in which the person's  
21 family or nearest next of kin presently reside. Placement of  
22 the discharged person in facilities, programs or homes located  
23 outside of this State shall not be made by the Department  
24 unless there are no appropriate facilities, programs or homes  
25 available within this State. Out-of-state placements shall be  
26 subject to return of recipients so placed upon the availability

1 of facilities, programs or homes within this State to  
2 accommodate these recipients, except where placement in a  
3 contiguous state results in locating a recipient in a facility  
4 or program closer to the recipient's home or family. If an  
5 appropriate facility or program becomes available equal to or  
6 closer to the recipient's home or family, the recipient shall  
7 be returned to and placed at the appropriate facility or  
8 program within this State.

9 To place any person who is under a program of the  
10 Department at board in a suitable family home or in such other  
11 facility or program as the Department may consider desirable.  
12 The Department may place in licensed nursing homes, sheltered  
13 care homes, or homes for the aged those persons whose  
14 behavioral manifestations and medical and nursing care needs  
15 are such as to be substantially indistinguishable from persons  
16 already living in such facilities. Prior to any placement by  
17 the Department under this Section, a determination shall be  
18 made by the personnel of the Department, as to the capability  
19 and suitability of such facility to adequately meet the needs  
20 of the person to be discharged. When specialized programs are  
21 necessary in order to enable persons in need of supervised  
22 living to develop and improve in the community, the Department  
23 shall place such persons only in specialized residential care  
24 facilities which shall meet Department standards including  
25 restricted admission policy, special staffing and programming  
26 for social and vocational rehabilitation, in addition to the

1 requirements of the appropriate State licensing agency. The  
2 Department shall not place any new person in a facility the  
3 license of which has been revoked or not renewed on grounds of  
4 inadequate programming, staffing, or medical or adjunctive  
5 services, regardless of the pendency of an action for  
6 administrative review regarding such revocation or failure to  
7 renew. Before the Department may transfer any person to a  
8 licensed nursing home, sheltered care home or home for the aged  
9 or place any person in a specialized residential care facility  
10 the Department shall notify the person to be transferred, or a  
11 responsible relative of such person, in writing, at least 30  
12 days before the proposed transfer, with respect to all the  
13 relevant facts concerning such transfer, except in cases of  
14 emergency when such notice is not required. If either the  
15 person to be transferred or a responsible relative of such  
16 person objects to such transfer, in writing to the Department,  
17 at any time after receipt of notice and before the transfer,  
18 the facility director of the facility in which the person was a  
19 recipient shall immediately schedule a hearing at the facility  
20 with the presence of the facility director, the person who  
21 objected to such proposed transfer, and a psychiatrist who is  
22 familiar with the record of the person to be transferred. Such  
23 person to be transferred or a responsible relative may be  
24 represented by such counsel or interested party as he may  
25 appoint, who may present such testimony with respect to the  
26 proposed transfer. Testimony presented at such hearing shall

1 become a part of the facility record of the  
2 person-to-be-transferred. The record of testimony shall be  
3 held in the person-to-be-transferred's record in the central  
4 files of the facility. If such hearing is held a transfer may  
5 only be implemented, if at all, in accordance with the results  
6 of such hearing. Within 15 days after such hearing the facility  
7 director shall deliver his findings based on the record of the  
8 case and the testimony presented at the hearing, by registered  
9 or certified mail, to the parties to such hearing. The findings  
10 of the facility director shall be deemed a final administrative  
11 decision of the Department. For purposes of this Section, "case  
12 of emergency" means those instances in which the health of the  
13 person to be transferred is imperiled and the most appropriate  
14 mental health care or medical care is available at a licensed  
15 nursing home, sheltered care home or home for the aged or a  
16 specialized residential care facility.

17 Prior to placement of any person in a facility under this  
18 Section the Department shall ensure that an appropriate  
19 training plan for staff is provided by the facility. Said  
20 training may include instruction and demonstration by  
21 Department personnel qualified in the area of mental illness or  
22 intellectual disabilities ~~mental retardation~~, as applicable to  
23 the person to be placed. Training may be given both at the  
24 facility from which the recipient is transferred and at the  
25 facility receiving the recipient, and may be available on a  
26 continuing basis subsequent to placement. In a facility



1 providing services to former Department recipients, training  
2 shall be available as necessary for facility staff. Such  
3 training will be on a continuing basis as the needs of the  
4 facility and recipients change and further training is  
5 required.

6 The Department shall not place any person in a facility  
7 which does not have appropriately trained staff in sufficient  
8 numbers to accommodate the recipient population already at the  
9 facility. As a condition of further or future placements of  
10 persons, the Department shall require the employment of  
11 additional trained staff members at the facility where said  
12 persons are to be placed. The Secretary, or his or her  
13 designate, shall establish written guidelines for placement of  
14 persons in facilities under this Act. The Department shall keep  
15 written records detailing which facilities have been  
16 determined to have staff who have been appropriately trained by  
17 the Department and all training which it has provided or  
18 required under this Section.

19 Bills for the support for a person boarded out shall be  
20 payable monthly out of the proper maintenance funds and shall  
21 be audited as any other accounts of the Department. If a person  
22 is placed in a facility or program outside the Department, the  
23 Department may pay the actual costs of residence, treatment or  
24 maintenance in such facility and may collect such actual costs  
25 or a portion thereof from the recipient or the estate of a  
26 person placed in accordance with this Section.

1 Other than those placed in a family home the Department  
2 shall cause all persons who are placed in a facility, as  
3 defined by the ID/DD ~~MR/DD~~ Community Care Act, or in designated  
4 community living situations or programs, to be visited at least  
5 once during the first month following placement, and once every  
6 month thereafter for the first year following placement when  
7 indicated, but at least quarterly. After the first year, the  
8 Department shall determine at what point the appropriate  
9 licensing entity for the facility or designated community  
10 living situation or program will assume the responsibility of  
11 ensuring that appropriate services are being provided to the  
12 resident. Once that responsibility is assumed, the Department  
13 may discontinue such visits. If a long term care facility has  
14 periodic care plan conferences, the visitor may participate in  
15 those conferences, if such participation is approved by the  
16 resident or the resident's guardian. Visits shall be made by  
17 qualified and trained Department personnel, or their designee,  
18 in the area of mental health or developmental disabilities  
19 applicable to the person visited, and shall be made on a more  
20 frequent basis when indicated. The Department may not use as  
21 designee any personnel connected with or responsible to the  
22 representatives of any facility in which persons who have been  
23 transferred under this Section are placed. In the course of  
24 such visit there shall be consideration of the following areas,  
25 but not limited thereto: effects of transfer on physical and  
26 mental health of the person, sufficiency of nursing care and

1 medical coverage required by the person, sufficiency of staff  
2 personnel and ability to provide basic care for the person,  
3 social, recreational and programmatic activities available for  
4 the person, and other appropriate aspects of the person's  
5 environment.

6 A report containing the above observations shall be made to  
7 the Department, to the licensing agency, and to any other  
8 appropriate agency subsequent to each visitation. The report  
9 shall contain recommendations to improve the care and treatment  
10 of the resident, as necessary, which shall be reviewed by the  
11 facility's interdisciplinary team and the resident or the  
12 resident's legal guardian.

13 Upon the complaint of any person placed in accordance with  
14 this Section or any responsible citizen or upon discovery that  
15 such person has been abused, neglected, or improperly cared  
16 for, or that the placement does not provide the type of care  
17 required by the recipient's current condition, the Department  
18 immediately shall investigate, and determine if the  
19 well-being, health, care, or safety of any person is affected  
20 by any of the above occurrences, and if any one of the above  
21 occurrences is verified, the Department shall remove such  
22 person at once to a facility of the Department or to another  
23 facility outside the Department, provided such person's needs  
24 can be met at said facility. The Department may also provide  
25 any person placed in accordance with this Section who is  
26 without available funds, and who is permitted to engage in

1 employment outside the facility, such sums for the  
2 transportation, and other expenses as may be needed by him  
3 until he receives his wages for such employment.

4 The Department shall promulgate rules and regulations  
5 governing the purchase of care for persons who are wards of or  
6 who are receiving services from the Department. Such rules and  
7 regulations shall apply to all monies expended by any agency of  
8 the State of Illinois for services rendered by any person,  
9 corporate entity, agency, governmental agency or political  
10 subdivision whether public or private outside of the Department  
11 whether payment is made through a contractual, per-diem or  
12 other arrangement. No funds shall be paid to any person,  
13 corporation, agency, governmental entity or political  
14 subdivision without compliance with such rules and  
15 regulations.

16 The rules and regulations governing purchase of care shall  
17 describe categories and types of service deemed appropriate for  
18 purchase by the Department.

19 Any provider of services under this Act may elect to  
20 receive payment for those services, and the Department is  
21 authorized to arrange for that payment, by means of direct  
22 deposit transmittals to the service provider's account  
23 maintained at a bank, savings and loan association, or other  
24 financial institution. The financial institution shall be  
25 approved by the Department, and the deposits shall be in  
26 accordance with rules and regulations adopted by the

1 Department.

2 (Source: P.A. 96-339, eff. 7-1-10.)

3 (20 ILCS 1705/34) (from Ch. 91 1/2, par. 100-34)

4 Sec. 34. To make grants-in-aid to community clinics and  
5 agencies for psychiatric or clinical services, training,  
6 research and other mental health, intellectual disabilities  
7 ~~mental retardation~~ and other developmental disabilities  
8 programs, for persons of all ages including those aged 3 to 21.

9 In addition to other standards and procedures governing the  
10 disbursement of grants-in-aid implemented under this Section,  
11 the Secretary shall require that each application for such aid  
12 submitted by public agencies or public clinics with respect to  
13 services to be provided by a municipality with a population of  
14 500,000 or more shall include review and comment by a community  
15 mental health board that is organized under local authority and  
16 broadly representative of the geographic, social, cultural,  
17 and economic interests of the area to be served, and which  
18 includes persons who are professionals in the field of mental  
19 health, consumers of services or representative of the general  
20 public. Within planning and service areas designated by the  
21 Secretary where more than one clinic or agency applies under  
22 this paragraph, each application shall be reviewed by a single  
23 community mental health board that is representative of the  
24 areas to be served by each clinic or agency.

25 The Secretary may authorize advance disbursements to any

1 clinic or agency that has been awarded a grant-in-aid, provided  
2 that the Secretary shall, within 30 days before the making of  
3 such disbursement, certify to the Comptroller that (a) the  
4 provider is eligible to receive that disbursement, and (b) the  
5 disbursement is made as compensation for services to be  
6 rendered within 60 days of that certification.

7 (Source: P.A. 89-507, eff. 7-1-97.)

8 (20 ILCS 1705/43) (from Ch. 91 1/2, par. 100-43)

9 Sec. 43. To provide habilitation and care for the  
10 intellectually disabled ~~mentally retarded~~ and persons with a  
11 developmental disability and counseling for their families in  
12 accordance with programs established and conducted by the  
13 Department.

14 In assisting families to place such persons in need of care  
15 in licensed facilities for the intellectually disabled  
16 ~~mentally retarded~~ and persons with a developmental disability,  
17 the Department may supplement the amount a family is able to  
18 pay, as determined by the Department in accordance with  
19 Sections 5-105 through 5-116 of the "Mental Health and  
20 Developmental Disabilities Code" as amended, and the amount  
21 available from other sources. The Department shall have the  
22 authority to determine eligibility for placement of a person in  
23 a private facility.

24 Whenever an intellectually disabled ~~a mentally retarded~~  
25 person or a client is placed in a private facility pursuant to

1 this Section, such private facility must give the Department  
2 and the person's guardian or nearest relative, at least 30  
3 days' notice in writing before such person may be discharged or  
4 transferred from the private facility, except in an emergency.  
5 (Source: P.A. 90-14, eff. 7-1-97.)

6 (20 ILCS 1705/45) (from Ch. 91 1/2, par. 100-45)

7 Sec. 45. The following Acts are repealed:

8 "An Act to provide for the establishment and maintenance of  
9 services and facilities for severely physically handicapped  
10 children", approved June 29, 1945.

11 "An Act in relation to the visitation, instruction, and  
12 rehabilitation of major visually handicapped persons and to  
13 repeal acts herein named", approved July 21, 1959.

14 "An Act in relation to the rehabilitation of physically  
15 handicapped persons", approved June 28, 1919.

16 "An Act for the treatment, care and maintenance of persons  
17 mentally ill or in need of mental treatment who are inmates of  
18 the Illinois Soldiers' and Sailors' Home", approved June 15,  
19 1895, as amended.

20 "An Act to establish and maintain a home for the disabled  
21 mothers, wives, widows and daughters of disabled or deceased  
22 soldiers in the State of Illinois, and to provide for the  
23 purchase and maintenance thereof", approved June 13, 1895, as  
24 amended.

25 "An Act to establish and maintain a Soldiers' and Sailors'

1 Home in the State of Illinois, and making an appropriation for  
2 the purchase of land and the construction of the necessary  
3 buildings", approved June 26, 1885, as amended.

4 "An Act in relation to the disposal of certain funds and  
5 property which now are or hereafter may be in the custody of  
6 the managing officer of the Illinois Soldiers' and Sailors'  
7 Home at Quincy", approved June 24, 1921.

8 "An Act in relation to the establishment in the Department  
9 of Public Welfare of a Division to be known as the Institute  
10 for Juvenile Research and to define its powers and duties",  
11 approved July 16, 1941.

12 "An Act to provide for the establishment, maintenance and  
13 operation of the Southern Illinois Children's Service Center",  
14 approved August 2, 1951.

15 "An Act to change the name of the Illinois Charitable Eye  
16 and Ear Infirmary", approved June 27, 1923.

17 "An Act to establish and provide for the conduct of an  
18 institution for the care and custody of persons of unsound or  
19 feeble mind, to be known as the Illinois Security Hospital, and  
20 to designate the classes of persons to be confined therein",  
21 approved June 30, 1933, as amended.

22 Sections one through 27 and Sections 29 through 34 of "An  
23 Act to revise the laws relating to charities", approved June  
24 11, 1912, as amended.

25 "An Act creating a Division of Alcoholism in the Department  
26 of Public Welfare, defining its rights, powers and duties, and



1 making an appropriation therefor", approved July 5, 1957.

2 "An Act to establish in the Department of Public Welfare a  
3 Psychiatric Training and Research Authority", approved July  
4 14, 1955.

5 "An Act creating the Advisory Board on Intellectual  
6 Disabilities ~~Mental Retardation~~ in the Department of Public  
7 Welfare, defining its powers and duties and making an  
8 appropriation therefor", approved July 17, 1959.

9 "An Act to provide for the construction, equipment, and  
10 operation of a psychiatric institute state hospital to promote  
11 and advance knowledge, through research, in the causes and  
12 treatment of mental illness; to train competent psychiatric  
13 personnel available for service in the state hospitals and  
14 elsewhere; and to contribute to meeting the need for treatment  
15 for mentally ill patients", approved June 30, 1953, as amended.

16 "An Act in relation to the disposal of certain funds and  
17 property paid to, or received by, the officials of the State  
18 institutions under the direction and supervision of the  
19 Department of Public Welfare", approved June 10, 1929.

20 "An Act to require professional persons having patients  
21 with major visual limitations to report information regarding  
22 such cases to the Department of Public Welfare and to authorize  
23 the Department to inform such patients of services and training  
24 available," approved July 5, 1957.

25 Sections 3, 4, 5, 5a, 6, 22, 24, 25, 26 of "An Act to  
26 regulate the state charitable institutions and the state reform

1 school, and to improve their organization and increase their  
2 efficiency," approved April 15, 1875.

3 (Source: Laws 1961, p. 2666.)

4 (20 ILCS 1705/46) (from Ch. 91 1/2, par. 100-46)

5 Sec. 46. Separation between the sexes shall be maintained  
6 relative to sleeping quarters in each facility under the  
7 jurisdiction of the Department, except in relation to quarters  
8 for intellectually disabled ~~mentally retarded~~ children under  
9 age 6 and quarters for severely-profoundly intellectually  
10 disabled ~~mentally retarded~~ persons and nonambulatory  
11 intellectually disabled ~~mentally retarded~~ persons, regardless  
12 of age.

13 (Source: P.A. 85-971.)

14 (20 ILCS 1705/57.6)

15 Sec. 57.6. Adult autism; funding for services. Subject to  
16 appropriations, the Department, or independent contractual  
17 consultants engaged by the Department, shall research possible  
18 funding streams for the development and implementation of  
19 services for adults with autism spectrum disorders without an  
20 intellectual disability ~~mental retardation~~. Independent  
21 consultants must have expertise in Medicaid services and  
22 alternative federal and State funding mechanisms. The research  
23 may include, but need not be limited to, research of a Medicaid  
24 state plan amendment, a Section 1915(c) home and community

1 based waiver, a Section 1115 research and demonstration waiver,  
2 vocational rehabilitation funding, mental health block grants,  
3 and other appropriate funding sources. The Department shall  
4 report the results of the research and its recommendations to  
5 the Governor and the General Assembly by April 1, 2008.

6 (Source: P.A. 95-106, eff. 1-1-08.)

7 Section 22. The Civil Administrative Code of Illinois is  
8 amended by changing Sections 2310-550, 2310-560, 2310-565, and  
9 2310-625 as follows:

10 (20 ILCS 2310/2310-550) (was 20 ILCS 2310/55.40)

11 Sec. 2310-550. Long-term care facilities. The Department  
12 may perform, in all long-term care facilities as defined in the  
13 Nursing Home Care Act and all facilities as defined in the  
14 ID/DD ~~MR/DD~~ Community Care Act, all inspection, evaluation,  
15 certification, and inspection of care duties that the federal  
16 government may require the State of Illinois to perform or have  
17 performed as a condition of participation in any programs under  
18 Title XVIII or Title XIX of the federal Social Security Act.

19 (Source: P.A. 96-339, eff. 7-1-10.)

20 (20 ILCS 2310/2310-560) (was 20 ILCS 2310/55.87)

21 Sec. 2310-560. Advisory committees concerning construction  
22 of facilities.

23 (a) The Director shall appoint an advisory committee. The

1 committee shall be established by the Department by rule. The  
2 Director and the Department shall consult with the advisory  
3 committee concerning the application of building codes and  
4 Department rules related to those building codes to facilities  
5 under the Ambulatory Surgical Treatment Center Act, the Nursing  
6 Home Care Act, and the ID/DD ~~MR/DD~~ Community Care Act.

7 (b) The Director shall appoint an advisory committee to  
8 advise the Department and to conduct informal dispute  
9 resolution concerning the application of building codes for new  
10 and existing construction and related Department rules and  
11 standards under the Hospital Licensing Act, including without  
12 limitation rules and standards for (i) design and construction,  
13 (ii) engineering and maintenance of the physical plant, site,  
14 equipment, and systems (heating, cooling, electrical,  
15 ventilation, plumbing, water, sewer, and solid waste  
16 disposal), and (iii) fire and safety. The advisory committee  
17 shall be composed of all of the following members:

18 (1) The chairperson or an elected representative from  
19 the Hospital Licensing Board under the Hospital Licensing  
20 Act.

21 (2) Two health care architects with a minimum of 10  
22 years of experience in institutional design and building  
23 code analysis.

24 (3) Two engineering professionals (one mechanical and  
25 one electrical) with a minimum of 10 years of experience in  
26 institutional design and building code analysis.

1           (4) One commercial interior design professional with a  
2           minimum of 10 years of experience.

3           (5) Two representatives from provider associations.

4           (6) The Director or his or her designee, who shall  
5           serve as the committee moderator.

6           Appointments shall be made with the concurrence of the  
7           Hospital Licensing Board. The committee shall submit  
8           recommendations concerning the application of building codes  
9           and related Department rules and standards to the Hospital  
10          Licensing Board for review and comment prior to submission to  
11          the Department. The committee shall submit recommendations  
12          concerning informal dispute resolution to the Director. The  
13          Department shall provide per diem and travel expenses to the  
14          committee members.

15          (Source: P.A. 96-339, eff. 7-1-10.)

16           (20 ILCS 2310/2310-565) (was 20 ILCS 2310/55.88)

17           Sec. 2310-565. Facility construction training program. The  
18          Department shall conduct, at least annually, a joint in-service  
19          training program for architects, engineers, interior  
20          designers, and other persons involved in the construction of a  
21          facility under the Ambulatory Surgical Treatment Center Act,  
22          the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act,  
23          or the Hospital Licensing Act on problems and issues relating  
24          to the construction of facilities under any of those Acts.

25          (Source: P.A. 96-339, eff. 7-1-10.)

1 (20 ILCS 2310/2310-625)

2 Sec. 2310-625. Emergency Powers.

3 (a) Upon proclamation of a disaster by the Governor, as  
4 provided for in the Illinois Emergency Management Agency Act,  
5 the Director of Public Health shall have the following powers,  
6 which shall be exercised only in coordination with the Illinois  
7 Emergency Management Agency and the Department of Financial and  
8 Professional Regulation:

9 (1) The power to suspend the requirements for temporary  
10 or permanent licensure or certification of persons who are  
11 licensed or certified in another state and are working  
12 under the direction of the Illinois Emergency Management  
13 Agency and the Illinois Department of Public Health  
14 pursuant to the declared disaster.

15 (2) The power to modify the scope of practice  
16 restrictions under the Emergency Medical Services (EMS)  
17 Systems Act for any persons who are licensed under that Act  
18 for any person working under the direction of the Illinois  
19 Emergency Management Agency and the Illinois Department of  
20 Public Health pursuant to the declared disaster.

21 (3) The power to modify the scope of practice  
22 restrictions under the Nursing Home Care Act or the ID/DD  
23 ~~MR/DD~~ Community Care Act for Certified Nursing Assistants  
24 for any person working under the direction of the Illinois  
25 Emergency Management Agency and the Illinois Department of

1 Public Health pursuant to the declared disaster.

2 (b) Persons exempt from licensure or certification under  
3 paragraph (1) of subsection (a) and persons operating under  
4 modified scope of practice provisions under paragraph (2) of  
5 subsection (a) and paragraph (3) of subsection (a) shall be  
6 exempt from licensure or certification or subject to modified  
7 scope of practice only until the declared disaster has ended as  
8 provided by law. For purposes of this Section, persons working  
9 under the direction of an emergency services and disaster  
10 agency accredited by the Illinois Emergency Management Agency  
11 and a local public health department, pursuant to a declared  
12 disaster, shall be deemed to be working under the direction of  
13 the Illinois Emergency Management Agency and the Department of  
14 Public Health.

15 (c) The Director shall exercise these powers by way of  
16 proclamation.

17 (Source: P.A. 96-339, eff. 7-1-10.)

18 Section 25. The Disabilities Services Act of 2003 is  
19 amended by changing Sections 10 and 52 as follows:

20 (20 ILCS 2407/10)

21 Sec. 10. Application of Act; definitions.

22 (a) This Act applies to persons with disabilities. The  
23 disabilities included are defined for purposes of this Act as  
24 follows:

1 "Disability" means a disability as defined by the Americans  
2 with Disabilities Act of 1990 that is attributable to a  
3 developmental disability, a mental illness, or a physical  
4 disability, or combination of those.

5 "Developmental disability" means a disability that is  
6 attributable to an intellectual disability ~~mental retardation~~  
7 or a related condition. A related condition must meet all of  
8 the following conditions:

9 (1) It must be attributable to cerebral palsy,  
10 epilepsy, or any other condition (other than mental  
11 illness) found to be closely related to an intellectual  
12 disability ~~mental retardation~~ because that condition  
13 results in impairment of general intellectual functioning  
14 or adaptive behavior similar to that of individuals with an  
15 intellectual disability ~~mental retardation~~, and requires  
16 treatment or services similar to those required for those  
17 individuals. For purposes of this Section, autism is  
18 considered a related condition.

19 (2) It must be manifested before the individual reaches  
20 age 22.

21 (3) It must be likely to continue indefinitely.

22 (4) It must result in substantial functional  
23 limitations in 3 or more of the following areas of major  
24 life activity: self-care, language, learning, mobility,  
25 self-direction, and capacity for independent living.

26 "Mental Illness" means a mental or emotional disorder



1 verified by a diagnosis contained in the Diagnostic and  
2 Statistical Manual of Mental Disorders-Fourth Edition,  
3 published by the American Psychiatric Association (DSM-IV), or  
4 its successor, or International Classification of Diseases,  
5 9th Revision, Clinical Modification (ICD-9-CM), or its  
6 successor, that substantially impairs a person's cognitive,  
7 emotional, or behavioral functioning, or any combination of  
8 those, excluding (i) conditions that may be the focus of  
9 clinical attention but are not of sufficient duration or  
10 severity to be categorized as a mental illness, such as  
11 parent-child relational problems, partner-relational problems,  
12 sexual abuse of a child, bereavement, academic problems,  
13 phase-of-life problems, and occupational problems  
14 (collectively, "V codes"), (ii) organic disorders such as  
15 substance intoxication dementia, substance withdrawal  
16 dementia, Alzheimer's disease, vascular dementia, dementia due  
17 to HIV infection, and dementia due to Creutzfeld-Jakob disease  
18 and disorders associated with known or unknown physical  
19 conditions such as hallucinosis, amnesic disorders and  
20 delirium, and psychoactive substance-induced organic  
21 disorders, and (iii) an intellectual disability ~~mental~~  
22 ~~retardation~~ or psychoactive substance use disorders.

23 "Intellectual disability ~~Mental—retardation~~" means  
24 significantly sub-average general intellectual functioning  
25 existing concurrently with deficits in adaptive behavior and  
26 manifested before the age of 22 years.

1 "Physical disability" means a disability as defined by the  
2 Americans with Disabilities Act of 1990 that meets the  
3 following criteria:

4 (1) It is attributable to a physical impairment.

5 (2) It results in a substantial functional limitation  
6 in any of the following areas of major life activity: (i)  
7 self-care, (ii) receptive and expressive language, (iii)  
8 learning, (iv) mobility, (v) self-direction, (vi) capacity  
9 for independent living, and (vii) economic sufficiency.

10 (3) It reflects the person's need for a combination and  
11 sequence of special, interdisciplinary, or general care,  
12 treatment, or other services that are of lifelong or of  
13 extended duration and must be individually planned and  
14 coordinated.

15 (b) In this Act:

16 "Chronological age-appropriate services" means services,  
17 activities, and strategies for persons with disabilities that  
18 are representative of the lifestyle activities of nondisabled  
19 peers of similar age in the community.

20 "Comprehensive evaluation" means procedures used by  
21 qualified professionals selectively with an individual to  
22 determine whether a person has a disability and the nature and  
23 extent of the services that the person with a disability needs.

24 "Department" means the Department on Aging, the Department  
25 of Human Services, the Department of Public Health, the  
26 Department of Public Aid (now Department Healthcare and Family

1 Services), the University of Illinois Division of Specialized  
2 Care for Children, the Department of Children and Family  
3 Services, and the Illinois State Board of Education, where  
4 appropriate, as designated in the implementation plan  
5 developed under Section 20.

6 "Family" means a natural, adoptive, or foster parent or  
7 parents or other person or persons responsible for the care of  
8 an individual with a disability in a family setting.

9 "Family or individual support" means those resources and  
10 services that are necessary to maintain an individual with a  
11 disability within the family home or his or her own home. These  
12 services may include, but are not limited to, cash subsidy,  
13 respite care, and counseling services.

14 "Independent service coordination" means a social service  
15 that enables persons with developmental disabilities and their  
16 families to locate, use, and coordinate resources and  
17 opportunities in their communities on the basis of individual  
18 need. Independent service coordination is independent of  
19 providers of services and funding sources and is designed to  
20 ensure accessibility, continuity of care, and accountability  
21 and to maximize the potential of persons with developmental  
22 disabilities for independence, productivity, and integration  
23 into the community. Independent service coordination includes,  
24 at a minimum: (i) outreach to identify eligible individuals;  
25 (ii) assessment and periodic reassessment to determine each  
26 individual's strengths, functional limitations, and need for

1 specific services; (iii) participation in the development of a  
2 comprehensive individual service or treatment plan; (iv)  
3 referral to and linkage with needed services and supports; (v)  
4 monitoring to ensure the delivery of appropriate services and  
5 to determine individual progress in meeting goals and  
6 objectives; and (vi) advocacy to assist the person in obtaining  
7 all services for which he or she is eligible or entitled.

8 "Individual service or treatment plan" means a recorded  
9 assessment of the needs of a person with a disability, a  
10 description of the services recommended, the goals of each type  
11 of element of service, an anticipated timetable for the  
12 accomplishment of the goals, and a designation of the qualified  
13 professionals responsible for the implementation of the plan.

14 "Least restrictive environment" means an environment that  
15 represents the least departure from the normal patterns of  
16 living and that effectively meets the needs of the person  
17 receiving the service.

18 (Source: P.A. 95-331, eff. 8-21-07.)

19 (20 ILCS 2407/52)

20 Sec. 52. Applicability; definitions. In accordance with  
21 Section 6071 of the Deficit Reduction Act of 2005 (P.L.  
22 109-171), as used in this Article:

23 "Departments". The term "Departments" means for the  
24 purposes of this Act, the Department of Human Services, the  
25 Department on Aging, Department of Healthcare and Family

1 Services and Department of Public Health, unless otherwise  
2 noted.

3 "Home and community-based long-term care services". The  
4 term "home and community-based long-term care services" means,  
5 with respect to the State Medicaid program, a service aid, or  
6 benefit, home and community-based services, including but not  
7 limited to home health and personal care services, that are  
8 provided to a person with a disability, and are voluntarily  
9 accepted, as part of his or her long-term care that: (i) is  
10 provided under the State's qualified home and community-based  
11 program or that could be provided under such a program but is  
12 otherwise provided under the Medicaid program; (ii) is  
13 delivered in a qualified residence; and (iii) is necessary for  
14 the person with a disability to live in the community.

15 "ID/DD ~~MR/DD~~ community care facility". The term "ID/DD  
16 ~~MR/DD~~ community care facility", for the purposes of this  
17 Article, means a skilled nursing or intermediate long-term care  
18 facility subject to licensure by the Department of Public  
19 Health under the ID/DD ~~MR/DD~~ Community Care Act, an  
20 intermediate care facility for the developmentally disabled  
21 (ICF-DDs), and a State-operated developmental center or mental  
22 health center, whether publicly or privately owned.

23 "Money Follows the Person" Demonstration. Enacted by the  
24 Deficit Reduction Act of 2005, the Money Follows the Person  
25 (MFP) Rebalancing Demonstration is part of a comprehensive,  
26 coordinated strategy to assist states, in collaboration with

1 stakeholders, to make widespread changes to their long-term  
2 care support systems. This initiative will assist states in  
3 their efforts to reduce their reliance on institutional care  
4 while developing community-based long-term care opportunities,  
5 enabling the elderly and people with disabilities to fully  
6 participate in their communities.

7 "Public funds" mean any funds appropriated by the General  
8 Assembly to the Departments of Human Services, on Aging, of  
9 Healthcare and Family Services and of Public Health for  
10 settings and services as defined in this Article.

11 "Qualified residence". The term "qualified residence"  
12 means, with respect to an eligible individual: (i) a home owned  
13 or leased by the individual or the individual's authorized  
14 representative (as defined by P.L. 109-171); (ii) an apartment  
15 with an individual lease, with lockable access and egress, and  
16 which includes living, sleeping, bathing, and cooking areas  
17 over which the individual or the individual's family has domain  
18 and control; or (iii) a residence, in a community-based  
19 residential setting, in which no more than 4 unrelated  
20 individuals reside. Where qualified residences are not  
21 sufficient to meet the demand of eligible individuals,  
22 time-limited exceptions to this definition may be developed  
23 through administrative rule.

24 "Self-directed services". The term "self-directed  
25 services" means, with respect to home and community-based  
26 long-term services for an eligible individual, those services

1 for the individual that are planned and purchased under the  
2 direction and control of the individual or the individual's  
3 authorized representative, including the amount, duration,  
4 scope, provider, and location of such services, under the State  
5 Medicaid program consistent with the following requirements:

6 (a) Assessment: there is an assessment of the needs,  
7 capabilities, and preference of the individual with  
8 respect to such services.

9 (b) Individual service care or treatment plan: based on  
10 the assessment, there is development jointly with such  
11 individual or individual's authorized representative, a  
12 plan for such services for the individual that (i)  
13 specifies those services, if any, that the individual or  
14 the individual's authorized representative would be  
15 responsible for directing; (ii) identifies the methods by  
16 which the individual or the individual's authorized  
17 representative or an agency designated by an individual or  
18 representative will select, manage, and dismiss providers  
19 of such services.

20 (Source: P.A. 95-438, eff. 1-1-08; 96-339, eff. 7-1-10.)

21 Section 26. The Abuse of Adults with Disabilities  
22 Intervention Act is amended by changing Section 15 as follows:

23 (20 ILCS 2435/15) (from Ch. 23, par. 3395-15)

24 Sec. 15. Definitions. As used in this Act:

1 "Abuse" means causing any physical, sexual, or mental  
2 injury to an adult with disabilities, including exploitation of  
3 the adult's financial resources. Nothing in this Act shall be  
4 construed to mean that an adult with disabilities is a victim  
5 of abuse or neglect for the sole reason that he or she is being  
6 furnished with or relies upon treatment by spiritual means  
7 through prayer alone, in accordance with the tenets and  
8 practices of a recognized church or religious denomination.  
9 Nothing in this Act shall be construed to mean that an adult  
10 with disabilities is a victim of abuse because of health care  
11 services provided or not provided by licensed health care  
12 professionals.

13 "Adult with disabilities" means a person aged 18 through 59  
14 who resides in a domestic living situation and whose physical  
15 or mental disability impairs his or her ability to seek or  
16 obtain protection from abuse, neglect, or exploitation.

17 "Department" means the Department of Human Services.

18 "Adults with Disabilities Abuse Project" or "project"  
19 means that program within the Office of Inspector General  
20 designated by the Department of Human Services to receive and  
21 assess reports of alleged or suspected abuse, neglect, or  
22 exploitation of adults with disabilities.

23 "Domestic living situation" means a residence where the  
24 adult with disabilities lives alone or with his or her family  
25 or household members, a care giver, or others or at a board and  
26 care home or other community-based unlicensed facility, but is



1 not:

2 (1) A licensed facility as defined in Section 1-113 of  
3 the Nursing Home Care Act or Section 1-113 of the ID/DD  
4 ~~MR/DD~~ Community Care Act.

5 (2) A life care facility as defined in the Life Care  
6 Facilities Act.

7 (3) A home, institution, or other place operated by the  
8 federal government, a federal agency, or the State.

9 (4) A hospital, sanitarium, or other institution, the  
10 principal activity or business of which is the diagnosis,  
11 care, and treatment of human illness through the  
12 maintenance and operation of organized facilities and that  
13 is required to be licensed under the Hospital Licensing  
14 Act.

15 (5) A community living facility as defined in the  
16 Community Living Facilities Licensing Act.

17 (6) A community-integrated living arrangement as  
18 defined in the Community-Integrated Living Arrangements  
19 Licensure and Certification Act or community residential  
20 alternative as licensed under that Act.

21 "Emergency" means a situation in which an adult with  
22 disabilities is in danger of death or great bodily harm.

23 "Exploitation" means the illegal, including tortious, use  
24 of the assets or resources of an adult with disabilities.  
25 Exploitation includes, but is not limited to, the  
26 misappropriation of assets or resources of an adult with

1 disabilities by undue influence, by breach of a fiduciary  
2 relationship, by fraud, deception, or extortion, or by the use  
3 of the assets or resources in a manner contrary to law.

4 "Family or household members" means a person who as a  
5 family member, volunteer, or paid care provider has assumed  
6 responsibility for all or a portion of the care of an adult  
7 with disabilities who needs assistance with activities of daily  
8 living.

9 "Neglect" means the failure of another individual to  
10 provide an adult with disabilities with or the willful  
11 withholding from an adult with disabilities the necessities of  
12 life, including, but not limited to, food, clothing, shelter,  
13 or medical care.

14 Nothing in the definition of "neglect" shall be construed to  
15 impose a requirement that assistance be provided to an adult  
16 with disabilities over his or her objection in the absence of a  
17 court order, nor to create any new affirmative duty to provide  
18 support, assistance, or intervention to an adult with  
19 disabilities. Nothing in this Act shall be construed to mean  
20 that an adult with disabilities is a victim of neglect because  
21 of health care services provided or not provided by licensed  
22 health care professionals.

23 "Physical abuse" includes sexual abuse and means any of the  
24 following:

25 (1) knowing or reckless use of physical force,  
26 confinement, or restraint;

1           (2) knowing, repeated, and unnecessary sleep  
2           deprivation; or

3           (3) knowing or reckless conduct which creates an  
4           immediate risk of physical harm.

5           "Secretary" means the Secretary of Human Services.

6           "Sexual abuse" means touching, fondling, sexual threats,  
7           sexually inappropriate remarks, or any other sexual activity  
8           with an adult with disabilities when the adult with  
9           disabilities is unable to understand, unwilling to consent,  
10          threatened, or physically forced to engage in sexual behavior.

11          "Substantiated case" means a reported case of alleged or  
12          suspected abuse, neglect, or exploitation in which the Adults  
13          with Disabilities Abuse Project staff, after assessment,  
14          determines that there is reason to believe abuse, neglect, or  
15          exploitation has occurred.

16          (Source: P.A. 96-339, eff. 7-1-10.)

17          Section 27. The Illinois Finance Authority Act is amended  
18          by changing Section 801-10 as follows:

19                 (20 ILCS 3501/801-10)

20                 Sec. 801-10. Definitions. The following terms, whenever  
21                 used or referred to in this Act, shall have the following  
22                 meanings, except in such instances where the context may  
23                 clearly indicate otherwise:

24                 (a) The term "Authority" means the Illinois Finance

1 Authority created by this Act.

2 (b) The term "project" means an industrial project,  
3 conservation project, housing project, public purpose project,  
4 higher education project, health facility project, cultural  
5 institution project, agricultural facility or agribusiness,  
6 and "project" may include any combination of one or more of the  
7 foregoing undertaken jointly by any person with one or more  
8 other persons.

9 (c) The term "public purpose project" means any project or  
10 facility including without limitation land, buildings,  
11 structures, machinery, equipment and all other real and  
12 personal property, which is authorized or required by law to be  
13 acquired, constructed, improved, rehabilitated, reconstructed,  
14 replaced or maintained by any unit of government or any other  
15 lawful public purpose which is authorized or required by law to  
16 be undertaken by any unit of government.

17 (d) The term "industrial project" means the acquisition,  
18 construction, refurbishment, creation, development or  
19 redevelopment of any facility, equipment, machinery, real  
20 property or personal property for use by any instrumentality of  
21 the State or its political subdivisions, for use by any person  
22 or institution, public or private, for profit or not for  
23 profit, or for use in any trade or business including, but not  
24 limited to, any industrial, manufacturing or commercial  
25 enterprise and which is (1) a capital project including but not  
26 limited to: (i) land and any rights therein, one or more

1 buildings, structures or other improvements, machinery and  
2 equipment, whether now existing or hereafter acquired, and  
3 whether or not located on the same site or sites; (ii) all  
4 appurtenances and facilities incidental to the foregoing,  
5 including, but not limited to utilities, access roads, railroad  
6 sidings, track, docking and similar facilities, parking  
7 facilities, dockage, wharfage, railroad roadbed, track,  
8 trestle, depot, terminal, switching and signaling or related  
9 equipment, site preparation and landscaping; and (iii) all  
10 non-capital costs and expenses relating thereto or (2) any  
11 addition to, renovation, rehabilitation or improvement of a  
12 capital project or (3) any activity or undertaking which the  
13 Authority determines will aid, assist or encourage economic  
14 growth, development or redevelopment within the State or any  
15 area thereof, will promote the expansion, retention or  
16 diversification of employment opportunities within the State  
17 or any area thereof or will aid in stabilizing or developing  
18 any industry or economic sector of the State economy. The term  
19 "industrial project" also means the production of motion  
20 pictures.

21 (e) The term "bond" or "bonds" shall include bonds, notes  
22 (including bond, grant or revenue anticipation notes),  
23 certificates and/or other evidences of indebtedness  
24 representing an obligation to pay money, including refunding  
25 bonds.

26 (f) The terms "lease agreement" and "loan agreement" shall

1 mean: (i) an agreement whereby a project acquired by the  
2 Authority by purchase, gift or lease is leased to any person,  
3 corporation or unit of local government which will use or cause  
4 the project to be used as a project as heretofore defined upon  
5 terms providing for lease rental payments at least sufficient  
6 to pay when due all principal of, interest and premium, if any,  
7 on any bonds of the Authority issued with respect to such  
8 project, providing for the maintenance, insuring and operation  
9 of the project on terms satisfactory to the Authority,  
10 providing for disposition of the project upon termination of  
11 the lease term, including purchase options or abandonment of  
12 the premises, and such other terms as may be deemed desirable  
13 by the Authority, or (ii) any agreement pursuant to which the  
14 Authority agrees to loan the proceeds of its bonds issued with  
15 respect to a project or other funds of the Authority to any  
16 person which will use or cause the project to be used as a  
17 project as heretofore defined upon terms providing for loan  
18 repayment installments at least sufficient to pay when due all  
19 principal of, interest and premium, if any, on any bonds of the  
20 Authority, if any, issued with respect to the project, and  
21 providing for maintenance, insurance and other matters as may  
22 be deemed desirable by the Authority.

23 (g) The term "financial aid" means the expenditure of  
24 Authority funds or funds provided by the Authority through the  
25 issuance of its bonds, notes or other evidences of indebtedness  
26 or from other sources for the development, construction,

1 acquisition or improvement of a project.

2 (h) The term "person" means an individual, corporation,  
3 unit of government, business trust, estate, trust, partnership  
4 or association, 2 or more persons having a joint or common  
5 interest, or any other legal entity.

6 (i) The term "unit of government" means the federal  
7 government, the State or unit of local government, a school  
8 district, or any agency or instrumentality, office, officer,  
9 department, division, bureau, commission, college or  
10 university thereof.

11 (j) The term "health facility" means: (a) any public or  
12 private institution, place, building, or agency required to be  
13 licensed under the Hospital Licensing Act; (b) any public or  
14 private institution, place, building, or agency required to be  
15 licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
16 Community Care Act; (c) any public or licensed private hospital  
17 as defined in the Mental Health and Developmental Disabilities  
18 Code; (d) any such facility exempted from such licensure when  
19 the Director of Public Health attests that such exempted  
20 facility meets the statutory definition of a facility subject  
21 to licensure; (e) any other public or private health service  
22 institution, place, building, or agency which the Director of  
23 Public Health attests is subject to certification by the  
24 Secretary, U.S. Department of Health and Human Services under  
25 the Social Security Act, as now or hereafter amended, or which  
26 the Director of Public Health attests is subject to

1 standard-setting by a recognized public or voluntary  
2 accrediting or standard-setting agency; (f) any public or  
3 private institution, place, building or agency engaged in  
4 providing one or more supporting services to a health facility;  
5 (g) any public or private institution, place, building or  
6 agency engaged in providing training in the healing arts,  
7 including but not limited to schools of medicine, dentistry,  
8 osteopathy, optometry, podiatry, pharmacy or nursing, schools  
9 for the training of x-ray, laboratory or other health care  
10 technicians and schools for the training of para-professionals  
11 in the health care field; (h) any public or private congregate,  
12 life or extended care or elderly housing facility or any public  
13 or private home for the aged or infirm, including, without  
14 limitation, any Facility as defined in the Life Care Facilities  
15 Act; (i) any public or private mental, emotional or physical  
16 rehabilitation facility or any public or private educational,  
17 counseling, or rehabilitation facility or home, for those  
18 persons with a developmental disability, those who are  
19 physically ill or disabled, the emotionally disturbed, those  
20 persons with a mental illness or persons with learning or  
21 similar disabilities or problems; (j) any public or private  
22 alcohol, drug or substance abuse diagnosis, counseling  
23 treatment or rehabilitation facility, (k) any public or private  
24 institution, place, building or agency licensed by the  
25 Department of Children and Family Services or which is not so  
26 licensed but which the Director of Children and Family Services



1 attests provides child care, child welfare or other services of  
2 the type provided by facilities subject to such licensure; (l)  
3 any public or private adoption agency or facility; and (m) any  
4 public or private blood bank or blood center. "Health facility"  
5 also means a public or private structure or structures suitable  
6 primarily for use as a laboratory, laundry, nurses or interns  
7 residence or other housing or hotel facility used in whole or  
8 in part for staff, employees or students and their families,  
9 patients or relatives of patients admitted for treatment or  
10 care in a health facility, or persons conducting business with  
11 a health facility, physician's facility, surgicenter,  
12 administration building, research facility, maintenance,  
13 storage or utility facility and all structures or facilities  
14 related to any of the foregoing or required or useful for the  
15 operation of a health facility, including parking or other  
16 facilities or other supporting service structures required or  
17 useful for the orderly conduct of such health facility. "Health  
18 facility" also means, with respect to a project located outside  
19 the State, any public or private institution, place, building,  
20 or agency which provides services similar to those described  
21 above, provided that such project is owned, operated, leased or  
22 managed by a participating health institution located within  
23 the State, or a participating health institution affiliated  
24 with an entity located within the State.

25 (k) The term "participating health institution" means (i) a  
26 private corporation or association or (ii) a public entity of

1 this State, in either case authorized by the laws of this State  
2 or the applicable state to provide or operate a health facility  
3 as defined in this Act and which, pursuant to the provisions of  
4 this Act, undertakes the financing, construction or  
5 acquisition of a project or undertakes the refunding or  
6 refinancing of obligations, loans, indebtedness or advances as  
7 provided in this Act.

8 (l) The term "health facility project", means a specific  
9 health facility work or improvement to be financed or  
10 refinanced (including without limitation through reimbursement  
11 of prior expenditures), acquired, constructed, enlarged,  
12 remodeled, renovated, improved, furnished, or equipped, with  
13 funds provided in whole or in part hereunder, any accounts  
14 receivable, working capital, liability or insurance cost or  
15 operating expense financing or refinancing program of a health  
16 facility with or involving funds provided in whole or in part  
17 hereunder, or any combination thereof.

18 (m) The term "bond resolution" means the resolution or  
19 resolutions authorizing the issuance of, or providing terms and  
20 conditions related to, bonds issued under this Act and  
21 includes, where appropriate, any trust agreement, trust  
22 indenture, indenture of mortgage or deed of trust providing  
23 terms and conditions for such bonds.

24 (n) The term "property" means any real, personal or mixed  
25 property, whether tangible or intangible, or any interest  
26 therein, including, without limitation, any real estate,

1 leasehold interests, appurtenances, buildings, easements,  
2 equipment, furnishings, furniture, improvements, machinery,  
3 rights of way, structures, accounts, contract rights or any  
4 interest therein.

5 (o) The term "revenues" means, with respect to any project,  
6 the rents, fees, charges, interest, principal repayments,  
7 collections and other income or profit derived therefrom.

8 (p) The term "higher education project" means, in the case  
9 of a private institution of higher education, an educational  
10 facility to be acquired, constructed, enlarged, remodeled,  
11 renovated, improved, furnished, or equipped, or any  
12 combination thereof.

13 (q) The term "cultural institution project" means, in the  
14 case of a cultural institution, a cultural facility to be  
15 acquired, constructed, enlarged, remodeled, renovated,  
16 improved, furnished, or equipped, or any combination thereof.

17 (r) The term "educational facility" means any property  
18 located within the State, or any property located outside the  
19 State, provided that, if the property is located outside the  
20 State, it must be owned, operated, leased or managed by an  
21 entity located within the State or an entity affiliated with an  
22 entity located within the State, in each case constructed or  
23 acquired before or after the effective date of this Act, which  
24 is or will be, in whole or in part, suitable for the  
25 instruction, feeding, recreation or housing of students, the  
26 conducting of research or other work of a private institution

1 of higher education, the use by a private institution of higher  
2 education in connection with any educational, research or  
3 related or incidental activities then being or to be conducted  
4 by it, or any combination of the foregoing, including, without  
5 limitation, any such property suitable for use as or in  
6 connection with any one or more of the following: an academic  
7 facility, administrative facility, agricultural facility,  
8 assembly hall, athletic facility, auditorium, boating  
9 facility, campus, communication facility, computer facility,  
10 continuing education facility, classroom, dining hall,  
11 dormitory, exhibition hall, fire fighting facility, fire  
12 prevention facility, food service and preparation facility,  
13 gymnasium, greenhouse, health care facility, hospital,  
14 housing, instructional facility, laboratory, library,  
15 maintenance facility, medical facility, museum, offices,  
16 parking area, physical education facility, recreational  
17 facility, research facility, stadium, storage facility,  
18 student union, study facility, theatre or utility.

19 (s) The term "cultural facility" means any property located  
20 within the State, or any property located outside the State,  
21 provided that, if the property is located outside the State, it  
22 must be owned, operated, leased or managed by an entity located  
23 within the State or an entity affiliated with an entity located  
24 within the State, in each case constructed or acquired before  
25 or after the effective date of this Act, which is or will be,  
26 in whole or in part, suitable for the particular purposes or

1 needs of a cultural institution, including, without  
2 limitation, any such property suitable for use as or in  
3 connection with any one or more of the following: an  
4 administrative facility, aquarium, assembly hall, auditorium,  
5 botanical garden, exhibition hall, gallery, greenhouse,  
6 library, museum, scientific laboratory, theater or zoological  
7 facility, and shall also include, without limitation, books,  
8 works of art or music, animal, plant or aquatic life or other  
9 items for display, exhibition or performance. The term  
10 "cultural facility" includes buildings on the National  
11 Register of Historic Places which are owned or operated by  
12 nonprofit entities.

13 (t) "Private institution of higher education" means a  
14 not-for-profit educational institution which is not owned by  
15 the State or any political subdivision, agency,  
16 instrumentality, district or municipality thereof, which is  
17 authorized by law to provide a program of education beyond the  
18 high school level and which:

19 (1) Admits as regular students only individuals having  
20 a certificate of graduation from a high school, or the  
21 recognized equivalent of such a certificate;

22 (2) Provides an educational program for which it awards  
23 a bachelor's degree, or provides an educational program,  
24 admission into which is conditioned upon the prior  
25 attainment of a bachelor's degree or its equivalent, for  
26 which it awards a postgraduate degree, or provides not less

1 than a 2-year program which is acceptable for full credit  
2 toward such a degree, or offers a 2-year program in  
3 engineering, mathematics, or the physical or biological  
4 sciences which is designed to prepare the student to work  
5 as a technician and at a semiprofessional level in  
6 engineering, scientific, or other technological fields  
7 which require the understanding and application of basic  
8 engineering, scientific, or mathematical principles or  
9 knowledge;

10 (3) Is accredited by a nationally recognized  
11 accrediting agency or association or, if not so accredited,  
12 is an institution whose credits are accepted, on transfer,  
13 by not less than 3 institutions which are so accredited,  
14 for credit on the same basis as if transferred from an  
15 institution so accredited, and holds an unrevoked  
16 certificate of approval under the Private College Act from  
17 the Board of Higher Education, or is qualified as a "degree  
18 granting institution" under the Academic Degree Act; and

19 (4) Does not discriminate in the admission of students  
20 on the basis of race or color. "Private institution of  
21 higher education" also includes any "academic  
22 institution".

23 (u) The term "academic institution" means any  
24 not-for-profit institution which is not owned by the State or  
25 any political subdivision, agency, instrumentality, district  
26 or municipality thereof, which institution engages in, or

1 facilitates academic, scientific, educational or professional  
2 research or learning in a field or fields of study taught at a  
3 private institution of higher education. Academic institutions  
4 include, without limitation, libraries, archives, academic,  
5 scientific, educational or professional societies,  
6 institutions, associations or foundations having such  
7 purposes.

8 (v) The term "cultural institution" means any  
9 not-for-profit institution which is not owned by the State or  
10 any political subdivision, agency, instrumentality, district  
11 or municipality thereof, which institution engages in the  
12 cultural, intellectual, scientific, educational or artistic  
13 enrichment of the people of the State. Cultural institutions  
14 include, without limitation, aquaria, botanical societies,  
15 historical societies, libraries, museums, performing arts  
16 associations or societies, scientific societies and zoological  
17 societies.

18 (w) The term "affiliate" means, with respect to financing  
19 of an agricultural facility or an agribusiness, any lender, any  
20 person, firm or corporation controlled by, or under common  
21 control with, such lender, and any person, firm or corporation  
22 controlling such lender.

23 (x) The term "agricultural facility" means land, any  
24 building or other improvement thereon or thereto, and any  
25 personal properties deemed necessary or suitable for use,  
26 whether or not now in existence, in farming, ranching, the

1 production of agricultural commodities (including, without  
2 limitation, the products of aquaculture, hydroponics and  
3 silviculture) or the treating, processing or storing of such  
4 agricultural commodities when such activities are customarily  
5 engaged in by farmers as a part of farming.

6 (y) The term "lender" with respect to financing of an  
7 agricultural facility or an agribusiness, means any federal or  
8 State chartered bank, Federal Land Bank, Production Credit  
9 Association, Bank for Cooperatives, federal or State chartered  
10 savings and loan association or building and loan association,  
11 Small Business Investment Company or any other institution  
12 qualified within this State to originate and service loans,  
13 including, but without limitation to, insurance companies,  
14 credit unions and mortgage loan companies. "Lender" also means  
15 a wholly owned subsidiary of a manufacturer, seller or  
16 distributor of goods or services that makes loans to businesses  
17 or individuals, commonly known as a "captive finance company".

18 (z) The term "agribusiness" means any sole proprietorship,  
19 limited partnership, co-partnership, joint venture,  
20 corporation or cooperative which operates or will operate a  
21 facility located within the State of Illinois that is related  
22 to the processing of agricultural commodities (including,  
23 without limitation, the products of aquaculture, hydroponics  
24 and silviculture) or the manufacturing, production or  
25 construction of agricultural buildings, structures, equipment,  
26 implements, and supplies, or any other facilities or processes



1 used in agricultural production. Agribusiness includes but is  
2 not limited to the following:

3 (1) grain handling and processing, including grain  
4 storage, drying, treatment, conditioning, mailing and  
5 packaging;

6 (2) seed and feed grain development and processing;

7 (3) fruit and vegetable processing, including  
8 preparation, canning and packaging;

9 (4) processing of livestock and livestock products,  
10 dairy products, poultry and poultry products, fish or  
11 apiarian products, including slaughter, shearing,  
12 collecting, preparation, canning and packaging;

13 (5) fertilizer and agricultural chemical  
14 manufacturing, processing, application and supplying;

15 (6) farm machinery, equipment and implement  
16 manufacturing and supplying;

17 (7) manufacturing and supplying of agricultural  
18 commodity processing machinery and equipment, including  
19 machinery and equipment used in slaughter, treatment,  
20 handling, collecting, preparation, canning or packaging of  
21 agricultural commodities;

22 (8) farm building and farm structure manufacturing,  
23 construction and supplying;

24 (9) construction, manufacturing, implementation,  
25 supplying or servicing of irrigation, drainage and soil and  
26 water conservation devices or equipment;

1           (10) fuel processing and development facilities that  
2           produce fuel from agricultural commodities or byproducts;

3           (11) facilities and equipment for processing and  
4           packaging agricultural commodities specifically for  
5           export;

6           (12) facilities and equipment for forestry product  
7           processing and supplying, including sawmilling operations,  
8           wood chip operations, timber harvesting operations, and  
9           manufacturing of prefabricated buildings, paper, furniture  
10          or other goods from forestry products;

11          (13) facilities and equipment for research and  
12          development of products, processes and equipment for the  
13          production, processing, preparation or packaging of  
14          agricultural commodities and byproducts.

15          (aa) The term "asset" with respect to financing of any  
16          agricultural facility or any agribusiness, means, but is not  
17          limited to the following: cash crops or feed on hand; livestock  
18          held for sale; breeding stock; marketable bonds and securities;  
19          securities not readily marketable; accounts receivable; notes  
20          receivable; cash invested in growing crops; net cash value of  
21          life insurance; machinery and equipment; cars and trucks; farm  
22          and other real estate including life estates and personal  
23          residence; value of beneficial interests in trusts; government  
24          payments or grants; and any other assets.

25          (bb) The term "liability" with respect to financing of any  
26          agricultural facility or any agribusiness shall include, but

1 not be limited to the following: accounts payable; notes or  
2 other indebtedness owed to any source; taxes; rent; amounts  
3 owed on real estate contracts or real estate mortgages;  
4 judgments; accrued interest payable; and any other liability.

5 (cc) The term "Predecessor Authorities" means those  
6 authorities as described in Section 845-75.

7 (dd) The term "housing project" means a specific work or  
8 improvement undertaken to provide residential dwelling  
9 accommodations, including the acquisition, construction or  
10 rehabilitation of lands, buildings and community facilities  
11 and in connection therewith to provide nonhousing facilities  
12 which are part of the housing project, including land,  
13 buildings, improvements, equipment and all ancillary  
14 facilities for use for offices, stores, retirement homes,  
15 hotels, financial institutions, service, health care,  
16 education, recreation or research establishments, or any other  
17 commercial purpose which are or are to be related to a housing  
18 development.

19 (ee) The term "conservation project" means any project  
20 including the acquisition, construction, rehabilitation,  
21 maintenance, operation, or upgrade that is intended to create  
22 or expand open space or to reduce energy usage through  
23 efficiency measures. For the purpose of this definition, "open  
24 space" has the definition set forth under Section 10 of the  
25 Illinois Open Land Trust Act.

26 (ff) The term "significant presence" means the existence

1 within the State of the national or regional headquarters of an  
2 entity or group or such other facility of an entity or group of  
3 entities where a significant amount of the business functions  
4 are performed for such entity or group of entities.

5 (Source: P.A. 95-697, eff. 11-6-07; 96-339, eff. 7-1-10;  
6 96-1021, eff. 7-12-10.)

7 Section 29. The Illinois Health Facilities Planning Act is  
8 amended by changing Sections 3, 12, 13, and 14.1 as follows:

9 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

10 (Section scheduled to be repealed on December 31, 2019)

11 Sec. 3. Definitions. As used in this Act:

12 "Health care facilities" means and includes the following  
13 facilities and organizations:

14 1. An ambulatory surgical treatment center required to  
15 be licensed pursuant to the Ambulatory Surgical Treatment  
16 Center Act;

17 2. An institution, place, building, or agency required  
18 to be licensed pursuant to the Hospital Licensing Act;

19 3. Skilled and intermediate long term care facilities  
20 licensed under the Nursing Home Care Act;

21 3.5. Skilled and intermediate care facilities licensed  
22 under the ID/DD ~~MR/DD~~ Community Care Act;

23 4. Hospitals, nursing homes, ambulatory surgical  
24 treatment centers, or kidney disease treatment centers

1 maintained by the State or any department or agency  
2 thereof;

3 5. Kidney disease treatment centers, including a  
4 free-standing hemodialysis unit required to be licensed  
5 under the End Stage Renal Disease Facility Act;

6 6. An institution, place, building, or room used for  
7 the performance of outpatient surgical procedures that is  
8 leased, owned, or operated by or on behalf of an  
9 out-of-state facility;

10 7. An institution, place, building, or room used for  
11 provision of a health care category of service as defined  
12 by the Board, including, but not limited to, cardiac  
13 catheterization and open heart surgery; and

14 8. An institution, place, building, or room used for  
15 provision of major medical equipment used in the direct  
16 clinical diagnosis or treatment of patients, and whose  
17 project cost is in excess of the capital expenditure  
18 minimum.

19 This Act shall not apply to the construction of any new  
20 facility or the renovation of any existing facility located on  
21 any campus facility as defined in Section 5-5.8b of the  
22 Illinois Public Aid Code, provided that the campus facility  
23 encompasses 30 or more contiguous acres and that the new or  
24 renovated facility is intended for use by a licensed  
25 residential facility.

26 No federally owned facility shall be subject to the

1 provisions of this Act, nor facilities used solely for healing  
2 by prayer or spiritual means.

3 No facility licensed under the Supportive Residences  
4 Licensing Act or the Assisted Living and Shared Housing Act  
5 shall be subject to the provisions of this Act.

6 No facility established and operating under the  
7 Alternative Health Care Delivery Act as a children's respite  
8 care center alternative health care model demonstration  
9 program or as an Alzheimer's Disease Management Center  
10 alternative health care model demonstration program shall be  
11 subject to the provisions of this Act.

12 A facility designated as a supportive living facility that  
13 is in good standing with the program established under Section  
14 5-5.01a of the Illinois Public Aid Code shall not be subject to  
15 the provisions of this Act.

16 This Act does not apply to facilities granted waivers under  
17 Section 3-102.2 of the Nursing Home Care Act. However, if a  
18 demonstration project under that Act applies for a certificate  
19 of need to convert to a nursing facility, it shall meet the  
20 licensure and certificate of need requirements in effect as of  
21 the date of application.

22 This Act does not apply to a dialysis facility that  
23 provides only dialysis training, support, and related services  
24 to individuals with end stage renal disease who have elected to  
25 receive home dialysis. This Act does not apply to a dialysis  
26 unit located in a licensed nursing home that offers or provides

1 dialysis-related services to residents with end stage renal  
2 disease who have elected to receive home dialysis within the  
3 nursing home. The Board, however, may require these dialysis  
4 facilities and licensed nursing homes to report statistical  
5 information on a quarterly basis to the Board to be used by the  
6 Board to conduct analyses on the need for proposed kidney  
7 disease treatment centers.

8 This Act shall not apply to the closure of an entity or a  
9 portion of an entity licensed under the Nursing Home Care Act  
10 or the ID/DD ~~MR/DD~~ Community Care Act, with the exceptions of  
11 facilities operated by a county or Illinois Veterans Homes,  
12 that elects to convert, in whole or in part, to an assisted  
13 living or shared housing establishment licensed under the  
14 Assisted Living and Shared Housing Act.

15 This Act does not apply to any change of ownership of a  
16 healthcare facility that is licensed under the Nursing Home  
17 Care Act or the ID/DD ~~MR/DD~~ Community Care Act, with the  
18 exceptions of facilities operated by a county or Illinois  
19 Veterans Homes. Changes of ownership of facilities licensed  
20 under the Nursing Home Care Act must meet the requirements set  
21 forth in Sections 3-101 through 3-119 of the Nursing Home Care  
22 Act.

23 With the exception of those health care facilities  
24 specifically included in this Section, nothing in this Act  
25 shall be intended to include facilities operated as a part of  
26 the practice of a physician or other licensed health care

1 professional, whether practicing in his individual capacity or  
2 within the legal structure of any partnership, medical or  
3 professional corporation, or unincorporated medical or  
4 professional group. Further, this Act shall not apply to  
5 physicians or other licensed health care professional's  
6 practices where such practices are carried out in a portion of  
7 a health care facility under contract with such health care  
8 facility by a physician or by other licensed health care  
9 professionals, whether practicing in his individual capacity  
10 or within the legal structure of any partnership, medical or  
11 professional corporation, or unincorporated medical or  
12 professional groups. This Act shall apply to construction or  
13 modification and to establishment by such health care facility  
14 of such contracted portion which is subject to facility  
15 licensing requirements, irrespective of the party responsible  
16 for such action or attendant financial obligation.

17 "Person" means any one or more natural persons, legal  
18 entities, governmental bodies other than federal, or any  
19 combination thereof.

20 "Consumer" means any person other than a person (a) whose  
21 major occupation currently involves or whose official capacity  
22 within the last 12 months has involved the providing,  
23 administering or financing of any type of health care facility,  
24 (b) who is engaged in health research or the teaching of  
25 health, (c) who has a material financial interest in any  
26 activity which involves the providing, administering or



1 financing of any type of health care facility, or (d) who is or  
2 ever has been a member of the immediate family of the person  
3 defined by (a), (b), or (c).

4 "State Board" or "Board" means the Health Facilities and  
5 Services Review Board.

6 "Construction or modification" means the establishment,  
7 erection, building, alteration, reconstruction, modernization,  
8 improvement, extension, discontinuation, change of ownership,  
9 of or by a health care facility, or the purchase or acquisition  
10 by or through a health care facility of equipment or service  
11 for diagnostic or therapeutic purposes or for facility  
12 administration or operation, or any capital expenditure made by  
13 or on behalf of a health care facility which exceeds the  
14 capital expenditure minimum; however, any capital expenditure  
15 made by or on behalf of a health care facility for (i) the  
16 construction or modification of a facility licensed under the  
17 Assisted Living and Shared Housing Act or (ii) a conversion  
18 project undertaken in accordance with Section 30 of the Older  
19 Adult Services Act shall be excluded from any obligations under  
20 this Act.

21 "Establish" means the construction of a health care  
22 facility or the replacement of an existing facility on another  
23 site or the initiation of a category of service as defined by  
24 the Board.

25 "Major medical equipment" means medical equipment which is  
26 used for the provision of medical and other health services and

1 which costs in excess of the capital expenditure minimum,  
2 except that such term does not include medical equipment  
3 acquired by or on behalf of a clinical laboratory to provide  
4 clinical laboratory services if the clinical laboratory is  
5 independent of a physician's office and a hospital and it has  
6 been determined under Title XVIII of the Social Security Act to  
7 meet the requirements of paragraphs (10) and (11) of Section  
8 1861(s) of such Act. In determining whether medical equipment  
9 has a value in excess of the capital expenditure minimum, the  
10 value of studies, surveys, designs, plans, working drawings,  
11 specifications, and other activities essential to the  
12 acquisition of such equipment shall be included.

13 "Capital Expenditure" means an expenditure: (A) made by or  
14 on behalf of a health care facility (as such a facility is  
15 defined in this Act); and (B) which under generally accepted  
16 accounting principles is not properly chargeable as an expense  
17 of operation and maintenance, or is made to obtain by lease or  
18 comparable arrangement any facility or part thereof or any  
19 equipment for a facility or part; and which exceeds the capital  
20 expenditure minimum.

21 For the purpose of this paragraph, the cost of any studies,  
22 surveys, designs, plans, working drawings, specifications, and  
23 other activities essential to the acquisition, improvement,  
24 expansion, or replacement of any plant or equipment with  
25 respect to which an expenditure is made shall be included in  
26 determining if such expenditure exceeds the capital

1 expenditures minimum. Unless otherwise interdependent, or  
2 submitted as one project by the applicant, components of  
3 construction or modification undertaken by means of a single  
4 construction contract or financed through the issuance of a  
5 single debt instrument shall not be grouped together as one  
6 project. Donations of equipment or facilities to a health care  
7 facility which if acquired directly by such facility would be  
8 subject to review under this Act shall be considered capital  
9 expenditures, and a transfer of equipment or facilities for  
10 less than fair market value shall be considered a capital  
11 expenditure for purposes of this Act if a transfer of the  
12 equipment or facilities at fair market value would be subject  
13 to review.

14 "Capital expenditure minimum" means \$11,500,000 for  
15 projects by hospital applicants, \$6,500,000 for applicants for  
16 projects related to skilled and intermediate care long-term  
17 care facilities licensed under the Nursing Home Care Act, and  
18 \$3,000,000 for projects by all other applicants, which shall be  
19 annually adjusted to reflect the increase in construction costs  
20 due to inflation, for major medical equipment and for all other  
21 capital expenditures.

22 "Non-clinical service area" means an area (i) for the  
23 benefit of the patients, visitors, staff, or employees of a  
24 health care facility and (ii) not directly related to the  
25 diagnosis, treatment, or rehabilitation of persons receiving  
26 services from the health care facility. "Non-clinical service

1 areas" include, but are not limited to, chapels; gift shops;  
2 news stands; computer systems; tunnels, walkways, and  
3 elevators; telephone systems; projects to comply with life  
4 safety codes; educational facilities; student housing;  
5 patient, employee, staff, and visitor dining areas;  
6 administration and volunteer offices; modernization of  
7 structural components (such as roof replacement and masonry  
8 work); boiler repair or replacement; vehicle maintenance and  
9 storage facilities; parking facilities; mechanical systems for  
10 heating, ventilation, and air conditioning; loading docks; and  
11 repair or replacement of carpeting, tile, wall coverings,  
12 window coverings or treatments, or furniture. Solely for the  
13 purpose of this definition, "non-clinical service area" does  
14 not include health and fitness centers.

15 "Areawide" means a major area of the State delineated on a  
16 geographic, demographic, and functional basis for health  
17 planning and for health service and having within it one or  
18 more local areas for health planning and health service. The  
19 term "region", as contrasted with the term "subregion", and the  
20 word "area" may be used synonymously with the term "areawide".

21 "Local" means a subarea of a delineated major area that on  
22 a geographic, demographic, and functional basis may be  
23 considered to be part of such major area. The term "subregion"  
24 may be used synonymously with the term "local".

25 "Physician" means a person licensed to practice in  
26 accordance with the Medical Practice Act of 1987, as amended.

1 "Licensed health care professional" means a person  
2 licensed to practice a health profession under pertinent  
3 licensing statutes of the State of Illinois.

4 "Director" means the Director of the Illinois Department of  
5 Public Health.

6 "Agency" means the Illinois Department of Public Health.

7 "Alternative health care model" means a facility or program  
8 authorized under the Alternative Health Care Delivery Act.

9 "Out-of-state facility" means a person that is both (i)  
10 licensed as a hospital or as an ambulatory surgery center under  
11 the laws of another state or that qualifies as a hospital or an  
12 ambulatory surgery center under regulations adopted pursuant  
13 to the Social Security Act and (ii) not licensed under the  
14 Ambulatory Surgical Treatment Center Act, the Hospital  
15 Licensing Act, or the Nursing Home Care Act. Affiliates of  
16 out-of-state facilities shall be considered out-of-state  
17 facilities. Affiliates of Illinois licensed health care  
18 facilities 100% owned by an Illinois licensed health care  
19 facility, its parent, or Illinois physicians licensed to  
20 practice medicine in all its branches shall not be considered  
21 out-of-state facilities. Nothing in this definition shall be  
22 construed to include an office or any part of an office of a  
23 physician licensed to practice medicine in all its branches in  
24 Illinois that is not required to be licensed under the  
25 Ambulatory Surgical Treatment Center Act.

26 "Change of ownership of a health care facility" means a

1 change in the person who has ownership or control of a health  
2 care facility's physical plant and capital assets. A change in  
3 ownership is indicated by the following transactions: sale,  
4 transfer, acquisition, lease, change of sponsorship, or other  
5 means of transferring control.

6 "Related person" means any person that: (i) is at least 50%  
7 owned, directly or indirectly, by either the health care  
8 facility or a person owning, directly or indirectly, at least  
9 50% of the health care facility; or (ii) owns, directly or  
10 indirectly, at least 50% of the health care facility.

11 "Charity care" means care provided by a health care  
12 facility for which the provider does not expect to receive  
13 payment from the patient or a third-party payer.

14 "Freestanding emergency center" means a facility subject  
15 to licensure under Section 32.5 of the Emergency Medical  
16 Services (EMS) Systems Act.

17 (Source: P.A. 95-331, eff. 8-21-07; 95-543, eff. 8-28-07;  
18 95-584, eff. 8-31-07; 95-727, eff. 6-30-08; 95-876, eff.  
19 8-21-08; 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000,  
20 eff. 7-2-10.)

21 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

22 (Section scheduled to be repealed on December 31, 2019)

23 Sec. 12. Powers and duties of State Board. For purposes of  
24 this Act, the State Board shall exercise the following powers  
25 and duties:

1           (1) Prescribe rules, regulations, standards, criteria,  
2 procedures or reviews which may vary according to the purpose  
3 for which a particular review is being conducted or the type of  
4 project reviewed and which are required to carry out the  
5 provisions and purposes of this Act. Policies and procedures of  
6 the State Board shall take into consideration the priorities  
7 and needs of medically underserved areas and other health care  
8 services identified through the comprehensive health planning  
9 process, giving special consideration to the impact of projects  
10 on access to safety net services.

11           (2) Adopt procedures for public notice and hearing on all  
12 proposed rules, regulations, standards, criteria, and plans  
13 required to carry out the provisions of this Act.

14           (3) (Blank).

15           (4) Develop criteria and standards for health care  
16 facilities planning, conduct statewide inventories of health  
17 care facilities, maintain an updated inventory on the Board's  
18 web site reflecting the most recent bed and service changes and  
19 updated need determinations when new census data become  
20 available or new need formulae are adopted, and develop health  
21 care facility plans which shall be utilized in the review of  
22 applications for permit under this Act. Such health facility  
23 plans shall be coordinated by the Board with pertinent State  
24 Plans. Inventories pursuant to this Section of skilled or  
25 intermediate care facilities licensed under the Nursing Home  
26 Care Act, skilled or intermediate care facilities licensed

1 under the ID/DD ~~MR/DD~~ Community Care Act, or nursing homes  
2 licensed under the Hospital Licensing Act shall be conducted on  
3 an annual basis no later than July 1 of each year and shall  
4 include among the information requested a list of all services  
5 provided by a facility to its residents and to the community at  
6 large and differentiate between active and inactive beds.

7 In developing health care facility plans, the State Board  
8 shall consider, but shall not be limited to, the following:

9 (a) The size, composition and growth of the population  
10 of the area to be served;

11 (b) The number of existing and planned facilities  
12 offering similar programs;

13 (c) The extent of utilization of existing facilities;

14 (d) The availability of facilities which may serve as  
15 alternatives or substitutes;

16 (e) The availability of personnel necessary to the  
17 operation of the facility;

18 (f) Multi-institutional planning and the establishment  
19 of multi-institutional systems where feasible;

20 (g) The financial and economic feasibility of proposed  
21 construction or modification; and

22 (h) In the case of health care facilities established  
23 by a religious body or denomination, the needs of the  
24 members of such religious body or denomination may be  
25 considered to be public need.

26 The health care facility plans which are developed and



1 adopted in accordance with this Section shall form the basis  
2 for the plan of the State to deal most effectively with  
3 statewide health needs in regard to health care facilities.

4 (5) Coordinate with the Center for Comprehensive Health  
5 Planning and other state agencies having responsibilities  
6 affecting health care facilities, including those of licensure  
7 and cost reporting.

8 (6) Solicit, accept, hold and administer on behalf of the  
9 State any grants or bequests of money, securities or property  
10 for use by the State Board or Center for Comprehensive Health  
11 Planning in the administration of this Act; and enter into  
12 contracts consistent with the appropriations for purposes  
13 enumerated in this Act.

14 (7) The State Board shall prescribe procedures for review,  
15 standards, and criteria which shall be utilized to make  
16 periodic reviews and determinations of the appropriateness of  
17 any existing health services being rendered by health care  
18 facilities subject to the Act. The State Board shall consider  
19 recommendations of the Board in making its determinations.

20 (8) Prescribe, in consultation with the Center for  
21 Comprehensive Health Planning, rules, regulations, standards,  
22 and criteria for the conduct of an expeditious review of  
23 applications for permits for projects of construction or  
24 modification of a health care facility, which projects are  
25 classified as emergency, substantive, or non-substantive in  
26 nature.

1           Six months after June 30, 2009 (the effective date of  
2 Public Act 96-31), substantive projects shall include no more  
3 than the following:

4           (a) Projects to construct (1) a new or replacement  
5 facility located on a new site or (2) a replacement  
6 facility located on the same site as the original facility  
7 and the cost of the replacement facility exceeds the  
8 capital expenditure minimum;

9           (b) Projects proposing a (1) new service or (2)  
10 discontinuation of a service, which shall be reviewed by  
11 the Board within 60 days; or

12           (c) Projects proposing a change in the bed capacity of  
13 a health care facility by an increase in the total number  
14 of beds or by a redistribution of beds among various  
15 categories of service or by a relocation of beds from one  
16 physical facility or site to another by more than 20 beds  
17 or more than 10% of total bed capacity, as defined by the  
18 State Board, whichever is less, over a 2-year period.

19           The Chairman may approve applications for exemption that  
20 meet the criteria set forth in rules or refer them to the full  
21 Board. The Chairman may approve any unopposed application that  
22 meets all of the review criteria or refer them to the full  
23 Board.

24           Such rules shall not abridge the right of the Center for  
25 Comprehensive Health Planning to make recommendations on the  
26 classification and approval of projects, nor shall such rules

1 prevent the conduct of a public hearing upon the timely request  
2 of an interested party. Such reviews shall not exceed 60 days  
3 from the date the application is declared to be complete.

4 (9) Prescribe rules, regulations, standards, and criteria  
5 pertaining to the granting of permits for construction and  
6 modifications which are emergent in nature and must be  
7 undertaken immediately to prevent or correct structural  
8 deficiencies or hazardous conditions that may harm or injure  
9 persons using the facility, as defined in the rules and  
10 regulations of the State Board. This procedure is exempt from  
11 public hearing requirements of this Act.

12 (10) Prescribe rules, regulations, standards and criteria  
13 for the conduct of an expeditious review, not exceeding 60  
14 days, of applications for permits for projects to construct or  
15 modify health care facilities which are needed for the care and  
16 treatment of persons who have acquired immunodeficiency  
17 syndrome (AIDS) or related conditions.

18 (11) Issue written decisions upon request of the applicant  
19 or an adversely affected party to the Board within 30 days of  
20 the meeting in which a final decision has been made. A "final  
21 decision" for purposes of this Act is the decision to approve  
22 or deny an application, or take other actions permitted under  
23 this Act, at the time and date of the meeting that such action  
24 is scheduled by the Board. The staff of the State Board shall  
25 prepare a written copy of the final decision and the State  
26 Board shall approve a final copy for inclusion in the formal

1 record.

2 (12) Require at least one of its members to participate in  
3 any public hearing, after the appointment of the 9 members to  
4 the Board.

5 (13) Provide a mechanism for the public to comment on, and  
6 request changes to, draft rules and standards.

7 (14) Implement public information campaigns to regularly  
8 inform the general public about the opportunity for public  
9 hearings and public hearing procedures.

10 (15) Establish a separate set of rules and guidelines for  
11 long-term care that recognizes that nursing homes are a  
12 different business line and service model from other regulated  
13 facilities. An open and transparent process shall be developed  
14 that considers the following: how skilled nursing fits in the  
15 continuum of care with other care providers, modernization of  
16 nursing homes, establishment of more private rooms,  
17 development of alternative services, and current trends in  
18 long-term care services. The Chairman of the Board shall  
19 appoint a permanent Health Services Review Board Long-term Care  
20 Facility Advisory Subcommittee that shall develop and  
21 recommend to the Board the rules to be established by the Board  
22 under this paragraph (15). The Subcommittee shall also provide  
23 continuous review and commentary on policies and procedures  
24 relative to long-term care and the review of related projects.  
25 In consultation with other experts from the health field of  
26 long-term care, the Board and the Subcommittee shall study new

1 approaches to the current bed need formula and Health Service  
2 Area boundaries to encourage flexibility and innovation in  
3 design models reflective of the changing long-term care  
4 marketplace and consumer preferences. The Board shall file the  
5 proposed related administrative rules for the separate rules  
6 and guidelines for long-term care required by this paragraph  
7 (15) by September 1, 2010. The Subcommittee shall be provided a  
8 reasonable and timely opportunity to review and comment on any  
9 review, revision, or updating of the criteria, standards,  
10 procedures, and rules used to evaluate project applications as  
11 provided under Section 12.3 of this Act prior to approval by  
12 the Board and promulgation of related rules.

13 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;  
14 96-1000, eff. 7-2-10.)

15 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

16 (Section scheduled to be repealed on December 31, 2019)

17 Sec. 13. Investigation of applications for permits and  
18 certificates of recognition. The Agency or the State Board  
19 shall make or cause to be made such investigations as it or the  
20 State Board deems necessary in connection with an application  
21 for a permit or an application for a certificate of  
22 recognition, or in connection with a determination of whether  
23 or not construction or modification which has been commenced is  
24 in accord with the permit issued by the State Board or whether  
25 construction or modification has been commenced without a

1 permit having been obtained. The State Board may issue  
2 subpoenas duces tecum requiring the production of records and  
3 may administer oaths to such witnesses.

4 Any circuit court of this State, upon the application of  
5 the State Board or upon the application of any party to such  
6 proceedings, may, in its discretion, compel the attendance of  
7 witnesses, the production of books, papers, records, or  
8 memoranda and the giving of testimony before the State Board,  
9 by a proceeding as for contempt, or otherwise, in the same  
10 manner as production of evidence may be compelled before the  
11 court.

12 The State Board shall require all health facilities  
13 operating in this State to provide such reasonable reports at  
14 such times and containing such information as is needed by it  
15 to carry out the purposes and provisions of this Act. Prior to  
16 collecting information from health facilities, the State Board  
17 shall make reasonable efforts through a public process to  
18 consult with health facilities and associations that represent  
19 them to determine whether data and information requests will  
20 result in useful information for health planning, whether  
21 sufficient information is available from other sources, and  
22 whether data requested is routinely collected by health  
23 facilities and is available without retrospective record  
24 review. Data and information requests shall not impose undue  
25 paperwork burdens on health care facilities and personnel.  
26 Health facilities not complying with this requirement shall be

1 reported to licensing, accrediting, certifying, or payment  
2 agencies as being in violation of State law. Health care  
3 facilities and other parties at interest shall have reasonable  
4 access, under rules established by the State Board, to all  
5 planning information submitted in accord with this Act  
6 pertaining to their area.

7 Among the reports to be required by the State Board are  
8 facility questionnaires for health care facilities licensed  
9 under the Ambulatory Surgical Treatment Center Act, the  
10 Hospital Licensing Act, the Nursing Home Care Act, the ID/DD  
11 ~~MR/DD~~ Community Care Act, or the End Stage Renal Disease  
12 Facility Act. These questionnaires shall be conducted on an  
13 annual basis and compiled by the Agency. For health care  
14 facilities licensed under the Nursing Home Care Act or the  
15 ID/DD ~~MR/DD~~ Community Care Act, these reports shall include,  
16 but not be limited to, the identification of specialty services  
17 provided by the facility to patients, residents, and the  
18 community at large. For health care facilities that contain  
19 long term care beds, the reports shall also include the number  
20 of staffed long term care beds, physical capacity for long term  
21 care beds at the facility, and long term care beds available  
22 for immediate occupancy. For purposes of this paragraph, "long  
23 term care beds" means beds (i) licensed under the Nursing Home  
24 Care Act, (ii) licensed under the ID/DD ~~MR/DD~~ Community Care  
25 Act, or (iii) licensed under the Hospital Licensing Act and  
26 certified as skilled nursing or nursing facility beds under

1 Medicaid or Medicare.

2 (Source: P.A. 96-339, eff. 7-1-10.)

3 (20 ILCS 3960/14.1)

4 Sec. 14.1. Denial of permit; other sanctions.

5 (a) The State Board may deny an application for a permit or  
6 may revoke or take other action as permitted by this Act with  
7 regard to a permit as the State Board deems appropriate,  
8 including the imposition of fines as set forth in this Section,  
9 for any one or a combination of the following:

10 (1) The acquisition of major medical equipment without  
11 a permit or in violation of the terms of a permit.

12 (2) The establishment, construction, or modification  
13 of a health care facility without a permit or in violation  
14 of the terms of a permit.

15 (3) The violation of any provision of this Act or any  
16 rule adopted under this Act.

17 (4) The failure, by any person subject to this Act, to  
18 provide information requested by the State Board or Agency  
19 within 30 days after a formal written request for the  
20 information.

21 (5) The failure to pay any fine imposed under this  
22 Section within 30 days of its imposition.

23 (a-5) For facilities licensed under the ID/DD ~~MR/DD~~  
24 Community Care Act, no permit shall be denied on the basis of  
25 prior operator history, other than for actions specified under



1 item (2), (4), or (5) of Section 3-117 of the ID/DD ~~MR/DD~~  
2 Community Care Act. For facilities licensed under the Nursing  
3 Home Care Act, no permit shall be denied on the basis of prior  
4 operator history, other than for: (i) actions specified under  
5 item (2), (3), (4), (5), or (6) of Section 3-117 of the Nursing  
6 Home Care Act; (ii) actions specified under item (a)(6) of  
7 Section 3-119 of the Nursing Home Care Act; or (iii) actions  
8 within the preceding 5 years constituting a substantial and  
9 repeated failure to comply with the Nursing Home Care Act or  
10 the rules and regulations adopted by the Department under that  
11 Act. The State Board shall not deny a permit on account of any  
12 action described in this subsection (a-5) without also  
13 considering all such actions in the light of all relevant  
14 information available to the State Board, including whether the  
15 permit is sought to substantially comply with a mandatory or  
16 voluntary plan of correction associated with any action  
17 described in this subsection (a-5).

18 (b) Persons shall be subject to fines as follows:

19 (1) A permit holder who fails to comply with the  
20 requirements of maintaining a valid permit shall be fined  
21 an amount not to exceed 1% of the approved permit amount  
22 plus an additional 1% of the approved permit amount for  
23 each 30-day period, or fraction thereof, that the violation  
24 continues.

25 (2) A permit holder who alters the scope of an approved  
26 project or whose project costs exceed the allowable permit

1 amount without first obtaining approval from the State  
2 Board shall be fined an amount not to exceed the sum of (i)  
3 the lesser of \$25,000 or 2% of the approved permit amount  
4 and (ii) in those cases where the approved permit amount is  
5 exceeded by more than \$1,000,000, an additional \$20,000 for  
6 each \$1,000,000, or fraction thereof, in excess of the  
7 approved permit amount.

8 (3) A person who acquires major medical equipment or  
9 who establishes a category of service without first  
10 obtaining a permit or exemption, as the case may be, shall  
11 be fined an amount not to exceed \$10,000 for each such  
12 acquisition or category of service established plus an  
13 additional \$10,000 for each 30-day period, or fraction  
14 thereof, that the violation continues.

15 (4) A person who constructs, modifies, or establishes a  
16 health care facility without first obtaining a permit shall  
17 be fined an amount not to exceed \$25,000 plus an additional  
18 \$25,000 for each 30-day period, or fraction thereof, that  
19 the violation continues.

20 (5) A person who discontinues a health care facility or  
21 a category of service without first obtaining a permit  
22 shall be fined an amount not to exceed \$10,000 plus an  
23 additional \$10,000 for each 30-day period, or fraction  
24 thereof, that the violation continues. For purposes of this  
25 subparagraph (5), facilities licensed under the Nursing  
26 Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, with

1 the exceptions of facilities operated by a county or  
2 Illinois Veterans Homes, are exempt from this permit  
3 requirement. However, facilities licensed under the  
4 Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act  
5 must comply with Section 3-423 of the Nursing Home Care Act  
6 or Section 3-423 of the ID/DD ~~MR/DD~~ Community Care Act and  
7 must provide the Board with 30-days' written notice of its  
8 intent to close.

9 (6) A person subject to this Act who fails to provide  
10 information requested by the State Board or Agency within  
11 30 days of a formal written request shall be fined an  
12 amount not to exceed \$1,000 plus an additional \$1,000 for  
13 each 30-day period, or fraction thereof, that the  
14 information is not received by the State Board or Agency.

15 (c) Before imposing any fine authorized under this Section,  
16 the State Board shall afford the person or permit holder, as  
17 the case may be, an appearance before the State Board and an  
18 opportunity for a hearing before a hearing officer appointed by  
19 the State Board. The hearing shall be conducted in accordance  
20 with Section 10.

21 (d) All fines collected under this Act shall be transmitted  
22 to the State Treasurer, who shall deposit them into the  
23 Illinois Health Facilities Planning Fund.

24 (Source: P.A. 95-543, eff. 8-28-07; 96-339, eff. 7-1-10;  
25 96-1372, eff. 7-29-10.)

1           Section 30. The State Finance Act is amended by changing  
2           Section 8.8 as follows:

3           (30 ILCS 105/8.8) (from Ch. 127, par. 144.8)

4           Sec. 8.8. Appropriations for the improvement, development,  
5           addition or expansion of services for the care, treatment, and  
6           training of persons who are intellectually disabled ~~mentally~~  
7           ~~retarded~~ or subject to involuntary admission under the Mental  
8           Health and Developmental Disabilities Code or for the financing  
9           of any program designed to provide such improvement,  
10          development, addition or expansion of services or for expenses  
11          incurred in administering the provisions of Sections 5-105 to  
12          5-115, inclusive, of the Mental Health and Developmental  
13          Disabilities Code, or other ordinary and contingent expenses of  
14          the Department of Human Services relating to mental health and  
15          developmental disabilities, are payable from the Mental Health  
16          Fund. However, no expenditures shall be made for the purchase,  
17          construction, lease, or rental of buildings for use as  
18          State-operated mental health or developmental disability  
19          facilities.

20          (Source: P.A. 96-959, eff. 7-1-10.)

21          Section 35. The Business Enterprise for Minorities,  
22          Females, and Persons with Disabilities Act is amended by  
23          changing Section 2 as follows:

1 (30 ILCS 575/2)

2 (Section scheduled to be repealed on June 30, 2012)

3 Sec. 2. Definitions.

4 (A) For the purpose of this Act, the following terms shall  
5 have the following definitions:

6 (1) "Minority person" shall mean a person who is a citizen  
7 or lawful permanent resident of the United States and who is:

8 (a) African American (a person having origins in any of  
9 the black racial groups in Africa);

10 (b) Hispanic (a person of Spanish or Portuguese culture  
11 with origins in Mexico, South or Central America, or the  
12 Caribbean Islands, regardless of race);

13 (c) Asian American (a person having origins in any of  
14 the original peoples of the Far East, Southeast Asia, the  
15 Indian Subcontinent or the Pacific Islands); or

16 (d) Native American or Alaskan Native (a person having  
17 origins in any of the original peoples of North America).

18 (2) "Female" shall mean a person who is a citizen or lawful  
19 permanent resident of the United States and who is of the  
20 female gender.

21 (2.05) "Person with a disability" means a person who is a  
22 citizen or lawful resident of the United States and is a person  
23 qualifying as being disabled under subdivision (2.1) of this  
24 subsection (A).

25 (2.1) "Disabled" means a severe physical or mental  
26 disability that:

1 (a) results from:  
2 amputation,  
3 arthritis,  
4 autism,  
5 blindness,  
6 burn injury,  
7 cancer,  
8 cerebral palsy,  
9 Crohn's disease,  
10 cystic fibrosis,  
11 deafness,  
12 head injury,  
13 heart disease,  
14 hemiplegia,  
15 hemophilia,  
16 respiratory or pulmonary dysfunction,  
17 an intellectual disability ~~mental retardation~~,  
18 mental illness,  
19 multiple sclerosis,  
20 muscular dystrophy,  
21 musculoskeletal disorders,  
22 neurological disorders, including stroke and epilepsy,  
23 paraplegia,  
24 quadriplegia and other spinal cord conditions,  
25 sickle cell anemia,  
26 ulcerative colitis,

1 specific learning disabilities, or  
2 end stage renal failure disease; and

3 (b) substantially limits one or more of the person's major  
4 life activities.

5 Another disability or combination of disabilities may also  
6 be considered as a severe disability for the purposes of item  
7 (a) of this subdivision (2.1) if it is determined by an  
8 evaluation of rehabilitation potential to cause a comparable  
9 degree of substantial functional limitation similar to the  
10 specific list of disabilities listed in item (a) of this  
11 subdivision (2.1).

12 (3) "Minority owned business" means a business concern  
13 which is at least 51% owned by one or more minority persons, or  
14 in the case of a corporation, at least 51% of the stock in  
15 which is owned by one or more minority persons; and the  
16 management and daily business operations of which are  
17 controlled by one or more of the minority individuals who own  
18 it.

19 (4) "Female owned business" means a business concern which  
20 is at least 51% owned by one or more females, or, in the case of  
21 a corporation, at least 51% of the stock in which is owned by  
22 one or more females; and the management and daily business  
23 operations of which are controlled by one or more of the  
24 females who own it.

25 (4.1) "Business owned by a person with a disability" means  
26 a business concern that is at least 51% owned by one or more

1 persons with a disability and the management and daily business  
2 operations of which are controlled by one or more of the  
3 persons with disabilities who own it. A not-for-profit agency  
4 for persons with disabilities that is exempt from taxation  
5 under Section 501 of the Internal Revenue Code of 1986 is also  
6 considered a "business owned by a person with a disability".

7 (4.2) "Council" means the Business Enterprise Council for  
8 Minorities, Females, and Persons with Disabilities created  
9 under Section 5 of this Act.

10 (5) "State contracts" shall mean all State contracts,  
11 funded exclusively with State funds which are not subject to  
12 federal reimbursement, whether competitively bid or negotiated  
13 as defined by the Secretary of the Council and approved by the  
14 Council.

15 "State construction contracts" means all State contracts  
16 entered into by a State agency or State university for the  
17 repair, remodeling, renovation or construction of a building or  
18 structure, or for the construction or maintenance of a highway  
19 defined in Article 2 of the Illinois Highway Code.

20 (6) "State agencies" shall mean all departments, officers,  
21 boards, commissions, institutions and bodies politic and  
22 corporate of the State, but does not include the Board of  
23 Trustees of the University of Illinois, the Board of Trustees  
24 of Southern Illinois University, the Board of Trustees of  
25 Chicago State University, the Board of Trustees of Eastern  
26 Illinois University, the Board of Trustees of Governors State



1 University, the Board of Trustees of Illinois State University,  
2 the Board of Trustees of Northeastern Illinois University, the  
3 Board of Trustees of Northern Illinois University, the Board of  
4 Trustees of Western Illinois University, municipalities or  
5 other local governmental units, or other State constitutional  
6 officers.

7 (7) "State universities" shall mean the Board of Trustees  
8 of the University of Illinois, the Board of Trustees of  
9 Southern Illinois University, the Board of Trustees of Chicago  
10 State University, the Board of Trustees of Eastern Illinois  
11 University, the Board of Trustees of Governors State  
12 University, the Board of Trustees of Illinois State University,  
13 the Board of Trustees of Northeastern Illinois University, the  
14 Board of Trustees of Northern Illinois University, and the  
15 Board of Trustees of Western Illinois University.

16 (8) "Certification" means a determination made by the  
17 Council or by one delegated authority from the Council to make  
18 certifications, or by a State agency with statutory authority  
19 to make such a certification, that a business entity is a  
20 business owned by a minority, female, or person with a  
21 disability for whatever purpose. A business owned and  
22 controlled by females shall select and designate whether such  
23 business is to be certified as a "Female-owned business" or  
24 "Minority-owned business" if the females are also minorities.

25 (9) "Control" means the exclusive or ultimate and sole  
26 control of the business including, but not limited to, capital

1 investment and all other financial matters, property,  
2 acquisitions, contract negotiations, legal matters,  
3 officer-director-employee selection and comprehensive hiring,  
4 operating responsibilities, cost-control matters, income and  
5 dividend matters, financial transactions and rights of other  
6 shareholders or joint partners. Control shall be real,  
7 substantial and continuing, not pro forma. Control shall  
8 include the power to direct or cause the direction of the  
9 management and policies of the business and to make the  
10 day-to-day as well as major decisions in matters of policy,  
11 management and operations. Control shall be exemplified by  
12 possessing the requisite knowledge and expertise to run the  
13 particular business and control shall not include simple  
14 majority or absentee ownership.

15 (10) "Business concern or business" means a business that  
16 has annual gross sales of less than \$75,000,000 as evidenced by  
17 the federal income tax return of the business. A firm with  
18 gross sales in excess of this cap may apply to the Council for  
19 certification for a particular contract if the firm can  
20 demonstrate that the contract would have significant impact on  
21 businesses owned by minorities, females, or persons with  
22 disabilities as suppliers or subcontractors or in employment of  
23 minorities, females, or persons with disabilities.

24 (B) When a business concern is owned at least 51% by any  
25 combination of minority persons, females, or persons with  
26 disabilities, even though none of the 3 classes alone holds at

1 least a 51% interest, the ownership requirement for purposes of  
2 this Act is considered to be met. The certification category  
3 for the business is that of the class holding the largest  
4 ownership interest in the business. If 2 or more classes have  
5 equal ownership interests, the certification category shall be  
6 determined by the business concern.

7 (Source: P.A. 95-344, eff. 8-21-07; 96-453, eff. 8-14-09;  
8 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for effective  
9 date of changes made by P.A. 96-795); 96-1000, eff. 7-2-10.)

10 Section 36. The Illinois Income Tax Act is amended by  
11 changing Section 806 as follows:

12 (35 ILCS 5/806)

13 Sec. 806. Exemption from penalty. An individual taxpayer  
14 shall not be subject to a penalty for failing to pay estimated  
15 tax as required by Section 803 if the taxpayer is 65 years of  
16 age or older and is a permanent resident of a nursing home. For  
17 purposes of this Section, "nursing home" means a skilled  
18 nursing or intermediate long term care facility that is subject  
19 to licensure by the Illinois Department of Public Health under  
20 the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care  
21 Act.

22 (Source: P.A. 96-339, eff. 7-1-10.)

23 Section 37. The Use Tax Act is amended by changing Section

1 3-5 as follows:

2 (35 ILCS 105/3-5)

3 Sec. 3-5. Exemptions. Use of the following tangible  
4 personal property is exempt from the tax imposed by this Act:

5 (1) Personal property purchased from a corporation,  
6 society, association, foundation, institution, or  
7 organization, other than a limited liability company, that is  
8 organized and operated as a not-for-profit service enterprise  
9 for the benefit of persons 65 years of age or older if the  
10 personal property was not purchased by the enterprise for the  
11 purpose of resale by the enterprise.

12 (2) Personal property purchased by a not-for-profit  
13 Illinois county fair association for use in conducting,  
14 operating, or promoting the county fair.

15 (3) Personal property purchased by a not-for-profit arts or  
16 cultural organization that establishes, by proof required by  
17 the Department by rule, that it has received an exemption under  
18 Section 501(c)(3) of the Internal Revenue Code and that is  
19 organized and operated primarily for the presentation or  
20 support of arts or cultural programming, activities, or  
21 services. These organizations include, but are not limited to,  
22 music and dramatic arts organizations such as symphony  
23 orchestras and theatrical groups, arts and cultural service  
24 organizations, local arts councils, visual arts organizations,  
25 and media arts organizations. On and after the effective date

1 of this amendatory Act of the 92nd General Assembly, however,  
2 an entity otherwise eligible for this exemption shall not make  
3 tax-free purchases unless it has an active identification  
4 number issued by the Department.

5 (4) Personal property purchased by a governmental body, by  
6 a corporation, society, association, foundation, or  
7 institution organized and operated exclusively for charitable,  
8 religious, or educational purposes, or by a not-for-profit  
9 corporation, society, association, foundation, institution, or  
10 organization that has no compensated officers or employees and  
11 that is organized and operated primarily for the recreation of  
12 persons 55 years of age or older. A limited liability company  
13 may qualify for the exemption under this paragraph only if the  
14 limited liability company is organized and operated  
15 exclusively for educational purposes. On and after July 1,  
16 1987, however, no entity otherwise eligible for this exemption  
17 shall make tax-free purchases unless it has an active exemption  
18 identification number issued by the Department.

19 (5) Until July 1, 2003, a passenger car that is a  
20 replacement vehicle to the extent that the purchase price of  
21 the car is subject to the Replacement Vehicle Tax.

22 (6) Until July 1, 2003 and beginning again on September 1,  
23 2004 through August 30, 2014, graphic arts machinery and  
24 equipment, including repair and replacement parts, both new and  
25 used, and including that manufactured on special order,  
26 certified by the purchaser to be used primarily for graphic

1 arts production, and including machinery and equipment  
2 purchased for lease. Equipment includes chemicals or chemicals  
3 acting as catalysts but only if the chemicals or chemicals  
4 acting as catalysts effect a direct and immediate change upon a  
5 graphic arts product.

6 (7) Farm chemicals.

7 (8) Legal tender, currency, medallions, or gold or silver  
8 coinage issued by the State of Illinois, the government of the  
9 United States of America, or the government of any foreign  
10 country, and bullion.

11 (9) Personal property purchased from a teacher-sponsored  
12 student organization affiliated with an elementary or  
13 secondary school located in Illinois.

14 (10) A motor vehicle of the first division, a motor vehicle  
15 of the second division that is a self-contained motor vehicle  
16 designed or permanently converted to provide living quarters  
17 for recreational, camping, or travel use, with direct walk  
18 through to the living quarters from the driver's seat, or a  
19 motor vehicle of the second division that is of the van  
20 configuration designed for the transportation of not less than  
21 7 nor more than 16 passengers, as defined in Section 1-146 of  
22 the Illinois Vehicle Code, that is used for automobile renting,  
23 as defined in the Automobile Renting Occupation and Use Tax  
24 Act.

25 (11) Farm machinery and equipment, both new and used,  
26 including that manufactured on special order, certified by the

1 purchaser to be used primarily for production agriculture or  
2 State or federal agricultural programs, including individual  
3 replacement parts for the machinery and equipment, including  
4 machinery and equipment purchased for lease, and including  
5 implements of husbandry defined in Section 1-130 of the  
6 Illinois Vehicle Code, farm machinery and agricultural  
7 chemical and fertilizer spreaders, and nurse wagons required to  
8 be registered under Section 3-809 of the Illinois Vehicle Code,  
9 but excluding other motor vehicles required to be registered  
10 under the Illinois Vehicle Code. Horticultural polyhouses or  
11 hoop houses used for propagating, growing, or overwintering  
12 plants shall be considered farm machinery and equipment under  
13 this item (11). Agricultural chemical tender tanks and dry  
14 boxes shall include units sold separately from a motor vehicle  
15 required to be licensed and units sold mounted on a motor  
16 vehicle required to be licensed if the selling price of the  
17 tender is separately stated.

18 Farm machinery and equipment shall include precision  
19 farming equipment that is installed or purchased to be  
20 installed on farm machinery and equipment including, but not  
21 limited to, tractors, harvesters, sprayers, planters, seeders,  
22 or spreaders. Precision farming equipment includes, but is not  
23 limited to, soil testing sensors, computers, monitors,  
24 software, global positioning and mapping systems, and other  
25 such equipment.

26 Farm machinery and equipment also includes computers,

1 sensors, software, and related equipment used primarily in the  
2 computer-assisted operation of production agriculture  
3 facilities, equipment, and activities such as, but not limited  
4 to, the collection, monitoring, and correlation of animal and  
5 crop data for the purpose of formulating animal diets and  
6 agricultural chemicals. This item (11) is exempt from the  
7 provisions of Section 3-90.

8 (12) Fuel and petroleum products sold to or used by an air  
9 common carrier, certified by the carrier to be used for  
10 consumption, shipment, or storage in the conduct of its  
11 business as an air common carrier, for a flight destined for or  
12 returning from a location or locations outside the United  
13 States without regard to previous or subsequent domestic  
14 stopovers.

15 (13) Proceeds of mandatory service charges separately  
16 stated on customers' bills for the purchase and consumption of  
17 food and beverages purchased at retail from a retailer, to the  
18 extent that the proceeds of the service charge are in fact  
19 turned over as tips or as a substitute for tips to the  
20 employees who participate directly in preparing, serving,  
21 hosting or cleaning up the food or beverage function with  
22 respect to which the service charge is imposed.

23 (14) Until July 1, 2003, oil field exploration, drilling,  
24 and production equipment, including (i) rigs and parts of rigs,  
25 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
26 tubular goods, including casing and drill strings, (iii) pumps



1 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
2 individual replacement part for oil field exploration,  
3 drilling, and production equipment, and (vi) machinery and  
4 equipment purchased for lease; but excluding motor vehicles  
5 required to be registered under the Illinois Vehicle Code.

6 (15) Photoprocessing machinery and equipment, including  
7 repair and replacement parts, both new and used, including that  
8 manufactured on special order, certified by the purchaser to be  
9 used primarily for photoprocessing, and including  
10 photoprocessing machinery and equipment purchased for lease.

11 (16) Until July 1, 2003, coal exploration, mining,  
12 offhighway hauling, processing, maintenance, and reclamation  
13 equipment, including replacement parts and equipment, and  
14 including equipment purchased for lease, but excluding motor  
15 vehicles required to be registered under the Illinois Vehicle  
16 Code.

17 (17) Until July 1, 2003, distillation machinery and  
18 equipment, sold as a unit or kit, assembled or installed by the  
19 retailer, certified by the user to be used only for the  
20 production of ethyl alcohol that will be used for consumption  
21 as motor fuel or as a component of motor fuel for the personal  
22 use of the user, and not subject to sale or resale.

23 (18) Manufacturing and assembling machinery and equipment  
24 used primarily in the process of manufacturing or assembling  
25 tangible personal property for wholesale or retail sale or  
26 lease, whether that sale or lease is made directly by the

1 manufacturer or by some other person, whether the materials  
2 used in the process are owned by the manufacturer or some other  
3 person, or whether that sale or lease is made apart from or as  
4 an incident to the seller's engaging in the service occupation  
5 of producing machines, tools, dies, jigs, patterns, gauges, or  
6 other similar items of no commercial value on special order for  
7 a particular purchaser.

8 (19) Personal property delivered to a purchaser or  
9 purchaser's donee inside Illinois when the purchase order for  
10 that personal property was received by a florist located  
11 outside Illinois who has a florist located inside Illinois  
12 deliver the personal property.

13 (20) Semen used for artificial insemination of livestock  
14 for direct agricultural production.

15 (21) Horses, or interests in horses, registered with and  
16 meeting the requirements of any of the Arabian Horse Club  
17 Registry of America, Appaloosa Horse Club, American Quarter  
18 Horse Association, United States Trotting Association, or  
19 Jockey Club, as appropriate, used for purposes of breeding or  
20 racing for prizes. This item (21) is exempt from the provisions  
21 of Section 3-90, and the exemption provided for under this item  
22 (21) applies for all periods beginning May 30, 1995, but no  
23 claim for credit or refund is allowed on or after January 1,  
24 2008 for such taxes paid during the period beginning May 30,  
25 2000 and ending on January 1, 2008.

26 (22) Computers and communications equipment utilized for

1 any hospital purpose and equipment used in the diagnosis,  
2 analysis, or treatment of hospital patients purchased by a  
3 lessor who leases the equipment, under a lease of one year or  
4 longer executed or in effect at the time the lessor would  
5 otherwise be subject to the tax imposed by this Act, to a  
6 hospital that has been issued an active tax exemption  
7 identification number by the Department under Section 1g of the  
8 Retailers' Occupation Tax Act. If the equipment is leased in a  
9 manner that does not qualify for this exemption or is used in  
10 any other non-exempt manner, the lessor shall be liable for the  
11 tax imposed under this Act or the Service Use Tax Act, as the  
12 case may be, based on the fair market value of the property at  
13 the time the non-qualifying use occurs. No lessor shall collect  
14 or attempt to collect an amount (however designated) that  
15 purports to reimburse that lessor for the tax imposed by this  
16 Act or the Service Use Tax Act, as the case may be, if the tax  
17 has not been paid by the lessor. If a lessor improperly  
18 collects any such amount from the lessee, the lessee shall have  
19 a legal right to claim a refund of that amount from the lessor.  
20 If, however, that amount is not refunded to the lessee for any  
21 reason, the lessor is liable to pay that amount to the  
22 Department.

23 (23) Personal property purchased by a lessor who leases the  
24 property, under a lease of one year or longer executed or in  
25 effect at the time the lessor would otherwise be subject to the  
26 tax imposed by this Act, to a governmental body that has been

1 issued an active sales tax exemption identification number by  
2 the Department under Section 1g of the Retailers' Occupation  
3 Tax Act. If the property is leased in a manner that does not  
4 qualify for this exemption or used in any other non-exempt  
5 manner, the lessor shall be liable for the tax imposed under  
6 this Act or the Service Use Tax Act, as the case may be, based  
7 on the fair market value of the property at the time the  
8 non-qualifying use occurs. No lessor shall collect or attempt  
9 to collect an amount (however designated) that purports to  
10 reimburse that lessor for the tax imposed by this Act or the  
11 Service Use Tax Act, as the case may be, if the tax has not been  
12 paid by the lessor. If a lessor improperly collects any such  
13 amount from the lessee, the lessee shall have a legal right to  
14 claim a refund of that amount from the lessor. If, however,  
15 that amount is not refunded to the lessee for any reason, the  
16 lessor is liable to pay that amount to the Department.

17 (24) Beginning with taxable years ending on or after  
18 December 31, 1995 and ending with taxable years ending on or  
19 before December 31, 2004, personal property that is donated for  
20 disaster relief to be used in a State or federally declared  
21 disaster area in Illinois or bordering Illinois by a  
22 manufacturer or retailer that is registered in this State to a  
23 corporation, society, association, foundation, or institution  
24 that has been issued a sales tax exemption identification  
25 number by the Department that assists victims of the disaster  
26 who reside within the declared disaster area.

1           (25) Beginning with taxable years ending on or after  
2 December 31, 1995 and ending with taxable years ending on or  
3 before December 31, 2004, personal property that is used in the  
4 performance of infrastructure repairs in this State, including  
5 but not limited to municipal roads and streets, access roads,  
6 bridges, sidewalks, waste disposal systems, water and sewer  
7 line extensions, water distribution and purification  
8 facilities, storm water drainage and retention facilities, and  
9 sewage treatment facilities, resulting from a State or  
10 federally declared disaster in Illinois or bordering Illinois  
11 when such repairs are initiated on facilities located in the  
12 declared disaster area within 6 months after the disaster.

13           (26) Beginning July 1, 1999, game or game birds purchased  
14 at a "game breeding and hunting preserve area" or an "exotic  
15 game hunting area" as those terms are used in the Wildlife Code  
16 or at a hunting enclosure approved through rules adopted by the  
17 Department of Natural Resources. This paragraph is exempt from  
18 the provisions of Section 3-90.

19           (27) A motor vehicle, as that term is defined in Section  
20 1-146 of the Illinois Vehicle Code, that is donated to a  
21 corporation, limited liability company, society, association,  
22 foundation, or institution that is determined by the Department  
23 to be organized and operated exclusively for educational  
24 purposes. For purposes of this exemption, "a corporation,  
25 limited liability company, society, association, foundation,  
26 or institution organized and operated exclusively for

1 educational purposes" means all tax-supported public schools,  
2 private schools that offer systematic instruction in useful  
3 branches of learning by methods common to public schools and  
4 that compare favorably in their scope and intensity with the  
5 course of study presented in tax-supported schools, and  
6 vocational or technical schools or institutes organized and  
7 operated exclusively to provide a course of study of not less  
8 than 6 weeks duration and designed to prepare individuals to  
9 follow a trade or to pursue a manual, technical, mechanical,  
10 industrial, business, or commercial occupation.

11 (28) Beginning January 1, 2000, personal property,  
12 including food, purchased through fundraising events for the  
13 benefit of a public or private elementary or secondary school,  
14 a group of those schools, or one or more school districts if  
15 the events are sponsored by an entity recognized by the school  
16 district that consists primarily of volunteers and includes  
17 parents and teachers of the school children. This paragraph  
18 does not apply to fundraising events (i) for the benefit of  
19 private home instruction or (ii) for which the fundraising  
20 entity purchases the personal property sold at the events from  
21 another individual or entity that sold the property for the  
22 purpose of resale by the fundraising entity and that profits  
23 from the sale to the fundraising entity. This paragraph is  
24 exempt from the provisions of Section 3-90.

25 (29) Beginning January 1, 2000 and through December 31,  
26 2001, new or used automatic vending machines that prepare and

1 serve hot food and beverages, including coffee, soup, and other  
2 items, and replacement parts for these machines. Beginning  
3 January 1, 2002 and through June 30, 2003, machines and parts  
4 for machines used in commercial, coin-operated amusement and  
5 vending business if a use or occupation tax is paid on the  
6 gross receipts derived from the use of the commercial,  
7 coin-operated amusement and vending machines. This paragraph  
8 is exempt from the provisions of Section 3-90.

9 (30) Beginning January 1, 2001 and through June 30, 2011,  
10 food for human consumption that is to be consumed off the  
11 premises where it is sold (other than alcoholic beverages, soft  
12 drinks, and food that has been prepared for immediate  
13 consumption) and prescription and nonprescription medicines,  
14 drugs, medical appliances, and insulin, urine testing  
15 materials, syringes, and needles used by diabetics, for human  
16 use, when purchased for use by a person receiving medical  
17 assistance under Article V of the Illinois Public Aid Code who  
18 resides in a licensed long-term care facility, as defined in  
19 the Nursing Home Care Act, or in a licensed facility as defined  
20 in the ID/DD ~~MR/DD~~ Community Care Act.

21 (31) Beginning on the effective date of this amendatory Act  
22 of the 92nd General Assembly, computers and communications  
23 equipment utilized for any hospital purpose and equipment used  
24 in the diagnosis, analysis, or treatment of hospital patients  
25 purchased by a lessor who leases the equipment, under a lease  
26 of one year or longer executed or in effect at the time the

1 lessor would otherwise be subject to the tax imposed by this  
2 Act, to a hospital that has been issued an active tax exemption  
3 identification number by the Department under Section 1g of the  
4 Retailers' Occupation Tax Act. If the equipment is leased in a  
5 manner that does not qualify for this exemption or is used in  
6 any other nonexempt manner, the lessor shall be liable for the  
7 tax imposed under this Act or the Service Use Tax Act, as the  
8 case may be, based on the fair market value of the property at  
9 the time the nonqualifying use occurs. No lessor shall collect  
10 or attempt to collect an amount (however designated) that  
11 purports to reimburse that lessor for the tax imposed by this  
12 Act or the Service Use Tax Act, as the case may be, if the tax  
13 has not been paid by the lessor. If a lessor improperly  
14 collects any such amount from the lessee, the lessee shall have  
15 a legal right to claim a refund of that amount from the lessor.  
16 If, however, that amount is not refunded to the lessee for any  
17 reason, the lessor is liable to pay that amount to the  
18 Department. This paragraph is exempt from the provisions of  
19 Section 3-90.

20 (32) Beginning on the effective date of this amendatory Act  
21 of the 92nd General Assembly, personal property purchased by a  
22 lessor who leases the property, under a lease of one year or  
23 longer executed or in effect at the time the lessor would  
24 otherwise be subject to the tax imposed by this Act, to a  
25 governmental body that has been issued an active sales tax  
26 exemption identification number by the Department under



1 Section 1g of the Retailers' Occupation Tax Act. If the  
2 property is leased in a manner that does not qualify for this  
3 exemption or used in any other nonexempt manner, the lessor  
4 shall be liable for the tax imposed under this Act or the  
5 Service Use Tax Act, as the case may be, based on the fair  
6 market value of the property at the time the nonqualifying use  
7 occurs. No lessor shall collect or attempt to collect an amount  
8 (however designated) that purports to reimburse that lessor for  
9 the tax imposed by this Act or the Service Use Tax Act, as the  
10 case may be, if the tax has not been paid by the lessor. If a  
11 lessor improperly collects any such amount from the lessee, the  
12 lessee shall have a legal right to claim a refund of that  
13 amount from the lessor. If, however, that amount is not  
14 refunded to the lessee for any reason, the lessor is liable to  
15 pay that amount to the Department. This paragraph is exempt  
16 from the provisions of Section 3-90.

17 (33) On and after July 1, 2003 and through June 30, 2004,  
18 the use in this State of motor vehicles of the second division  
19 with a gross vehicle weight in excess of 8,000 pounds and that  
20 are subject to the commercial distribution fee imposed under  
21 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July  
22 1, 2004 and through June 30, 2005, the use in this State of  
23 motor vehicles of the second division: (i) with a gross vehicle  
24 weight rating in excess of 8,000 pounds; (ii) that are subject  
25 to the commercial distribution fee imposed under Section  
26 3-815.1 of the Illinois Vehicle Code; and (iii) that are

1 primarily used for commercial purposes. Through June 30, 2005,  
2 this exemption applies to repair and replacement parts added  
3 after the initial purchase of such a motor vehicle if that  
4 motor vehicle is used in a manner that would qualify for the  
5 rolling stock exemption otherwise provided for in this Act. For  
6 purposes of this paragraph, the term "used for commercial  
7 purposes" means the transportation of persons or property in  
8 furtherance of any commercial or industrial enterprise,  
9 whether for-hire or not.

10 (34) Beginning January 1, 2008, tangible personal property  
11 used in the construction or maintenance of a community water  
12 supply, as defined under Section 3.145 of the Environmental  
13 Protection Act, that is operated by a not-for-profit  
14 corporation that holds a valid water supply permit issued under  
15 Title IV of the Environmental Protection Act. This paragraph is  
16 exempt from the provisions of Section 3-90.

17 (35) Beginning January 1, 2010, materials, parts,  
18 equipment, components, and furnishings incorporated into or  
19 upon an aircraft as part of the modification, refurbishment,  
20 completion, replacement, repair, or maintenance of the  
21 aircraft. This exemption includes consumable supplies used in  
22 the modification, refurbishment, completion, replacement,  
23 repair, and maintenance of aircraft, but excludes any  
24 materials, parts, equipment, components, and consumable  
25 supplies used in the modification, replacement, repair, and  
26 maintenance of aircraft engines or power plants, whether such

1 engines or power plants are installed or uninstalled upon any  
2 such aircraft. "Consumable supplies" include, but are not  
3 limited to, adhesive, tape, sandpaper, general purpose  
4 lubricants, cleaning solution, latex gloves, and protective  
5 films. This exemption applies only to those organizations that  
6 (i) hold an Air Agency Certificate and are empowered to operate  
7 an approved repair station by the Federal Aviation  
8 Administration, (ii) have a Class IV Rating, and (iii) conduct  
9 operations in accordance with Part 145 of the Federal Aviation  
10 Regulations. The exemption does not include aircraft operated  
11 by a commercial air carrier providing scheduled passenger air  
12 service pursuant to authority issued under Part 121 or Part 129  
13 of the Federal Aviation Regulations.

14 (36) Tangible personal property purchased by a  
15 public-facilities corporation, as described in Section  
16 11-65-10 of the Illinois Municipal Code, for purposes of  
17 constructing or furnishing a municipal convention hall, but  
18 only if the legal title to the municipal convention hall is  
19 transferred to the municipality without any further  
20 consideration by or on behalf of the municipality at the time  
21 of the completion of the municipal convention hall or upon the  
22 retirement or redemption of any bonds or other debt instruments  
23 issued by the public-facilities corporation in connection with  
24 the development of the municipal convention hall. This  
25 exemption includes existing public-facilities corporations as  
26 provided in Section 11-65-25 of the Illinois Municipal Code.

1 This paragraph is exempt from the provisions of Section 3-90.  
2 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,  
3 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;  
4 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.  
5 7-2-10.)

6 Section 38. The Service Use Tax Act is amended by changing  
7 Sections 3-5 and 3-10 as follows:

8 (35 ILCS 110/3-5)

9 Sec. 3-5. Exemptions. Use of the following tangible  
10 personal property is exempt from the tax imposed by this Act:

11 (1) Personal property purchased from a corporation,  
12 society, association, foundation, institution, or  
13 organization, other than a limited liability company, that is  
14 organized and operated as a not-for-profit service enterprise  
15 for the benefit of persons 65 years of age or older if the  
16 personal property was not purchased by the enterprise for the  
17 purpose of resale by the enterprise.

18 (2) Personal property purchased by a non-profit Illinois  
19 county fair association for use in conducting, operating, or  
20 promoting the county fair.

21 (3) Personal property purchased by a not-for-profit arts or  
22 cultural organization that establishes, by proof required by  
23 the Department by rule, that it has received an exemption under  
24 Section 501(c)(3) of the Internal Revenue Code and that is

1 organized and operated primarily for the presentation or  
2 support of arts or cultural programming, activities, or  
3 services. These organizations include, but are not limited to,  
4 music and dramatic arts organizations such as symphony  
5 orchestras and theatrical groups, arts and cultural service  
6 organizations, local arts councils, visual arts organizations,  
7 and media arts organizations. On and after the effective date  
8 of this amendatory Act of the 92nd General Assembly, however,  
9 an entity otherwise eligible for this exemption shall not make  
10 tax-free purchases unless it has an active identification  
11 number issued by the Department.

12 (4) Legal tender, currency, medallions, or gold or silver  
13 coinage issued by the State of Illinois, the government of the  
14 United States of America, or the government of any foreign  
15 country, and bullion.

16 (5) Until July 1, 2003 and beginning again on September 1,  
17 2004 through August 30, 2014, graphic arts machinery and  
18 equipment, including repair and replacement parts, both new and  
19 used, and including that manufactured on special order or  
20 purchased for lease, certified by the purchaser to be used  
21 primarily for graphic arts production. Equipment includes  
22 chemicals or chemicals acting as catalysts but only if the  
23 chemicals or chemicals acting as catalysts effect a direct and  
24 immediate change upon a graphic arts product.

25 (6) Personal property purchased from a teacher-sponsored  
26 student organization affiliated with an elementary or

1 secondary school located in Illinois.

2 (7) Farm machinery and equipment, both new and used,  
3 including that manufactured on special order, certified by the  
4 purchaser to be used primarily for production agriculture or  
5 State or federal agricultural programs, including individual  
6 replacement parts for the machinery and equipment, including  
7 machinery and equipment purchased for lease, and including  
8 implements of husbandry defined in Section 1-130 of the  
9 Illinois Vehicle Code, farm machinery and agricultural  
10 chemical and fertilizer spreaders, and nurse wagons required to  
11 be registered under Section 3-809 of the Illinois Vehicle Code,  
12 but excluding other motor vehicles required to be registered  
13 under the Illinois Vehicle Code. Horticultural polyhouses or  
14 hoop houses used for propagating, growing, or overwintering  
15 plants shall be considered farm machinery and equipment under  
16 this item (7). Agricultural chemical tender tanks and dry boxes  
17 shall include units sold separately from a motor vehicle  
18 required to be licensed and units sold mounted on a motor  
19 vehicle required to be licensed if the selling price of the  
20 tender is separately stated.

21 Farm machinery and equipment shall include precision  
22 farming equipment that is installed or purchased to be  
23 installed on farm machinery and equipment including, but not  
24 limited to, tractors, harvesters, sprayers, planters, seeders,  
25 or spreaders. Precision farming equipment includes, but is not  
26 limited to, soil testing sensors, computers, monitors,

1 software, global positioning and mapping systems, and other  
2 such equipment.

3 Farm machinery and equipment also includes computers,  
4 sensors, software, and related equipment used primarily in the  
5 computer-assisted operation of production agriculture  
6 facilities, equipment, and activities such as, but not limited  
7 to, the collection, monitoring, and correlation of animal and  
8 crop data for the purpose of formulating animal diets and  
9 agricultural chemicals. This item (7) is exempt from the  
10 provisions of Section 3-75.

11 (8) Fuel and petroleum products sold to or used by an air  
12 common carrier, certified by the carrier to be used for  
13 consumption, shipment, or storage in the conduct of its  
14 business as an air common carrier, for a flight destined for or  
15 returning from a location or locations outside the United  
16 States without regard to previous or subsequent domestic  
17 stopovers.

18 (9) Proceeds of mandatory service charges separately  
19 stated on customers' bills for the purchase and consumption of  
20 food and beverages acquired as an incident to the purchase of a  
21 service from a serviceman, to the extent that the proceeds of  
22 the service charge are in fact turned over as tips or as a  
23 substitute for tips to the employees who participate directly  
24 in preparing, serving, hosting or cleaning up the food or  
25 beverage function with respect to which the service charge is  
26 imposed.

1           (10) Until July 1, 2003, oil field exploration, drilling,  
2 and production equipment, including (i) rigs and parts of rigs,  
3 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
4 tubular goods, including casing and drill strings, (iii) pumps  
5 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
6 individual replacement part for oil field exploration,  
7 drilling, and production equipment, and (vi) machinery and  
8 equipment purchased for lease; but excluding motor vehicles  
9 required to be registered under the Illinois Vehicle Code.

10           (11) Proceeds from the sale of photoprocessing machinery  
11 and equipment, including repair and replacement parts, both new  
12 and used, including that manufactured on special order,  
13 certified by the purchaser to be used primarily for  
14 photoprocessing, and including photoprocessing machinery and  
15 equipment purchased for lease.

16           (12) Until July 1, 2003, coal exploration, mining,  
17 offhighway hauling, processing, maintenance, and reclamation  
18 equipment, including replacement parts and equipment, and  
19 including equipment purchased for lease, but excluding motor  
20 vehicles required to be registered under the Illinois Vehicle  
21 Code.

22           (13) Semen used for artificial insemination of livestock  
23 for direct agricultural production.

24           (14) Horses, or interests in horses, registered with and  
25 meeting the requirements of any of the Arabian Horse Club  
26 Registry of America, Appaloosa Horse Club, American Quarter



1 Horse Association, United States Trotting Association, or  
2 Jockey Club, as appropriate, used for purposes of breeding or  
3 racing for prizes. This item (14) is exempt from the provisions  
4 of Section 3-75, and the exemption provided for under this item  
5 (14) applies for all periods beginning May 30, 1995, but no  
6 claim for credit or refund is allowed on or after the effective  
7 date of this amendatory Act of the 95th General Assembly for  
8 such taxes paid during the period beginning May 30, 2000 and  
9 ending on the effective date of this amendatory Act of the 95th  
10 General Assembly.

11 (15) Computers and communications equipment utilized for  
12 any hospital purpose and equipment used in the diagnosis,  
13 analysis, or treatment of hospital patients purchased by a  
14 lessor who leases the equipment, under a lease of one year or  
15 longer executed or in effect at the time the lessor would  
16 otherwise be subject to the tax imposed by this Act, to a  
17 hospital that has been issued an active tax exemption  
18 identification number by the Department under Section 1g of the  
19 Retailers' Occupation Tax Act. If the equipment is leased in a  
20 manner that does not qualify for this exemption or is used in  
21 any other non-exempt manner, the lessor shall be liable for the  
22 tax imposed under this Act or the Use Tax Act, as the case may  
23 be, based on the fair market value of the property at the time  
24 the non-qualifying use occurs. No lessor shall collect or  
25 attempt to collect an amount (however designated) that purports  
26 to reimburse that lessor for the tax imposed by this Act or the

1 Use Tax Act, as the case may be, if the tax has not been paid by  
2 the lessor. If a lessor improperly collects any such amount  
3 from the lessee, the lessee shall have a legal right to claim a  
4 refund of that amount from the lessor. If, however, that amount  
5 is not refunded to the lessee for any reason, the lessor is  
6 liable to pay that amount to the Department.

7 (16) Personal property purchased by a lessor who leases the  
8 property, under a lease of one year or longer executed or in  
9 effect at the time the lessor would otherwise be subject to the  
10 tax imposed by this Act, to a governmental body that has been  
11 issued an active tax exemption identification number by the  
12 Department under Section 1g of the Retailers' Occupation Tax  
13 Act. If the property is leased in a manner that does not  
14 qualify for this exemption or is used in any other non-exempt  
15 manner, the lessor shall be liable for the tax imposed under  
16 this Act or the Use Tax Act, as the case may be, based on the  
17 fair market value of the property at the time the  
18 non-qualifying use occurs. No lessor shall collect or attempt  
19 to collect an amount (however designated) that purports to  
20 reimburse that lessor for the tax imposed by this Act or the  
21 Use Tax Act, as the case may be, if the tax has not been paid by  
22 the lessor. If a lessor improperly collects any such amount  
23 from the lessee, the lessee shall have a legal right to claim a  
24 refund of that amount from the lessor. If, however, that amount  
25 is not refunded to the lessee for any reason, the lessor is  
26 liable to pay that amount to the Department.

1           (17) Beginning with taxable years ending on or after  
2 December 31, 1995 and ending with taxable years ending on or  
3 before December 31, 2004, personal property that is donated for  
4 disaster relief to be used in a State or federally declared  
5 disaster area in Illinois or bordering Illinois by a  
6 manufacturer or retailer that is registered in this State to a  
7 corporation, society, association, foundation, or institution  
8 that has been issued a sales tax exemption identification  
9 number by the Department that assists victims of the disaster  
10 who reside within the declared disaster area.

11           (18) Beginning with taxable years ending on or after  
12 December 31, 1995 and ending with taxable years ending on or  
13 before December 31, 2004, personal property that is used in the  
14 performance of infrastructure repairs in this State, including  
15 but not limited to municipal roads and streets, access roads,  
16 bridges, sidewalks, waste disposal systems, water and sewer  
17 line extensions, water distribution and purification  
18 facilities, storm water drainage and retention facilities, and  
19 sewage treatment facilities, resulting from a State or  
20 federally declared disaster in Illinois or bordering Illinois  
21 when such repairs are initiated on facilities located in the  
22 declared disaster area within 6 months after the disaster.

23           (19) Beginning July 1, 1999, game or game birds purchased  
24 at a "game breeding and hunting preserve area" or an "exotic  
25 game hunting area" as those terms are used in the Wildlife Code  
26 or at a hunting enclosure approved through rules adopted by the

1 Department of Natural Resources. This paragraph is exempt from  
2 the provisions of Section 3-75.

3 (20) A motor vehicle, as that term is defined in Section  
4 1-146 of the Illinois Vehicle Code, that is donated to a  
5 corporation, limited liability company, society, association,  
6 foundation, or institution that is determined by the Department  
7 to be organized and operated exclusively for educational  
8 purposes. For purposes of this exemption, "a corporation,  
9 limited liability company, society, association, foundation,  
10 or institution organized and operated exclusively for  
11 educational purposes" means all tax-supported public schools,  
12 private schools that offer systematic instruction in useful  
13 branches of learning by methods common to public schools and  
14 that compare favorably in their scope and intensity with the  
15 course of study presented in tax-supported schools, and  
16 vocational or technical schools or institutes organized and  
17 operated exclusively to provide a course of study of not less  
18 than 6 weeks duration and designed to prepare individuals to  
19 follow a trade or to pursue a manual, technical, mechanical,  
20 industrial, business, or commercial occupation.

21 (21) Beginning January 1, 2000, personal property,  
22 including food, purchased through fundraising events for the  
23 benefit of a public or private elementary or secondary school,  
24 a group of those schools, or one or more school districts if  
25 the events are sponsored by an entity recognized by the school  
26 district that consists primarily of volunteers and includes

1 parents and teachers of the school children. This paragraph  
2 does not apply to fundraising events (i) for the benefit of  
3 private home instruction or (ii) for which the fundraising  
4 entity purchases the personal property sold at the events from  
5 another individual or entity that sold the property for the  
6 purpose of resale by the fundraising entity and that profits  
7 from the sale to the fundraising entity. This paragraph is  
8 exempt from the provisions of Section 3-75.

9 (22) Beginning January 1, 2000 and through December 31,  
10 2001, new or used automatic vending machines that prepare and  
11 serve hot food and beverages, including coffee, soup, and other  
12 items, and replacement parts for these machines. Beginning  
13 January 1, 2002 and through June 30, 2003, machines and parts  
14 for machines used in commercial, coin-operated amusement and  
15 vending business if a use or occupation tax is paid on the  
16 gross receipts derived from the use of the commercial,  
17 coin-operated amusement and vending machines. This paragraph  
18 is exempt from the provisions of Section 3-75.

19 (23) Beginning August 23, 2001 and through June 30, 2011,  
20 food for human consumption that is to be consumed off the  
21 premises where it is sold (other than alcoholic beverages, soft  
22 drinks, and food that has been prepared for immediate  
23 consumption) and prescription and nonprescription medicines,  
24 drugs, medical appliances, and insulin, urine testing  
25 materials, syringes, and needles used by diabetics, for human  
26 use, when purchased for use by a person receiving medical

1 assistance under Article V of the Illinois Public Aid Code who  
2 resides in a licensed long-term care facility, as defined in  
3 the Nursing Home Care Act, or in a licensed facility as defined  
4 in the ID/DD ~~MR/DD~~ Community Care Act.

5 (24) Beginning on the effective date of this amendatory Act  
6 of the 92nd General Assembly, computers and communications  
7 equipment utilized for any hospital purpose and equipment used  
8 in the diagnosis, analysis, or treatment of hospital patients  
9 purchased by a lessor who leases the equipment, under a lease  
10 of one year or longer executed or in effect at the time the  
11 lessor would otherwise be subject to the tax imposed by this  
12 Act, to a hospital that has been issued an active tax exemption  
13 identification number by the Department under Section 1g of the  
14 Retailers' Occupation Tax Act. If the equipment is leased in a  
15 manner that does not qualify for this exemption or is used in  
16 any other nonexempt manner, the lessor shall be liable for the  
17 tax imposed under this Act or the Use Tax Act, as the case may  
18 be, based on the fair market value of the property at the time  
19 the nonqualifying use occurs. No lessor shall collect or  
20 attempt to collect an amount (however designated) that purports  
21 to reimburse that lessor for the tax imposed by this Act or the  
22 Use Tax Act, as the case may be, if the tax has not been paid by  
23 the lessor. If a lessor improperly collects any such amount  
24 from the lessee, the lessee shall have a legal right to claim a  
25 refund of that amount from the lessor. If, however, that amount  
26 is not refunded to the lessee for any reason, the lessor is

1 liable to pay that amount to the Department. This paragraph is  
2 exempt from the provisions of Section 3-75.

3 (25) Beginning on the effective date of this amendatory Act  
4 of the 92nd General Assembly, personal property purchased by a  
5 lessor who leases the property, under a lease of one year or  
6 longer executed or in effect at the time the lessor would  
7 otherwise be subject to the tax imposed by this Act, to a  
8 governmental body that has been issued an active tax exemption  
9 identification number by the Department under Section 1g of the  
10 Retailers' Occupation Tax Act. If the property is leased in a  
11 manner that does not qualify for this exemption or is used in  
12 any other nonexempt manner, the lessor shall be liable for the  
13 tax imposed under this Act or the Use Tax Act, as the case may  
14 be, based on the fair market value of the property at the time  
15 the nonqualifying use occurs. No lessor shall collect or  
16 attempt to collect an amount (however designated) that purports  
17 to reimburse that lessor for the tax imposed by this Act or the  
18 Use Tax Act, as the case may be, if the tax has not been paid by  
19 the lessor. If a lessor improperly collects any such amount  
20 from the lessee, the lessee shall have a legal right to claim a  
21 refund of that amount from the lessor. If, however, that amount  
22 is not refunded to the lessee for any reason, the lessor is  
23 liable to pay that amount to the Department. This paragraph is  
24 exempt from the provisions of Section 3-75.

25 (26) Beginning January 1, 2008, tangible personal property  
26 used in the construction or maintenance of a community water

1 supply, as defined under Section 3.145 of the Environmental  
2 Protection Act, that is operated by a not-for-profit  
3 corporation that holds a valid water supply permit issued under  
4 Title IV of the Environmental Protection Act. This paragraph is  
5 exempt from the provisions of Section 3-75.

6 (27) Beginning January 1, 2010, materials, parts,  
7 equipment, components, and furnishings incorporated into or  
8 upon an aircraft as part of the modification, refurbishment,  
9 completion, replacement, repair, or maintenance of the  
10 aircraft. This exemption includes consumable supplies used in  
11 the modification, refurbishment, completion, replacement,  
12 repair, and maintenance of aircraft, but excludes any  
13 materials, parts, equipment, components, and consumable  
14 supplies used in the modification, replacement, repair, and  
15 maintenance of aircraft engines or power plants, whether such  
16 engines or power plants are installed or uninstalled upon any  
17 such aircraft. "Consumable supplies" include, but are not  
18 limited to, adhesive, tape, sandpaper, general purpose  
19 lubricants, cleaning solution, latex gloves, and protective  
20 films. This exemption applies only to those organizations that  
21 (i) hold an Air Agency Certificate and are empowered to operate  
22 an approved repair station by the Federal Aviation  
23 Administration, (ii) have a Class IV Rating, and (iii) conduct  
24 operations in accordance with Part 145 of the Federal Aviation  
25 Regulations. The exemption does not include aircraft operated  
26 by a commercial air carrier providing scheduled passenger air



1 service pursuant to authority issued under Part 121 or Part 129  
2 of the Federal Aviation Regulations.

3 (28) Tangible personal property purchased by a  
4 public-facilities corporation, as described in Section  
5 11-65-10 of the Illinois Municipal Code, for purposes of  
6 constructing or furnishing a municipal convention hall, but  
7 only if the legal title to the municipal convention hall is  
8 transferred to the municipality without any further  
9 consideration by or on behalf of the municipality at the time  
10 of the completion of the municipal convention hall or upon the  
11 retirement or redemption of any bonds or other debt instruments  
12 issued by the public-facilities corporation in connection with  
13 the development of the municipal convention hall. This  
14 exemption includes existing public-facilities corporations as  
15 provided in Section 11-65-25 of the Illinois Municipal Code.  
16 This paragraph is exempt from the provisions of Section 3-75.

17 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,  
18 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;  
19 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.  
20 7-2-10.)

21 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

22 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
23 Section, the tax imposed by this Act is at the rate of 6.25% of  
24 the selling price of tangible personal property transferred as  
25 an incident to the sale of service, but, for the purpose of

1 computing this tax, in no event shall the selling price be less  
2 than the cost price of the property to the serviceman.

3 Beginning on July 1, 2000 and through December 31, 2000,  
4 with respect to motor fuel, as defined in Section 1.1 of the  
5 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
6 the Use Tax Act, the tax is imposed at the rate of 1.25%.

7 With respect to gasohol, as defined in the Use Tax Act, the  
8 tax imposed by this Act applies to (i) 70% of the selling price  
9 of property transferred as an incident to the sale of service  
10 on or after January 1, 1990, and before July 1, 2003, (ii) 80%  
11 of the selling price of property transferred as an incident to  
12 the sale of service on or after July 1, 2003 and on or before  
13 December 31, 2013, and (iii) 100% of the selling price  
14 thereafter. If, at any time, however, the tax under this Act on  
15 sales of gasohol, as defined in the Use Tax Act, is imposed at  
16 the rate of 1.25%, then the tax imposed by this Act applies to  
17 100% of the proceeds of sales of gasohol made during that time.

18 With respect to majority blended ethanol fuel, as defined  
19 in the Use Tax Act, the tax imposed by this Act does not apply  
20 to the selling price of property transferred as an incident to  
21 the sale of service on or after July 1, 2003 and on or before  
22 December 31, 2013 but applies to 100% of the selling price  
23 thereafter.

24 With respect to biodiesel blends, as defined in the Use Tax  
25 Act, with no less than 1% and no more than 10% biodiesel, the  
26 tax imposed by this Act applies to (i) 80% of the selling price

1 of property transferred as an incident to the sale of service  
2 on or after July 1, 2003 and on or before December 31, 2013 and  
3 (ii) 100% of the proceeds of the selling price thereafter. If,  
4 at any time, however, the tax under this Act on sales of  
5 biodiesel blends, as defined in the Use Tax Act, with no less  
6 than 1% and no more than 10% biodiesel is imposed at the rate  
7 of 1.25%, then the tax imposed by this Act applies to 100% of  
8 the proceeds of sales of biodiesel blends with no less than 1%  
9 and no more than 10% biodiesel made during that time.

10 With respect to 100% biodiesel, as defined in the Use Tax  
11 Act, and biodiesel blends, as defined in the Use Tax Act, with  
12 more than 10% but no more than 99% biodiesel, the tax imposed  
13 by this Act does not apply to the proceeds of the selling price  
14 of property transferred as an incident to the sale of service  
15 on or after July 1, 2003 and on or before December 31, 2013 but  
16 applies to 100% of the selling price thereafter.

17 At the election of any registered serviceman made for each  
18 fiscal year, sales of service in which the aggregate annual  
19 cost price of tangible personal property transferred as an  
20 incident to the sales of service is less than 35%, or 75% in  
21 the case of servicemen transferring prescription drugs or  
22 servicemen engaged in graphic arts production, of the aggregate  
23 annual total gross receipts from all sales of service, the tax  
24 imposed by this Act shall be based on the serviceman's cost  
25 price of the tangible personal property transferred as an  
26 incident to the sale of those services.

1           The tax shall be imposed at the rate of 1% on food prepared  
2 for immediate consumption and transferred incident to a sale of  
3 service subject to this Act or the Service Occupation Tax Act  
4 by an entity licensed under the Hospital Licensing Act, the  
5 Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or  
6 the Child Care Act of 1969. The tax shall also be imposed at  
7 the rate of 1% on food for human consumption that is to be  
8 consumed off the premises where it is sold (other than  
9 alcoholic beverages, soft drinks, and food that has been  
10 prepared for immediate consumption and is not otherwise  
11 included in this paragraph) and prescription and  
12 nonprescription medicines, drugs, medical appliances,  
13 modifications to a motor vehicle for the purpose of rendering  
14 it usable by a disabled person, and insulin, urine testing  
15 materials, syringes, and needles used by diabetics, for human  
16 use. For the purposes of this Section, until September 1, 2009:  
17 the term "soft drinks" means any complete, finished,  
18 ready-to-use, non-alcoholic drink, whether carbonated or not,  
19 including but not limited to soda water, cola, fruit juice,  
20 vegetable juice, carbonated water, and all other preparations  
21 commonly known as soft drinks of whatever kind or description  
22 that are contained in any closed or sealed bottle, can, carton,  
23 or container, regardless of size; but "soft drinks" does not  
24 include coffee, tea, non-carbonated water, infant formula,  
25 milk or milk products as defined in the Grade A Pasteurized  
26 Milk and Milk Products Act, or drinks containing 50% or more

1 natural fruit or vegetable juice.

2 Notwithstanding any other provisions of this Act,  
3 beginning September 1, 2009, "soft drinks" means non-alcoholic  
4 beverages that contain natural or artificial sweeteners. "Soft  
5 drinks" do not include beverages that contain milk or milk  
6 products, soy, rice or similar milk substitutes, or greater  
7 than 50% of vegetable or fruit juice by volume.

8 Until August 1, 2009, and notwithstanding any other  
9 provisions of this Act, "food for human consumption that is to  
10 be consumed off the premises where it is sold" includes all  
11 food sold through a vending machine, except soft drinks and  
12 food products that are dispensed hot from a vending machine,  
13 regardless of the location of the vending machine. Beginning  
14 August 1, 2009, and notwithstanding any other provisions of  
15 this Act, "food for human consumption that is to be consumed  
16 off the premises where it is sold" includes all food sold  
17 through a vending machine, except soft drinks, candy, and food  
18 products that are dispensed hot from a vending machine,  
19 regardless of the location of the vending machine.

20 Notwithstanding any other provisions of this Act,  
21 beginning September 1, 2009, "food for human consumption that  
22 is to be consumed off the premises where it is sold" does not  
23 include candy. For purposes of this Section, "candy" means a  
24 preparation of sugar, honey, or other natural or artificial  
25 sweeteners in combination with chocolate, fruits, nuts or other  
26 ingredients or flavorings in the form of bars, drops, or

1 pieces. "Candy" does not include any preparation that contains  
2 flour or requires refrigeration.

3 Notwithstanding any other provisions of this Act,  
4 beginning September 1, 2009, "nonprescription medicines and  
5 drugs" does not include grooming and hygiene products. For  
6 purposes of this Section, "grooming and hygiene products"  
7 includes, but is not limited to, soaps and cleaning solutions,  
8 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
9 lotions and screens, unless those products are available by  
10 prescription only, regardless of whether the products meet the  
11 definition of "over-the-counter-drugs". For the purposes of  
12 this paragraph, "over-the-counter-drug" means a drug for human  
13 use that contains a label that identifies the product as a drug  
14 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
15 label includes:

16 (A) A "Drug Facts" panel; or

17 (B) A statement of the "active ingredient(s)" with a  
18 list of those ingredients contained in the compound,  
19 substance or preparation.

20 If the property that is acquired from a serviceman is  
21 acquired outside Illinois and used outside Illinois before  
22 being brought to Illinois for use here and is taxable under  
23 this Act, the "selling price" on which the tax is computed  
24 shall be reduced by an amount that represents a reasonable  
25 allowance for depreciation for the period of prior out-of-state  
26 use.

1 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
2 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

3 Section 39. The Service Occupation Tax Act is amended by  
4 changing Sections 3-5 and 3-10 as follows:

5 (35 ILCS 115/3-5)

6 Sec. 3-5. Exemptions. The following tangible personal  
7 property is exempt from the tax imposed by this Act:

8 (1) Personal property sold by a corporation, society,  
9 association, foundation, institution, or organization, other  
10 than a limited liability company, that is organized and  
11 operated as a not-for-profit service enterprise for the benefit  
12 of persons 65 years of age or older if the personal property  
13 was not purchased by the enterprise for the purpose of resale  
14 by the enterprise.

15 (2) Personal property purchased by a not-for-profit  
16 Illinois county fair association for use in conducting,  
17 operating, or promoting the county fair.

18 (3) Personal property purchased by any not-for-profit arts  
19 or cultural organization that establishes, by proof required by  
20 the Department by rule, that it has received an exemption under  
21 Section 501(c)(3) of the Internal Revenue Code and that is  
22 organized and operated primarily for the presentation or  
23 support of arts or cultural programming, activities, or  
24 services. These organizations include, but are not limited to,

1 music and dramatic arts organizations such as symphony  
2 orchestras and theatrical groups, arts and cultural service  
3 organizations, local arts councils, visual arts organizations,  
4 and media arts organizations. On and after the effective date  
5 of this amendatory Act of the 92nd General Assembly, however,  
6 an entity otherwise eligible for this exemption shall not make  
7 tax-free purchases unless it has an active identification  
8 number issued by the Department.

9 (4) Legal tender, currency, medallions, or gold or silver  
10 coinage issued by the State of Illinois, the government of the  
11 United States of America, or the government of any foreign  
12 country, and bullion.

13 (5) Until July 1, 2003 and beginning again on September 1,  
14 2004 through August 30, 2014, graphic arts machinery and  
15 equipment, including repair and replacement parts, both new and  
16 used, and including that manufactured on special order or  
17 purchased for lease, certified by the purchaser to be used  
18 primarily for graphic arts production. Equipment includes  
19 chemicals or chemicals acting as catalysts but only if the  
20 chemicals or chemicals acting as catalysts effect a direct and  
21 immediate change upon a graphic arts product.

22 (6) Personal property sold by a teacher-sponsored student  
23 organization affiliated with an elementary or secondary school  
24 located in Illinois.

25 (7) Farm machinery and equipment, both new and used,  
26 including that manufactured on special order, certified by the



1 purchaser to be used primarily for production agriculture or  
2 State or federal agricultural programs, including individual  
3 replacement parts for the machinery and equipment, including  
4 machinery and equipment purchased for lease, and including  
5 implements of husbandry defined in Section 1-130 of the  
6 Illinois Vehicle Code, farm machinery and agricultural  
7 chemical and fertilizer spreaders, and nurse wagons required to  
8 be registered under Section 3-809 of the Illinois Vehicle Code,  
9 but excluding other motor vehicles required to be registered  
10 under the Illinois Vehicle Code. Horticultural polyhouses or  
11 hoop houses used for propagating, growing, or overwintering  
12 plants shall be considered farm machinery and equipment under  
13 this item (7). Agricultural chemical tender tanks and dry boxes  
14 shall include units sold separately from a motor vehicle  
15 required to be licensed and units sold mounted on a motor  
16 vehicle required to be licensed if the selling price of the  
17 tender is separately stated.

18 Farm machinery and equipment shall include precision  
19 farming equipment that is installed or purchased to be  
20 installed on farm machinery and equipment including, but not  
21 limited to, tractors, harvesters, sprayers, planters, seeders,  
22 or spreaders. Precision farming equipment includes, but is not  
23 limited to, soil testing sensors, computers, monitors,  
24 software, global positioning and mapping systems, and other  
25 such equipment.

26 Farm machinery and equipment also includes computers,

1 sensors, software, and related equipment used primarily in the  
2 computer-assisted operation of production agriculture  
3 facilities, equipment, and activities such as, but not limited  
4 to, the collection, monitoring, and correlation of animal and  
5 crop data for the purpose of formulating animal diets and  
6 agricultural chemicals. This item (7) is exempt from the  
7 provisions of Section 3-55.

8 (8) Fuel and petroleum products sold to or used by an air  
9 common carrier, certified by the carrier to be used for  
10 consumption, shipment, or storage in the conduct of its  
11 business as an air common carrier, for a flight destined for or  
12 returning from a location or locations outside the United  
13 States without regard to previous or subsequent domestic  
14 stopovers.

15 (9) Proceeds of mandatory service charges separately  
16 stated on customers' bills for the purchase and consumption of  
17 food and beverages, to the extent that the proceeds of the  
18 service charge are in fact turned over as tips or as a  
19 substitute for tips to the employees who participate directly  
20 in preparing, serving, hosting or cleaning up the food or  
21 beverage function with respect to which the service charge is  
22 imposed.

23 (10) Until July 1, 2003, oil field exploration, drilling,  
24 and production equipment, including (i) rigs and parts of rigs,  
25 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
26 tubular goods, including casing and drill strings, (iii) pumps

1 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
2 individual replacement part for oil field exploration,  
3 drilling, and production equipment, and (vi) machinery and  
4 equipment purchased for lease; but excluding motor vehicles  
5 required to be registered under the Illinois Vehicle Code.

6 (11) Photoprocessing machinery and equipment, including  
7 repair and replacement parts, both new and used, including that  
8 manufactured on special order, certified by the purchaser to be  
9 used primarily for photoprocessing, and including  
10 photoprocessing machinery and equipment purchased for lease.

11 (12) Until July 1, 2003, coal exploration, mining,  
12 offhighway hauling, processing, maintenance, and reclamation  
13 equipment, including replacement parts and equipment, and  
14 including equipment purchased for lease, but excluding motor  
15 vehicles required to be registered under the Illinois Vehicle  
16 Code.

17 (13) Beginning January 1, 1992 and through June 30, 2011,  
18 food for human consumption that is to be consumed off the  
19 premises where it is sold (other than alcoholic beverages, soft  
20 drinks and food that has been prepared for immediate  
21 consumption) and prescription and non-prescription medicines,  
22 drugs, medical appliances, and insulin, urine testing  
23 materials, syringes, and needles used by diabetics, for human  
24 use, when purchased for use by a person receiving medical  
25 assistance under Article V of the Illinois Public Aid Code who  
26 resides in a licensed long-term care facility, as defined in

1 the Nursing Home Care Act, or in a licensed facility as defined  
2 in the ID/DD ~~MR/DD~~ Community Care Act.

3 (14) Semen used for artificial insemination of livestock  
4 for direct agricultural production.

5 (15) Horses, or interests in horses, registered with and  
6 meeting the requirements of any of the Arabian Horse Club  
7 Registry of America, Appaloosa Horse Club, American Quarter  
8 Horse Association, United States Trotting Association, or  
9 Jockey Club, as appropriate, used for purposes of breeding or  
10 racing for prizes. This item (15) is exempt from the provisions  
11 of Section 3-55, and the exemption provided for under this item  
12 (15) applies for all periods beginning May 30, 1995, but no  
13 claim for credit or refund is allowed on or after January 1,  
14 2008 (the effective date of Public Act 95-88) for such taxes  
15 paid during the period beginning May 30, 2000 and ending on  
16 January 1, 2008 (the effective date of Public Act 95-88).

17 (16) Computers and communications equipment utilized for  
18 any hospital purpose and equipment used in the diagnosis,  
19 analysis, or treatment of hospital patients sold to a lessor  
20 who leases the equipment, under a lease of one year or longer  
21 executed or in effect at the time of the purchase, to a  
22 hospital that has been issued an active tax exemption  
23 identification number by the Department under Section 1g of the  
24 Retailers' Occupation Tax Act.

25 (17) Personal property sold to a lessor who leases the  
26 property, under a lease of one year or longer executed or in

1 effect at the time of the purchase, to a governmental body that  
2 has been issued an active tax exemption identification number  
3 by the Department under Section 1g of the Retailers' Occupation  
4 Tax Act.

5 (18) Beginning with taxable years ending on or after  
6 December 31, 1995 and ending with taxable years ending on or  
7 before December 31, 2004, personal property that is donated for  
8 disaster relief to be used in a State or federally declared  
9 disaster area in Illinois or bordering Illinois by a  
10 manufacturer or retailer that is registered in this State to a  
11 corporation, society, association, foundation, or institution  
12 that has been issued a sales tax exemption identification  
13 number by the Department that assists victims of the disaster  
14 who reside within the declared disaster area.

15 (19) Beginning with taxable years ending on or after  
16 December 31, 1995 and ending with taxable years ending on or  
17 before December 31, 2004, personal property that is used in the  
18 performance of infrastructure repairs in this State, including  
19 but not limited to municipal roads and streets, access roads,  
20 bridges, sidewalks, waste disposal systems, water and sewer  
21 line extensions, water distribution and purification  
22 facilities, storm water drainage and retention facilities, and  
23 sewage treatment facilities, resulting from a State or  
24 federally declared disaster in Illinois or bordering Illinois  
25 when such repairs are initiated on facilities located in the  
26 declared disaster area within 6 months after the disaster.

1           (20) Beginning July 1, 1999, game or game birds sold at a  
2 "game breeding and hunting preserve area" or an "exotic game  
3 hunting area" as those terms are used in the Wildlife Code or  
4 at a hunting enclosure approved through rules adopted by the  
5 Department of Natural Resources. This paragraph is exempt from  
6 the provisions of Section 3-55.

7           (21) A motor vehicle, as that term is defined in Section  
8 1-146 of the Illinois Vehicle Code, that is donated to a  
9 corporation, limited liability company, society, association,  
10 foundation, or institution that is determined by the Department  
11 to be organized and operated exclusively for educational  
12 purposes. For purposes of this exemption, "a corporation,  
13 limited liability company, society, association, foundation,  
14 or institution organized and operated exclusively for  
15 educational purposes" means all tax-supported public schools,  
16 private schools that offer systematic instruction in useful  
17 branches of learning by methods common to public schools and  
18 that compare favorably in their scope and intensity with the  
19 course of study presented in tax-supported schools, and  
20 vocational or technical schools or institutes organized and  
21 operated exclusively to provide a course of study of not less  
22 than 6 weeks duration and designed to prepare individuals to  
23 follow a trade or to pursue a manual, technical, mechanical,  
24 industrial, business, or commercial occupation.

25           (22) Beginning January 1, 2000, personal property,  
26 including food, purchased through fundraising events for the

1 benefit of a public or private elementary or secondary school,  
2 a group of those schools, or one or more school districts if  
3 the events are sponsored by an entity recognized by the school  
4 district that consists primarily of volunteers and includes  
5 parents and teachers of the school children. This paragraph  
6 does not apply to fundraising events (i) for the benefit of  
7 private home instruction or (ii) for which the fundraising  
8 entity purchases the personal property sold at the events from  
9 another individual or entity that sold the property for the  
10 purpose of resale by the fundraising entity and that profits  
11 from the sale to the fundraising entity. This paragraph is  
12 exempt from the provisions of Section 3-55.

13 (23) Beginning January 1, 2000 and through December 31,  
14 2001, new or used automatic vending machines that prepare and  
15 serve hot food and beverages, including coffee, soup, and other  
16 items, and replacement parts for these machines. Beginning  
17 January 1, 2002 and through June 30, 2003, machines and parts  
18 for machines used in commercial, coin-operated amusement and  
19 vending business if a use or occupation tax is paid on the  
20 gross receipts derived from the use of the commercial,  
21 coin-operated amusement and vending machines. This paragraph  
22 is exempt from the provisions of Section 3-55.

23 (24) Beginning on the effective date of this amendatory Act  
24 of the 92nd General Assembly, computers and communications  
25 equipment utilized for any hospital purpose and equipment used  
26 in the diagnosis, analysis, or treatment of hospital patients

1 sold to a lessor who leases the equipment, under a lease of one  
2 year or longer executed or in effect at the time of the  
3 purchase, to a hospital that has been issued an active tax  
4 exemption identification number by the Department under  
5 Section 1g of the Retailers' Occupation Tax Act. This paragraph  
6 is exempt from the provisions of Section 3-55.

7 (25) Beginning on the effective date of this amendatory Act  
8 of the 92nd General Assembly, personal property sold to a  
9 lessor who leases the property, under a lease of one year or  
10 longer executed or in effect at the time of the purchase, to a  
11 governmental body that has been issued an active tax exemption  
12 identification number by the Department under Section 1g of the  
13 Retailers' Occupation Tax Act. This paragraph is exempt from  
14 the provisions of Section 3-55.

15 (26) Beginning on January 1, 2002 and through June 30,  
16 2011, tangible personal property purchased from an Illinois  
17 retailer by a taxpayer engaged in centralized purchasing  
18 activities in Illinois who will, upon receipt of the property  
19 in Illinois, temporarily store the property in Illinois (i) for  
20 the purpose of subsequently transporting it outside this State  
21 for use or consumption thereafter solely outside this State or  
22 (ii) for the purpose of being processed, fabricated, or  
23 manufactured into, attached to, or incorporated into other  
24 tangible personal property to be transported outside this State  
25 and thereafter used or consumed solely outside this State. The  
26 Director of Revenue shall, pursuant to rules adopted in



1 accordance with the Illinois Administrative Procedure Act,  
2 issue a permit to any taxpayer in good standing with the  
3 Department who is eligible for the exemption under this  
4 paragraph (26). The permit issued under this paragraph (26)  
5 shall authorize the holder, to the extent and in the manner  
6 specified in the rules adopted under this Act, to purchase  
7 tangible personal property from a retailer exempt from the  
8 taxes imposed by this Act. Taxpayers shall maintain all  
9 necessary books and records to substantiate the use and  
10 consumption of all such tangible personal property outside of  
11 the State of Illinois.

12 (27) Beginning January 1, 2008, tangible personal property  
13 used in the construction or maintenance of a community water  
14 supply, as defined under Section 3.145 of the Environmental  
15 Protection Act, that is operated by a not-for-profit  
16 corporation that holds a valid water supply permit issued under  
17 Title IV of the Environmental Protection Act. This paragraph is  
18 exempt from the provisions of Section 3-55.

19 (28) Tangible personal property sold to a  
20 public-facilities corporation, as described in Section  
21 11-65-10 of the Illinois Municipal Code, for purposes of  
22 constructing or furnishing a municipal convention hall, but  
23 only if the legal title to the municipal convention hall is  
24 transferred to the municipality without any further  
25 consideration by or on behalf of the municipality at the time  
26 of the completion of the municipal convention hall or upon the

1 retirement or redemption of any bonds or other debt instruments  
2 issued by the public-facilities corporation in connection with  
3 the development of the municipal convention hall. This  
4 exemption includes existing public-facilities corporations as  
5 provided in Section 11-65-25 of the Illinois Municipal Code.  
6 This paragraph is exempt from the provisions of Section 3-55.

7 (29) Beginning January 1, 2010, materials, parts,  
8 equipment, components, and furnishings incorporated into or  
9 upon an aircraft as part of the modification, refurbishment,  
10 completion, replacement, repair, or maintenance of the  
11 aircraft. This exemption includes consumable supplies used in  
12 the modification, refurbishment, completion, replacement,  
13 repair, and maintenance of aircraft, but excludes any  
14 materials, parts, equipment, components, and consumable  
15 supplies used in the modification, replacement, repair, and  
16 maintenance of aircraft engines or power plants, whether such  
17 engines or power plants are installed or uninstalled upon any  
18 such aircraft. "Consumable supplies" include, but are not  
19 limited to, adhesive, tape, sandpaper, general purpose  
20 lubricants, cleaning solution, latex gloves, and protective  
21 films. This exemption applies only to those organizations that  
22 (i) hold an Air Agency Certificate and are empowered to operate  
23 an approved repair station by the Federal Aviation  
24 Administration, (ii) have a Class IV Rating, and (iii) conduct  
25 operations in accordance with Part 145 of the Federal Aviation  
26 Regulations. The exemption does not include aircraft operated

1 by a commercial air carrier providing scheduled passenger air  
2 service pursuant to authority issued under Part 121 or Part 129  
3 of the Federal Aviation Regulations.

4 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,  
5 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;  
6 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.  
7 7-2-10.)

8 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

9 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
10 Section, the tax imposed by this Act is at the rate of 6.25% of  
11 the "selling price", as defined in Section 2 of the Service Use  
12 Tax Act, of the tangible personal property. For the purpose of  
13 computing this tax, in no event shall the "selling price" be  
14 less than the cost price to the serviceman of the tangible  
15 personal property transferred. The selling price of each item  
16 of tangible personal property transferred as an incident of a  
17 sale of service may be shown as a distinct and separate item on  
18 the serviceman's billing to the service customer. If the  
19 selling price is not so shown, the selling price of the  
20 tangible personal property is deemed to be 50% of the  
21 serviceman's entire billing to the service customer. When,  
22 however, a serviceman contracts to design, develop, and produce  
23 special order machinery or equipment, the tax imposed by this  
24 Act shall be based on the serviceman's cost price of the  
25 tangible personal property transferred incident to the

1 completion of the contract.

2 Beginning on July 1, 2000 and through December 31, 2000,  
3 with respect to motor fuel, as defined in Section 1.1 of the  
4 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
5 the Use Tax Act, the tax is imposed at the rate of 1.25%.

6 With respect to gasohol, as defined in the Use Tax Act, the  
7 tax imposed by this Act shall apply to (i) 70% of the cost  
8 price of property transferred as an incident to the sale of  
9 service on or after January 1, 1990, and before July 1, 2003,  
10 (ii) 80% of the selling price of property transferred as an  
11 incident to the sale of service on or after July 1, 2003 and on  
12 or before December 31, 2013, and (iii) 100% of the cost price  
13 thereafter. If, at any time, however, the tax under this Act on  
14 sales of gasohol, as defined in the Use Tax Act, is imposed at  
15 the rate of 1.25%, then the tax imposed by this Act applies to  
16 100% of the proceeds of sales of gasohol made during that time.

17 With respect to majority blended ethanol fuel, as defined  
18 in the Use Tax Act, the tax imposed by this Act does not apply  
19 to the selling price of property transferred as an incident to  
20 the sale of service on or after July 1, 2003 and on or before  
21 December 31, 2013 but applies to 100% of the selling price  
22 thereafter.

23 With respect to biodiesel blends, as defined in the Use Tax  
24 Act, with no less than 1% and no more than 10% biodiesel, the  
25 tax imposed by this Act applies to (i) 80% of the selling price  
26 of property transferred as an incident to the sale of service

1 on or after July 1, 2003 and on or before December 31, 2013 and  
2 (ii) 100% of the proceeds of the selling price thereafter. If,  
3 at any time, however, the tax under this Act on sales of  
4 biodiesel blends, as defined in the Use Tax Act, with no less  
5 than 1% and no more than 10% biodiesel is imposed at the rate  
6 of 1.25%, then the tax imposed by this Act applies to 100% of  
7 the proceeds of sales of biodiesel blends with no less than 1%  
8 and no more than 10% biodiesel made during that time.

9 With respect to 100% biodiesel, as defined in the Use Tax  
10 Act, and biodiesel blends, as defined in the Use Tax Act, with  
11 more than 10% but no more than 99% biodiesel material, the tax  
12 imposed by this Act does not apply to the proceeds of the  
13 selling price of property transferred as an incident to the  
14 sale of service on or after July 1, 2003 and on or before  
15 December 31, 2013 but applies to 100% of the selling price  
16 thereafter.

17 At the election of any registered serviceman made for each  
18 fiscal year, sales of service in which the aggregate annual  
19 cost price of tangible personal property transferred as an  
20 incident to the sales of service is less than 35%, or 75% in  
21 the case of servicemen transferring prescription drugs or  
22 servicemen engaged in graphic arts production, of the aggregate  
23 annual total gross receipts from all sales of service, the tax  
24 imposed by this Act shall be based on the serviceman's cost  
25 price of the tangible personal property transferred incident to  
26 the sale of those services.

1           The tax shall be imposed at the rate of 1% on food prepared  
2           for immediate consumption and transferred incident to a sale of  
3           service subject to this Act or the Service Occupation Tax Act  
4           by an entity licensed under the Hospital Licensing Act, the  
5           Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or  
6           the Child Care Act of 1969. The tax shall also be imposed at  
7           the rate of 1% on food for human consumption that is to be  
8           consumed off the premises where it is sold (other than  
9           alcoholic beverages, soft drinks, and food that has been  
10          prepared for immediate consumption and is not otherwise  
11          included in this paragraph) and prescription and  
12          nonprescription medicines, drugs, medical appliances,  
13          modifications to a motor vehicle for the purpose of rendering  
14          it usable by a disabled person, and insulin, urine testing  
15          materials, syringes, and needles used by diabetics, for human  
16          use. For the purposes of this Section, until September 1, 2009:  
17          the term "soft drinks" means any complete, finished,  
18          ready-to-use, non-alcoholic drink, whether carbonated or not,  
19          including but not limited to soda water, cola, fruit juice,  
20          vegetable juice, carbonated water, and all other preparations  
21          commonly known as soft drinks of whatever kind or description  
22          that are contained in any closed or sealed can, carton, or  
23          container, regardless of size; but "soft drinks" does not  
24          include coffee, tea, non-carbonated water, infant formula,  
25          milk or milk products as defined in the Grade A Pasteurized  
26          Milk and Milk Products Act, or drinks containing 50% or more

1 natural fruit or vegetable juice.

2 Notwithstanding any other provisions of this Act,  
3 beginning September 1, 2009, "soft drinks" means non-alcoholic  
4 beverages that contain natural or artificial sweeteners. "Soft  
5 drinks" do not include beverages that contain milk or milk  
6 products, soy, rice or similar milk substitutes, or greater  
7 than 50% of vegetable or fruit juice by volume.

8 Until August 1, 2009, and notwithstanding any other  
9 provisions of this Act, "food for human consumption that is to  
10 be consumed off the premises where it is sold" includes all  
11 food sold through a vending machine, except soft drinks and  
12 food products that are dispensed hot from a vending machine,  
13 regardless of the location of the vending machine. Beginning  
14 August 1, 2009, and notwithstanding any other provisions of  
15 this Act, "food for human consumption that is to be consumed  
16 off the premises where it is sold" includes all food sold  
17 through a vending machine, except soft drinks, candy, and food  
18 products that are dispensed hot from a vending machine,  
19 regardless of the location of the vending machine.

20 Notwithstanding any other provisions of this Act,  
21 beginning September 1, 2009, "food for human consumption that  
22 is to be consumed off the premises where it is sold" does not  
23 include candy. For purposes of this Section, "candy" means a  
24 preparation of sugar, honey, or other natural or artificial  
25 sweeteners in combination with chocolate, fruits, nuts or other  
26 ingredients or flavorings in the form of bars, drops, or

1 pieces. "Candy" does not include any preparation that contains  
2 flour or requires refrigeration.

3 Notwithstanding any other provisions of this Act,  
4 beginning September 1, 2009, "nonprescription medicines and  
5 drugs" does not include grooming and hygiene products. For  
6 purposes of this Section, "grooming and hygiene products"  
7 includes, but is not limited to, soaps and cleaning solutions,  
8 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
9 lotions and screens, unless those products are available by  
10 prescription only, regardless of whether the products meet the  
11 definition of "over-the-counter-drugs". For the purposes of  
12 this paragraph, "over-the-counter-drug" means a drug for human  
13 use that contains a label that identifies the product as a drug  
14 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
15 label includes:

16 (A) A "Drug Facts" panel; or

17 (B) A statement of the "active ingredient(s)" with a  
18 list of those ingredients contained in the compound,  
19 substance or preparation.

20 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
21 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

22 Section 40. The Retailers' Occupation Tax Act is amended by  
23 changing Section 2-5 as follows:

24 (35 ILCS 120/2-5)



1           Sec. 2-5. Exemptions. Gross receipts from proceeds from the  
2 sale of the following tangible personal property are exempt  
3 from the tax imposed by this Act:

4           (1) Farm chemicals.

5           (2) Farm machinery and equipment, both new and used,  
6 including that manufactured on special order, certified by the  
7 purchaser to be used primarily for production agriculture or  
8 State or federal agricultural programs, including individual  
9 replacement parts for the machinery and equipment, including  
10 machinery and equipment purchased for lease, and including  
11 implements of husbandry defined in Section 1-130 of the  
12 Illinois Vehicle Code, farm machinery and agricultural  
13 chemical and fertilizer spreaders, and nurse wagons required to  
14 be registered under Section 3-809 of the Illinois Vehicle Code,  
15 but excluding other motor vehicles required to be registered  
16 under the Illinois Vehicle Code. Horticultural polyhouses or  
17 hoop houses used for propagating, growing, or overwintering  
18 plants shall be considered farm machinery and equipment under  
19 this item (2). Agricultural chemical tender tanks and dry boxes  
20 shall include units sold separately from a motor vehicle  
21 required to be licensed and units sold mounted on a motor  
22 vehicle required to be licensed, if the selling price of the  
23 tender is separately stated.

24           Farm machinery and equipment shall include precision  
25 farming equipment that is installed or purchased to be  
26 installed on farm machinery and equipment including, but not

1 limited to, tractors, harvesters, sprayers, planters, seeders,  
2 or spreaders. Precision farming equipment includes, but is not  
3 limited to, soil testing sensors, computers, monitors,  
4 software, global positioning and mapping systems, and other  
5 such equipment.

6 Farm machinery and equipment also includes computers,  
7 sensors, software, and related equipment used primarily in the  
8 computer-assisted operation of production agriculture  
9 facilities, equipment, and activities such as, but not limited  
10 to, the collection, monitoring, and correlation of animal and  
11 crop data for the purpose of formulating animal diets and  
12 agricultural chemicals. This item (7) is exempt from the  
13 provisions of Section 2-70.

14 (3) Until July 1, 2003, distillation machinery and  
15 equipment, sold as a unit or kit, assembled or installed by the  
16 retailer, certified by the user to be used only for the  
17 production of ethyl alcohol that will be used for consumption  
18 as motor fuel or as a component of motor fuel for the personal  
19 use of the user, and not subject to sale or resale.

20 (4) Until July 1, 2003 and beginning again September 1,  
21 2004 through August 30, 2014, graphic arts machinery and  
22 equipment, including repair and replacement parts, both new and  
23 used, and including that manufactured on special order or  
24 purchased for lease, certified by the purchaser to be used  
25 primarily for graphic arts production. Equipment includes  
26 chemicals or chemicals acting as catalysts but only if the

1 chemicals or chemicals acting as catalysts effect a direct and  
2 immediate change upon a graphic arts product.

3 (5) A motor vehicle of the first division, a motor vehicle  
4 of the second division that is a self contained motor vehicle  
5 designed or permanently converted to provide living quarters  
6 for recreational, camping, or travel use, with direct walk  
7 through access to the living quarters from the driver's seat,  
8 or a motor vehicle of the second division that is of the van  
9 configuration designed for the transportation of not less than  
10 7 nor more than 16 passengers, as defined in Section 1-146 of  
11 the Illinois Vehicle Code, that is used for automobile renting,  
12 as defined in the Automobile Renting Occupation and Use Tax  
13 Act. This paragraph is exempt from the provisions of Section  
14 2-70.

15 (6) Personal property sold by a teacher-sponsored student  
16 organization affiliated with an elementary or secondary school  
17 located in Illinois.

18 (7) Until July 1, 2003, proceeds of that portion of the  
19 selling price of a passenger car the sale of which is subject  
20 to the Replacement Vehicle Tax.

21 (8) Personal property sold to an Illinois county fair  
22 association for use in conducting, operating, or promoting the  
23 county fair.

24 (9) Personal property sold to a not-for-profit arts or  
25 cultural organization that establishes, by proof required by  
26 the Department by rule, that it has received an exemption under

1 Section 501(c)(3) of the Internal Revenue Code and that is  
2 organized and operated primarily for the presentation or  
3 support of arts or cultural programming, activities, or  
4 services. These organizations include, but are not limited to,  
5 music and dramatic arts organizations such as symphony  
6 orchestras and theatrical groups, arts and cultural service  
7 organizations, local arts councils, visual arts organizations,  
8 and media arts organizations. On and after the effective date  
9 of this amendatory Act of the 92nd General Assembly, however,  
10 an entity otherwise eligible for this exemption shall not make  
11 tax-free purchases unless it has an active identification  
12 number issued by the Department.

13 (10) Personal property sold by a corporation, society,  
14 association, foundation, institution, or organization, other  
15 than a limited liability company, that is organized and  
16 operated as a not-for-profit service enterprise for the benefit  
17 of persons 65 years of age or older if the personal property  
18 was not purchased by the enterprise for the purpose of resale  
19 by the enterprise.

20 (11) Personal property sold to a governmental body, to a  
21 corporation, society, association, foundation, or institution  
22 organized and operated exclusively for charitable, religious,  
23 or educational purposes, or to a not-for-profit corporation,  
24 society, association, foundation, institution, or organization  
25 that has no compensated officers or employees and that is  
26 organized and operated primarily for the recreation of persons

1 55 years of age or older. A limited liability company may  
2 qualify for the exemption under this paragraph only if the  
3 limited liability company is organized and operated  
4 exclusively for educational purposes. On and after July 1,  
5 1987, however, no entity otherwise eligible for this exemption  
6 shall make tax-free purchases unless it has an active  
7 identification number issued by the Department.

8 (12) Tangible personal property sold to interstate  
9 carriers for hire for use as rolling stock moving in interstate  
10 commerce or to lessors under leases of one year or longer  
11 executed or in effect at the time of purchase by interstate  
12 carriers for hire for use as rolling stock moving in interstate  
13 commerce and equipment operated by a telecommunications  
14 provider, licensed as a common carrier by the Federal  
15 Communications Commission, which is permanently installed in  
16 or affixed to aircraft moving in interstate commerce.

17 (12-5) On and after July 1, 2003 and through June 30, 2004,  
18 motor vehicles of the second division with a gross vehicle  
19 weight in excess of 8,000 pounds that are subject to the  
20 commercial distribution fee imposed under Section 3-815.1 of  
21 the Illinois Vehicle Code. Beginning on July 1, 2004 and  
22 through June 30, 2005, the use in this State of motor vehicles  
23 of the second division: (i) with a gross vehicle weight rating  
24 in excess of 8,000 pounds; (ii) that are subject to the  
25 commercial distribution fee imposed under Section 3-815.1 of  
26 the Illinois Vehicle Code; and (iii) that are primarily used

1 for commercial purposes. Through June 30, 2005, this exemption  
2 applies to repair and replacement parts added after the initial  
3 purchase of such a motor vehicle if that motor vehicle is used  
4 in a manner that would qualify for the rolling stock exemption  
5 otherwise provided for in this Act. For purposes of this  
6 paragraph, "used for commercial purposes" means the  
7 transportation of persons or property in furtherance of any  
8 commercial or industrial enterprise whether for-hire or not.

9 (13) Proceeds from sales to owners, lessors, or shippers of  
10 tangible personal property that is utilized by interstate  
11 carriers for hire for use as rolling stock moving in interstate  
12 commerce and equipment operated by a telecommunications  
13 provider, licensed as a common carrier by the Federal  
14 Communications Commission, which is permanently installed in  
15 or affixed to aircraft moving in interstate commerce.

16 (14) Machinery and equipment that will be used by the  
17 purchaser, or a lessee of the purchaser, primarily in the  
18 process of manufacturing or assembling tangible personal  
19 property for wholesale or retail sale or lease, whether the  
20 sale or lease is made directly by the manufacturer or by some  
21 other person, whether the materials used in the process are  
22 owned by the manufacturer or some other person, or whether the  
23 sale or lease is made apart from or as an incident to the  
24 seller's engaging in the service occupation of producing  
25 machines, tools, dies, jigs, patterns, gauges, or other similar  
26 items of no commercial value on special order for a particular

1 purchaser.

2 (15) Proceeds of mandatory service charges separately  
3 stated on customers' bills for purchase and consumption of food  
4 and beverages, to the extent that the proceeds of the service  
5 charge are in fact turned over as tips or as a substitute for  
6 tips to the employees who participate directly in preparing,  
7 serving, hosting or cleaning up the food or beverage function  
8 with respect to which the service charge is imposed.

9 (16) Petroleum products sold to a purchaser if the seller  
10 is prohibited by federal law from charging tax to the  
11 purchaser.

12 (17) Tangible personal property sold to a common carrier by  
13 rail or motor that receives the physical possession of the  
14 property in Illinois and that transports the property, or  
15 shares with another common carrier in the transportation of the  
16 property, out of Illinois on a standard uniform bill of lading  
17 showing the seller of the property as the shipper or consignor  
18 of the property to a destination outside Illinois, for use  
19 outside Illinois.

20 (18) Legal tender, currency, medallions, or gold or silver  
21 coinage issued by the State of Illinois, the government of the  
22 United States of America, or the government of any foreign  
23 country, and bullion.

24 (19) Until July 1 2003, oil field exploration, drilling,  
25 and production equipment, including (i) rigs and parts of rigs,  
26 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and

1 tubular goods, including casing and drill strings, (iii) pumps  
2 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
3 individual replacement part for oil field exploration,  
4 drilling, and production equipment, and (vi) machinery and  
5 equipment purchased for lease; but excluding motor vehicles  
6 required to be registered under the Illinois Vehicle Code.

7 (20) Photoprocessing machinery and equipment, including  
8 repair and replacement parts, both new and used, including that  
9 manufactured on special order, certified by the purchaser to be  
10 used primarily for photoprocessing, and including  
11 photoprocessing machinery and equipment purchased for lease.

12 (21) Until July 1, 2003, coal exploration, mining,  
13 offhighway hauling, processing, maintenance, and reclamation  
14 equipment, including replacement parts and equipment, and  
15 including equipment purchased for lease, but excluding motor  
16 vehicles required to be registered under the Illinois Vehicle  
17 Code.

18 (22) Fuel and petroleum products sold to or used by an air  
19 carrier, certified by the carrier to be used for consumption,  
20 shipment, or storage in the conduct of its business as an air  
21 common carrier, for a flight destined for or returning from a  
22 location or locations outside the United States without regard  
23 to previous or subsequent domestic stopovers.

24 (23) A transaction in which the purchase order is received  
25 by a florist who is located outside Illinois, but who has a  
26 florist located in Illinois deliver the property to the



1 purchaser or the purchaser's donee in Illinois.

2 (24) Fuel consumed or used in the operation of ships,  
3 barges, or vessels that are used primarily in or for the  
4 transportation of property or the conveyance of persons for  
5 hire on rivers bordering on this State if the fuel is delivered  
6 by the seller to the purchaser's barge, ship, or vessel while  
7 it is afloat upon that bordering river.

8 (25) Except as provided in item (25-5) of this Section, a  
9 motor vehicle sold in this State to a nonresident even though  
10 the motor vehicle is delivered to the nonresident in this  
11 State, if the motor vehicle is not to be titled in this State,  
12 and if a drive-away permit is issued to the motor vehicle as  
13 provided in Section 3-603 of the Illinois Vehicle Code or if  
14 the nonresident purchaser has vehicle registration plates to  
15 transfer to the motor vehicle upon returning to his or her home  
16 state. The issuance of the drive-away permit or having the  
17 out-of-state registration plates to be transferred is prima  
18 facie evidence that the motor vehicle will not be titled in  
19 this State.

20 (25-5) The exemption under item (25) does not apply if the  
21 state in which the motor vehicle will be titled does not allow  
22 a reciprocal exemption for a motor vehicle sold and delivered  
23 in that state to an Illinois resident but titled in Illinois.  
24 The tax collected under this Act on the sale of a motor vehicle  
25 in this State to a resident of another state that does not  
26 allow a reciprocal exemption shall be imposed at a rate equal

1 to the state's rate of tax on taxable property in the state in  
2 which the purchaser is a resident, except that the tax shall  
3 not exceed the tax that would otherwise be imposed under this  
4 Act. At the time of the sale, the purchaser shall execute a  
5 statement, signed under penalty of perjury, of his or her  
6 intent to title the vehicle in the state in which the purchaser  
7 is a resident within 30 days after the sale and of the fact of  
8 the payment to the State of Illinois of tax in an amount  
9 equivalent to the state's rate of tax on taxable property in  
10 his or her state of residence and shall submit the statement to  
11 the appropriate tax collection agency in his or her state of  
12 residence. In addition, the retailer must retain a signed copy  
13 of the statement in his or her records. Nothing in this item  
14 shall be construed to require the removal of the vehicle from  
15 this state following the filing of an intent to title the  
16 vehicle in the purchaser's state of residence if the purchaser  
17 titles the vehicle in his or her state of residence within 30  
18 days after the date of sale. The tax collected under this Act  
19 in accordance with this item (25-5) shall be proportionately  
20 distributed as if the tax were collected at the 6.25% general  
21 rate imposed under this Act.

22 (25-7) Beginning on July 1, 2007, no tax is imposed under  
23 this Act on the sale of an aircraft, as defined in Section 3 of  
24 the Illinois Aeronautics Act, if all of the following  
25 conditions are met:

26 (1) the aircraft leaves this State within 15 days after

1 the later of either the issuance of the final billing for  
2 the sale of the aircraft, or the authorized approval for  
3 return to service, completion of the maintenance record  
4 entry, and completion of the test flight and ground test  
5 for inspection, as required by 14 C.F.R. 91.407;

6 (2) the aircraft is not based or registered in this  
7 State after the sale of the aircraft; and

8 (3) the seller retains in his or her books and records  
9 and provides to the Department a signed and dated  
10 certification from the purchaser, on a form prescribed by  
11 the Department, certifying that the requirements of this  
12 item (25-7) are met. The certificate must also include the  
13 name and address of the purchaser, the address of the  
14 location where the aircraft is to be titled or registered,  
15 the address of the primary physical location of the  
16 aircraft, and other information that the Department may  
17 reasonably require.

18 For purposes of this item (25-7):

19 "Based in this State" means hangared, stored, or otherwise  
20 used, excluding post-sale customizations as defined in this  
21 Section, for 10 or more days in each 12-month period  
22 immediately following the date of the sale of the aircraft.

23 "Registered in this State" means an aircraft registered  
24 with the Department of Transportation, Aeronautics Division,  
25 or titled or registered with the Federal Aviation  
26 Administration to an address located in this State.

1           This paragraph (25-7) is exempt from the provisions of  
2 Section 2-70.

3           (26) Semen used for artificial insemination of livestock  
4 for direct agricultural production.

5           (27) Horses, or interests in horses, registered with and  
6 meeting the requirements of any of the Arabian Horse Club  
7 Registry of America, Appaloosa Horse Club, American Quarter  
8 Horse Association, United States Trotting Association, or  
9 Jockey Club, as appropriate, used for purposes of breeding or  
10 racing for prizes. This item (27) is exempt from the provisions  
11 of Section 2-70, and the exemption provided for under this item  
12 (27) applies for all periods beginning May 30, 1995, but no  
13 claim for credit or refund is allowed on or after January 1,  
14 2008 (the effective date of Public Act 95-88) for such taxes  
15 paid during the period beginning May 30, 2000 and ending on  
16 January 1, 2008 (the effective date of Public Act 95-88).

17           (28) Computers and communications equipment utilized for  
18 any hospital purpose and equipment used in the diagnosis,  
19 analysis, or treatment of hospital patients sold to a lessor  
20 who leases the equipment, under a lease of one year or longer  
21 executed or in effect at the time of the purchase, to a  
22 hospital that has been issued an active tax exemption  
23 identification number by the Department under Section 1g of  
24 this Act.

25           (29) Personal property sold to a lessor who leases the  
26 property, under a lease of one year or longer executed or in

1 effect at the time of the purchase, to a governmental body that  
2 has been issued an active tax exemption identification number  
3 by the Department under Section 1g of this Act.

4 (30) Beginning with taxable years ending on or after  
5 December 31, 1995 and ending with taxable years ending on or  
6 before December 31, 2004, personal property that is donated for  
7 disaster relief to be used in a State or federally declared  
8 disaster area in Illinois or bordering Illinois by a  
9 manufacturer or retailer that is registered in this State to a  
10 corporation, society, association, foundation, or institution  
11 that has been issued a sales tax exemption identification  
12 number by the Department that assists victims of the disaster  
13 who reside within the declared disaster area.

14 (31) Beginning with taxable years ending on or after  
15 December 31, 1995 and ending with taxable years ending on or  
16 before December 31, 2004, personal property that is used in the  
17 performance of infrastructure repairs in this State, including  
18 but not limited to municipal roads and streets, access roads,  
19 bridges, sidewalks, waste disposal systems, water and sewer  
20 line extensions, water distribution and purification  
21 facilities, storm water drainage and retention facilities, and  
22 sewage treatment facilities, resulting from a State or  
23 federally declared disaster in Illinois or bordering Illinois  
24 when such repairs are initiated on facilities located in the  
25 declared disaster area within 6 months after the disaster.

26 (32) Beginning July 1, 1999, game or game birds sold at a

1 "game breeding and hunting preserve area" or an "exotic game  
2 hunting area" as those terms are used in the Wildlife Code or  
3 at a hunting enclosure approved through rules adopted by the  
4 Department of Natural Resources. This paragraph is exempt from  
5 the provisions of Section 2-70.

6 (33) A motor vehicle, as that term is defined in Section  
7 1-146 of the Illinois Vehicle Code, that is donated to a  
8 corporation, limited liability company, society, association,  
9 foundation, or institution that is determined by the Department  
10 to be organized and operated exclusively for educational  
11 purposes. For purposes of this exemption, "a corporation,  
12 limited liability company, society, association, foundation,  
13 or institution organized and operated exclusively for  
14 educational purposes" means all tax-supported public schools,  
15 private schools that offer systematic instruction in useful  
16 branches of learning by methods common to public schools and  
17 that compare favorably in their scope and intensity with the  
18 course of study presented in tax-supported schools, and  
19 vocational or technical schools or institutes organized and  
20 operated exclusively to provide a course of study of not less  
21 than 6 weeks duration and designed to prepare individuals to  
22 follow a trade or to pursue a manual, technical, mechanical,  
23 industrial, business, or commercial occupation.

24 (34) Beginning January 1, 2000, personal property,  
25 including food, purchased through fundraising events for the  
26 benefit of a public or private elementary or secondary school,

1 a group of those schools, or one or more school districts if  
2 the events are sponsored by an entity recognized by the school  
3 district that consists primarily of volunteers and includes  
4 parents and teachers of the school children. This paragraph  
5 does not apply to fundraising events (i) for the benefit of  
6 private home instruction or (ii) for which the fundraising  
7 entity purchases the personal property sold at the events from  
8 another individual or entity that sold the property for the  
9 purpose of resale by the fundraising entity and that profits  
10 from the sale to the fundraising entity. This paragraph is  
11 exempt from the provisions of Section 2-70.

12 (35) Beginning January 1, 2000 and through December 31,  
13 2001, new or used automatic vending machines that prepare and  
14 serve hot food and beverages, including coffee, soup, and other  
15 items, and replacement parts for these machines. Beginning  
16 January 1, 2002 and through June 30, 2003, machines and parts  
17 for machines used in commercial, coin-operated amusement and  
18 vending business if a use or occupation tax is paid on the  
19 gross receipts derived from the use of the commercial,  
20 coin-operated amusement and vending machines. This paragraph  
21 is exempt from the provisions of Section 2-70.

22 (35-5) Beginning August 23, 2001 and through June 30, 2011,  
23 food for human consumption that is to be consumed off the  
24 premises where it is sold (other than alcoholic beverages, soft  
25 drinks, and food that has been prepared for immediate  
26 consumption) and prescription and nonprescription medicines,

1 drugs, medical appliances, and insulin, urine testing  
2 materials, syringes, and needles used by diabetics, for human  
3 use, when purchased for use by a person receiving medical  
4 assistance under Article V of the Illinois Public Aid Code who  
5 resides in a licensed long-term care facility, as defined in  
6 the Nursing Home Care Act, or a licensed facility as defined in  
7 the ID/DD ~~MR/DD~~ Community Care Act.

8 (36) Beginning August 2, 2001, computers and  
9 communications equipment utilized for any hospital purpose and  
10 equipment used in the diagnosis, analysis, or treatment of  
11 hospital patients sold to a lessor who leases the equipment,  
12 under a lease of one year or longer executed or in effect at  
13 the time of the purchase, to a hospital that has been issued an  
14 active tax exemption identification number by the Department  
15 under Section 1g of this Act. This paragraph is exempt from the  
16 provisions of Section 2-70.

17 (37) Beginning August 2, 2001, personal property sold to a  
18 lessor who leases the property, under a lease of one year or  
19 longer executed or in effect at the time of the purchase, to a  
20 governmental body that has been issued an active tax exemption  
21 identification number by the Department under Section 1g of  
22 this Act. This paragraph is exempt from the provisions of  
23 Section 2-70.

24 (38) Beginning on January 1, 2002 and through June 30,  
25 2011, tangible personal property purchased from an Illinois  
26 retailer by a taxpayer engaged in centralized purchasing



1 activities in Illinois who will, upon receipt of the property  
2 in Illinois, temporarily store the property in Illinois (i) for  
3 the purpose of subsequently transporting it outside this State  
4 for use or consumption thereafter solely outside this State or  
5 (ii) for the purpose of being processed, fabricated, or  
6 manufactured into, attached to, or incorporated into other  
7 tangible personal property to be transported outside this State  
8 and thereafter used or consumed solely outside this State. The  
9 Director of Revenue shall, pursuant to rules adopted in  
10 accordance with the Illinois Administrative Procedure Act,  
11 issue a permit to any taxpayer in good standing with the  
12 Department who is eligible for the exemption under this  
13 paragraph (38). The permit issued under this paragraph (38)  
14 shall authorize the holder, to the extent and in the manner  
15 specified in the rules adopted under this Act, to purchase  
16 tangible personal property from a retailer exempt from the  
17 taxes imposed by this Act. Taxpayers shall maintain all  
18 necessary books and records to substantiate the use and  
19 consumption of all such tangible personal property outside of  
20 the State of Illinois.

21 (39) Beginning January 1, 2008, tangible personal property  
22 used in the construction or maintenance of a community water  
23 supply, as defined under Section 3.145 of the Environmental  
24 Protection Act, that is operated by a not-for-profit  
25 corporation that holds a valid water supply permit issued under  
26 Title IV of the Environmental Protection Act. This paragraph is

1 exempt from the provisions of Section 2-70.

2 (40) Beginning January 1, 2010, materials, parts,  
3 equipment, components, and furnishings incorporated into or  
4 upon an aircraft as part of the modification, refurbishment,  
5 completion, replacement, repair, or maintenance of the  
6 aircraft. This exemption includes consumable supplies used in  
7 the modification, refurbishment, completion, replacement,  
8 repair, and maintenance of aircraft, but excludes any  
9 materials, parts, equipment, components, and consumable  
10 supplies used in the modification, replacement, repair, and  
11 maintenance of aircraft engines or power plants, whether such  
12 engines or power plants are installed or uninstalled upon any  
13 such aircraft. "Consumable supplies" include, but are not  
14 limited to, adhesive, tape, sandpaper, general purpose  
15 lubricants, cleaning solution, latex gloves, and protective  
16 films. This exemption applies only to those organizations that  
17 (i) hold an Air Agency Certificate and are empowered to operate  
18 an approved repair station by the Federal Aviation  
19 Administration, (ii) have a Class IV Rating, and (iii) conduct  
20 operations in accordance with Part 145 of the Federal Aviation  
21 Regulations. The exemption does not include aircraft operated  
22 by a commercial air carrier providing scheduled passenger air  
23 service pursuant to authority issued under Part 121 or Part 129  
24 of the Federal Aviation Regulations.

25 (41) Tangible personal property sold to a  
26 public-facilities corporation, as described in Section

1 11-65-10 of the Illinois Municipal Code, for purposes of  
2 constructing or furnishing a municipal convention hall, but  
3 only if the legal title to the municipal convention hall is  
4 transferred to the municipality without any further  
5 consideration by or on behalf of the municipality at the time  
6 of the completion of the municipal convention hall or upon the  
7 retirement or redemption of any bonds or other debt instruments  
8 issued by the public-facilities corporation in connection with  
9 the development of the municipal convention hall. This  
10 exemption includes existing public-facilities corporations as  
11 provided in Section 11-65-25 of the Illinois Municipal Code.  
12 This paragraph is exempt from the provisions of Section 2-70.

13 (Source: P.A. 95-88, eff. 1-1-08; 95-233, eff. 8-16-07; 95-304,  
14 eff. 8-20-07; 95-538, eff. 1-1-08; 95-707, eff. 1-11-08;  
15 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff.  
16 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000,  
17 eff. 7-2-10.)

18 Section 41. The Property Tax Code is amended by changing  
19 Sections 15-168, 15-170, and 15-172 as follows:

20 (35 ILCS 200/15-168)

21 Sec. 15-168. Disabled persons' homestead exemption.

22 (a) Beginning with taxable year 2007, an annual homestead  
23 exemption is granted to disabled persons in the amount of  
24 \$2,000, except as provided in subsection (c), to be deducted

1 from the property's value as equalized or assessed by the  
2 Department of Revenue. The disabled person shall receive the  
3 homestead exemption upon meeting the following requirements:

4 (1) The property must be occupied as the primary  
5 residence by the disabled person.

6 (2) The disabled person must be liable for paying the  
7 real estate taxes on the property.

8 (3) The disabled person must be an owner of record of  
9 the property or have a legal or equitable interest in the  
10 property as evidenced by a written instrument. In the case  
11 of a leasehold interest in property, the lease must be for  
12 a single family residence.

13 A person who is disabled during the taxable year is  
14 eligible to apply for this homestead exemption during that  
15 taxable year. Application must be made during the application  
16 period in effect for the county of residence. If a homestead  
17 exemption has been granted under this Section and the person  
18 awarded the exemption subsequently becomes a resident of a  
19 facility licensed under the Nursing Home Care Act or the ID/DD  
20 ~~MR/DD~~ Community Care Act, then the exemption shall continue (i)  
21 so long as the residence continues to be occupied by the  
22 qualifying person's spouse or (ii) if the residence remains  
23 unoccupied but is still owned by the person qualified for the  
24 homestead exemption.

25 (b) For the purposes of this Section, "disabled person"  
26 means a person unable to engage in any substantial gainful

1 activity by reason of a medically determinable physical or  
2 mental impairment which can be expected to result in death or  
3 has lasted or can be expected to last for a continuous period  
4 of not less than 12 months. Disabled persons filing claims  
5 under this Act shall submit proof of disability in such form  
6 and manner as the Department shall by rule and regulation  
7 prescribe. Proof that a claimant is eligible to receive  
8 disability benefits under the Federal Social Security Act shall  
9 constitute proof of disability for purposes of this Act.  
10 Issuance of an Illinois Disabled Person Identification Card  
11 stating that the claimant is under a Class 2 disability, as  
12 defined in Section 4A of The Illinois Identification Card Act,  
13 shall constitute proof that the person named thereon is a  
14 disabled person for purposes of this Act. A disabled person not  
15 covered under the Federal Social Security Act and not  
16 presenting a Disabled Person Identification Card stating that  
17 the claimant is under a Class 2 disability shall be examined by  
18 a physician designated by the Department, and his status as a  
19 disabled person determined using the same standards as used by  
20 the Social Security Administration. The costs of any required  
21 examination shall be borne by the claimant.

22 (c) For land improved with (i) an apartment building owned  
23 and operated as a cooperative or (ii) a life care facility as  
24 defined under Section 2 of the Life Care Facilities Act that is  
25 considered to be a cooperative, the maximum reduction from the  
26 value of the property, as equalized or assessed by the

1 Department, shall be multiplied by the number of apartments or  
2 units occupied by a disabled person. The disabled person shall  
3 receive the homestead exemption upon meeting the following  
4 requirements:

5 (1) The property must be occupied as the primary  
6 residence by the disabled person.

7 (2) The disabled person must be liable by contract with  
8 the owner or owners of record for paying the apportioned  
9 property taxes on the property of the cooperative or life  
10 care facility. In the case of a life care facility, the  
11 disabled person must be liable for paying the apportioned  
12 property taxes under a life care contract as defined in  
13 Section 2 of the Life Care Facilities Act.

14 (3) The disabled person must be an owner of record of a  
15 legal or equitable interest in the cooperative apartment  
16 building. A leasehold interest does not meet this  
17 requirement.

18 If a homestead exemption is granted under this subsection, the  
19 cooperative association or management firm shall credit the  
20 savings resulting from the exemption to the apportioned tax  
21 liability of the qualifying disabled person. The chief county  
22 assessment officer may request reasonable proof that the  
23 association or firm has properly credited the exemption. A  
24 person who willfully refuses to credit an exemption to the  
25 qualified disabled person is guilty of a Class B misdemeanor.

26 (d) The chief county assessment officer shall determine the

1 eligibility of property to receive the homestead exemption  
2 according to guidelines established by the Department. After a  
3 person has received an exemption under this Section, an annual  
4 verification of eligibility for the exemption shall be mailed  
5 to the taxpayer.

6 In counties with fewer than 3,000,000 inhabitants, the  
7 chief county assessment officer shall provide to each person  
8 granted a homestead exemption under this Section a form to  
9 designate any other person to receive a duplicate of any notice  
10 of delinquency in the payment of taxes assessed and levied  
11 under this Code on the person's qualifying property. The  
12 duplicate notice shall be in addition to the notice required to  
13 be provided to the person receiving the exemption and shall be  
14 given in the manner required by this Code. The person filing  
15 the request for the duplicate notice shall pay an  
16 administrative fee of \$5 to the chief county assessment  
17 officer. The assessment officer shall then file the executed  
18 designation with the county collector, who shall issue the  
19 duplicate notices as indicated by the designation. A  
20 designation may be rescinded by the disabled person in the  
21 manner required by the chief county assessment officer.

22 (e) A taxpayer who claims an exemption under Section 15-165  
23 or 15-169 may not claim an exemption under this Section.

24 (Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10.)

1           Sec. 15-170. Senior Citizens Homestead Exemption. An  
2 annual homestead exemption limited, except as described here  
3 with relation to cooperatives or life care facilities, to a  
4 maximum reduction set forth below from the property's value, as  
5 equalized or assessed by the Department, is granted for  
6 property that is occupied as a residence by a person 65 years  
7 of age or older who is liable for paying real estate taxes on  
8 the property and is an owner of record of the property or has a  
9 legal or equitable interest therein as evidenced by a written  
10 instrument, except for a leasehold interest, other than a  
11 leasehold interest of land on which a single family residence  
12 is located, which is occupied as a residence by a person 65  
13 years or older who has an ownership interest therein, legal,  
14 equitable or as a lessee, and on which he or she is liable for  
15 the payment of property taxes. Before taxable year 2004, the  
16 maximum reduction shall be \$2,500 in counties with 3,000,000 or  
17 more inhabitants and \$2,000 in all other counties. For taxable  
18 years 2004 through 2005, the maximum reduction shall be \$3,000  
19 in all counties. For taxable years 2006 and 2007, the maximum  
20 reduction shall be \$3,500 and, for taxable years 2008 and  
21 thereafter, the maximum reduction is \$4,000 in all counties.

22           For land improved with an apartment building owned and  
23 operated as a cooperative, the maximum reduction from the value  
24 of the property, as equalized by the Department, shall be  
25 multiplied by the number of apartments or units occupied by a  
26 person 65 years of age or older who is liable, by contract with



1 the owner or owners of record, for paying property taxes on the  
2 property and is an owner of record of a legal or equitable  
3 interest in the cooperative apartment building, other than a  
4 leasehold interest. For land improved with a life care  
5 facility, the maximum reduction from the value of the property,  
6 as equalized by the Department, shall be multiplied by the  
7 number of apartments or units occupied by persons 65 years of  
8 age or older, irrespective of any legal, equitable, or  
9 leasehold interest in the facility, who are liable, under a  
10 contract with the owner or owners of record of the facility,  
11 for paying property taxes on the property. In a cooperative or  
12 a life care facility where a homestead exemption has been  
13 granted, the cooperative association or the management firm of  
14 the cooperative or facility shall credit the savings resulting  
15 from that exemption only to the apportioned tax liability of  
16 the owner or resident who qualified for the exemption. Any  
17 person who willfully refuses to so credit the savings shall be  
18 guilty of a Class B misdemeanor. Under this Section and  
19 Sections 15-175, 15-176, and 15-177, "life care facility" means  
20 a facility, as defined in Section 2 of the Life Care Facilities  
21 Act, with which the applicant for the homestead exemption has a  
22 life care contract as defined in that Act.

23 When a homestead exemption has been granted under this  
24 Section and the person qualifying subsequently becomes a  
25 resident of a facility licensed under the Assisted Living and  
26 Shared Housing Act, the Nursing Home Care Act, or the ID/DD

1 ~~MR/DD~~ Community Care Act, the exemption shall continue so long  
2 as the residence continues to be occupied by the qualifying  
3 person's spouse if the spouse is 65 years of age or older, or  
4 if the residence remains unoccupied but is still owned by the  
5 person qualified for the homestead exemption.

6 A person who will be 65 years of age during the current  
7 assessment year shall be eligible to apply for the homestead  
8 exemption during that assessment year. Application shall be  
9 made during the application period in effect for the county of  
10 his residence.

11 Beginning with assessment year 2003, for taxes payable in  
12 2004, property that is first occupied as a residence after  
13 January 1 of any assessment year by a person who is eligible  
14 for the senior citizens homestead exemption under this Section  
15 must be granted a pro-rata exemption for the assessment year.  
16 The amount of the pro-rata exemption is the exemption allowed  
17 in the county under this Section divided by 365 and multiplied  
18 by the number of days during the assessment year the property  
19 is occupied as a residence by a person eligible for the  
20 exemption under this Section. The chief county assessment  
21 officer must adopt reasonable procedures to establish  
22 eligibility for this pro-rata exemption.

23 The assessor or chief county assessment officer may  
24 determine the eligibility of a life care facility to receive  
25 the benefits provided by this Section, by affidavit,  
26 application, visual inspection, questionnaire or other

1 reasonable methods in order to insure that the tax savings  
2 resulting from the exemption are credited by the management  
3 firm to the apportioned tax liability of each qualifying  
4 resident. The assessor may request reasonable proof that the  
5 management firm has so credited the exemption.

6 The chief county assessment officer of each county with  
7 less than 3,000,000 inhabitants shall provide to each person  
8 allowed a homestead exemption under this Section a form to  
9 designate any other person to receive a duplicate of any notice  
10 of delinquency in the payment of taxes assessed and levied  
11 under this Code on the property of the person receiving the  
12 exemption. The duplicate notice shall be in addition to the  
13 notice required to be provided to the person receiving the  
14 exemption, and shall be given in the manner required by this  
15 Code. The person filing the request for the duplicate notice  
16 shall pay a fee of \$5 to cover administrative costs to the  
17 supervisor of assessments, who shall then file the executed  
18 designation with the county collector. Notwithstanding any  
19 other provision of this Code to the contrary, the filing of  
20 such an executed designation requires the county collector to  
21 provide duplicate notices as indicated by the designation. A  
22 designation may be rescinded by the person who executed such  
23 designation at any time, in the manner and form required by the  
24 chief county assessment officer.

25 The assessor or chief county assessment officer may  
26 determine the eligibility of residential property to receive

1 the homestead exemption provided by this Section by  
2 application, visual inspection, questionnaire or other  
3 reasonable methods. The determination shall be made in  
4 accordance with guidelines established by the Department.

5 In counties with 3,000,000 or more inhabitants, beginning  
6 in taxable year 2010, each taxpayer who has been granted an  
7 exemption under this Section must reapply on an annual basis.  
8 The chief county assessment officer shall mail the application  
9 to the taxpayer. In counties with less than 3,000,000  
10 inhabitants, the county board may by resolution provide that if  
11 a person has been granted a homestead exemption under this  
12 Section, the person qualifying need not reapply for the  
13 exemption.

14 In counties with less than 3,000,000 inhabitants, if the  
15 assessor or chief county assessment officer requires annual  
16 application for verification of eligibility for an exemption  
17 once granted under this Section, the application shall be  
18 mailed to the taxpayer.

19 The assessor or chief county assessment officer shall  
20 notify each person who qualifies for an exemption under this  
21 Section that the person may also qualify for deferral of real  
22 estate taxes under the Senior Citizens Real Estate Tax Deferral  
23 Act. The notice shall set forth the qualifications needed for  
24 deferral of real estate taxes, the address and telephone number  
25 of county collector, and a statement that applications for  
26 deferral of real estate taxes may be obtained from the county

1 collector.

2 Notwithstanding Sections 6 and 8 of the State Mandates Act,  
3 no reimbursement by the State is required for the  
4 implementation of any mandate created by this Section.

5 (Source: P.A. 95-644, eff. 10-12-07; 95-876, eff. 8-21-08;  
6 96-339, eff. 7-1-10; 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10;  
7 96-1418, eff. 8-2-10.)

8 (35 ILCS 200/15-172)

9 Sec. 15-172. Senior Citizens Assessment Freeze Homestead  
10 Exemption.

11 (a) This Section may be cited as the Senior Citizens  
12 Assessment Freeze Homestead Exemption.

13 (b) As used in this Section:

14 "Applicant" means an individual who has filed an  
15 application under this Section.

16 "Base amount" means the base year equalized assessed value  
17 of the residence plus the first year's equalized assessed value  
18 of any added improvements which increased the assessed value of  
19 the residence after the base year.

20 "Base year" means the taxable year prior to the taxable  
21 year for which the applicant first qualifies and applies for  
22 the exemption provided that in the prior taxable year the  
23 property was improved with a permanent structure that was  
24 occupied as a residence by the applicant who was liable for  
25 paying real property taxes on the property and who was either

1 (i) an owner of record of the property or had legal or  
2 equitable interest in the property as evidenced by a written  
3 instrument or (ii) had a legal or equitable interest as a  
4 lessee in the parcel of property that was single family  
5 residence. If in any subsequent taxable year for which the  
6 applicant applies and qualifies for the exemption the equalized  
7 assessed value of the residence is less than the equalized  
8 assessed value in the existing base year (provided that such  
9 equalized assessed value is not based on an assessed value that  
10 results from a temporary irregularity in the property that  
11 reduces the assessed value for one or more taxable years), then  
12 that subsequent taxable year shall become the base year until a  
13 new base year is established under the terms of this paragraph.  
14 For taxable year 1999 only, the Chief County Assessment Officer  
15 shall review (i) all taxable years for which the applicant  
16 applied and qualified for the exemption and (ii) the existing  
17 base year. The assessment officer shall select as the new base  
18 year the year with the lowest equalized assessed value. An  
19 equalized assessed value that is based on an assessed value  
20 that results from a temporary irregularity in the property that  
21 reduces the assessed value for one or more taxable years shall  
22 not be considered the lowest equalized assessed value. The  
23 selected year shall be the base year for taxable year 1999 and  
24 thereafter until a new base year is established under the terms  
25 of this paragraph.

26 "Chief County Assessment Officer" means the County

1 Assessor or Supervisor of Assessments of the county in which  
2 the property is located.

3 "Equalized assessed value" means the assessed value as  
4 equalized by the Illinois Department of Revenue.

5 "Household" means the applicant, the spouse of the  
6 applicant, and all persons using the residence of the applicant  
7 as their principal place of residence.

8 "Household income" means the combined income of the members  
9 of a household for the calendar year preceding the taxable  
10 year.

11 "Income" has the same meaning as provided in Section 3.07  
12 of the Senior Citizens and Disabled Persons Property Tax Relief  
13 and Pharmaceutical Assistance Act, except that, beginning in  
14 assessment year 2001, "income" does not include veteran's  
15 benefits.

16 "Internal Revenue Code of 1986" means the United States  
17 Internal Revenue Code of 1986 or any successor law or laws  
18 relating to federal income taxes in effect for the year  
19 preceding the taxable year.

20 "Life care facility that qualifies as a cooperative" means  
21 a facility as defined in Section 2 of the Life Care Facilities  
22 Act.

23 "Maximum income limitation" means:

- 24 (1) \$35,000 prior to taxable year 1999;  
25 (2) \$40,000 in taxable years 1999 through 2003;  
26 (3) \$45,000 in taxable years 2004 through 2005;

1 (4) \$50,000 in taxable years 2006 and 2007; and

2 (5) \$55,000 in taxable year 2008 and thereafter.

3 "Residence" means the principal dwelling place and  
4 appurtenant structures used for residential purposes in this  
5 State occupied on January 1 of the taxable year by a household  
6 and so much of the surrounding land, constituting the parcel  
7 upon which the dwelling place is situated, as is used for  
8 residential purposes. If the Chief County Assessment Officer  
9 has established a specific legal description for a portion of  
10 property constituting the residence, then that portion of  
11 property shall be deemed the residence for the purposes of this  
12 Section.

13 "Taxable year" means the calendar year during which ad  
14 valorem property taxes payable in the next succeeding year are  
15 levied.

16 (c) Beginning in taxable year 1994, a senior citizens  
17 assessment freeze homestead exemption is granted for real  
18 property that is improved with a permanent structure that is  
19 occupied as a residence by an applicant who (i) is 65 years of  
20 age or older during the taxable year, (ii) has a household  
21 income that does not exceed the maximum income limitation,  
22 (iii) is liable for paying real property taxes on the property,  
23 and (iv) is an owner of record of the property or has a legal or  
24 equitable interest in the property as evidenced by a written  
25 instrument. This homestead exemption shall also apply to a  
26 leasehold interest in a parcel of property improved with a



1 permanent structure that is a single family residence that is  
2 occupied as a residence by a person who (i) is 65 years of age  
3 or older during the taxable year, (ii) has a household income  
4 that does not exceed the maximum income limitation, (iii) has a  
5 legal or equitable ownership interest in the property as  
6 lessee, and (iv) is liable for the payment of real property  
7 taxes on that property.

8 In counties of 3,000,000 or more inhabitants, the amount of  
9 the exemption for all taxable years is the equalized assessed  
10 value of the residence in the taxable year for which  
11 application is made minus the base amount. In all other  
12 counties, the amount of the exemption is as follows: (i)  
13 through taxable year 2005 and for taxable year 2007 and  
14 thereafter, the amount of this exemption shall be the equalized  
15 assessed value of the residence in the taxable year for which  
16 application is made minus the base amount; and (ii) for taxable  
17 year 2006, the amount of the exemption is as follows:

18 (1) For an applicant who has a household income of  
19 \$45,000 or less, the amount of the exemption is the  
20 equalized assessed value of the residence in the taxable  
21 year for which application is made minus the base amount.

22 (2) For an applicant who has a household income  
23 exceeding \$45,000 but not exceeding \$46,250, the amount of  
24 the exemption is (i) the equalized assessed value of the  
25 residence in the taxable year for which application is made  
26 minus the base amount (ii) multiplied by 0.8.

1           (3) For an applicant who has a household income  
2           exceeding \$46,250 but not exceeding \$47,500, the amount of  
3           the exemption is (i) the equalized assessed value of the  
4           residence in the taxable year for which application is made  
5           minus the base amount (ii) multiplied by 0.6.

6           (4) For an applicant who has a household income  
7           exceeding \$47,500 but not exceeding \$48,750, the amount of  
8           the exemption is (i) the equalized assessed value of the  
9           residence in the taxable year for which application is made  
10          minus the base amount (ii) multiplied by 0.4.

11          (5) For an applicant who has a household income  
12          exceeding \$48,750 but not exceeding \$50,000, the amount of  
13          the exemption is (i) the equalized assessed value of the  
14          residence in the taxable year for which application is made  
15          minus the base amount (ii) multiplied by 0.2.

16          When the applicant is a surviving spouse of an applicant  
17          for a prior year for the same residence for which an exemption  
18          under this Section has been granted, the base year and base  
19          amount for that residence are the same as for the applicant for  
20          the prior year.

21          Each year at the time the assessment books are certified to  
22          the County Clerk, the Board of Review or Board of Appeals shall  
23          give to the County Clerk a list of the assessed values of  
24          improvements on each parcel qualifying for this exemption that  
25          were added after the base year for this parcel and that  
26          increased the assessed value of the property.

1           In the case of land improved with an apartment building  
2 owned and operated as a cooperative or a building that is a  
3 life care facility that qualifies as a cooperative, the maximum  
4 reduction from the equalized assessed value of the property is  
5 limited to the sum of the reductions calculated for each unit  
6 occupied as a residence by a person or persons (i) 65 years of  
7 age or older, (ii) with a household income that does not exceed  
8 the maximum income limitation, (iii) who is liable, by contract  
9 with the owner or owners of record, for paying real property  
10 taxes on the property, and (iv) who is an owner of record of a  
11 legal or equitable interest in the cooperative apartment  
12 building, other than a leasehold interest. In the instance of a  
13 cooperative where a homestead exemption has been granted under  
14 this Section, the cooperative association or its management  
15 firm shall credit the savings resulting from that exemption  
16 only to the apportioned tax liability of the owner who  
17 qualified for the exemption. Any person who willfully refuses  
18 to credit that savings to an owner who qualifies for the  
19 exemption is guilty of a Class B misdemeanor.

20           When a homestead exemption has been granted under this  
21 Section and an applicant then becomes a resident of a facility  
22 licensed under the Assisted Living and Shared Housing Act, the  
23 Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act,  
24 the exemption shall be granted in subsequent years so long as  
25 the residence (i) continues to be occupied by the qualified  
26 applicant's spouse or (ii) if remaining unoccupied, is still

1 owned by the qualified applicant for the homestead exemption.

2 Beginning January 1, 1997, when an individual dies who  
3 would have qualified for an exemption under this Section, and  
4 the surviving spouse does not independently qualify for this  
5 exemption because of age, the exemption under this Section  
6 shall be granted to the surviving spouse for the taxable year  
7 preceding and the taxable year of the death, provided that,  
8 except for age, the surviving spouse meets all other  
9 qualifications for the granting of this exemption for those  
10 years.

11 When married persons maintain separate residences, the  
12 exemption provided for in this Section may be claimed by only  
13 one of such persons and for only one residence.

14 For taxable year 1994 only, in counties having less than  
15 3,000,000 inhabitants, to receive the exemption, a person shall  
16 submit an application by February 15, 1995 to the Chief County  
17 Assessment Officer of the county in which the property is  
18 located. In counties having 3,000,000 or more inhabitants, for  
19 taxable year 1994 and all subsequent taxable years, to receive  
20 the exemption, a person may submit an application to the Chief  
21 County Assessment Officer of the county in which the property  
22 is located during such period as may be specified by the Chief  
23 County Assessment Officer. The Chief County Assessment Officer  
24 in counties of 3,000,000 or more inhabitants shall annually  
25 give notice of the application period by mail or by  
26 publication. In counties having less than 3,000,000

1 inhabitants, beginning with taxable year 1995 and thereafter,  
2 to receive the exemption, a person shall submit an application  
3 by July 1 of each taxable year to the Chief County Assessment  
4 Officer of the county in which the property is located. A  
5 county may, by ordinance, establish a date for submission of  
6 applications that is different than July 1. The applicant shall  
7 submit with the application an affidavit of the applicant's  
8 total household income, age, marital status (and if married the  
9 name and address of the applicant's spouse, if known), and  
10 principal dwelling place of members of the household on January  
11 1 of the taxable year. The Department shall establish, by rule,  
12 a method for verifying the accuracy of affidavits filed by  
13 applicants under this Section, and the Chief County Assessment  
14 Officer may conduct audits of any taxpayer claiming an  
15 exemption under this Section to verify that the taxpayer is  
16 eligible to receive the exemption. Each application shall  
17 contain or be verified by a written declaration that it is made  
18 under the penalties of perjury. A taxpayer's signing a  
19 fraudulent application under this Act is perjury, as defined in  
20 Section 32-2 of the Criminal Code of 1961. The applications  
21 shall be clearly marked as applications for the Senior Citizens  
22 Assessment Freeze Homestead Exemption and must contain a notice  
23 that any taxpayer who receives the exemption is subject to an  
24 audit by the Chief County Assessment Officer.

25 Notwithstanding any other provision to the contrary, in  
26 counties having fewer than 3,000,000 inhabitants, if an

1 applicant fails to file the application required by this  
2 Section in a timely manner and this failure to file is due to a  
3 mental or physical condition sufficiently severe so as to  
4 render the applicant incapable of filing the application in a  
5 timely manner, the Chief County Assessment Officer may extend  
6 the filing deadline for a period of 30 days after the applicant  
7 regains the capability to file the application, but in no case  
8 may the filing deadline be extended beyond 3 months of the  
9 original filing deadline. In order to receive the extension  
10 provided in this paragraph, the applicant shall provide the  
11 Chief County Assessment Officer with a signed statement from  
12 the applicant's physician stating the nature and extent of the  
13 condition, that, in the physician's opinion, the condition was  
14 so severe that it rendered the applicant incapable of filing  
15 the application in a timely manner, and the date on which the  
16 applicant regained the capability to file the application.

17 Beginning January 1, 1998, notwithstanding any other  
18 provision to the contrary, in counties having fewer than  
19 3,000,000 inhabitants, if an applicant fails to file the  
20 application required by this Section in a timely manner and  
21 this failure to file is due to a mental or physical condition  
22 sufficiently severe so as to render the applicant incapable of  
23 filing the application in a timely manner, the Chief County  
24 Assessment Officer may extend the filing deadline for a period  
25 of 3 months. In order to receive the extension provided in this  
26 paragraph, the applicant shall provide the Chief County

1 Assessment Officer with a signed statement from the applicant's  
2 physician stating the nature and extent of the condition, and  
3 that, in the physician's opinion, the condition was so severe  
4 that it rendered the applicant incapable of filing the  
5 application in a timely manner.

6 In counties having less than 3,000,000 inhabitants, if an  
7 applicant was denied an exemption in taxable year 1994 and the  
8 denial occurred due to an error on the part of an assessment  
9 official, or his or her agent or employee, then beginning in  
10 taxable year 1997 the applicant's base year, for purposes of  
11 determining the amount of the exemption, shall be 1993 rather  
12 than 1994. In addition, in taxable year 1997, the applicant's  
13 exemption shall also include an amount equal to (i) the amount  
14 of any exemption denied to the applicant in taxable year 1995  
15 as a result of using 1994, rather than 1993, as the base year,  
16 (ii) the amount of any exemption denied to the applicant in  
17 taxable year 1996 as a result of using 1994, rather than 1993,  
18 as the base year, and (iii) the amount of the exemption  
19 erroneously denied for taxable year 1994.

20 For purposes of this Section, a person who will be 65 years  
21 of age during the current taxable year shall be eligible to  
22 apply for the homestead exemption during that taxable year.  
23 Application shall be made during the application period in  
24 effect for the county of his or her residence.

25 The Chief County Assessment Officer may determine the  
26 eligibility of a life care facility that qualifies as a

1 cooperative to receive the benefits provided by this Section by  
2 use of an affidavit, application, visual inspection,  
3 questionnaire, or other reasonable method in order to insure  
4 that the tax savings resulting from the exemption are credited  
5 by the management firm to the apportioned tax liability of each  
6 qualifying resident. The Chief County Assessment Officer may  
7 request reasonable proof that the management firm has so  
8 credited that exemption.

9 Except as provided in this Section, all information  
10 received by the chief county assessment officer or the  
11 Department from applications filed under this Section, or from  
12 any investigation conducted under the provisions of this  
13 Section, shall be confidential, except for official purposes or  
14 pursuant to official procedures for collection of any State or  
15 local tax or enforcement of any civil or criminal penalty or  
16 sanction imposed by this Act or by any statute or ordinance  
17 imposing a State or local tax. Any person who divulges any such  
18 information in any manner, except in accordance with a proper  
19 judicial order, is guilty of a Class A misdemeanor.

20 Nothing contained in this Section shall prevent the  
21 Director or chief county assessment officer from publishing or  
22 making available reasonable statistics concerning the  
23 operation of the exemption contained in this Section in which  
24 the contents of claims are grouped into aggregates in such a  
25 way that information contained in any individual claim shall  
26 not be disclosed.



1           (d) Each Chief County Assessment Officer shall annually  
2 publish a notice of availability of the exemption provided  
3 under this Section. The notice shall be published at least 60  
4 days but no more than 75 days prior to the date on which the  
5 application must be submitted to the Chief County Assessment  
6 Officer of the county in which the property is located. The  
7 notice shall appear in a newspaper of general circulation in  
8 the county.

9           Notwithstanding Sections 6 and 8 of the State Mandates Act,  
10 no reimbursement by the State is required for the  
11 implementation of any mandate created by this Section.

12           (Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10;  
13 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10.)

14           Section 42. The Counties Code is amended by changing  
15 Section 5-25013 as follows:

16           (55 ILCS 5/5-25013) (from Ch. 34, par. 5-25013)

17           Sec. 5-25013. Organization of board; powers and duties.

18           (A) The board of health of each county or multiple-county  
19 health department shall, immediately after appointment, meet  
20 and organize, by the election of one of its number as president  
21 and one as secretary, and either from its number or otherwise,  
22 a treasurer and such other officers as it may deem necessary. A  
23 board of health may make and adopt such rules for its own  
24 guidance and for the government of the health department as may

1 be deemed necessary to protect and improve public health not  
2 inconsistent with this Division. It shall:

3 1. Hold a meeting prior to the end of each operating  
4 fiscal year, at which meeting officers shall be elected for  
5 the ensuing operating fiscal year;

6 2. Hold meetings at least quarterly;

7 3. Hold special meetings upon a written request signed  
8 by two members and filed with the Secretary or on request  
9 of the medical health officer or public health  
10 administrator;

11 4. Provide, equip and maintain suitable offices,  
12 facilities and appliances for the health department;

13 5. Publish annually, within 90 days after the end of  
14 the county's operating fiscal year, in pamphlet form, for  
15 free distribution, an annual report showing the condition  
16 of its trust on the last day of the most recently completed  
17 operating fiscal year, the sums of money received from all  
18 sources, giving the name of any donor, how all moneys have  
19 been expended and for what purpose, and such other  
20 statistics and information in regard to the work of the  
21 health department as it may deem of general interest;

22 6. Within its jurisdiction, and professional and  
23 technical competence, enforce and observe all State laws  
24 pertaining to the preservation of health, and all county  
25 and municipal ordinances except as otherwise provided in  
26 this Division;

1           7. Within its jurisdiction, and professional and  
2 technical competence, investigate the existence of any  
3 contagious or infectious disease and adopt measures, not  
4 inconsistent with the regulations of the State Department  
5 of Public Health, to arrest the progress of the same;

6           8. Within its jurisdiction, and professional and  
7 technical competence, make all necessary sanitary and  
8 health investigations and inspections;

9           9. Upon request, give professional advice and  
10 information to all city, village, incorporated town and  
11 school authorities, within its jurisdiction, in all  
12 matters pertaining to sanitation and public health;

13           10. Appoint a medical health officer as the executive  
14 officer for the department, who shall be a citizen of the  
15 United States and shall possess such qualifications as may  
16 be prescribed by the State Department of Public Health; or  
17 appoint a public health administrator who shall possess  
18 such qualifications as may be prescribed by the State  
19 Department of Public Health as the executive officer for  
20 the department, provided that the board of health shall  
21 make available medical supervision which is considered  
22 adequate by the Director of Public Health;

23           10 1/2. Appoint such professional employees as may be  
24 approved by the executive officer who meet the  
25 qualification requirements of the State Department of  
26 Public Health for their respective positions provided,

1 that in those health departments temporarily without a  
2 medical health officer or public health administrator  
3 approval by the State Department of Public Health shall  
4 suffice;

5 11. Appoint such other officers and employees as may be  
6 necessary;

7 12. Prescribe the powers and duties of all officers and  
8 employees, fix their compensation, and authorize payment  
9 of the same and all other department expenses from the  
10 County Health Fund of the county or counties concerned;

11 13. Submit an annual budget to the county board or  
12 boards;

13 14. Submit an annual report to the county board or  
14 boards, explaining all of its activities and expenditures;

15 15. Establish and carry out programs and services in  
16 mental health, including intellectual disabilities ~~mental~~  
17 ~~retardation~~ and alcoholism and substance abuse, not  
18 inconsistent with the regulations of the Department of  
19 Human Services;

20 16. Consult with all other private and public health  
21 agencies in the county in the development of local plans  
22 for the most efficient delivery of health services.

23 (B) The board of health of each county or multiple-county  
24 health department may:

25 1. Initiate and carry out programs and activities of  
26 all kinds, not inconsistent with law, that may be deemed

1 necessary or desirable in the promotion and protection of  
2 health and in the control of disease including  
3 tuberculosis;

4 2. Receive contributions of real and personal  
5 property;

6 3. Recommend to the county board or boards the adoption  
7 of such ordinances and of such rules and regulations as may  
8 be deemed necessary or desirable for the promotion and  
9 protection of health and control of disease;

10 4. Appoint a medical and dental advisory committee and  
11 a non-medical advisory committee to the health department;

12 5. Enter into contracts with the State,  
13 municipalities, other political subdivisions and  
14 non-official agencies for the purchase, sale or exchange of  
15 health services;

16 6. Set fees it deems reasonable and necessary (i) to  
17 provide services or perform regulatory activities, (ii)  
18 when required by State or federal grant award conditions,  
19 (iii) to support activities delegated to the board of  
20 health by the Illinois Department of Public Health, or (iv)  
21 when required by an agreement between the board of health  
22 and other private or governmental organizations, unless  
23 the fee has been established as a part of a regulatory  
24 ordinance adopted by the county board, in which case the  
25 board of health shall make recommendations to the county  
26 board concerning those fees. Revenue generated under this

1 Section shall be deposited into the County Health Fund or  
2 to the account of the multiple-county health department.

3 7. Enter into multiple year employment contracts with  
4 the medical health officer or public health administrator  
5 as may be necessary for the recruitment and retention of  
6 personnel and the proper functioning of the health  
7 department.

8 (C) The board of health of a multiple-county health  
9 department may hire attorneys to represent and advise the  
10 department concerning matters that are not within the exclusive  
11 jurisdiction of the State's Attorney of one of the counties  
12 that created the department.

13 (Source: P.A. 89-272, eff. 8-10-95; 89-507, eff. 7-1-97.)

14 Section 45. The County Care for Persons with Developmental  
15 Disabilities Act is amended by changing the title of the Act  
16 and by changing Sections 1, 1.1, and 1.2 as follows:

17 (55 ILCS 105/Act title)

18 An Act concerning the care and treatment of persons who are  
19 intellectually disabled ~~mentally retarded~~ or under  
20 developmental disability.

21 (55 ILCS 105/1) (from Ch. 91 1/2, par. 201)

22 Sec. 1. Facilities or services; tax levy. Any county may  
23 provide facilities or services for the benefit of its residents

1 who are intellectually disabled ~~mentally retarded~~ or under a  
2 developmental disability and who are not eligible to  
3 participate in any such program conducted under Article 14 of  
4 the School Code, or may contract therefor with any privately or  
5 publicly operated entity which provides facilities or services  
6 either in or out of such county.

7 For such purpose, the county board may levy an annual tax  
8 of not to exceed .1% upon all of the taxable property in the  
9 county at the value thereof, as equalized or assessed by the  
10 Department of Revenue. Taxes first levied under this Section on  
11 or after the effective date of this amendatory Act of the 96th  
12 General Assembly are subject to referendum approval under  
13 Section 1.1 or 1.2 of this Act. Such tax shall be levied and  
14 collected in the same manner as other county taxes, but shall  
15 not be included in any limitation otherwise prescribed as to  
16 the rate or amount of county taxes but shall be in addition  
17 thereto and in excess thereof. When collected, such tax shall  
18 be paid into a special fund in the county treasury, to be  
19 designated as the "Fund for Persons With a Developmental  
20 Disability", and shall be used only for the purpose specified  
21 in this Section. The levying of this annual tax shall not  
22 preclude the county from the use of other federal, State, or  
23 local funds for the purpose of providing facilities or services  
24 for the care and treatment of its residents who are mentally  
25 retarded or under a developmental disability.

26 (Source: P.A. 96-1350, eff. 7-28-10.)

1 (55 ILCS 105/1.1)

2 Sec. 1.1. Petition for submission to referendum by county.

3 (a) If, on and after the effective date of this amendatory  
4 Act of the 96th General Assembly, the county board passes an  
5 ordinance or resolution as provided in Section 1 of this Act  
6 asking that an annual tax may be levied for the purpose of  
7 providing facilities or services set forth in that Section and  
8 so instructs the county clerk, the clerk shall certify the  
9 proposition to the proper election officials for submission at  
10 the next general county election. The proposition shall be in  
11 substantially the following form:

12 Shall ..... County levy an annual tax not to exceed  
13 0.1% upon the equalized assessed value of all taxable  
14 property in the county for the purposes of providing  
15 facilities or services for the benefit of its residents who  
16 are intellectually disabled ~~mentally retarded~~ or under a  
17 developmental disability and who are not eligible to  
18 participate in any program provided under Article 14 of the  
19 School Code, 105 ILCS 5/14.1-1.01 et seq., including  
20 contracting for those facilities or services with any  
21 privately or publicly operated entity that provides those  
22 facilities or services either in or out of the county?

23 (b) If a majority of the votes cast upon the proposition  
24 are in favor thereof, such tax levy shall be authorized and the  
25 county shall levy a tax not to exceed the rate set forth in



1 Section 1 of this Act.

2 (Source: P.A. 96-1350, eff. 7-28-10.)

3 (55 ILCS 105/1.2)

4 Sec. 1.2. Petition for submission to referendum by  
5 electors.

6 (a) Whenever a petition for submission to referendum by the  
7 electors which requests the establishment and maintenance of  
8 facilities or services for the benefit of its residents with a  
9 developmental disability and the levy of an annual tax not to  
10 exceed 0.1% upon all the taxable property in the county at the  
11 value thereof, as equalized or assessed by the Department of  
12 Revenue, is signed by electors of the county equal in number to  
13 at least 10% of the total votes cast for the office that  
14 received the greatest total number of votes at the last  
15 preceding general county election and is presented to the  
16 county clerk, the clerk shall certify the proposition to the  
17 proper election authorities for submission at the next general  
18 county election. The proposition shall be in substantially the  
19 following form:

20 Shall ..... County levy an annual tax not to exceed  
21 0.1% upon the equalized assessed value of all taxable  
22 property in the county for the purposes of establishing and  
23 maintaining facilities or services for the benefit of its  
24 residents who are intellectually disabled ~~mentally~~  
25 ~~retarded~~ or under a developmental disability and who are

1 not eligible to participate in any program provided under  
2 Article 14 of the School Code, 105 ILCS 5/14.1-1.01 et  
3 seq., including contracting for those facilities or  
4 services with any privately or publicly operated entity  
5 that provides those facilities or services either in or out  
6 of the county?

7 (b) If a majority of the votes cast upon the proposition  
8 are in favor thereof, such tax levy shall be authorized and the  
9 county shall levy a tax not to exceed the rate set forth in  
10 Section 1 of this Act.

11 (Source: P.A. 96-1350, eff. 7-28-10.)

12 Section 50. The Township Code is amended by changing  
13 Sections 30-145, 190-10, and 260-5 as follows:

14 (60 ILCS 1/30-145)

15 Sec. 30-145. Mental health services. If a township is not  
16 included in a mental health district organized under the  
17 Community Mental Health Act, the electors may authorize the  
18 board of trustees to provide mental health services, including  
19 services for the alcoholic, the drug addicted, and the  
20 intellectually disabled ~~mentally retarded~~, for residents of  
21 the township by disbursing existing funds if available by  
22 contracting with mental health agencies approved by the  
23 Department of Human Services, alcoholism treatment programs  
24 licensed by the Department of Public Health, and drug abuse

1 facilities and other alcohol and drug abuse services approved  
2 by the Department of Human Services. To be eligible to receive  
3 township funds, an agency, program, facility, or other service  
4 provider must have been in existence for more than one year and  
5 must serve the township area.

6 (Source: P.A. 89-507, eff. 7-1-97; 90-210, eff. 7-25-97.)

7 (60 ILCS 1/190-10)

8 Sec. 190-10. Mental health services. If a township is not  
9 included in a mental health district organized under the  
10 Community Mental Health Act, the township board may provide  
11 mental health services (including services for the alcoholic,  
12 the drug addicted, and the intellectually disabled ~~mentally~~  
13 ~~retarded~~) for residents of the township by disbursing funds,  
14 pursuant to an appropriation, to mental health agencies  
15 approved by the Department of Human Services, alcoholism  
16 treatment programs licensed by the Department of Public Health,  
17 drug abuse facilities approved by the Department of Human  
18 Services, and other alcoholism and drug abuse services approved  
19 by the Department of Human Services. To be eligible for  
20 township funds disbursed under this Section, an agency,  
21 program, facility, or other service provider must have been in  
22 existence for more than one year and serve the township area.

23 (Source: P.A. 88-62; 89-507, eff. 7-1-97.)

24 (60 ILCS 1/260-5)

1           Sec. 260-5. Distributions from general fund, generally. To  
2 the extent that moneys in the township general fund have not  
3 been appropriated for other purposes, the township board may  
4 direct that distributions be made from that fund as follows:

5           (1) To (i) school districts maintaining grades 1  
6 through 8 that are wholly or partly located within the  
7 township or (ii) governmental units as defined in Section 1  
8 of the Community Mental Health Act that provide mental  
9 health facilities and services (including facilities and  
10 services for the intellectually disabled ~~mentally~~  
11 ~~retarded~~) under that Act within the township, or (iii)  
12 both.

13           (2) To community action agencies that serve township  
14 residents. "Community action agencies" are defined as in  
15 Part A of Title II of the federal Economic Opportunity Act  
16 of 1964.

17 (Source: P.A. 82-783; 88-62.)

18           Section 55. The Public Health District Act is amended by  
19 changing Section 17 as follows:

20           (70 ILCS 905/17) (from Ch. 111 1/2, par. 17)

21           Sec. 17. The medical health officer or administrator shall  
22 have power, and it shall be his or her duty:

23           (1) To be the executive officer of the board of health.

24           (2) To enforce and observe the rules, regulations and

1 orders of the State Department of Public Health and all  
2 State laws pertaining to the preservation of the health of  
3 the people within the public health district, including  
4 regulations in which the State Department of Public Health  
5 shall require provision of home visitation and other  
6 services for pregnant women, new mothers and infants who  
7 are at risk as defined by that Department that encompass  
8 but are not limited to consultation for parental and child  
9 development, comprehensive health education, nutritional  
10 assessment, dental health, and periodic health screening,  
11 referral and follow-up; the services shall be provided  
12 through programs funded by grants from the Department of  
13 Public Health from appropriations to the Department for  
14 that purpose.

15 (3) To exercise the rights, powers and duties of all  
16 township boards of health and county boards of health  
17 within the public health district.

18 (4) To execute and enforce, within the public health  
19 district, all city, village and incorporated town  
20 ordinances relating to public health and sanitation.

21 (5) To investigate the existence of any contagious or  
22 infectious disease within the public health district and to  
23 adopt measures, with the approval of the State Department  
24 of Public Health, to arrest the progress of the same.

25 (6) To make all necessary sanitary and health  
26 investigations and inspections within the public health

1 district.

2 (7) To establish a dental clinic for the benefit of the  
3 school children of the district.

4 (8) To give professional advice and information to all  
5 city, village, incorporated town and school authorities  
6 within the public health district in all matters pertaining  
7 to sanitation and public health.

8 (9) To devote his or her entire time to his or her  
9 official duties.

10 (10) To establish and execute programs and services in  
11 the field of mental health, including intellectual  
12 disabilities ~~mental retardation~~, not inconsistent with the  
13 regulations of the Department of Human Services.

14 (11) If approved by the board of health, to enter into  
15 contracts with municipalities, other political  
16 subdivisions and private agencies for the purchase, sale,  
17 delivery or exchange of health services.

18 (Source: P.A. 89-507, eff. 7-1-97.)

19 Section 56. The Regional Transportation Authority Act is  
20 amended by changing Section 4.03 as follows:

21 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

22 Sec. 4.03. Taxes.

23 (a) In order to carry out any of the powers or purposes of  
24 the Authority, the Board may by ordinance adopted with the

1 concurrence of 12 of the then Directors, impose throughout the  
2 metropolitan region any or all of the taxes provided in this  
3 Section. Except as otherwise provided in this Act, taxes  
4 imposed under this Section and civil penalties imposed incident  
5 thereto shall be collected and enforced by the State Department  
6 of Revenue. The Department shall have the power to administer  
7 and enforce the taxes and to determine all rights for refunds  
8 for erroneous payments of the taxes. Nothing in this amendatory  
9 Act of the 95th General Assembly is intended to invalidate any  
10 taxes currently imposed by the Authority. The increased vote  
11 requirements to impose a tax shall only apply to actions taken  
12 after the effective date of this amendatory Act of the 95th  
13 General Assembly.

14 (b) The Board may impose a public transportation tax upon  
15 all persons engaged in the metropolitan region in the business  
16 of selling at retail motor fuel for operation of motor vehicles  
17 upon public highways. The tax shall be at a rate not to exceed  
18 5% of the gross receipts from the sales of motor fuel in the  
19 course of the business. As used in this Act, the term "motor  
20 fuel" shall have the same meaning as in the Motor Fuel Tax Law.  
21 The Board may provide for details of the tax. The provisions of  
22 any tax shall conform, as closely as may be practicable, to the  
23 provisions of the Municipal Retailers Occupation Tax Act,  
24 including without limitation, conformity to penalties with  
25 respect to the tax imposed and as to the powers of the State  
26 Department of Revenue to promulgate and enforce rules and

1 regulations relating to the administration and enforcement of  
2 the provisions of the tax imposed, except that reference in the  
3 Act to any municipality shall refer to the Authority and the  
4 tax shall be imposed only with regard to receipts from sales of  
5 motor fuel in the metropolitan region, at rates as limited by  
6 this Section.

7 (c) In connection with the tax imposed under paragraph (b)  
8 of this Section the Board may impose a tax upon the privilege  
9 of using in the metropolitan region motor fuel for the  
10 operation of a motor vehicle upon public highways, the tax to  
11 be at a rate not in excess of the rate of tax imposed under  
12 paragraph (b) of this Section. The Board may provide for  
13 details of the tax.

14 (d) The Board may impose a motor vehicle parking tax upon  
15 the privilege of parking motor vehicles at off-street parking  
16 facilities in the metropolitan region at which a fee is  
17 charged, and may provide for reasonable classifications in and  
18 exemptions to the tax, for administration and enforcement  
19 thereof and for civil penalties and refunds thereunder and may  
20 provide criminal penalties thereunder, the maximum penalties  
21 not to exceed the maximum criminal penalties provided in the  
22 Retailers' Occupation Tax Act. The Authority may collect and  
23 enforce the tax itself or by contract with any unit of local  
24 government. The State Department of Revenue shall have no  
25 responsibility for the collection and enforcement unless the  
26 Department agrees with the Authority to undertake the



1 collection and enforcement. As used in this paragraph, the term  
2 "parking facility" means a parking area or structure having  
3 parking spaces for more than 2 vehicles at which motor vehicles  
4 are permitted to park in return for an hourly, daily, or other  
5 periodic fee, whether publicly or privately owned, but does not  
6 include parking spaces on a public street, the use of which is  
7 regulated by parking meters.

8 (e) The Board may impose a Regional Transportation  
9 Authority Retailers' Occupation Tax upon all persons engaged in  
10 the business of selling tangible personal property at retail in  
11 the metropolitan region. In Cook County the tax rate shall be  
12 1.25% of the gross receipts from sales of food for human  
13 consumption that is to be consumed off the premises where it is  
14 sold (other than alcoholic beverages, soft drinks and food that  
15 has been prepared for immediate consumption) and prescription  
16 and nonprescription medicines, drugs, medical appliances and  
17 insulin, urine testing materials, syringes and needles used by  
18 diabetics, and 1% of the gross receipts from other taxable  
19 sales made in the course of that business. In DuPage, Kane,  
20 Lake, McHenry, and Will Counties, the tax rate shall be 0.75%  
21 of the gross receipts from all taxable sales made in the course  
22 of that business. The tax imposed under this Section and all  
23 civil penalties that may be assessed as an incident thereof  
24 shall be collected and enforced by the State Department of  
25 Revenue. The Department shall have full power to administer and  
26 enforce this Section; to collect all taxes and penalties so

1 collected in the manner hereinafter provided; and to determine  
2 all rights to credit memoranda arising on account of the  
3 erroneous payment of tax or penalty hereunder. In the  
4 administration of, and compliance with this Section, the  
5 Department and persons who are subject to this Section shall  
6 have the same rights, remedies, privileges, immunities, powers  
7 and duties, and be subject to the same conditions,  
8 restrictions, limitations, penalties, exclusions, exemptions  
9 and definitions of terms, and employ the same modes of  
10 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,  
11 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions  
12 therein other than the State rate of tax), 2c, 3 (except as to  
13 the disposition of taxes and penalties collected), 4, 5, 5a,  
14 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,  
15 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and  
16 Section 3-7 of the Uniform Penalty and Interest Act, as fully  
17 as if those provisions were set forth herein.

18 Persons subject to any tax imposed under the authority  
19 granted in this Section may reimburse themselves for their  
20 seller's tax liability hereunder by separately stating the tax  
21 as an additional charge, which charge may be stated in  
22 combination in a single amount with State taxes that sellers  
23 are required to collect under the Use Tax Act, under any  
24 bracket schedules the Department may prescribe.

25 Whenever the Department determines that a refund should be  
26 made under this Section to a claimant instead of issuing a

1 credit memorandum, the Department shall notify the State  
2 Comptroller, who shall cause the warrant to be drawn for the  
3 amount specified, and to the person named, in the notification  
4 from the Department. The refund shall be paid by the State  
5 Treasurer out of the Regional Transportation Authority tax fund  
6 established under paragraph (n) of this Section.

7 If a tax is imposed under this subsection (e), a tax shall  
8 also be imposed under subsections (f) and (g) of this Section.

9 For the purpose of determining whether a tax authorized  
10 under this Section is applicable, a retail sale by a producer  
11 of coal or other mineral mined in Illinois, is a sale at retail  
12 at the place where the coal or other mineral mined in Illinois  
13 is extracted from the earth. This paragraph does not apply to  
14 coal or other mineral when it is delivered or shipped by the  
15 seller to the purchaser at a point outside Illinois so that the  
16 sale is exempt under the Federal Constitution as a sale in  
17 interstate or foreign commerce.

18 No tax shall be imposed or collected under this subsection  
19 on the sale of a motor vehicle in this State to a resident of  
20 another state if that motor vehicle will not be titled in this  
21 State.

22 Nothing in this Section shall be construed to authorize the  
23 Regional Transportation Authority to impose a tax upon the  
24 privilege of engaging in any business that under the  
25 Constitution of the United States may not be made the subject  
26 of taxation by this State.

1 (f) If a tax has been imposed under paragraph (e), a  
2 Regional Transportation Authority Service Occupation Tax shall  
3 also be imposed upon all persons engaged, in the metropolitan  
4 region in the business of making sales of service, who as an  
5 incident to making the sales of service, transfer tangible  
6 personal property within the metropolitan region, either in the  
7 form of tangible personal property or in the form of real  
8 estate as an incident to a sale of service. In Cook County, the  
9 tax rate shall be: (1) 1.25% of the serviceman's cost price of  
10 food prepared for immediate consumption and transferred  
11 incident to a sale of service subject to the service occupation  
12 tax by an entity licensed under the Hospital Licensing Act, the  
13 Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act  
14 that is located in the metropolitan region; (2) 1.25% of the  
15 selling price of food for human consumption that is to be  
16 consumed off the premises where it is sold (other than  
17 alcoholic beverages, soft drinks and food that has been  
18 prepared for immediate consumption) and prescription and  
19 nonprescription medicines, drugs, medical appliances and  
20 insulin, urine testing materials, syringes and needles used by  
21 diabetics; and (3) 1% of the selling price from other taxable  
22 sales of tangible personal property transferred. In DuPage,  
23 Kane, Lake, McHenry and Will Counties the rate shall be 0.75%  
24 of the selling price of all tangible personal property  
25 transferred.

26 The tax imposed under this paragraph and all civil

1 penalties that may be assessed as an incident thereof shall be  
2 collected and enforced by the State Department of Revenue. The  
3 Department shall have full power to administer and enforce this  
4 paragraph; to collect all taxes and penalties due hereunder; to  
5 dispose of taxes and penalties collected in the manner  
6 hereinafter provided; and to determine all rights to credit  
7 memoranda arising on account of the erroneous payment of tax or  
8 penalty hereunder. In the administration of and compliance with  
9 this paragraph, the Department and persons who are subject to  
10 this paragraph shall have the same rights, remedies,  
11 privileges, immunities, powers and duties, and be subject to  
12 the same conditions, restrictions, limitations, penalties,  
13 exclusions, exemptions and definitions of terms, and employ the  
14 same modes of procedure, as are prescribed in Sections 1a-1, 2,  
15 2a, 3 through 3-50 (in respect to all provisions therein other  
16 than the State rate of tax), 4 (except that the reference to  
17 the State shall be to the Authority), 5, 7, 8 (except that the  
18 jurisdiction to which the tax shall be a debt to the extent  
19 indicated in that Section 8 shall be the Authority), 9 (except  
20 as to the disposition of taxes and penalties collected, and  
21 except that the returned merchandise credit for this tax may  
22 not be taken against any State tax), 10, 11, 12 (except the  
23 reference therein to Section 2b of the Retailers' Occupation  
24 Tax Act), 13 (except that any reference to the State shall mean  
25 the Authority), the first paragraph of Section 15, 16, 17, 18,  
26 19 and 20 of the Service Occupation Tax Act and Section 3-7 of

1 the Uniform Penalty and Interest Act, as fully as if those  
2 provisions were set forth herein.

3 Persons subject to any tax imposed under the authority  
4 granted in this paragraph may reimburse themselves for their  
5 serviceman's tax liability hereunder by separately stating the  
6 tax as an additional charge, that charge may be stated in  
7 combination in a single amount with State tax that servicemen  
8 are authorized to collect under the Service Use Tax Act, under  
9 any bracket schedules the Department may prescribe.

10 Whenever the Department determines that a refund should be  
11 made under this paragraph to a claimant instead of issuing a  
12 credit memorandum, the Department shall notify the State  
13 Comptroller, who shall cause the warrant to be drawn for the  
14 amount specified, and to the person named in the notification  
15 from the Department. The refund shall be paid by the State  
16 Treasurer out of the Regional Transportation Authority tax fund  
17 established under paragraph (n) of this Section.

18 Nothing in this paragraph shall be construed to authorize  
19 the Authority to impose a tax upon the privilege of engaging in  
20 any business that under the Constitution of the United States  
21 may not be made the subject of taxation by the State.

22 (g) If a tax has been imposed under paragraph (e), a tax  
23 shall also be imposed upon the privilege of using in the  
24 metropolitan region, any item of tangible personal property  
25 that is purchased outside the metropolitan region at retail  
26 from a retailer, and that is titled or registered with an

1 agency of this State's government. In Cook County the tax rate  
2 shall be 1% of the selling price of the tangible personal  
3 property, as "selling price" is defined in the Use Tax Act. In  
4 DuPage, Kane, Lake, McHenry and Will counties the tax rate  
5 shall be 0.75% of the selling price of the tangible personal  
6 property, as "selling price" is defined in the Use Tax Act. The  
7 tax shall be collected from persons whose Illinois address for  
8 titling or registration purposes is given as being in the  
9 metropolitan region. The tax shall be collected by the  
10 Department of Revenue for the Regional Transportation  
11 Authority. The tax must be paid to the State, or an exemption  
12 determination must be obtained from the Department of Revenue,  
13 before the title or certificate of registration for the  
14 property may be issued. The tax or proof of exemption may be  
15 transmitted to the Department by way of the State agency with  
16 which, or the State officer with whom, the tangible personal  
17 property must be titled or registered if the Department and the  
18 State agency or State officer determine that this procedure  
19 will expedite the processing of applications for title or  
20 registration.

21 The Department shall have full power to administer and  
22 enforce this paragraph; to collect all taxes, penalties and  
23 interest due hereunder; to dispose of taxes, penalties and  
24 interest collected in the manner hereinafter provided; and to  
25 determine all rights to credit memoranda or refunds arising on  
26 account of the erroneous payment of tax, penalty or interest

1 hereunder. In the administration of and compliance with this  
2 paragraph, the Department and persons who are subject to this  
3 paragraph shall have the same rights, remedies, privileges,  
4 immunities, powers and duties, and be subject to the same  
5 conditions, restrictions, limitations, penalties, exclusions,  
6 exemptions and definitions of terms and employ the same modes  
7 of procedure, as are prescribed in Sections 2 (except the  
8 definition of "retailer maintaining a place of business in this  
9 State"), 3 through 3-80 (except provisions pertaining to the  
10 State rate of tax, and except provisions concerning collection  
11 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,  
12 19 (except the portions pertaining to claims by retailers and  
13 except the last paragraph concerning refunds), 20, 21 and 22 of  
14 the Use Tax Act, and are not inconsistent with this paragraph,  
15 as fully as if those provisions were set forth herein.

16 Whenever the Department determines that a refund should be  
17 made under this paragraph to a claimant instead of issuing a  
18 credit memorandum, the Department shall notify the State  
19 Comptroller, who shall cause the order to be drawn for the  
20 amount specified, and to the person named in the notification  
21 from the Department. The refund shall be paid by the State  
22 Treasurer out of the Regional Transportation Authority tax fund  
23 established under paragraph (n) of this Section.

24 (h) The Authority may impose a replacement vehicle tax of  
25 \$50 on any passenger car as defined in Section 1-157 of the  
26 Illinois Vehicle Code purchased within the metropolitan region



1 by or on behalf of an insurance company to replace a passenger  
2 car of an insured person in settlement of a total loss claim.  
3 The tax imposed may not become effective before the first day  
4 of the month following the passage of the ordinance imposing  
5 the tax and receipt of a certified copy of the ordinance by the  
6 Department of Revenue. The Department of Revenue shall collect  
7 the tax for the Authority in accordance with Sections 3-2002  
8 and 3-2003 of the Illinois Vehicle Code.

9 The Department shall immediately pay over to the State  
10 Treasurer, ex officio, as trustee, all taxes collected  
11 hereunder.

12 As soon as possible after the first day of each month,  
13 beginning January 1, 2011, upon certification of the Department  
14 of Revenue, the Comptroller shall order transferred, and the  
15 Treasurer shall transfer, to the STAR Bonds Revenue Fund the  
16 local sales tax increment, as defined in the Innovation  
17 Development and Economy Act, collected under this Section  
18 during the second preceding calendar month for sales within a  
19 STAR bond district.

20 After the monthly transfer to the STAR Bonds Revenue Fund,  
21 on or before the 25th day of each calendar month, the  
22 Department shall prepare and certify to the Comptroller the  
23 disbursement of stated sums of money to the Authority. The  
24 amount to be paid to the Authority shall be the amount  
25 collected hereunder during the second preceding calendar month  
26 by the Department, less any amount determined by the Department

1 to be necessary for the payment of refunds, and less any  
2 amounts that are transferred to the STAR Bonds Revenue Fund.  
3 Within 10 days after receipt by the Comptroller of the  
4 disbursement certification to the Authority provided for in  
5 this Section to be given to the Comptroller by the Department,  
6 the Comptroller shall cause the orders to be drawn for that  
7 amount in accordance with the directions contained in the  
8 certification.

9 (i) The Board may not impose any other taxes except as it  
10 may from time to time be authorized by law to impose.

11 (j) A certificate of registration issued by the State  
12 Department of Revenue to a retailer under the Retailers'  
13 Occupation Tax Act or under the Service Occupation Tax Act  
14 shall permit the registrant to engage in a business that is  
15 taxed under the tax imposed under paragraphs (b), (e), (f) or  
16 (g) of this Section and no additional registration shall be  
17 required under the tax. A certificate issued under the Use Tax  
18 Act or the Service Use Tax Act shall be applicable with regard  
19 to any tax imposed under paragraph (c) of this Section.

20 (k) The provisions of any tax imposed under paragraph (c)  
21 of this Section shall conform as closely as may be practicable  
22 to the provisions of the Use Tax Act, including without  
23 limitation conformity as to penalties with respect to the tax  
24 imposed and as to the powers of the State Department of Revenue  
25 to promulgate and enforce rules and regulations relating to the  
26 administration and enforcement of the provisions of the tax

1 imposed. The taxes shall be imposed only on use within the  
2 metropolitan region and at rates as provided in the paragraph.

3 (l) The Board in imposing any tax as provided in paragraphs  
4 (b) and (c) of this Section, shall, after seeking the advice of  
5 the State Department of Revenue, provide means for retailers,  
6 users or purchasers of motor fuel for purposes other than those  
7 with regard to which the taxes may be imposed as provided in  
8 those paragraphs to receive refunds of taxes improperly paid,  
9 which provisions may be at variance with the refund provisions  
10 as applicable under the Municipal Retailers Occupation Tax Act.  
11 The State Department of Revenue may provide for certificates of  
12 registration for users or purchasers of motor fuel for purposes  
13 other than those with regard to which taxes may be imposed as  
14 provided in paragraphs (b) and (c) of this Section to  
15 facilitate the reporting and nontaxability of the exempt sales  
16 or uses.

17 (m) Any ordinance imposing or discontinuing any tax under  
18 this Section shall be adopted and a certified copy thereof  
19 filed with the Department on or before June 1, whereupon the  
20 Department of Revenue shall proceed to administer and enforce  
21 this Section on behalf of the Regional Transportation Authority  
22 as of September 1 next following such adoption and filing.  
23 Beginning January 1, 1992, an ordinance or resolution imposing  
24 or discontinuing the tax hereunder shall be adopted and a  
25 certified copy thereof filed with the Department on or before  
26 the first day of July, whereupon the Department shall proceed

1 to administer and enforce this Section as of the first day of  
2 October next following such adoption and filing. Beginning  
3 January 1, 1993, an ordinance or resolution imposing,  
4 increasing, decreasing, or discontinuing the tax hereunder  
5 shall be adopted and a certified copy thereof filed with the  
6 Department, whereupon the Department shall proceed to  
7 administer and enforce this Section as of the first day of the  
8 first month to occur not less than 60 days following such  
9 adoption and filing. Any ordinance or resolution of the  
10 Authority imposing a tax under this Section and in effect on  
11 August 1, 2007 shall remain in full force and effect and shall  
12 be administered by the Department of Revenue under the terms  
13 and conditions and rates of tax established by such ordinance  
14 or resolution until the Department begins administering and  
15 enforcing an increased tax under this Section as authorized by  
16 this amendatory Act of the 95th General Assembly. The tax rates  
17 authorized by this amendatory Act of the 95th General Assembly  
18 are effective only if imposed by ordinance of the Authority.

19 (n) The State Department of Revenue shall, upon collecting  
20 any taxes as provided in this Section, pay the taxes over to  
21 the State Treasurer as trustee for the Authority. The taxes  
22 shall be held in a trust fund outside the State Treasury. On or  
23 before the 25th day of each calendar month, the State  
24 Department of Revenue shall prepare and certify to the  
25 Comptroller of the State of Illinois and to the Authority (i)  
26 the amount of taxes collected in each County other than Cook

1 County in the metropolitan region, (ii) the amount of taxes  
2 collected within the City of Chicago, and (iii) the amount  
3 collected in that portion of Cook County outside of Chicago,  
4 each amount less the amount necessary for the payment of  
5 refunds to taxpayers located in those areas described in items  
6 (i), (ii), and (iii). Within 10 days after receipt by the  
7 Comptroller of the certification of the amounts, the  
8 Comptroller shall cause an order to be drawn for the payment of  
9 two-thirds of the amounts certified in item (i) of this  
10 subsection to the Authority and one-third of the amounts  
11 certified in item (i) of this subsection to the respective  
12 counties other than Cook County and the amount certified in  
13 items (ii) and (iii) of this subsection to the Authority.

14 In addition to the disbursement required by the preceding  
15 paragraph, an allocation shall be made in July 1991 and each  
16 year thereafter to the Regional Transportation Authority. The  
17 allocation shall be made in an amount equal to the average  
18 monthly distribution during the preceding calendar year  
19 (excluding the 2 months of lowest receipts) and the allocation  
20 shall include the amount of average monthly distribution from  
21 the Regional Transportation Authority Occupation and Use Tax  
22 Replacement Fund. The distribution made in July 1992 and each  
23 year thereafter under this paragraph and the preceding  
24 paragraph shall be reduced by the amount allocated and  
25 disbursed under this paragraph in the preceding calendar year.  
26 The Department of Revenue shall prepare and certify to the

1 Comptroller for disbursement the allocations made in  
2 accordance with this paragraph.

3 (o) Failure to adopt a budget ordinance or otherwise to  
4 comply with Section 4.01 of this Act or to adopt a Five-year  
5 Capital Program or otherwise to comply with paragraph (b) of  
6 Section 2.01 of this Act shall not affect the validity of any  
7 tax imposed by the Authority otherwise in conformity with law.

8 (p) At no time shall a public transportation tax or motor  
9 vehicle parking tax authorized under paragraphs (b), (c) and  
10 (d) of this Section be in effect at the same time as any  
11 retailers' occupation, use or service occupation tax  
12 authorized under paragraphs (e), (f) and (g) of this Section is  
13 in effect.

14 Any taxes imposed under the authority provided in  
15 paragraphs (b), (c) and (d) shall remain in effect only until  
16 the time as any tax authorized by paragraphs (e), (f) or (g) of  
17 this Section are imposed and becomes effective. Once any tax  
18 authorized by paragraphs (e), (f) or (g) is imposed the Board  
19 may not reimpose taxes as authorized in paragraphs (b), (c) and  
20 (d) of the Section unless any tax authorized by paragraphs (e),  
21 (f) or (g) of this Section becomes ineffective by means other  
22 than an ordinance of the Board.

23 (q) Any existing rights, remedies and obligations  
24 (including enforcement by the Regional Transportation  
25 Authority) arising under any tax imposed under paragraphs (b),  
26 (c) or (d) of this Section shall not be affected by the

1 imposition of a tax under paragraphs (e), (f) or (g) of this  
2 Section.

3 (Source: P.A. 95-708, eff. 1-18-08; 96-339, eff. 7-1-10;  
4 96-939, eff. 6-24-10.)

5 Section 60. The School Code is amended by changing Sections  
6 2-3.83, 14-1.03a, and 21-28 as follows:

7 (105 ILCS 5/2-3.83) (from Ch. 122, par. 2-3.83)

8 Sec. 2-3.83. Individual transition plan model pilot  
9 program.

10 (a) The General Assembly finds that transition services for  
11 special education students in secondary schools are needed for  
12 the increasing numbers of students exiting school programs.  
13 Therefore, to ensure coordinated and timely delivery of  
14 services, the State shall establish a model pilot program to  
15 provide such services. Local school districts, using joint  
16 agreements and regional service delivery systems for special  
17 and vocational education selected by the Governor's Planning  
18 Council on Developmental Disabilities, shall have the primary  
19 responsibility to convene transition planning meetings for  
20 these students who will require post-school adult services.

21 (b) For purposes of this Section:

22 (1) "Post-secondary Service Provider" means a provider  
23 of services for adults who have any developmental  
24 disability as defined in Section 1-106 of the Mental Health

1 and Developmental Disabilities Code or who are disabled as  
2 defined in the Disabled Persons Rehabilitation Act.

3 (2) "Individual Education Plan" means a written  
4 statement for an exceptional child that provides at least a  
5 statement of: the child's present levels of educational  
6 performance, annual goals and short-term instructional  
7 objectives; specific special education and related  
8 services; the extent of participation in the regular  
9 education program; the projected dates for initiation of  
10 services; anticipated duration of services; appropriate  
11 objective criteria and evaluation procedures; and a  
12 schedule for annual determination of short-term  
13 objectives.

14 (3) "Individual Transition Plan" (ITP) means a  
15 multi-agency informal assessment of a student's needs for  
16 post-secondary adult services including but not limited to  
17 employment, post-secondary education or training and  
18 residential independent living.

19 (4) "Developmental Disability" means a disability  
20 which is attributable to: (a) an intellectual disability  
21 ~~mental retardation~~, cerebral palsy, epilepsy or autism; or  
22 to (b) any other condition which results in impairment  
23 similar to that caused by an intellectual disability ~~mental~~  
24 ~~retardation~~ and which requires services similar to those  
25 required by intellectually disabled ~~mentally retarded~~  
26 persons. Such disability must originate before the age of



1 18 years, be expected to continue indefinitely, and  
2 constitute a substantial handicap.

3 (5) "Exceptional Characteristic" means any disabling  
4 or exceptional characteristic which interferes with a  
5 student's education including, but not limited to, a  
6 determination that the student is severely or profoundly  
7 mentally disabled, trainably mentally disabled,  
8 deaf-blind, or has some other health impairment.

9 (c) The model pilot program required by this Section shall  
10 be established and administered by the Governor's Planning  
11 Council on Developmental Disabilities in conjunction with the  
12 case coordination pilot projects established by the Department  
13 of Human Services pursuant to Section 4.1 of the Community  
14 Services Act, as amended.

15 (d) The model pilot program shall include the following  
16 features:

17 (1) Written notice shall be sent to the student and,  
18 when appropriate, his or her parent or guardian giving the  
19 opportunity to consent to having the student's name and  
20 relevant information shared with the local case  
21 coordination unit and other appropriate State or local  
22 agencies for purposes of inviting participants to the  
23 individual transition plan meeting.

24 (2) Meetings to develop and modify, as needed, an  
25 Individual Transition Plan shall be conducted annually for  
26 all students with a developmental disability in the pilot

1 program area who are age 16 or older and who are receiving  
2 special education services for 50% or more of their public  
3 school program. These meetings shall be convened by the  
4 local school district and conducted in conjunction with any  
5 other regularly scheduled meetings such as the student's  
6 annual individual educational plan meeting. The Governor's  
7 Planning Council on Developmental Disabilities shall  
8 cooperate with and may enter into any necessary written  
9 agreements with the Department of Human Services and the  
10 State Board of Education to identify the target group of  
11 students for transition planning and the appropriate case  
12 coordination unit to serve these individuals.

13 (3) The ITP meetings shall be co-chaired by the  
14 individual education plan coordinator and the case  
15 coordinator. The ITP meeting shall include but not be  
16 limited to discussion of the following: the student's  
17 projected date of exit from the public schools; his  
18 projected post-school goals in the areas of employment,  
19 residential living arrangement and post-secondary  
20 education or training; specific school or post-school  
21 services needed during the following year to achieve the  
22 student's goals, including but not limited to vocational  
23 evaluation, vocational education, work experience or  
24 vocational training, placement assistance, independent  
25 living skills training, recreational or leisure training,  
26 income support, medical needs and transportation; and

1 referrals and linkage to needed services, including a  
2 proposed time frame for services and the responsible agency  
3 or provider. The individual transition plan shall be signed  
4 by participants in the ITP discussion, including but not  
5 limited to the student's parents or guardian, the student  
6 (where appropriate), multi-disciplinary team  
7 representatives from the public schools, the case  
8 coordinator and any other individuals who have  
9 participated in the ITP meeting at the discretion of the  
10 individual education plan coordinator, the developmental  
11 disability case coordinator or the parents or guardian.

12 (4) At least 10 days prior to the ITP meeting, the  
13 parents or guardian of the student shall be notified in  
14 writing of the time and place of the meeting by the local  
15 school district. The ITP discussion shall be documented by  
16 the assigned case coordinator, and an individual student  
17 file shall be maintained by each case coordination unit.  
18 One year following a student's exit from public school the  
19 case coordinator shall conduct a follow up interview with  
20 the student.

21 (5) Determinations with respect to individual  
22 transition plans made under this Section shall not be  
23 subject to any due process requirements prescribed in  
24 Section 14-8.02 of this Code.

25 (e) (Blank).

26 (Source: P.A. 91-96; eff. 7-9-99.)

1 (105 ILCS 5/14-1.03a) (from Ch. 122, par. 14-1.03a)

2 Sec. 14-1.03a. Children with Specific Learning  
3 Disabilities.

4 "Children with Specific Learning Disabilities" means  
5 children between the ages of 3 and 21 years who have a disorder  
6 in one or more of the basic psychological processes involved in  
7 understanding or in using language, spoken or written, which  
8 disorder may manifest itself in imperfect ability to listen,  
9 think, speak, read, write, spell or do mathematical  
10 calculations. Such disorders include such conditions as  
11 perceptual disabilities, brain injury, minimal brain  
12 dysfunction, dyslexia, and developmental aphasia. Such term  
13 does not include children who have learning problems which are  
14 primarily the result of visual, hearing or motor disabilities,  
15 of an intellectual disability ~~mental retardation~~, emotional  
16 disturbance or environmental disadvantage.

17 (Source: P.A. 89-397, eff. 8-20-95.)

18 (105 ILCS 5/21-28)

19 Sec. 21-28. Special education teachers; categorical  
20 certification. The State Teacher Certification Board shall  
21 categorically certify a special education teacher in one or  
22 more of the following specialized categories of disability if  
23 the special education teacher applies and qualifies for such  
24 certification:

- 1 (1) Serious emotional disturbance.
  - 2 (2) Learning disabilities.
  - 3 (3) Autism.
  - 4 (4) Intellectual disabilities ~~Mental retardation~~.
  - 5 (5) Orthopedic (physical) impairment.
  - 6 (6) Traumatic brain injury.
  - 7 (7) Other health impairment.
- 8 (Source: P.A. 92-709, eff. 7-19-02.)

9 Section 65. The State Universities Civil Service Act is  
10 amended by changing Section 36s as follows:

11 (110 ILCS 70/36s) (from Ch. 24 1/2, par. 38b18)

12 Sec. 36s. Supported employees.

13 (a) The Merit Board shall develop and implement a supported  
14 employment program. It shall be the goal of the program to  
15 appoint a minimum of 10 supported employees to State University  
16 civil service positions before June 30, 1992.

17 (b) The Merit Board shall designate a liaison to work with  
18 State agencies and departments, any funder or provider or both,  
19 and State universities in the implementation of a supported  
20 employment program.

21 (c) As used in this Section:

22 (1) "Supported employee" means any individual who:

23 (A) has a severe physical or mental disability  
24 which seriously limits functional capacities,

1 including but not limited to, mobility, communication,  
2 self-care, self-direction, work tolerance or work  
3 skills, in terms of employability as defined,  
4 determined and certified by the Department of Human  
5 Services; and

6 (B) has one or more physical or mental disabilities  
7 resulting from amputation; arthritis; blindness;  
8 cancer; cerebral palsy; cystic fibrosis; deafness;  
9 heart disease; hemiplegia; respiratory or pulmonary  
10 dysfunction; an intellectual disability ~~mental~~  
11 ~~retardation~~; mental illness; multiple sclerosis;  
12 muscular dystrophy; musculoskeletal disorders;  
13 neurological disorders, including stroke and epilepsy;  
14 paraplegia; quadriplegia and other spinal cord  
15 conditions; sickle cell anemia; and end-stage renal  
16 disease; or another disability or combination of  
17 disabilities determined on the basis of an evaluation  
18 of rehabilitation potential to cause comparable  
19 substantial functional limitation.

20 (2) "Supported employment" means competitive work in  
21 integrated work settings:

22 (A) for individuals with severe handicaps for whom  
23 competitive employment has not traditionally occurred,  
24 or

25 (B) for individuals for whom competitive  
26 employment has been interrupted or intermittent as a

1 result of a severe disability, and who because of their  
2 handicap, need on-going support services to perform  
3 such work. The term includes transitional employment  
4 for individuals with chronic mental illness.

5 (3) "Participation in a supported employee program"  
6 means participation as a supported employee that is not  
7 based on the expectation that an individual will have the  
8 skills to perform all the duties in a job class, but on the  
9 assumption that with support and adaptation, or both, a job  
10 can be designed to take advantage of the supported  
11 employee's special strengths.

12 (4) "Funder" means any entity either State, local or  
13 federal, or private not-for-profit or for-profit that  
14 provides monies to programs that provide services related  
15 to supported employment.

16 (5) "Provider" means any entity either public or  
17 private that provides technical support and services to any  
18 department or agency subject to the control of the  
19 Governor, the Secretary of State or the University Civil  
20 Service System.

21 (d) The Merit Board shall establish job classifications for  
22 supported employees who may be appointed into the  
23 classifications without open competitive testing requirements.  
24 Supported employees shall serve in a trial employment capacity  
25 for not less than 3 or more than 12 months.

26 (e) The Merit Board shall maintain a record of all

1 individuals hired as supported employees. The record shall  
2 include:

3 (1) the number of supported employees initially  
4 appointed;

5 (2) the number of supported employees who successfully  
6 complete the trial employment periods; and

7 (3) the number of permanent targeted positions by  
8 titles.

9 (f) The Merit Board shall submit an annual report to the  
10 General Assembly regarding the employment progress of  
11 supported employees, with recommendations for legislative  
12 action.

13 (Source: P.A. 89-507, eff. 7-1-97.)

14 Section 66. The Alternative Health Care Delivery Act is  
15 amended by changing Section 15 as follows:

16 (210 ILCS 3/15)

17 Sec. 15. License required. No health care facility or  
18 program that meets the definition and scope of an alternative  
19 health care model shall operate as such unless it is a  
20 participant in a demonstration program under this Act and  
21 licensed by the Department as an alternative health care model.  
22 The provisions of this Section as they relate to subacute care  
23 hospitals shall not apply to hospitals licensed under the  
24 Illinois Hospital Licensing Act or skilled nursing facilities



1 licensed under the Illinois Nursing Home Care Act or the ID/DD  
2 ~~MR/DD~~ Community Care Act; provided, however, that the  
3 facilities shall not hold themselves out to the public as  
4 subacute care hospitals. The provisions of this Act concerning  
5 children's respite care centers shall not apply to any facility  
6 licensed under the Hospital Licensing Act, the Nursing Home  
7 Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the University  
8 of Illinois Hospital Act that provides respite care services to  
9 children.

10 (Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

11 Section 67. The Ambulatory Surgical Treatment Center Act is  
12 amended by changing Section 3 as follows:

13 (210 ILCS 5/3) (from Ch. 111 1/2, par. 157-8.3)

14 Sec. 3. As used in this Act, unless the context otherwise  
15 requires, the following words and phrases shall have the  
16 meanings ascribed to them:

17 (A) "Ambulatory surgical treatment center" means any  
18 institution, place or building devoted primarily to the  
19 maintenance and operation of facilities for the performance of  
20 surgical procedures or any facility in which a medical or  
21 surgical procedure is utilized to terminate a pregnancy,  
22 irrespective of whether the facility is devoted primarily to  
23 this purpose. Such facility shall not provide beds or other  
24 accommodations for the overnight stay of patients; however,

1 facilities devoted exclusively to the treatment of children may  
2 provide accommodations and beds for their patients for up to 23  
3 hours following admission. Individual patients shall be  
4 discharged in an ambulatory condition without danger to the  
5 continued well being of the patients or shall be transferred to  
6 a hospital.

7 The term "ambulatory surgical treatment center" does not  
8 include any of the following:

9 (1) Any institution, place, building or agency  
10 required to be licensed pursuant to the "Hospital Licensing  
11 Act", approved July 1, 1953, as amended.

12 (2) Any person or institution required to be licensed  
13 pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
14 Community Care Act.

15 (3) Hospitals or ambulatory surgical treatment centers  
16 maintained by the State or any department or agency  
17 thereof, where such department or agency has authority  
18 under law to establish and enforce standards for the  
19 hospitals or ambulatory surgical treatment centers under  
20 its management and control.

21 (4) Hospitals or ambulatory surgical treatment centers  
22 maintained by the Federal Government or agencies thereof.

23 (5) Any place, agency, clinic, or practice, public or  
24 private, whether organized for profit or not, devoted  
25 exclusively to the performance of dental or oral surgical  
26 procedures.

1 (B) "Person" means any individual, firm, partnership,  
2 corporation, company, association, or joint stock association,  
3 or the legal successor thereof.

4 (C) "Department" means the Department of Public Health of  
5 the State of Illinois.

6 (D) "Director" means the Director of the Department of  
7 Public Health of the State of Illinois.

8 (E) "Physician" means a person licensed to practice  
9 medicine in all of its branches in the State of Illinois.

10 (F) "Dentist" means a person licensed to practice dentistry  
11 under the Illinois Dental Practice Act.

12 (G) "Podiatrist" means a person licensed to practice  
13 podiatry under the Podiatric Medical Practice Act of 1987.

14 (Source: P.A. 96-339, eff. 7-1-10.)

15 Section 68. The Assisted Living and Shared Housing Act is  
16 amended by changing Sections 10, 35, 55, and 145 as follows:

17 (210 ILCS 9/10)

18 Sec. 10. Definitions. For purposes of this Act:

19 "Activities of daily living" means eating, dressing,  
20 bathing, toileting, transferring, or personal hygiene.

21 "Assisted living establishment" or "establishment" means a  
22 home, building, residence, or any other place where sleeping  
23 accommodations are provided for at least 3 unrelated adults, at  
24 least 80% of whom are 55 years of age or older and where the

1 following are provided consistent with the purposes of this  
2 Act:

3 (1) services consistent with a social model that is  
4 based on the premise that the resident's unit in assisted  
5 living and shared housing is his or her own home;

6 (2) community-based residential care for persons who  
7 need assistance with activities of daily living, including  
8 personal, supportive, and intermittent health-related  
9 services available 24 hours per day, if needed, to meet the  
10 scheduled and unscheduled needs of a resident;

11 (3) mandatory services, whether provided directly by  
12 the establishment or by another entity arranged for by the  
13 establishment, with the consent of the resident or  
14 resident's representative; and

15 (4) a physical environment that is a homelike setting  
16 that includes the following and such other elements as  
17 established by the Department: individual living units  
18 each of which shall accommodate small kitchen appliances  
19 and contain private bathing, washing, and toilet  
20 facilities, or private washing and toilet facilities with a  
21 common bathing room readily accessible to each resident.  
22 Units shall be maintained for single occupancy except in  
23 cases in which 2 residents choose to share a unit.  
24 Sufficient common space shall exist to permit individual  
25 and group activities.

26 "Assisted living establishment" or "establishment" does

1 not mean any of the following:

2 (1) A home, institution, or similar place operated by  
3 the federal government or the State of Illinois.

4 (2) A long term care facility licensed under the  
5 Nursing Home Care Act or a facility licensed under the  
6 ID/DD ~~MR/DD~~ Community Care Act. However, a facility  
7 licensed under either of those Acts may convert distinct  
8 parts of the facility to assisted living. If the facility  
9 elects to do so, the facility shall retain the Certificate  
10 of Need for its nursing and sheltered care beds that were  
11 converted.

12 (3) A hospital, sanitarium, or other institution, the  
13 principal activity or business of which is the diagnosis,  
14 care, and treatment of human illness and that is required  
15 to be licensed under the Hospital Licensing Act.

16 (4) A facility for child care as defined in the Child  
17 Care Act of 1969.

18 (5) A community living facility as defined in the  
19 Community Living Facilities Licensing Act.

20 (6) A nursing home or sanitarium operated solely by and  
21 for persons who rely exclusively upon treatment by  
22 spiritual means through prayer in accordance with the creed  
23 or tenants of a well-recognized church or religious  
24 denomination.

25 (7) A facility licensed by the Department of Human  
26 Services as a community-integrated living arrangement as

1 defined in the Community-Integrated Living Arrangements  
2 Licensure and Certification Act.

3 (8) A supportive residence licensed under the  
4 Supportive Residences Licensing Act.

5 (9) The portion of a life care facility as defined in  
6 the Life Care Facilities Act not licensed as an assisted  
7 living establishment under this Act; a life care facility  
8 may apply under this Act to convert sections of the  
9 community to assisted living.

10 (10) A free-standing hospice facility licensed under  
11 the Hospice Program Licensing Act.

12 (11) A shared housing establishment.

13 (12) A supportive living facility as described in  
14 Section 5-5.01a of the Illinois Public Aid Code.

15 "Department" means the Department of Public Health.

16 "Director" means the Director of Public Health.

17 "Emergency situation" means imminent danger of death or  
18 serious physical harm to a resident of an establishment.

19 "License" means any of the following types of licenses  
20 issued to an applicant or licensee by the Department:

21 (1) "Probationary license" means a license issued to an  
22 applicant or licensee that has not held a license under  
23 this Act prior to its application or pursuant to a license  
24 transfer in accordance with Section 50 of this Act.

25 (2) "Regular license" means a license issued by the  
26 Department to an applicant or licensee that is in

1 substantial compliance with this Act and any rules  
2 promulgated under this Act.

3 "Licensee" means a person, agency, association,  
4 corporation, partnership, or organization that has been issued  
5 a license to operate an assisted living or shared housing  
6 establishment.

7 "Licensed health care professional" means a registered  
8 professional nurse, an advanced practice nurse, a physician  
9 assistant, and a licensed practical nurse.

10 "Mandatory services" include the following:

11 (1) 3 meals per day available to the residents prepared  
12 by the establishment or an outside contractor;

13 (2) housekeeping services including, but not limited  
14 to, vacuuming, dusting, and cleaning the resident's unit;

15 (3) personal laundry and linen services available to  
16 the residents provided or arranged for by the  
17 establishment;

18 (4) security provided 24 hours each day including, but  
19 not limited to, locked entrances or building or contract  
20 security personnel;

21 (5) an emergency communication response system, which  
22 is a procedure in place 24 hours each day by which a  
23 resident can notify building management, an emergency  
24 response vendor, or others able to respond to his or her  
25 need for assistance; and

26 (6) assistance with activities of daily living as

1 required by each resident.

2 "Negotiated risk" is the process by which a resident, or  
3 his or her representative, may formally negotiate with  
4 providers what risks each are willing and unwilling to assume  
5 in service provision and the resident's living environment. The  
6 provider assures that the resident and the resident's  
7 representative, if any, are informed of the risks of these  
8 decisions and of the potential consequences of assuming these  
9 risks.

10 "Owner" means the individual, partnership, corporation,  
11 association, or other person who owns an assisted living or  
12 shared housing establishment. In the event an assisted living  
13 or shared housing establishment is operated by a person who  
14 leases or manages the physical plant, which is owned by another  
15 person, "owner" means the person who operates the assisted  
16 living or shared housing establishment, except that if the  
17 person who owns the physical plant is an affiliate of the  
18 person who operates the assisted living or shared housing  
19 establishment and has significant control over the day to day  
20 operations of the assisted living or shared housing  
21 establishment, the person who owns the physical plant shall  
22 incur jointly and severally with the owner all liabilities  
23 imposed on an owner under this Act.

24 "Physician" means a person licensed under the Medical  
25 Practice Act of 1987 to practice medicine in all of its  
26 branches.



1 "Resident" means a person residing in an assisted living or  
2 shared housing establishment.

3 "Resident's representative" means a person, other than the  
4 owner, agent, or employee of an establishment or of the health  
5 care provider unless related to the resident, designated in  
6 writing by a resident to be his or her representative. This  
7 designation may be accomplished through the Illinois Power of  
8 Attorney Act, pursuant to the guardianship process under the  
9 Probate Act of 1975, or pursuant to an executed designation of  
10 representative form specified by the Department.

11 "Self" means the individual or the individual's designated  
12 representative.

13 "Shared housing establishment" or "establishment" means a  
14 publicly or privately operated free-standing residence for 16  
15 or fewer persons, at least 80% of whom are 55 years of age or  
16 older and who are unrelated to the owners and one manager of  
17 the residence, where the following are provided:

18 (1) services consistent with a social model that is  
19 based on the premise that the resident's unit is his or her  
20 own home;

21 (2) community-based residential care for persons who  
22 need assistance with activities of daily living, including  
23 housing and personal, supportive, and intermittent  
24 health-related services available 24 hours per day, if  
25 needed, to meet the scheduled and unscheduled needs of a  
26 resident; and

1           (3) mandatory services, whether provided directly by  
2           the establishment or by another entity arranged for by the  
3           establishment, with the consent of the resident or the  
4           resident's representative.

5           "Shared housing establishment" or "establishment" does not  
6           mean any of the following:

7           (1) A home, institution, or similar place operated by  
8           the federal government or the State of Illinois.

9           (2) A long term care facility licensed under the  
10          Nursing Home Care Act or a facility licensed under the  
11          ID/DD ~~MR/DD~~ Community Care Act. A facility licensed under  
12          either of those Acts may, however, convert sections of the  
13          facility to assisted living. If the facility elects to do  
14          so, the facility shall retain the Certificate of Need for  
15          its nursing beds that were converted.

16          (3) A hospital, sanitarium, or other institution, the  
17          principal activity or business of which is the diagnosis,  
18          care, and treatment of human illness and that is required  
19          to be licensed under the Hospital Licensing Act.

20          (4) A facility for child care as defined in the Child  
21          Care Act of 1969.

22          (5) A community living facility as defined in the  
23          Community Living Facilities Licensing Act.

24          (6) A nursing home or sanitarium operated solely by and  
25          for persons who rely exclusively upon treatment by  
26          spiritual means through prayer in accordance with the creed

1 or tenants of a well-recognized church or religious  
2 denomination.

3 (7) A facility licensed by the Department of Human  
4 Services as a community-integrated living arrangement as  
5 defined in the Community-Integrated Living Arrangements  
6 Licensure and Certification Act.

7 (8) A supportive residence licensed under the  
8 Supportive Residences Licensing Act.

9 (9) A life care facility as defined in the Life Care  
10 Facilities Act; a life care facility may apply under this  
11 Act to convert sections of the community to assisted  
12 living.

13 (10) A free-standing hospice facility licensed under  
14 the Hospice Program Licensing Act.

15 (11) An assisted living establishment.

16 (12) A supportive living facility as described in  
17 Section 5-5.01a of the Illinois Public Aid Code.

18 "Total assistance" means that staff or another individual  
19 performs the entire activity of daily living without  
20 participation by the resident.

21 (Source: P.A. 95-216, eff. 8-16-07; 96-339, eff. 7-1-10;  
22 96-975, eff. 7-2-10.)

23 (210 ILCS 9/35)

24 Sec. 35. Issuance of license.

25 (a) Upon receipt and review of an application for a license

1 and review of the applicant establishment, the Director may  
2 issue a license if he or she finds:

3 (1) that the individual applicant, or the corporation,  
4 partnership, or other entity if the applicant is not an  
5 individual, is a person responsible and suitable to operate  
6 or to direct or participate in the operation of an  
7 establishment by virtue of financial capacity, appropriate  
8 business or professional experience, a record of lawful  
9 compliance with lawful orders of the Department and lack of  
10 revocation of a license issued under this Act, the Nursing  
11 Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act during  
12 the previous 5 years;

13 (2) that the establishment is under the supervision of  
14 a full-time director who is at least 21 years of age and  
15 has a high school diploma or equivalent plus either:

16 (A) 2 years of management experience or 2 years of  
17 experience in positions of progressive responsibility  
18 in health care, housing with services, or adult day  
19 care or providing similar services to the elderly; or

20 (B) 2 years of management experience or 2 years of  
21 experience in positions of progressive responsibility  
22 in hospitality and training in health care and housing  
23 with services management as defined by rule;

24 (3) that the establishment has staff sufficient in  
25 number with qualifications, adequate skills, education,  
26 and experience to meet the 24 hour scheduled and

1           unscheduled needs of residents and who participate in  
2           ongoing training to serve the resident population;

3           (4) that all employees who are subject to the Health  
4           Care Worker Background Check Act meet the requirements of  
5           that Act;

6           (5) that the applicant is in substantial compliance  
7           with this Act and such other requirements for a license as  
8           the Department by rule may establish under this Act;

9           (6) that the applicant pays all required fees;

10          (7) that the applicant has provided to the Department  
11          an accurate disclosure document in accordance with the  
12          Alzheimer's Disease and Related Dementias Special Care  
13          Disclosure Act and in substantial compliance with Section  
14          150 of this Act.

15          In addition to any other requirements set forth in this  
16          Act, as a condition of licensure under this Act, the director  
17          of an establishment must participate in at least 20 hours of  
18          training every 2 years to assist him or her in better meeting  
19          the needs of the residents of the establishment and managing  
20          the operation of the establishment.

21          Any license issued by the Director shall state the physical  
22          location of the establishment, the date the license was issued,  
23          and the expiration date. All licenses shall be valid for one  
24          year, except as provided in Sections 40 and 45. Each license  
25          shall be issued only for the premises and persons named in the  
26          application, and shall not be transferable or assignable.

1 (Source: P.A. 95-79, eff. 8-13-07; 95-590, eff. 9-10-07;  
2 95-628, eff. 9-25-07; 95-876, eff. 8-21-08; 96-339, eff.  
3 7-1-10; 96-990, eff. 7-2-10.)

4 (210 ILCS 9/55)

5 Sec. 55. Grounds for denial of a license. An application  
6 for a license may be denied for any of the following reasons:

7 (1) failure to meet any of the standards set forth in  
8 this Act or by rules adopted by the Department under this  
9 Act;

10 (2) conviction of the applicant, or if the applicant is  
11 a firm, partnership, or association, of any of its members,  
12 or if a corporation, the conviction of the corporation or  
13 any of its officers or stockholders, or of the person  
14 designated to manage or supervise the establishment, of a  
15 felony or of 2 or more misdemeanors involving moral  
16 turpitude during the previous 5 years as shown by a  
17 certified copy of the record of the court of conviction;

18 (3) personnel insufficient in number or unqualified by  
19 training or experience to properly care for the residents;

20 (4) insufficient financial or other resources to  
21 operate and conduct the establishment in accordance with  
22 standards adopted by the Department under this Act;

23 (5) revocation of a license during the previous 5  
24 years, if such prior license was issued to the individual  
25 applicant, a controlling owner or controlling combination

1 of owners of the applicant; or any affiliate of the  
2 individual applicant or controlling owner of the applicant  
3 and such individual applicant, controlling owner of the  
4 applicant or affiliate of the applicant was a controlling  
5 owner of the prior license; provided, however, that the  
6 denial of an application for a license pursuant to this  
7 Section must be supported by evidence that the prior  
8 revocation renders the applicant unqualified or incapable  
9 of meeting or maintaining an establishment in accordance  
10 with the standards and rules adopted by the Department  
11 under this Act; or

12 (6) the establishment is not under the direct  
13 supervision of a full-time director, as defined by rule.

14 The Department shall deny an application for a license if 6  
15 months after submitting its initial application the applicant  
16 has not provided the Department with all of the information  
17 required for review and approval or the applicant is not  
18 actively pursuing the processing of its application. In  
19 addition, the Department shall determine whether the applicant  
20 has violated any provision of the Nursing Home Care Act or the  
21 ID/DD ~~MR/DD~~ Community Care Act.

22 (Source: P.A. 96-339, eff. 7-1-10.)

23 (210 ILCS 9/145)

24 Sec. 145. Conversion of facilities. Entities licensed as  
25 facilities under the Nursing Home Care Act or the ID/DD ~~MR/DD~~

1 Community Care Act may elect to convert to a license under this  
2 Act. Any facility that chooses to convert, in whole or in part,  
3 shall follow the requirements in the Nursing Home Care Act or  
4 the ID/DD ~~MR/DD~~ Community Care Act, as applicable, and rules  
5 promulgated under those Acts regarding voluntary closure and  
6 notice to residents. Any conversion of existing beds licensed  
7 under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community  
8 Care Act to licensure under this Act is exempt from review by  
9 the Health Facilities and Services Review Board.

10 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;  
11 96-1000, eff. 7-2-10.)

12 Section 69. The Abuse Prevention Review Team Act is amended  
13 by changing Sections 10 and 50 as follows:

14 (210 ILCS 28/10)

15 Sec. 10. Definitions. As used in this Act, unless the  
16 context requires otherwise:

17 "Department" means the Department of Public Health.

18 "Director" means the Director of Public Health.

19 "Executive Council" means the Illinois Residential Health  
20 Care Facility Resident Sexual Assault and Death Review Teams  
21 Executive Council.

22 "Resident" means a person residing in and receiving  
23 personal care from a facility licensed under the Nursing Home  
24 Care Act or the ID/DD ~~MR/DD~~ Community Care Act.



1 "Review team" means a residential health care facility  
2 resident sexual assault and death review team appointed under  
3 this Act.

4 (Source: P.A. 96-339, eff. 7-1-10.)

5 (210 ILCS 28/50)

6 Sec. 50. Funding. Notwithstanding any other provision of  
7 law, to the extent permitted by federal law, the Department  
8 shall use moneys from fines paid by facilities licensed under  
9 the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act  
10 for violating requirements for certification under Titles  
11 XVIII and XIX of the Social Security Act to implement the  
12 provisions of this Act. The Department shall use moneys  
13 deposited in the Long Term Care Monitor/Receiver Fund to pay  
14 the costs of implementing this Act that cannot be met by the  
15 use of federal civil monetary penalties.

16 (Source: P.A. 96-339, eff. 7-1-10.)

17 Section 70. The Abused and Neglected Long Term Care  
18 Facility Residents Reporting Act is amended by changing  
19 Sections 3, 4, and 6 as follows:

20 (210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

21 Sec. 3. As used in this Act unless the context otherwise  
22 requires:

23 a. "Department" means the Department of Public Health of

1 the State of Illinois.

2 b. "Resident" means a person residing in and receiving  
3 personal care from a long term care facility, or residing in a  
4 mental health facility or developmental disability facility as  
5 defined in the Mental Health and Developmental Disabilities  
6 Code.

7 c. "Long term care facility" has the same meaning ascribed  
8 to such term in the Nursing Home Care Act, except that the term  
9 as used in this Act shall include any mental health facility or  
10 developmental disability facility as defined in the Mental  
11 Health and Developmental Disabilities Code. The term also  
12 includes any facility licensed under the ID/DD ~~MR/DD~~ Community  
13 Care Act.

14 d. "Abuse" means any physical injury, sexual abuse or  
15 mental injury inflicted on a resident other than by accidental  
16 means.

17 e. "Neglect" means a failure in a long term care facility  
18 to provide adequate medical or personal care or maintenance,  
19 which failure results in physical or mental injury to a  
20 resident or in the deterioration of a resident's physical or  
21 mental condition.

22 f. "Protective services" means services provided to a  
23 resident who has been abused or neglected, which may include,  
24 but are not limited to alternative temporary institutional  
25 placement, nursing care, counseling, other social services  
26 provided at the nursing home where the resident resides or at

1 some other facility, personal care and such protective services  
2 of voluntary agencies as are available.

3 g. Unless the context otherwise requires, direct or  
4 indirect references in this Act to the programs, personnel,  
5 facilities, services, service providers, or service recipients  
6 of the Department of Human Services shall be construed to refer  
7 only to those programs, personnel, facilities, services,  
8 service providers, or service recipients that pertain to the  
9 Department of Human Services' mental health and developmental  
10 disabilities functions.

11 (Source: P.A. 96-339, eff. 7-1-10.)

12 (210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

13 Sec. 4. Any long term care facility administrator, agent or  
14 employee or any physician, hospital, surgeon, dentist,  
15 osteopath, chiropractor, podiatrist, accredited religious  
16 practitioner who provides treatment by spiritual means alone  
17 through prayer in accordance with the tenets and practices of  
18 the accrediting church, coroner, social worker, social  
19 services administrator, registered nurse, law enforcement  
20 officer, field personnel of the Department of Healthcare and  
21 Family Services, field personnel of the Illinois Department of  
22 Public Health and County or Municipal Health Departments,  
23 personnel of the Department of Human Services (acting as the  
24 successor to the Department of Mental Health and Developmental  
25 Disabilities or the Department of Public Aid), personnel of the

1 Guardianship and Advocacy Commission, personnel of the State  
2 Fire Marshal, local fire department inspectors or other  
3 personnel, or personnel of the Illinois Department on Aging, or  
4 its subsidiary Agencies on Aging, or employee of a facility  
5 licensed under the Assisted Living and Shared Housing Act,  
6 having reasonable cause to believe any resident with whom they  
7 have direct contact has been subjected to abuse or neglect  
8 shall immediately report or cause a report to be made to the  
9 Department. Persons required to make reports or cause reports  
10 to be made under this Section include all employees of the  
11 State of Illinois who are involved in providing services to  
12 residents, including professionals providing medical or  
13 rehabilitation services and all other persons having direct  
14 contact with residents; and further include all employees of  
15 community service agencies who provide services to a resident  
16 of a public or private long term care facility outside of that  
17 facility. Any long term care surveyor of the Illinois  
18 Department of Public Health who has reasonable cause to believe  
19 in the course of a survey that a resident has been abused or  
20 neglected and initiates an investigation while on site at the  
21 facility shall be exempt from making a report under this  
22 Section but the results of any such investigation shall be  
23 forwarded to the central register in a manner and form  
24 described by the Department.

25 The requirement of this Act shall not relieve any long term  
26 care facility administrator, agent or employee of

1 responsibility to report the abuse or neglect of a resident  
2 under Section 3-610 of the Nursing Home Care Act or under  
3 Section 3-610 of the ID/DD ~~MR/DD~~ Community Care Act.

4 In addition to the above persons required to report  
5 suspected resident abuse and neglect, any other person may make  
6 a report to the Department, or to any law enforcement officer,  
7 if such person has reasonable cause to suspect a resident has  
8 been abused or neglected.

9 This Section also applies to residents whose death occurs  
10 from suspected abuse or neglect before being found or brought  
11 to a hospital.

12 A person required to make reports or cause reports to be  
13 made under this Section who fails to comply with the  
14 requirements of this Section is guilty of a Class A  
15 misdemeanor.

16 (Source: P.A. 96-339, eff. 7-1-10.)

17 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

18 Sec. 6. All reports of suspected abuse or neglect made  
19 under this Act shall be made immediately by telephone to the  
20 Department's central register established under Section 14 on  
21 the single, State-wide, toll-free telephone number established  
22 under Section 13, or in person or by telephone through the  
23 nearest Department office. No long term care facility  
24 administrator, agent or employee, or any other person, shall  
25 screen reports or otherwise withhold any reports from the

1 Department, and no long term care facility, department of State  
2 government, or other agency shall establish any rules,  
3 criteria, standards or guidelines to the contrary. Every long  
4 term care facility, department of State government and other  
5 agency whose employees are required to make or cause to be made  
6 reports under Section 4 shall notify its employees of the  
7 provisions of that Section and of this Section, and provide to  
8 the Department documentation that such notification has been  
9 given. The Department of Human Services shall train all of its  
10 mental health and developmental disabilities employees in the  
11 detection and reporting of suspected abuse and neglect of  
12 residents. Reports made to the central register through the  
13 State-wide, toll-free telephone number shall be transmitted to  
14 appropriate Department offices and municipal health  
15 departments that have responsibility for licensing long term  
16 care facilities under the Nursing Home Care Act or the ID/DD  
17 ~~MR/DD~~ Community Care Act. All reports received through offices  
18 of the Department shall be forwarded to the central register,  
19 in a manner and form described by the Department. The  
20 Department shall be capable of receiving reports of suspected  
21 abuse and neglect 24 hours a day, 7 days a week. Reports shall  
22 also be made in writing deposited in the U.S. mail, postage  
23 prepaid, within 24 hours after having reasonable cause to  
24 believe that the condition of the resident resulted from abuse  
25 or neglect. Such reports may in addition be made to the local  
26 law enforcement agency in the same manner. However, in the

1 event a report is made to the local law enforcement agency, the  
2 reporter also shall immediately so inform the Department. The  
3 Department shall initiate an investigation of each report of  
4 resident abuse and neglect under this Act, whether oral or  
5 written, as provided for in Section 3-702 of the Nursing Home  
6 Care Act or Section 3-702 of the ID/DD ~~MR/DD~~ Community Care  
7 Act, except that reports of abuse which indicate that a  
8 resident's life or safety is in imminent danger shall be  
9 investigated within 24 hours of such report. The Department may  
10 delegate to law enforcement officials or other public agencies  
11 the duty to perform such investigation.

12 With respect to investigations of reports of suspected  
13 abuse or neglect of residents of mental health and  
14 developmental disabilities institutions under the jurisdiction  
15 of the Department of Human Services, the Department shall  
16 transmit copies of such reports to the Department of State  
17 Police, the Department of Human Services, and the Inspector  
18 General appointed under Section 1-17 of the Department of Human  
19 Services Act. If the Department receives a report of suspected  
20 abuse or neglect of a recipient of services as defined in  
21 Section 1-123 of the Mental Health and Developmental  
22 Disabilities Code, the Department shall transmit copies of such  
23 report to the Inspector General and the Directors of the  
24 Guardianship and Advocacy Commission and the agency designated  
25 by the Governor pursuant to the Protection and Advocacy for  
26 Developmentally Disabled Persons Act. When requested by the

1 Director of the Guardianship and Advocacy Commission, the  
2 agency designated by the Governor pursuant to the Protection  
3 and Advocacy for Developmentally Disabled Persons Act, or the  
4 Department of Financial and Professional Regulation, the  
5 Department, the Department of Human Services and the Department  
6 of State Police shall make available a copy of the final  
7 investigative report regarding investigations conducted by  
8 their respective agencies on incidents of suspected abuse or  
9 neglect of residents of mental health and developmental  
10 disabilities institutions or individuals receiving services at  
11 community agencies under the jurisdiction of the Department of  
12 Human Services. Such final investigative report shall not  
13 contain witness statements, investigation notes, draft  
14 summaries, results of lie detector tests, investigative files  
15 or other raw data which was used to compile the final  
16 investigative report. Specifically, the final investigative  
17 report of the Department of State Police shall mean the  
18 Director's final transmittal letter. The Department of Human  
19 Services shall also make available a copy of the results of  
20 disciplinary proceedings of employees involved in incidents of  
21 abuse or neglect to the Directors. All identifiable information  
22 in reports provided shall not be further disclosed except as  
23 provided by the Mental Health and Developmental Disabilities  
24 Confidentiality Act. Nothing in this Section is intended to  
25 limit or construe the power or authority granted to the agency  
26 designated by the Governor pursuant to the Protection and



1 Advocacy for Developmentally Disabled Persons Act, pursuant to  
2 any other State or federal statute.

3 With respect to investigations of reported resident abuse  
4 or neglect, the Department shall effect with appropriate law  
5 enforcement agencies formal agreements concerning methods and  
6 procedures for the conduct of investigations into the criminal  
7 histories of any administrator, staff assistant or employee of  
8 the nursing home or other person responsible for the residents  
9 care, as well as for other residents in the nursing home who  
10 may be in a position to abuse, neglect or exploit the patient.  
11 Pursuant to the formal agreements entered into with appropriate  
12 law enforcement agencies, the Department may request  
13 information with respect to whether the person or persons set  
14 forth in this paragraph have ever been charged with a crime and  
15 if so, the disposition of those charges. Unless the criminal  
16 histories of the subjects involved crimes of violence or  
17 resident abuse or neglect, the Department shall be entitled  
18 only to information limited in scope to charges and their  
19 dispositions. In cases where prior crimes of violence or  
20 resident abuse or neglect are involved, a more detailed report  
21 can be made available to authorized representatives of the  
22 Department, pursuant to the agreements entered into with  
23 appropriate law enforcement agencies. Any criminal charges and  
24 their disposition information obtained by the Department shall  
25 be confidential and may not be transmitted outside the  
26 Department, except as required herein, to authorized

1 representatives or delegates of the Department, and may not be  
2 transmitted to anyone within the Department who is not duly  
3 authorized to handle resident abuse or neglect investigations.

4 The Department shall effect formal agreements with  
5 appropriate law enforcement agencies in the various counties  
6 and communities to encourage cooperation and coordination in  
7 the handling of resident abuse or neglect cases pursuant to  
8 this Act. The Department shall adopt and implement methods and  
9 procedures to promote statewide uniformity in the handling of  
10 reports of abuse and neglect under this Act, and those methods  
11 and procedures shall be adhered to by personnel of the  
12 Department involved in such investigations and reporting. The  
13 Department shall also make information required by this Act  
14 available to authorized personnel within the Department, as  
15 well as its authorized representatives.

16 The Department shall keep a continuing record of all  
17 reports made pursuant to this Act, including indications of the  
18 final determination of any investigation and the final  
19 disposition of all reports.

20 The Department shall report annually to the General  
21 Assembly on the incidence of abuse and neglect of long term  
22 care facility residents, with special attention to residents  
23 who are mentally disabled. The report shall include but not be  
24 limited to data on the number and source of reports of  
25 suspected abuse or neglect filed under this Act, the nature of  
26 any injuries to residents, the final determination of

1 investigations, the type and number of cases where abuse or  
2 neglect is determined to exist, and the final disposition of  
3 cases.

4 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10.)

5 Section 71. The Nursing Home Care Act is amended by  
6 changing Sections 1-113 and 3-202.5 as follows:

7 (210 ILCS 45/1-113) (from Ch. 111 1/2, par. 4151-113)

8 Sec. 1-113. "Facility" or "long-term care facility" means a  
9 private home, institution, building, residence, or any other  
10 place, whether operated for profit or not, or a county home for  
11 the infirm and chronically ill operated pursuant to Division  
12 5-21 or 5-22 of the Counties Code, or any similar institution  
13 operated by a political subdivision of the State of Illinois,  
14 which provides, through its ownership or management, personal  
15 care, sheltered care or nursing for 3 or more persons, not  
16 related to the applicant or owner by blood or marriage. It  
17 includes skilled nursing facilities and intermediate care  
18 facilities as those terms are defined in Title XVIII and Title  
19 XIX of the Federal Social Security Act. It also includes homes,  
20 institutions, or other places operated by or under the  
21 authority of the Illinois Department of Veterans' Affairs.

22 "Facility" does not include the following:

23 (1) A home, institution, or other place operated by the  
24 federal government or agency thereof, or by the State of

1 Illinois, other than homes, institutions, or other places  
2 operated by or under the authority of the Illinois  
3 Department of Veterans' Affairs;

4 (2) A hospital, sanitarium, or other institution whose  
5 principal activity or business is the diagnosis, care, and  
6 treatment of human illness through the maintenance and  
7 operation as organized facilities therefor, which is  
8 required to be licensed under the Hospital Licensing Act;

9 (3) Any "facility for child care" as defined in the  
10 Child Care Act of 1969;

11 (4) Any "Community Living Facility" as defined in the  
12 Community Living Facilities Licensing Act;

13 (5) Any "community residential alternative" as defined  
14 in the Community Residential Alternatives Licensing Act;

15 (6) Any nursing home or sanatorium operated solely by  
16 and for persons who rely exclusively upon treatment by  
17 spiritual means through prayer, in accordance with the  
18 creed or tenets of any well-recognized church or religious  
19 denomination. However, such nursing home or sanatorium  
20 shall comply with all local laws and rules relating to  
21 sanitation and safety;

22 (7) Any facility licensed by the Department of Human  
23 Services as a community-integrated living arrangement as  
24 defined in the Community-Integrated Living Arrangements  
25 Licensure and Certification Act;

26 (8) Any "Supportive Residence" licensed under the

1 Supportive Residences Licensing Act;

2 (9) Any "supportive living facility" in good standing  
3 with the program established under Section 5-5.01a of the  
4 Illinois Public Aid Code, except only for purposes of the  
5 employment of persons in accordance with Section 3-206.01;

6 (10) Any assisted living or shared housing  
7 establishment licensed under the Assisted Living and  
8 Shared Housing Act, except only for purposes of the  
9 employment of persons in accordance with Section 3-206.01;

10 (11) An Alzheimer's disease management center  
11 alternative health care model licensed under the  
12 Alternative Health Care Delivery Act; or

13 (12) A facility licensed under the ID/DD ~~MR/DD~~  
14 Community Care Act.

15 (Source: P.A. 95-380, eff. 8-23-07; 96-339, eff. 7-1-10.)

16 (210 ILCS 45/3-202.5)

17 Sec. 3-202.5. Facility plan review; fees.

18 (a) Before commencing construction of a new facility or  
19 specified types of alteration or additions to an existing long  
20 term care facility involving major construction, as defined by  
21 rule by the Department, with an estimated cost greater than  
22 \$100,000, architectural drawings and specifications for the  
23 facility shall be submitted to the Department for review and  
24 approval. A facility may submit architectural drawings and  
25 specifications for other construction projects for Department

1 review according to subsection (b) that shall not be subject to  
2 fees under subsection (d). Review of drawings and  
3 specifications shall be conducted by an employee of the  
4 Department meeting the qualifications established by the  
5 Department of Central Management Services class specifications  
6 for such an individual's position or by a person contracting  
7 with the Department who meets those class specifications. Final  
8 approval of the drawings and specifications for compliance with  
9 design and construction standards shall be obtained from the  
10 Department before the alteration, addition, or new  
11 construction is begun.

12 (b) The Department shall inform an applicant in writing  
13 within 10 working days after receiving drawings and  
14 specifications and the required fee, if any, from the applicant  
15 whether the applicant's submission is complete or incomplete.  
16 Failure to provide the applicant with this notice within 10  
17 working days shall result in the submission being deemed  
18 complete for purposes of initiating the 60-day review period  
19 under this Section. If the submission is incomplete, the  
20 Department shall inform the applicant of the deficiencies with  
21 the submission in writing. If the submission is complete the  
22 required fee, if any, has been paid, the Department shall  
23 approve or disapprove drawings and specifications submitted to  
24 the Department no later than 60 days following receipt by the  
25 Department. The drawings and specifications shall be of  
26 sufficient detail, as provided by Department rule, to enable

1 the Department to render a determination of compliance with  
2 design and construction standards under this Act. If the  
3 Department finds that the drawings are not of sufficient detail  
4 for it to render a determination of compliance, the plans shall  
5 be determined to be incomplete and shall not be considered for  
6 purposes of initiating the 60 day review period. If a  
7 submission of drawings and specifications is incomplete, the  
8 applicant may submit additional information. The 60-day review  
9 period shall not commence until the Department determines that  
10 a submission of drawings and specifications is complete or the  
11 submission is deemed complete. If the Department has not  
12 approved or disapproved the drawings and specifications within  
13 60 days, the construction, major alteration, or addition shall  
14 be deemed approved. If the drawings and specifications are  
15 disapproved, the Department shall state in writing, with  
16 specificity, the reasons for the disapproval. The entity  
17 submitting the drawings and specifications may submit  
18 additional information in response to the written comments from  
19 the Department or request a reconsideration of the disapproval.  
20 A final decision of approval or disapproval shall be made  
21 within 45 days of the receipt of the additional information or  
22 reconsideration request. If denied, the Department shall state  
23 the specific reasons for the denial.

24 (c) The Department shall provide written approval for  
25 occupancy pursuant to subsection (g) and shall not issue a  
26 violation to a facility as a result of a licensure or complaint

1 survey based upon the facility's physical structure if:

2 (1) the Department reviewed and approved or deemed  
3 approved the drawings and specifications for compliance  
4 with design and construction standards;

5 (2) the construction, major alteration, or addition  
6 was built as submitted;

7 (3) the law or rules have not been amended since the  
8 original approval; and

9 (4) the conditions at the facility indicate that there  
10 is a reasonable degree of safety provided for the  
11 residents.

12 (d) The Department shall charge the following fees in  
13 connection with its reviews conducted before June 30, 2004  
14 under this Section:

15 (1) (Blank).

16 (2) (Blank).

17 (3) If the estimated dollar value of the alteration,  
18 addition, or new construction is \$100,000 or more but less  
19 than \$500,000, the fee shall be the greater of \$2,400 or  
20 1.2% of that value.

21 (4) If the estimated dollar value of the alteration,  
22 addition, or new construction is \$500,000 or more but less  
23 than \$1,000,000, the fee shall be the greater of \$6,000 or  
24 0.96% of that value.

25 (5) If the estimated dollar value of the alteration,  
26 addition, or new construction is \$1,000,000 or more but



1 less than \$5,000,000, the fee shall be the greater of  
2 \$9,600 or 0.22% of that value.

3 (6) If the estimated dollar value of the alteration,  
4 addition, or new construction is \$5,000,000 or more, the  
5 fee shall be the greater of \$11,000 or 0.11% of that value,  
6 but shall not exceed \$40,000.

7 The fees provided in this subsection (d) shall not apply to  
8 major construction projects involving facility changes that  
9 are required by Department rule amendments.

10 The fees provided in this subsection (d) shall also not  
11 apply to major construction projects if 51% or more of the  
12 estimated cost of the project is attributed to capital  
13 equipment. For major construction projects where 51% or more of  
14 the estimated cost of the project is attributed to capital  
15 equipment, the Department shall by rule establish a fee that is  
16 reasonably related to the cost of reviewing the project.

17 The Department shall not commence the facility plan review  
18 process under this Section until the applicable fee has been  
19 paid.

20 (e) All fees received by the Department under this Section  
21 shall be deposited into the Health Facility Plan Review Fund, a  
22 special fund created in the State Treasury. All fees paid by  
23 long-term care facilities under subsection (d) shall be used  
24 only to cover the costs relating to the Department's review of  
25 long-term care facility projects under this Section. Moneys  
26 shall be appropriated from that Fund to the Department only to

1 pay the costs of conducting reviews under this Section or under  
2 Section 3-202.5 of the ID/DD ~~MR/DD~~ Community Care Act. None of  
3 the moneys in the Health Facility Plan Review Fund shall be  
4 used to reduce the amount of General Revenue Fund moneys  
5 appropriated to the Department for facility plan reviews  
6 conducted pursuant to this Section.

7 (f) (1) The provisions of this amendatory Act of 1997  
8 concerning drawings and specifications shall apply only to  
9 drawings and specifications submitted to the Department on  
10 or after October 1, 1997.

11 (2) On and after the effective date of this amendatory  
12 Act of 1997 and before October 1, 1997, an applicant may  
13 submit or resubmit drawings and specifications to the  
14 Department and pay the fees provided in subsection (d). If  
15 an applicant pays the fees provided in subsection (d) under  
16 this paragraph (2), the provisions of subsection (b) shall  
17 apply with regard to those drawings and specifications.

18 (g) The Department shall conduct an on-site inspection of  
19 the completed project no later than 30 days after notification  
20 from the applicant that the project has been completed and all  
21 certifications required by the Department have been received  
22 and accepted by the Department. The Department shall provide  
23 written approval for occupancy to the applicant within 5  
24 working days of the Department's final inspection, provided the  
25 applicant has demonstrated substantial compliance as defined  
26 by Department rule. Occupancy of new major construction is

1 prohibited until Department approval is received, unless the  
2 Department has not acted within the time frames provided in  
3 this subsection (g), in which case the construction shall be  
4 deemed approved. Occupancy shall be authorized after any  
5 required health inspection by the Department has been  
6 conducted.

7 (h) The Department shall establish, by rule, a procedure to  
8 conduct interim on-site review of large or complex construction  
9 projects.

10 (i) The Department shall establish, by rule, an expedited  
11 process for emergency repairs or replacement of like equipment.

12 (j) Nothing in this Section shall be construed to apply to  
13 maintenance, upkeep, or renovation that does not affect the  
14 structural integrity of the building, does not add beds or  
15 services over the number for which the long-term care facility  
16 is licensed, and provides a reasonable degree of safety for the  
17 residents.

18 (Source: P.A. 96-339, eff. 7-1-10.)

19 Section 72. The MR/DD Community Care Act is amended by  
20 changing Sections 1-101 and 1-113 as follows:

21 (210 ILCS 47/1-101)

22 Sec. 1-101. Short title. This Act may be cited as the ID/DD  
23 ~~MR/DD~~ Community Care Act.

24 (Source: P.A. 96-339, eff. 7-1-10.)

1 (210 ILCS 47/1-113)

2 Sec. 1-113. Facility. "ID/DD ~~MR/DD~~ facility" or "facility"  
3 means an intermediate care facility for the developmentally  
4 disabled or a long-term care for under age 22 facility, whether  
5 operated for profit or not, which provides, through its  
6 ownership or management, personal care or nursing for 3 or more  
7 persons not related to the applicant or owner by blood or  
8 marriage. It includes intermediate care facilities for the  
9 intellectually disabled ~~mentally retarded~~ as the term is  
10 defined in Title XVIII and Title XIX of the federal Social  
11 Security Act.

12 "Facility" does not include the following:

13 (1) A home, institution, or other place operated by the  
14 federal government or agency thereof, or by the State of  
15 Illinois, other than homes, institutions, or other places  
16 operated by or under the authority of the Illinois  
17 Department of Veterans' Affairs;

18 (2) A hospital, sanitarium, or other institution whose  
19 principal activity or business is the diagnosis, care, and  
20 treatment of human illness through the maintenance and  
21 operation as organized facilities therefore, which is  
22 required to be licensed under the Hospital Licensing Act;

23 (3) Any "facility for child care" as defined in the  
24 Child Care Act of 1969;

25 (4) Any "community living facility" as defined in the

1 Community Living Facilities Licensing Act;

2 (5) Any "community residential alternative" as defined  
3 in the Community Residential Alternatives Licensing Act;

4 (6) Any nursing home or sanatorium operated solely by  
5 and for persons who rely exclusively upon treatment by  
6 spiritual means through prayer, in accordance with the  
7 creed or tenets of any well recognized church or religious  
8 denomination. However, such nursing home or sanatorium  
9 shall comply with all local laws and rules relating to  
10 sanitation and safety;

11 (7) Any facility licensed by the Department of Human  
12 Services as a community-integrated living arrangement as  
13 defined in the Community-Integrated Living Arrangements  
14 Licensure and Certification Act;

15 (8) Any "supportive residence" licensed under the  
16 Supportive Residences Licensing Act;

17 (9) Any "supportive living facility" in good standing  
18 with the program established under Section 5-5.01a of the  
19 Illinois Public Aid Code, except only for purposes of the  
20 employment of persons in accordance with Section 3-206.01;

21 (10) Any assisted living or shared housing  
22 establishment licensed under the Assisted Living and  
23 Shared Housing Act, except only for purposes of the  
24 employment of persons in accordance with Section 3-206.01;

25 (11) An Alzheimer's disease management center  
26 alternative health care model licensed under the

1 Alternative Health Care Delivery Act; or

2 (12) A home, institution, or other place operated by or  
3 under the authority of the Illinois Department of Veterans'  
4 Affairs.

5 (Source: P.A. 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

6 Section 73. The Home Health, Home Services, and Home  
7 Nursing Agency Licensing Act is amended by changing Section  
8 2.08 as follows:

9 (210 ILCS 55/2.08)

10 Sec. 2.08. "Home services agency" means an agency that  
11 provides services directly, or acts as a placement agency, for  
12 the purpose of placing individuals as workers providing home  
13 services for consumers in their personal residences. "Home  
14 services agency" does not include agencies licensed under the  
15 Nurse Agency Licensing Act, the Hospital Licensing Act, the  
16 Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or  
17 the Assisted Living and Shared Housing Act and does not include  
18 an agency that limits its business exclusively to providing  
19 housecleaning services. Programs providing services  
20 exclusively through the Community Care Program of the Illinois  
21 Department on Aging, the Department of Human Services Office of  
22 Rehabilitation Services, or the United States Department of  
23 Veterans Affairs are not considered to be a home services  
24 agency under this Act.

1 (Source: P.A. 96-339, eff. 7-1-10; 96-577, eff. 8-18-09;  
2 96-1000, eff. 7-2-10.)

3 Section 74. The Hospice Program Licensing Act is amended by  
4 changing Sections 3 and 4 as follows:

5 (210 ILCS 60/3) (from Ch. 111 1/2, par. 6103)

6 Sec. 3. Definitions. As used in this Act, unless the  
7 context otherwise requires:

8 (a) "Bereavement" means the period of time during which the  
9 hospice patient's family experiences and adjusts to the death  
10 of the hospice patient.

11 (a-5) "Bereavement services" means counseling services  
12 provided to an individual's family after the individual's  
13 death.

14 (a-10) "Attending physician" means a physician who:

15 (1) is a doctor of medicine or osteopathy; and

16 (2) is identified by an individual, at the time the  
17 individual elects to receive hospice care, as having the  
18 most significant role in the determination and delivery of  
19 the individual's medical care.

20 (b) "Department" means the Illinois Department of Public  
21 Health.

22 (c) "Director" means the Director of the Illinois  
23 Department of Public Health.

24 (d) "Hospice care" means a program of palliative care that

1 provides for the physical, emotional, and spiritual care needs  
2 of a terminally ill patient and his or her family. The goal of  
3 such care is to achieve the highest quality of life as defined  
4 by the patient and his or her family through the relief of  
5 suffering and control of symptoms.

6 (e) "Hospice care team" means an interdisciplinary group or  
7 groups composed of individuals who provide or supervise the  
8 care and services offered by the hospice.

9 (f) "Hospice patient" means a terminally ill person  
10 receiving hospice services.

11 (g) "Hospice patient's family" means a hospice patient's  
12 immediate family consisting of a spouse, sibling, child, parent  
13 and those individuals designated as such by the patient for the  
14 purposes of this Act.

15 (g-1) "Hospice residence" means a separately licensed  
16 home, apartment building, or similar building providing living  
17 quarters:

18 (1) that is owned or operated by a person licensed to  
19 operate as a comprehensive hospice; and

20 (2) at which hospice services are provided to facility  
21 residents.

22 A building that is licensed under the Hospital Licensing  
23 Act, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community  
24 Care Act is not a hospice residence.

25 (h) "Hospice services" means a range of professional and  
26 other supportive services provided to a hospice patient and his



1 or her family. These services may include, but are not limited  
2 to, physician services, nursing services, medical social work  
3 services, spiritual counseling services, bereavement services,  
4 and volunteer services.

5 (h-5) "Hospice program" means a licensed public agency or  
6 private organization, or a subdivision of either of those, that  
7 is primarily engaged in providing care to terminally ill  
8 individuals through a program of home care or inpatient care,  
9 or both home care and inpatient care, utilizing a medically  
10 directed interdisciplinary hospice care team of professionals  
11 or volunteers, or both professionals and volunteers. A hospice  
12 program may be licensed as a comprehensive hospice program or a  
13 volunteer hospice program.

14 (h-10) "Comprehensive hospice" means a program that  
15 provides hospice services and meets the minimum standards for  
16 certification under the Medicare program set forth in the  
17 Conditions of Participation in 42 CFR Part 418 but is not  
18 required to be Medicare-certified.

19 (i) "Palliative care" means the management of pain and  
20 other distressing symptoms that incorporates medical, nursing,  
21 psychosocial, and spiritual care according to the needs,  
22 values, beliefs, and culture or cultures of the patient and his  
23 or her family. The evaluation and treatment is  
24 patient-centered, with a focus on the central role of the  
25 family unit in decision-making.

26 (j) "Hospice service plan" means a plan detailing the

1 specific hospice services offered by a comprehensive or  
2 volunteer hospice program, and the administrative and direct  
3 care personnel responsible for those services. The plan shall  
4 include but not be limited to:

5 (1) Identification of the person or persons  
6 administratively responsible for the program.

7 (2) The estimated average monthly patient census.

8 (3) The proposed geographic area the hospice will  
9 serve.

10 (4) A listing of those hospice services provided  
11 directly by the hospice, and those hospice services  
12 provided indirectly through a contractual agreement.

13 (5) The name and qualifications of those persons or  
14 entities under contract to provide indirect hospice  
15 services.

16 (6) The name and qualifications of those persons  
17 providing direct hospice services, with the exception of  
18 volunteers.

19 (7) A description of how the hospice plans to utilize  
20 volunteers in the provision of hospice services.

21 (8) A description of the program's record keeping  
22 system.

23 (k) "Terminally ill" means a medical prognosis by a  
24 physician licensed to practice medicine in all of its branches  
25 that a patient has an anticipated life expectancy of one year  
26 or less.

1           (1) "Volunteer" means a person who offers his or her  
2 services to a hospice without compensation. Reimbursement for a  
3 volunteer's expenses in providing hospice service shall not be  
4 considered compensation.

5           (1-5) "Employee" means a paid or unpaid member of the staff  
6 of a hospice program, or, if the hospice program is a  
7 subdivision of an agency or organization, of the agency or  
8 organization, who is appropriately trained and assigned to the  
9 hospice program. "Employee" also means a volunteer whose duties  
10 are prescribed by the hospice program and whose performance of  
11 those duties is supervised by the hospice program.

12           (1-10) "Representative" means an individual who has been  
13 authorized under State law to terminate an individual's medical  
14 care or to elect or revoke the election of hospice care on  
15 behalf of a terminally ill individual who is mentally or  
16 physically incapacitated.

17           (m) "Volunteer hospice" means a program which provides  
18 hospice services to patients regardless of their ability to  
19 pay, with emphasis on the utilization of volunteers to provide  
20 services, under the administration of a not-for-profit agency.  
21 This definition does not prohibit the employment of staff.

22           (Source: P.A. 96-339, eff. 7-1-10.)

23           (210 ILCS 60/4) (from Ch. 111 1/2, par. 6104)

24           Sec. 4. License.

25           (a) No person shall establish, conduct or maintain a

1 comprehensive or volunteer hospice program without first  
2 obtaining a license from the Department. A hospice residence  
3 may be operated only at the locations listed on the license. A  
4 comprehensive hospice program owning or operating a hospice  
5 residence is not subject to the provisions of the Nursing Home  
6 Care Act or the ID/DD ~~MR/DD~~ Community Care Act in owning or  
7 operating a hospice residence.

8 (b) No public or private agency shall advertise or present  
9 itself to the public as a comprehensive or volunteer hospice  
10 program which provides hospice services without meeting the  
11 provisions of subsection (a).

12 (c) The license shall be valid only in the possession of  
13 the hospice to which it was originally issued and shall not be  
14 transferred or assigned to any other person, agency, or  
15 corporation.

16 (d) The license shall be renewed annually.

17 (e) The license shall be displayed in a conspicuous place  
18 inside the hospice program office.

19 (Source: P.A. 96-339, eff. 7-1-10.)

20 Section 75. The Hospital Licensing Act is amended by  
21 changing Sections 3, 6.09, and 6.11 as follows:

22 (210 ILCS 85/3)

23 Sec. 3. As used in this Act:

24 (A) "Hospital" means any institution, place, building,

1 buildings on a campus, or agency, public or private, whether  
2 organized for profit or not, devoted primarily to the  
3 maintenance and operation of facilities for the diagnosis and  
4 treatment or care of 2 or more unrelated persons admitted for  
5 overnight stay or longer in order to obtain medical, including  
6 obstetric, psychiatric and nursing, care of illness, disease,  
7 injury, infirmity, or deformity.

8 The term "hospital", without regard to length of stay,  
9 shall also include:

10 (a) any facility which is devoted primarily to  
11 providing psychiatric and related services and programs  
12 for the diagnosis and treatment or care of 2 or more  
13 unrelated persons suffering from emotional or nervous  
14 diseases;

15 (b) all places where pregnant females are received,  
16 cared for, or treated during delivery irrespective of the  
17 number of patients received.

18 The term "hospital" includes general and specialized  
19 hospitals, tuberculosis sanitarium, mental or psychiatric  
20 hospitals and sanitarium, and includes maternity homes,  
21 lying-in homes, and homes for unwed mothers in which care is  
22 given during delivery.

23 The term "hospital" does not include:

24 (1) any person or institution required to be licensed  
25 pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
26 Community Care Act;

1           (2) hospitalization or care facilities maintained by  
2           the State or any department or agency thereof, where such  
3           department or agency has authority under law to establish  
4           and enforce standards for the hospitalization or care  
5           facilities under its management and control;

6           (3) hospitalization or care facilities maintained by  
7           the federal government or agencies thereof;

8           (4) hospitalization or care facilities maintained by  
9           any university or college established under the laws of  
10          this State and supported principally by public funds raised  
11          by taxation;

12          (5) any person or facility required to be licensed  
13          pursuant to the Alcoholism and Other Drug Abuse and  
14          Dependency Act;

15          (6) any facility operated solely by and for persons who  
16          rely exclusively upon treatment by spiritual means through  
17          prayer, in accordance with the creed or tenets of any  
18          well-recognized church or religious denomination;

19          (7) an Alzheimer's disease management center  
20          alternative health care model licensed under the  
21          Alternative Health Care Delivery Act; or

22          (8) any veterinary hospital or clinic operated by a  
23          veterinarian or veterinarians licensed under the  
24          Veterinary Medicine and Surgery Practice Act of 2004 or  
25          maintained by a State-supported or publicly funded  
26          university or college.

1 (B) "Person" means the State, and any political subdivision  
2 or municipal corporation, individual, firm, partnership,  
3 corporation, company, association, or joint stock association,  
4 or the legal successor thereof.

5 (C) "Department" means the Department of Public Health of  
6 the State of Illinois.

7 (D) "Director" means the Director of Public Health of the  
8 State of Illinois.

9 (E) "Perinatal" means the period of time between the  
10 conception of an infant and the end of the first month after  
11 birth.

12 (F) "Federally designated organ procurement agency" means  
13 the organ procurement agency designated by the Secretary of the  
14 U.S. Department of Health and Human Services for the service  
15 area in which a hospital is located; except that in the case of  
16 a hospital located in a county adjacent to Wisconsin which  
17 currently contracts with an organ procurement agency located in  
18 Wisconsin that is not the organ procurement agency designated  
19 by the U.S. Secretary of Health and Human Services for the  
20 service area in which the hospital is located, if the hospital  
21 applies for a waiver pursuant to 42 USC 1320b-8(a), it may  
22 designate an organ procurement agency located in Wisconsin to  
23 be thereafter deemed its federally designated organ  
24 procurement agency for the purposes of this Act.

25 (G) "Tissue bank" means any facility or program operating  
26 in Illinois that is certified by the American Association of

1 Tissue Banks or the Eye Bank Association of America and is  
2 involved in procuring, furnishing, donating, or distributing  
3 corneas, bones, or other human tissue for the purpose of  
4 injecting, transfusing, or transplanting any of them into the  
5 human body. "Tissue bank" does not include a licensed blood  
6 bank. For the purposes of this Act, "tissue" does not include  
7 organs.

8 (H) "Campus", as this terms applies to operations, has the  
9 same meaning as the term "campus" as set forth in federal  
10 Medicare regulations, 42 CFR 413.65.

11 (Source: P.A. 96-219, eff. 8-10-09; 96-339, eff. 7-1-10;  
12 96-1000, eff. 7-2-10; 96-1515, eff. 2-4-11.)

13 (210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

14 Sec. 6.09. (a) In order to facilitate the orderly  
15 transition of aged and disabled patients from hospitals to  
16 post-hospital care, whenever a patient who qualifies for the  
17 federal Medicare program is hospitalized, the patient shall be  
18 notified of discharge at least 24 hours prior to discharge from  
19 the hospital. With regard to pending discharges to a skilled  
20 nursing facility, the hospital must notify the case  
21 coordination unit, as defined in 89 Ill. Adm. Code 240.260, at  
22 least 24 hours prior to discharge or, if home health services  
23 are ordered, the hospital must inform its designated case  
24 coordination unit, as defined in 89 Ill. Adm. Code 240.260, of  
25 the pending discharge and must provide the patient with the



1 case coordination unit's telephone number and other contact  
2 information.

3 (b) Every hospital shall develop procedures for a physician  
4 with medical staff privileges at the hospital or any  
5 appropriate medical staff member to provide the discharge  
6 notice prescribed in subsection (a) of this Section. The  
7 procedures must include prohibitions against discharging or  
8 referring a patient to any of the following if unlicensed,  
9 uncertified, or unregistered: (i) a board and care facility, as  
10 defined in the Board and Care Home Act; (ii) an assisted living  
11 and shared housing establishment, as defined in the Assisted  
12 Living and Shared Housing Act; (iii) a facility licensed under  
13 the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care  
14 Act; (iv) a supportive living facility, as defined in Section  
15 5-5.01a of the Illinois Public Aid Code; or (v) a free-standing  
16 hospice facility licensed under the Hospice Program Licensing  
17 Act if licensure, certification, or registration is required.  
18 The Department of Public Health shall annually provide  
19 hospitals with a list of licensed, certified, or registered  
20 board and care facilities, assisted living and shared housing  
21 establishments, nursing homes, supportive living facilities,  
22 facilities licensed under the ID/DD ~~MR/DD~~ Community Care Act,  
23 and hospice facilities. Reliance upon this list by a hospital  
24 shall satisfy compliance with this requirement. The procedure  
25 may also include a waiver for any case in which a discharge  
26 notice is not feasible due to a short length of stay in the

1 hospital by the patient, or for any case in which the patient  
2 voluntarily desires to leave the hospital before the expiration  
3 of the 24 hour period.

4 (c) At least 24 hours prior to discharge from the hospital,  
5 the patient shall receive written information on the patient's  
6 right to appeal the discharge pursuant to the federal Medicare  
7 program, including the steps to follow to appeal the discharge  
8 and the appropriate telephone number to call in case the  
9 patient intends to appeal the discharge.

10 (d) Before transfer of a patient to a long term care  
11 facility licensed under the Nursing Home Care Act where elderly  
12 persons reside, a hospital shall as soon as practicable  
13 initiate a name-based criminal history background check by  
14 electronic submission to the Department of State Police for all  
15 persons between the ages of 18 and 70 years; provided, however,  
16 that a hospital shall be required to initiate such a background  
17 check only with respect to patients who:

18 (1) are transferring to a long term care facility for  
19 the first time;

20 (2) have been in the hospital more than 5 days;

21 (3) are reasonably expected to remain at the long term  
22 care facility for more than 30 days;

23 (4) have a known history of serious mental illness or  
24 substance abuse; and

25 (5) are independently ambulatory or mobile for more  
26 than a temporary period of time.

1           A hospital may also request a criminal history background  
2 check for a patient who does not meet any of the criteria set  
3 forth in items (1) through (5).

4           A hospital shall notify a long term care facility if the  
5 hospital has initiated a criminal history background check on a  
6 patient being discharged to that facility. In all circumstances  
7 in which the hospital is required by this subsection to  
8 initiate the criminal history background check, the transfer to  
9 the long term care facility may proceed regardless of the  
10 availability of criminal history results. Upon receipt of the  
11 results, the hospital shall promptly forward the results to the  
12 appropriate long term care facility. If the results of the  
13 background check are inconclusive, the hospital shall have no  
14 additional duty or obligation to seek additional information  
15 from, or about, the patient.

16           (Source: P.A. 95-80, eff. 8-13-07; 95-651, eff. 10-11-07;  
17 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-1372, eff.  
18 7-29-10.)

19           (210 ILCS 85/6.11) (from Ch. 111 1/2, par. 147.11)

20           Sec. 6.11. In licensing any hospital which provides for the  
21 diagnosis, care or treatment for persons suffering from mental  
22 or emotional disorders or for intellectually disabled ~~mentally~~  
23 ~~retarded~~ persons, the Department shall consult with the  
24 Department of Human Services in developing standards for and  
25 evaluating the psychiatric programs of such hospitals.

1 (Source: P.A. 89-507, eff. 7-1-97.)

2 Section 76. The Language Assistance Services Act is amended  
3 by changing Section 10 as follows:

4 (210 ILCS 87/10)

5 Sec. 10. Definitions. As used in this Act:

6 "Department" means the Department of Public Health.

7 "Interpreter" means a person fluent in English and in the  
8 necessary language of the patient who can accurately speak,  
9 read, and readily interpret the necessary second language, or a  
10 person who can accurately sign and read sign language.  
11 Interpreters shall have the ability to translate the names of  
12 body parts and to describe completely symptoms and injuries in  
13 both languages. Interpreters may include members of the medical  
14 or professional staff.

15 "Language or communication barriers" means either of the  
16 following:

17 (1) With respect to spoken language, barriers that are  
18 experienced by limited-English-speaking or  
19 non-English-speaking individuals who speak the same  
20 primary language, if those individuals constitute at least  
21 5% of the patients served by the health facility annually.

22 (2) With respect to sign language, barriers that are  
23 experienced by individuals who are deaf and whose primary  
24 language is sign language.

1 "Health facility" means a hospital licensed under the  
2 Hospital Licensing Act, a long-term care facility licensed  
3 under the Nursing Home Care Act, or a facility licensed under  
4 the ID/DD ~~MR/DD~~ Community Care Act.  
5 (Source: P.A. 96-339, eff. 7-1-10.)

6 Section 77. Community-Integrated Living Arrangements  
7 Licensure and Certification Act is amended by changing Section  
8 4 as follows:

9 (210 ILCS 135/4) (from Ch. 91 1/2, par. 1704)

10 Sec. 4. (a) Any community mental health or developmental  
11 services agency who wishes to develop and support a variety of  
12 community-integrated living arrangements may do so pursuant to  
13 a license issued by the Department under this Act. However,  
14 programs established under or otherwise subject to the Child  
15 Care Act of 1969, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~  
16 Community Care Act, as now or hereafter amended, shall remain  
17 subject thereto, and this Act shall not be construed to limit  
18 the application of those Acts.

19 (b) The system of licensure established under this Act  
20 shall be for the purposes of:

21 (1) Insuring that all recipients residing in  
22 community-integrated living arrangements are receiving  
23 appropriate community-based services, including treatment,  
24 training and habilitation or rehabilitation;

1           (2) Insuring that recipients' rights are protected and  
2           that all programs provided to and placements arranged for  
3           recipients comply with this Act, the Mental Health and  
4           Developmental Disabilities Code, and applicable Department  
5           rules and regulations;

6           (3) Maintaining the integrity of communities by  
7           requiring regular monitoring and inspection of placements  
8           and other services provided in community-integrated living  
9           arrangements.

10          The licensure system shall be administered by a quality  
11          assurance unit within the Department which shall be  
12          administratively independent of units responsible for funding  
13          of agencies or community services.

14          (c) As a condition of being licensed by the Department as a  
15          community mental health or developmental services agency under  
16          this Act, the agency shall certify to the Department that:

17               (1) All recipients residing in community-integrated  
18               living arrangements are receiving appropriate  
19               community-based services, including treatment, training  
20               and habilitation or rehabilitation;

21               (2) All programs provided to and placements arranged  
22               for recipients are supervised by the agency; and

23               (3) All programs provided to and placements arranged  
24               for recipients comply with this Act, the Mental Health and  
25               Developmental Disabilities Code, and applicable Department  
26               rules and regulations.

1           (d) An applicant for licensure as a community mental health  
2 or developmental services agency under this Act shall submit an  
3 application pursuant to the application process established by  
4 the Department by rule and shall pay an application fee in an  
5 amount established by the Department, which amount shall not be  
6 more than \$200.

7           (e) If an applicant meets the requirements established by  
8 the Department to be licensed as a community mental health or  
9 developmental services agency under this Act, after payment of  
10 the licensing fee, the Department shall issue a license valid  
11 for 3 years from the date thereof unless suspended or revoked  
12 by the Department or voluntarily surrendered by the agency.

13           (f) Upon application to the Department, the Department may  
14 issue a temporary permit to an applicant for a 6-month period  
15 to allow the holder of such permit reasonable time to become  
16 eligible for a license under this Act.

17           (g) (1) The Department may conduct site visits to an agency  
18 licensed under this Act, or to any program or placement  
19 certified by the agency, and inspect the records or premises,  
20 or both, of such agency, program or placement as it deems  
21 appropriate, for the purpose of determining compliance with  
22 this Act, the Mental Health and Developmental Disabilities  
23 Code, and applicable Department rules and regulations.

24           (2) If the Department determines that an agency licensed  
25 under this Act is not in compliance with this Act or the rules  
26 and regulations promulgated under this Act, the Department

1 shall serve a notice of violation upon the licensee. Each  
2 notice of violation shall be prepared in writing and shall  
3 specify the nature of the violation, the statutory provision or  
4 rule alleged to have been violated, and that the licensee  
5 submit a plan of correction to the Department if required. The  
6 notice shall also inform the licensee of any other action which  
7 the Department might take pursuant to this Act and of the right  
8 to a hearing.

9 (h) Upon the expiration of any license issued under this  
10 Act, a license renewal application shall be required of and a  
11 license renewal fee in an amount established by the Department  
12 shall be charged to a community mental health or developmental  
13 services agency, provided that such fee shall not be more than  
14 \$200.

15 (Source: P.A. 96-339, eff. 7-1-10.)

16 Section 78. The Child Care Act of 1969 is amended by  
17 changing Sections 2.06 and 7 as follows:

18 (225 ILCS 10/2.06) (from Ch. 23, par. 2212.06)

19 Sec. 2.06. "Child care institution" means a child care  
20 facility where more than 7 children are received and maintained  
21 for the purpose of providing them with care or training or  
22 both. The term "child care institution" includes residential  
23 schools, primarily serving ambulatory handicapped children,  
24 and those operating a full calendar year, but does not include:



1 (a) Any State-operated institution for child care  
2 established by legislative action;

3 (b) Any juvenile detention or shelter care home established  
4 and operated by any county or child protection district  
5 established under the "Child Protection Act";

6 (c) Any institution, home, place or facility operating  
7 under a license pursuant to the Nursing Home Care Act or the  
8 ID/DD ~~MR/DD~~ Community Care Act;

9 (d) Any bona fide boarding school in which children are  
10 primarily taught branches of education corresponding to those  
11 taught in public schools, grades one through 12, or taught in  
12 public elementary schools, high schools, or both elementary and  
13 high schools, and which operates on a regular academic school  
14 year basis; or

15 (e) Any facility licensed as a "group home" as defined in  
16 this Act.

17 (Source: P.A. 96-339, eff. 7-1-10.)

18 (225 ILCS 10/7) (from Ch. 23, par. 2217)

19 Sec. 7. (a) The Department must prescribe and publish  
20 minimum standards for licensing that apply to the various types  
21 of facilities for child care defined in this Act and that are  
22 equally applicable to like institutions under the control of  
23 the Department and to foster family homes used by and under the  
24 direct supervision of the Department. The Department shall seek  
25 the advice and assistance of persons representative of the

1 various types of child care facilities in establishing such  
2 standards. The standards prescribed and published under this  
3 Act take effect as provided in the Illinois Administrative  
4 Procedure Act, and are restricted to regulations pertaining to  
5 the following matters and to any rules and regulations required  
6 or permitted by any other Section of this Act:

7 (1) The operation and conduct of the facility and  
8 responsibility it assumes for child care;

9 (2) The character, suitability and qualifications of  
10 the applicant and other persons directly responsible for  
11 the care and welfare of children served. All child day care  
12 center licensees and employees who are required to report  
13 child abuse or neglect under the Abused and Neglected Child  
14 Reporting Act shall be required to attend training on  
15 recognizing child abuse and neglect, as prescribed by  
16 Department rules;

17 (3) The general financial ability and competence of the  
18 applicant to provide necessary care for children and to  
19 maintain prescribed standards;

20 (4) The number of individuals or staff required to  
21 insure adequate supervision and care of the children  
22 received. The standards shall provide that each child care  
23 institution, maternity center, day care center, group  
24 home, day care home, and group day care home shall have on  
25 its premises during its hours of operation at least one  
26 staff member certified in first aid, in the Heimlich

1 maneuver and in cardiopulmonary resuscitation by the  
2 American Red Cross or other organization approved by rule  
3 of the Department. Child welfare agencies shall not be  
4 subject to such a staffing requirement. The Department may  
5 offer, or arrange for the offering, on a periodic basis in  
6 each community in this State in cooperation with the  
7 American Red Cross, the American Heart Association or other  
8 appropriate organization, voluntary programs to train  
9 operators of foster family homes and day care homes in  
10 first aid and cardiopulmonary resuscitation;

11 (5) The appropriateness, safety, cleanliness and  
12 general adequacy of the premises, including maintenance of  
13 adequate fire prevention and health standards conforming  
14 to State laws and municipal codes to provide for the  
15 physical comfort, care and well-being of children  
16 received;

17 (6) Provisions for food, clothing, educational  
18 opportunities, program, equipment and individual supplies  
19 to assure the healthy physical, mental and spiritual  
20 development of children served;

21 (7) Provisions to safeguard the legal rights of  
22 children served;

23 (8) Maintenance of records pertaining to the  
24 admission, progress, health and discharge of children,  
25 including, for day care centers and day care homes, records  
26 indicating each child has been immunized as required by

1 State regulations. The Department shall require proof that  
2 children enrolled in a facility have been immunized against  
3 Haemophilus Influenzae B (HIB);

4 (9) Filing of reports with the Department;

5 (10) Discipline of children;

6 (11) Protection and fostering of the particular  
7 religious faith of the children served;

8 (12) Provisions prohibiting firearms on day care  
9 center premises except in the possession of peace officers;

10 (13) Provisions prohibiting handguns on day care home  
11 premises except in the possession of peace officers or  
12 other adults who must possess a handgun as a condition of  
13 employment and who reside on the premises of a day care  
14 home;

15 (14) Provisions requiring that any firearm permitted  
16 on day care home premises, except handguns in the  
17 possession of peace officers, shall be kept in a  
18 disassembled state, without ammunition, in locked storage,  
19 inaccessible to children and that ammunition permitted on  
20 day care home premises shall be kept in locked storage  
21 separate from that of disassembled firearms, inaccessible  
22 to children;

23 (15) Provisions requiring notification of parents or  
24 guardians enrolling children at a day care home of the  
25 presence in the day care home of any firearms and  
26 ammunition and of the arrangements for the separate, locked

1 storage of such firearms and ammunition.

2 (b) If, in a facility for general child care, there are  
3 children diagnosed as mentally ill, intellectually disabled  
4 ~~mentally retarded~~ or physically handicapped, who are  
5 determined to be in need of special mental treatment or of  
6 nursing care, or both mental treatment and nursing care, the  
7 Department shall seek the advice and recommendation of the  
8 Department of Human Services, the Department of Public Health,  
9 or both Departments regarding the residential treatment and  
10 nursing care provided by the institution.

11 (c) The Department shall investigate any person applying to  
12 be licensed as a foster parent to determine whether there is  
13 any evidence of current drug or alcohol abuse in the  
14 prospective foster family. The Department shall not license a  
15 person as a foster parent if drug or alcohol abuse has been  
16 identified in the foster family or if a reasonable suspicion of  
17 such abuse exists, except that the Department may grant a  
18 foster parent license to an applicant identified with an  
19 alcohol or drug problem if the applicant has successfully  
20 participated in an alcohol or drug treatment program, self-help  
21 group, or other suitable activities.

22 (d) The Department, in applying standards prescribed and  
23 published, as herein provided, shall offer consultation  
24 through employed staff or other qualified persons to assist  
25 applicants and licensees in meeting and maintaining minimum  
26 requirements for a license and to help them otherwise to

1 achieve programs of excellence related to the care of children  
2 served. Such consultation shall include providing information  
3 concerning education and training in early childhood  
4 development to providers of day care home services. The  
5 Department may provide or arrange for such education and  
6 training for those providers who request such assistance.

7 (e) The Department shall distribute copies of licensing  
8 standards to all licensees and applicants for a license. Each  
9 licensee or holder of a permit shall distribute copies of the  
10 appropriate licensing standards and any other information  
11 required by the Department to child care facilities under its  
12 supervision. Each licensee or holder of a permit shall maintain  
13 appropriate documentation of the distribution of the  
14 standards. Such documentation shall be part of the records of  
15 the facility and subject to inspection by authorized  
16 representatives of the Department.

17 (f) The Department shall prepare summaries of day care  
18 licensing standards. Each licensee or holder of a permit for a  
19 day care facility shall distribute a copy of the appropriate  
20 summary and any other information required by the Department,  
21 to the legal guardian of each child cared for in that facility  
22 at the time when the child is enrolled or initially placed in  
23 the facility. The licensee or holder of a permit for a day care  
24 facility shall secure appropriate documentation of the  
25 distribution of the summary and brochure. Such documentation  
26 shall be a part of the records of the facility and subject to

1 inspection by an authorized representative of the Department.

2 (g) The Department shall distribute to each licensee and  
3 holder of a permit copies of the licensing or permit standards  
4 applicable to such person's facility. Each licensee or holder  
5 of a permit shall make available by posting at all times in a  
6 common or otherwise accessible area a complete and current set  
7 of licensing standards in order that all employees of the  
8 facility may have unrestricted access to such standards. All  
9 employees of the facility shall have reviewed the standards and  
10 any subsequent changes. Each licensee or holder of a permit  
11 shall maintain appropriate documentation of the current review  
12 of licensing standards by all employees. Such records shall be  
13 part of the records of the facility and subject to inspection  
14 by authorized representatives of the Department.

15 (h) Any standards involving physical examinations,  
16 immunization, or medical treatment shall include appropriate  
17 exemptions for children whose parents object thereto on the  
18 grounds that they conflict with the tenets and practices of a  
19 recognized church or religious organization, of which the  
20 parent is an adherent or member, and for children who should  
21 not be subjected to immunization for clinical reasons.

22 (i) The Department, in cooperation with the Department of  
23 Public Health, shall work to increase immunization awareness  
24 and participation among parents of children enrolled in day  
25 care centers and day care homes by publishing on the  
26 Department's website information about the benefits of annual

1 immunization against influenza for children 6 months of age to  
2 5 years of age. The Department shall work with day care centers  
3 and day care homes licensed under this Act to ensure that the  
4 information is annually distributed to parents in August or  
5 September.

6 (Source: P.A. 96-391, eff. 8-13-09.)

7 Section 79. The Health Care Worker Background Check Act is  
8 amended by changing Section 15 as follows:

9 (225 ILCS 46/15)

10 Sec. 15. Definitions. In this Act:

11 "Applicant" means an individual seeking employment with a  
12 health care employer who has received a bona fide conditional  
13 offer of employment.

14 "Conditional offer of employment" means a bona fide offer  
15 of employment by a health care employer to an applicant, which  
16 is contingent upon the receipt of a report from the Department  
17 of Public Health indicating that the applicant does not have a  
18 record of conviction of any of the criminal offenses enumerated  
19 in Section 25.

20 "Direct care" means the provision of nursing care or  
21 assistance with feeding, dressing, movement, bathing,  
22 toileting, or other personal needs, including home services as  
23 defined in the Home Health, Home Services, and Home Nursing  
24 Agency Licensing Act. The entity responsible for inspecting and



1 licensing, certifying, or registering the health care employer  
2 may, by administrative rule, prescribe guidelines for  
3 interpreting this definition with regard to the health care  
4 employers that it licenses.

5 "Disqualifying offenses" means those offenses set forth in  
6 Section 25 of this Act.

7 "Employee" means any individual hired, employed, or  
8 retained to which this Act applies.

9 "Fingerprint-based criminal history records check" means a  
10 livescan fingerprint-based criminal history records check  
11 submitted as a fee applicant inquiry in the form and manner  
12 prescribed by the Department of State Police.

13 "Health care employer" means:

14 (1) the owner or licensee of any of the following:

15 (i) a community living facility, as defined in the  
16 Community Living Facilities Act;

17 (ii) a life care facility, as defined in the Life  
18 Care Facilities Act;

19 (iii) a long-term care facility;

20 (iv) a home health agency, home services agency, or  
21 home nursing agency as defined in the Home Health, Home  
22 Services, and Home Nursing Agency Licensing Act;

23 (v) a hospice care program or volunteer hospice  
24 program, as defined in the Hospice Program Licensing  
25 Act;

26 (vi) a hospital, as defined in the Hospital

1           Licensing Act;

2                 (vii) (blank);

3                 (viii) a nurse agency, as defined in the Nurse

4           Agency Licensing Act;

5                 (ix) a respite care provider, as defined in the

6           Respite Program Act;

7                 (ix-a) an establishment licensed under the

8           Assisted Living and Shared Housing Act;

9                 (x) a supportive living program, as defined in the

10          Illinois Public Aid Code;

11                (xi) early childhood intervention programs as

12          described in 59 Ill. Adm. Code 121;

13                (xii) the University of Illinois Hospital,

14          Chicago;

15                (xiii) programs funded by the Department on Aging

16          through the Community Care Program;

17                (xiv) programs certified to participate in the

18          Supportive Living Program authorized pursuant to

19          Section 5-5.01a of the Illinois Public Aid Code;

20                (xv) programs listed by the Emergency Medical

21          Services (EMS) Systems Act as Freestanding Emergency

22          Centers;

23                (xvi) locations licensed under the Alternative

24          Health Care Delivery Act;

25          (2) a day training program certified by the Department

26          of Human Services;

1           (3) a community integrated living arrangement operated  
2           by a community mental health and developmental service  
3           agency, as defined in the Community-Integrated Living  
4           Arrangements Licensing and Certification Act; or

5           (4) the State Long Term Care Ombudsman Program,  
6           including any regional long term care ombudsman programs  
7           under Section 4.04 of the Illinois Act on the Aging, only  
8           for the purpose of securing background checks.

9           "Initiate" means obtaining from a student, applicant, or  
10          employee his or her social security number, demographics, a  
11          disclosure statement, and an authorization for the Department  
12          of Public Health or its designee to request a fingerprint-based  
13          criminal history records check; transmitting this information  
14          electronically to the Department of Public Health; conducting  
15          Internet searches on certain web sites, including without  
16          limitation the Illinois Sex Offender Registry, the Department  
17          of Corrections' Sex Offender Search Engine, the Department of  
18          Corrections' Inmate Search Engine, the Department of  
19          Corrections Wanted Fugitives Search Engine, the National Sex  
20          Offender Public Registry, and the website of the Health and  
21          Human Services Office of Inspector General to determine if the  
22          applicant has been adjudicated a sex offender, has been a  
23          prison inmate, or has committed Medicare or Medicaid fraud, or  
24          conducting similar searches as defined by rule; and having the  
25          student, applicant, or employee's fingerprints collected and  
26          transmitted electronically to the Department of State Police.

1 "Livescan vendor" means an entity whose equipment has been  
2 certified by the Department of State Police to collect an  
3 individual's demographics and inkless fingerprints and, in a  
4 manner prescribed by the Department of State Police and the  
5 Department of Public Health, electronically transmit the  
6 fingerprints and required data to the Department of State  
7 Police and a daily file of required data to the Department of  
8 Public Health. The Department of Public Health shall negotiate  
9 a contract with one or more vendors that effectively  
10 demonstrate that the vendor has 2 or more years of experience  
11 transmitting fingerprints electronically to the Department of  
12 State Police and that the vendor can successfully transmit the  
13 required data in a manner prescribed by the Department of  
14 Public Health. Vendor authorization may be further defined by  
15 administrative rule.

16 "Long-term care facility" means a facility licensed by the  
17 State or certified under federal law as a long-term care  
18 facility, including without limitation facilities licensed  
19 under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community  
20 Care Act, a supportive living facility, an assisted living  
21 establishment, or a shared housing establishment or registered  
22 as a board and care home.

23 (Source: P.A. 95-120, eff. 8-13-07; 95-331, eff. 8-21-07;  
24 96-339, eff. 7-1-10.)

25 Section 80. The Nursing Home Administrators Licensing and

1 Disciplinary Act is amended by changing Sections 4 and 17 as  
2 follows:

3 (225 ILCS 70/4) (from Ch. 111, par. 3654)

4 (Section scheduled to be repealed on January 1, 2018)

5 Sec. 4. Definitions. For purposes of this Act, the  
6 following definitions shall have the following meanings,  
7 except where the context requires otherwise:

8 (1) "Act" means the Nursing Home Administrators  
9 Licensing and Disciplinary Act.

10 (2) "Department" means the Department of Financial and  
11 Professional Regulation.

12 (3) "Secretary" means the Secretary of Financial and  
13 Professional Regulation.

14 (4) "Board" means the Nursing Home Administrators  
15 Licensing and Disciplinary Board appointed by the  
16 Governor.

17 (5) "Nursing home administrator" means the individual  
18 licensed under this Act and directly responsible for  
19 planning, organizing, directing and supervising the  
20 operation of a nursing home, or who in fact performs such  
21 functions, whether or not such functions are delegated to  
22 one or more other persons.

23 (6) "Nursing home" or "facility" means any entity that  
24 is required to be licensed by the Department of Public  
25 Health under the Nursing Home Care Act, as amended, other

1 than a sheltered care home as defined thereunder, and  
2 includes private homes, institutions, buildings,  
3 residences, or other places, whether operated for profit or  
4 not, irrespective of the names attributed to them, county  
5 homes for the infirm and chronically ill operated pursuant  
6 to the County Nursing Home Act, as amended, and any similar  
7 institutions operated by a political subdivision of the  
8 State of Illinois that provide, though their ownership or  
9 management, maintenance, personal care, and nursing for 3  
10 or more persons, not related to the owner by blood or  
11 marriage, or any similar facilities in which maintenance is  
12 provided to 3 or more persons who by reason of illness of  
13 physical infirmity require personal care and nursing. The  
14 term also means any facility licensed under the ID/DD ~~MR/DD~~  
15 Community Care Act.

16 (7) "Maintenance" means food, shelter and laundry.

17 (8) "Personal care" means assistance with meals,  
18 dressing, movement, bathing, or other personal needs, or  
19 general supervision of the physical and mental well-being  
20 of an individual who because of age, physical, or mental  
21 disability, emotion or behavior disorder, or an  
22 intellectual disability ~~mental retardation~~ is incapable of  
23 managing his or her person, whether or not a guardian has  
24 been appointed for such individual. For the purposes of  
25 this Act, this definition does not include the professional  
26 services of a nurse.

1           (9) "Nursing" means professional nursing or practical  
2 nursing, as those terms are defined in the Nurse Practice  
3 Act, for sick or infirm persons who are under the care and  
4 supervision of licensed physicians or dentists.

5           (10) "Disciplinary action" means revocation,  
6 suspension, probation, supervision, reprimand, required  
7 education, fines or any other action taken by the  
8 Department against a person holding a license.

9           (11) "Impaired" means the inability to practice with  
10 reasonable skill and safety due to physical or mental  
11 disabilities as evidenced by a written determination or  
12 written consent based on clinical evidence including  
13 deterioration through the aging process or loss of motor  
14 skill, or abuse of drugs or alcohol, of sufficient degree  
15 to diminish a person's ability to administer a nursing  
16 home.

17           (12) "Address of record" means the designated address  
18 recorded by the Department in the applicant's or licensee's  
19 application file or license file maintained by the  
20 Department's licensure maintenance unit. It is the duty of  
21 the applicant or licensee to inform the Department of any  
22 change of address, and such changes must be made either  
23 through the Department's website or by contacting the  
24 Department's licensure maintenance unit.

25           (Source: P.A. 95-639, eff. 10-5-07; 95-703, eff. 12-31-07;  
26 96-328, eff. 8-11-09; 96-339, eff. 7-1-10.)

1 (225 ILCS 70/17) (from Ch. 111, par. 3667)

2 (Section scheduled to be repealed on January 1, 2018)

3 Sec. 17. Grounds for disciplinary action.

4 (a) The Department may impose fines not to exceed \$10,000  
5 or may refuse to issue or to renew, or may revoke, suspend,  
6 place on probation, censure, reprimand or take other  
7 disciplinary or non-disciplinary action with regard to the  
8 license of any person, for any one or combination of the  
9 following causes:

10 (1) Intentional material misstatement in furnishing  
11 information to the Department.

12 (2) Conviction of or entry of a plea of guilty or nolo  
13 contendere to any crime that is a felony under the laws of  
14 the United States or any state or territory thereof or a  
15 misdemeanor of which an essential element is dishonesty or  
16 that is directly related to the practice of the profession  
17 of nursing home administration.

18 (3) Making any misrepresentation for the purpose of  
19 obtaining a license, or violating any provision of this  
20 Act.

21 (4) Immoral conduct in the commission of any act, such  
22 as sexual abuse or sexual misconduct, related to the  
23 licensee's practice.

24 (5) Failing to respond within 30 days, to a written  
25 request made by the Department for information.



1           (6) Engaging in dishonorable, unethical or  
2 unprofessional conduct of a character likely to deceive,  
3 defraud or harm the public.

4           (7) Habitual use or addiction to alcohol, narcotics,  
5 stimulants, or any other chemical agent or drug which  
6 results in the inability to practice with reasonable  
7 judgment, skill or safety.

8           (8) Discipline by another U.S. jurisdiction if at least  
9 one of the grounds for the discipline is the same or  
10 substantially equivalent to those set forth herein.

11           (9) A finding by the Department that the licensee,  
12 after having his or her license placed on probationary  
13 status has violated the terms of probation.

14           (10) Willfully making or filing false records or  
15 reports in his or her practice, including but not limited  
16 to false records filed with State agencies or departments.

17           (11) Physical illness, mental illness, or other  
18 impairment or disability, including, but not limited to,  
19 deterioration through the aging process, or loss of motor  
20 skill that results in the inability to practice the  
21 profession with reasonable judgment, skill or safety.

22           (12) Disregard or violation of this Act or of any rule  
23 issued pursuant to this Act.

24           (13) Aiding or abetting another in the violation of  
25 this Act or any rule or regulation issued pursuant to this  
26 Act.

1           (14) Allowing one's license to be used by an unlicensed  
2 person.

3           (15) (Blank).

4           (16) Professional incompetence in the practice of  
5 nursing home administration.

6           (17) Conviction of a violation of Section 12-19 of the  
7 Criminal Code of 1961 for the abuse and gross neglect of a  
8 long term care facility resident.

9           (18) Violation of the Nursing Home Care Act or the  
10 ID/DD ~~MR/DD~~ Community Care Act or of any rule issued under  
11 the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care  
12 Act. A final adjudication of a Type "AA" violation of the  
13 Nursing Home Care Act made by the Illinois Department of  
14 Public Health, as identified by rule, relating to the  
15 hiring, training, planning, organizing, directing, or  
16 supervising the operation of a nursing home and a  
17 licensee's failure to comply with this Act or the rules  
18 adopted under this Act, shall create a rebuttable  
19 presumption of a violation of this subsection.

20           (19) Failure to report to the Department any adverse  
21 final action taken against the licensee by a licensing  
22 authority of another state, territory of the United States,  
23 or foreign country; or by any governmental or law  
24 enforcement agency; or by any court for acts or conduct  
25 similar to acts or conduct that would constitute grounds  
26 for disciplinary action under this Section.

1           (20) Failure to report to the Department the surrender  
2 of a license or authorization to practice as a nursing home  
3 administrator in another state or jurisdiction for acts or  
4 conduct similar to acts or conduct that would constitute  
5 grounds for disciplinary action under this Section.

6           (21) Failure to report to the Department any adverse  
7 judgment, settlement, or award arising from a liability  
8 claim related to acts or conduct similar to acts or conduct  
9 that would constitute grounds for disciplinary action  
10 under this Section.

11          All proceedings to suspend, revoke, place on probationary  
12 status, or take any other disciplinary action as the Department  
13 may deem proper, with regard to a license on any of the  
14 foregoing grounds, must be commenced within 5 years next after  
15 receipt by the Department of (i) a complaint alleging the  
16 commission of or notice of the conviction order for any of the  
17 acts described herein or (ii) a referral for investigation  
18 under Section 3-108 of the Nursing Home Care Act.

19          The entry of an order or judgment by any circuit court  
20 establishing that any person holding a license under this Act  
21 is a person in need of mental treatment operates as a  
22 suspension of that license. That person may resume their  
23 practice only upon the entry of a Department order based upon a  
24 finding by the Board that they have been determined to be  
25 recovered from mental illness by the court and upon the Board's  
26 recommendation that they be permitted to resume their practice.

1           The Department, upon the recommendation of the Board, may  
2 adopt rules which set forth standards to be used in determining  
3 what constitutes:

4           (i) when a person will be deemed sufficiently  
5 rehabilitated to warrant the public trust;

6           (ii) dishonorable, unethical or unprofessional conduct  
7 of a character likely to deceive, defraud, or harm the  
8 public;

9           (iii) immoral conduct in the commission of any act  
10 related to the licensee's practice; and

11           (iv) professional incompetence in the practice of  
12 nursing home administration.

13           However, no such rule shall be admissible into evidence in  
14 any civil action except for review of a licensing or other  
15 disciplinary action under this Act.

16           In enforcing this Section, the Department or Board, upon a  
17 showing of a possible violation, may compel any individual  
18 licensed to practice under this Act, or who has applied for  
19 licensure pursuant to this Act, to submit to a mental or  
20 physical examination, or both, as required by and at the  
21 expense of the Department. The examining physician or  
22 physicians shall be those specifically designated by the  
23 Department or Board. The Department or Board may order the  
24 examining physician to present testimony concerning this  
25 mental or physical examination of the licensee or applicant. No  
26 information shall be excluded by reason of any common law or

1 statutory privilege relating to communications between the  
2 licensee or applicant and the examining physician. The  
3 individual to be examined may have, at his or her own expense,  
4 another physician of his or her choice present during all  
5 aspects of the examination. Failure of any individual to submit  
6 to mental or physical examination, when directed, shall be  
7 grounds for suspension of his or her license until such time as  
8 the individual submits to the examination if the Department  
9 finds, after notice and hearing, that the refusal to submit to  
10 the examination was without reasonable cause.

11 If the Department or Board finds an individual unable to  
12 practice because of the reasons set forth in this Section, the  
13 Department or Board shall require such individual to submit to  
14 care, counseling, or treatment by physicians approved or  
15 designated by the Department or Board, as a condition, term, or  
16 restriction for continued, reinstated, or renewed licensure to  
17 practice; or in lieu of care, counseling, or treatment, the  
18 Department may file, or the Board may recommend to the  
19 Department to file, a complaint to immediately suspend, revoke,  
20 or otherwise discipline the license of the individual. Any  
21 individual whose license was granted pursuant to this Act or  
22 continued, reinstated, renewed, disciplined or supervised,  
23 subject to such terms, conditions or restrictions who shall  
24 fail to comply with such terms, conditions or restrictions  
25 shall be referred to the Secretary for a determination as to  
26 whether the licensee shall have his or her license suspended

1 immediately, pending a hearing by the Department. In instances  
2 in which the Secretary immediately suspends a license under  
3 this Section, a hearing upon such person's license must be  
4 convened by the Board within 30 days after such suspension and  
5 completed without appreciable delay. The Department and Board  
6 shall have the authority to review the subject administrator's  
7 record of treatment and counseling regarding the impairment, to  
8 the extent permitted by applicable federal statutes and  
9 regulations safeguarding the confidentiality of medical  
10 records.

11 An individual licensed under this Act, affected under this  
12 Section, shall be afforded an opportunity to demonstrate to the  
13 Department or Board that he or she can resume practice in  
14 compliance with acceptable and prevailing standards under the  
15 provisions of his or her license.

16 (b) Any individual or organization acting in good faith,  
17 and not in a wilful and wanton manner, in complying with this  
18 Act by providing any report or other information to the  
19 Department, or assisting in the investigation or preparation of  
20 such information, or by participating in proceedings of the  
21 Department, or by serving as a member of the Board, shall not,  
22 as a result of such actions, be subject to criminal prosecution  
23 or civil damages.

24 (c) Members of the Board, and persons retained under  
25 contract to assist and advise in an investigation, shall be  
26 indemnified by the State for any actions occurring within the

1 scope of services on or for the Board, done in good faith and  
2 not wilful and wanton in nature. The Attorney General shall  
3 defend all such actions unless he or she determines either that  
4 there would be a conflict of interest in such representation or  
5 that the actions complained of were not in good faith or were  
6 wilful and wanton.

7 Should the Attorney General decline representation, a  
8 person entitled to indemnification under this Section shall  
9 have the right to employ counsel of his or her choice, whose  
10 fees shall be provided by the State, after approval by the  
11 Attorney General, unless there is a determination by a court  
12 that the member's actions were not in good faith or were wilful  
13 and wanton.

14 A person entitled to indemnification under this Section  
15 must notify the Attorney General within 7 days of receipt of  
16 notice of the initiation of any action involving services of  
17 the Board. Failure to so notify the Attorney General shall  
18 constitute an absolute waiver of the right to a defense and  
19 indemnification.

20 The Attorney General shall determine within 7 days after  
21 receiving such notice, whether he or she will undertake to  
22 represent a person entitled to indemnification under this  
23 Section.

24 (d) The determination by a circuit court that a licensee is  
25 subject to involuntary admission or judicial admission as  
26 provided in the Mental Health and Developmental Disabilities

1 Code, as amended, operates as an automatic suspension. Such  
2 suspension will end only upon a finding by a court that the  
3 patient is no longer subject to involuntary admission or  
4 judicial admission and issues an order so finding and  
5 discharging the patient; and upon the recommendation of the  
6 Board to the Secretary that the licensee be allowed to resume  
7 his or her practice.

8 (e) The Department may refuse to issue or may suspend the  
9 license of any person who fails to file a return, or to pay the  
10 tax, penalty or interest shown in a filed return, or to pay any  
11 final assessment of tax, penalty or interest, as required by  
12 any tax Act administered by the Department of Revenue, until  
13 such time as the requirements of any such tax Act are  
14 satisfied.

15 (f) The Department of Public Health shall transmit to the  
16 Department a list of those facilities which receive an "A"  
17 violation as defined in Section 1-129 of the Nursing Home Care  
18 Act.

19 (Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10;  
20 96-1372, eff. 7-29-10.)

21 Section 81. The Pharmacy Practice Act is amended by  
22 changing Section 3 as follows:

23 (225 ILCS 85/3)

24 (Section scheduled to be repealed on January 1, 2018)



1           Sec. 3. Definitions. For the purpose of this Act, except  
2 where otherwise limited therein:

3           (a) "Pharmacy" or "drugstore" means and includes every  
4 store, shop, pharmacy department, or other place where  
5 pharmacist care is provided by a pharmacist (1) where drugs,  
6 medicines, or poisons are dispensed, sold or offered for sale  
7 at retail, or displayed for sale at retail; or (2) where  
8 prescriptions of physicians, dentists, advanced practice  
9 nurses, physician assistants, veterinarians, podiatrists, or  
10 optometrists, within the limits of their licenses, are  
11 compounded, filled, or dispensed; or (3) which has upon it or  
12 displayed within it, or affixed to or used in connection with  
13 it, a sign bearing the word or words "Pharmacist", "Druggist",  
14 "Pharmacy", "Pharmaceutical Care", "Apothecary", "Drugstore",  
15 "Medicine Store", "Prescriptions", "Drugs", "Dispensary",  
16 "Medicines", or any word or words of similar or like import,  
17 either in the English language or any other language; or (4)  
18 where the characteristic prescription sign (Rx) or similar  
19 design is exhibited; or (5) any store, or shop, or other place  
20 with respect to which any of the above words, objects, signs or  
21 designs are used in any advertisement.

22           (b) "Drugs" means and includes (1) articles recognized in  
23 the official United States Pharmacopoeia/National Formulary  
24 (USP/NF), or any supplement thereto and being intended for and  
25 having for their main use the diagnosis, cure, mitigation,  
26 treatment or prevention of disease in man or other animals, as

1 approved by the United States Food and Drug Administration, but  
2 does not include devices or their components, parts, or  
3 accessories; and (2) all other articles intended for and having  
4 for their main use the diagnosis, cure, mitigation, treatment  
5 or prevention of disease in man or other animals, as approved  
6 by the United States Food and Drug Administration, but does not  
7 include devices or their components, parts, or accessories; and  
8 (3) articles (other than food) having for their main use and  
9 intended to affect the structure or any function of the body of  
10 man or other animals; and (4) articles having for their main  
11 use and intended for use as a component or any articles  
12 specified in clause (1), (2) or (3); but does not include  
13 devices or their components, parts or accessories.

14 (c) "Medicines" means and includes all drugs intended for  
15 human or veterinary use approved by the United States Food and  
16 Drug Administration.

17 (d) "Practice of pharmacy" means (1) the interpretation and  
18 the provision of assistance in the monitoring, evaluation, and  
19 implementation of prescription drug orders; (2) the dispensing  
20 of prescription drug orders; (3) participation in drug and  
21 device selection; (4) drug administration limited to the  
22 administration of oral, topical, injectable, and inhalation as  
23 follows: in the context of patient education on the proper use  
24 or delivery of medications; vaccination of patients 14 years of  
25 age and older pursuant to a valid prescription or standing  
26 order, by a physician licensed to practice medicine in all its

1 branches, upon completion of appropriate training, including  
2 how to address contraindications and adverse reactions set  
3 forth by rule, with notification to the patient's physician and  
4 appropriate record retention, or pursuant to hospital pharmacy  
5 and therapeutics committee policies and procedures; (5) drug  
6 regimen review; (6) drug or drug-related research; (7) the  
7 provision of patient counseling; (8) the practice of  
8 telepharmacy; (9) the provision of those acts or services  
9 necessary to provide pharmacist care; (10) medication therapy  
10 management; and (11) the responsibility for compounding and  
11 labeling of drugs and devices (except labeling by a  
12 manufacturer, repackager, or distributor of non-prescription  
13 drugs and commercially packaged legend drugs and devices),  
14 proper and safe storage of drugs and devices, and maintenance  
15 of required records. A pharmacist who performs any of the acts  
16 defined as the practice of pharmacy in this State must be  
17 actively licensed as a pharmacist under this Act.

18 (e) "Prescription" means and includes any written, oral,  
19 facsimile, or electronically transmitted order for drugs or  
20 medical devices, issued by a physician licensed to practice  
21 medicine in all its branches, dentist, veterinarian, or  
22 podiatrist, or optometrist, within the limits of their  
23 licenses, by a physician assistant in accordance with  
24 subsection (f) of Section 4, or by an advanced practice nurse  
25 in accordance with subsection (g) of Section 4, containing the  
26 following: (1) name of the patient; (2) date when prescription

1 was issued; (3) name and strength of drug or description of the  
2 medical device prescribed; and (4) quantity; (5) directions for  
3 use; (6) prescriber's name, address, and signature; and (7) DEA  
4 number where required, for controlled substances. The  
5 prescription may, but is not required to, list the illness,  
6 disease, or condition for which the drug or device is being  
7 prescribed. DEA numbers shall not be required on inpatient drug  
8 orders.

9 (f) "Person" means and includes a natural person,  
10 copartnership, association, corporation, government entity, or  
11 any other legal entity.

12 (g) "Department" means the Department of Financial and  
13 Professional Regulation.

14 (h) "Board of Pharmacy" or "Board" means the State Board of  
15 Pharmacy of the Department of Financial and Professional  
16 Regulation.

17 (i) "Secretary" means the Secretary of Financial and  
18 Professional Regulation.

19 (j) "Drug product selection" means the interchange for a  
20 prescribed pharmaceutical product in accordance with Section  
21 25 of this Act and Section 3.14 of the Illinois Food, Drug and  
22 Cosmetic Act.

23 (k) "Inpatient drug order" means an order issued by an  
24 authorized prescriber for a resident or patient of a facility  
25 licensed under the Nursing Home Care Act, the ID/DD ~~MR/DD~~  
26 Community Care Act, or the Hospital Licensing Act, or "An Act

1 in relation to the founding and operation of the University of  
2 Illinois Hospital and the conduct of University of Illinois  
3 health care programs", approved July 3, 1931, as amended, or a  
4 facility which is operated by the Department of Human Services  
5 (as successor to the Department of Mental Health and  
6 Developmental Disabilities) or the Department of Corrections.

7 (k-5) "Pharmacist" means an individual health care  
8 professional and provider currently licensed by this State to  
9 engage in the practice of pharmacy.

10 (l) "Pharmacist in charge" means the licensed pharmacist  
11 whose name appears on a pharmacy license and who is responsible  
12 for all aspects of the operation related to the practice of  
13 pharmacy.

14 (m) "Dispense" or "dispensing" means the interpretation,  
15 evaluation, and implementation of a prescription drug order,  
16 including the preparation and delivery of a drug or device to a  
17 patient or patient's agent in a suitable container  
18 appropriately labeled for subsequent administration to or use  
19 by a patient in accordance with applicable State and federal  
20 laws and regulations. "Dispense" or "dispensing" does not mean  
21 the physical delivery to a patient or a patient's  
22 representative in a home or institution by a designee of a  
23 pharmacist or by common carrier. "Dispense" or "dispensing"  
24 also does not mean the physical delivery of a drug or medical  
25 device to a patient or patient's representative by a  
26 pharmacist's designee within a pharmacy or drugstore while the

1 pharmacist is on duty and the pharmacy is open.

2 (n) "Nonresident pharmacy" means a pharmacy that is located  
3 in a state, commonwealth, or territory of the United States,  
4 other than Illinois, that delivers, dispenses, or distributes,  
5 through the United States Postal Service, commercially  
6 acceptable parcel delivery service, or other common carrier, to  
7 Illinois residents, any substance which requires a  
8 prescription.

9 (o) "Compounding" means the preparation and mixing of  
10 components, excluding flavorings, (1) as the result of a  
11 prescriber's prescription drug order or initiative based on the  
12 prescriber-patient-pharmacist relationship in the course of  
13 professional practice or (2) for the purpose of, or incident  
14 to, research, teaching, or chemical analysis and not for sale  
15 or dispensing. "Compounding" includes the preparation of drugs  
16 or devices in anticipation of receiving prescription drug  
17 orders based on routine, regularly observed dispensing  
18 patterns. Commercially available products may be compounded  
19 for dispensing to individual patients only if all of the  
20 following conditions are met: (i) the commercial product is not  
21 reasonably available from normal distribution channels in a  
22 timely manner to meet the patient's needs and (ii) the  
23 prescribing practitioner has requested that the drug be  
24 compounded.

25 (p) (Blank).

26 (q) (Blank).

1 (r) "Patient counseling" means the communication between a  
2 pharmacist or a student pharmacist under the supervision of a  
3 pharmacist and a patient or the patient's representative about  
4 the patient's medication or device for the purpose of  
5 optimizing proper use of prescription medications or devices.  
6 "Patient counseling" may include without limitation (1)  
7 obtaining a medication history; (2) acquiring a patient's  
8 allergies and health conditions; (3) facilitation of the  
9 patient's understanding of the intended use of the medication;  
10 (4) proper directions for use; (5) significant potential  
11 adverse events; (6) potential food-drug interactions; and (7)  
12 the need to be compliant with the medication therapy. A  
13 pharmacy technician may only participate in the following  
14 aspects of patient counseling under the supervision of a  
15 pharmacist: (1) obtaining medication history; (2) providing  
16 the offer for counseling by a pharmacist or student pharmacist;  
17 and (3) acquiring a patient's allergies and health conditions.

18 (s) "Patient profiles" or "patient drug therapy record"  
19 means the obtaining, recording, and maintenance of patient  
20 prescription information, including prescriptions for  
21 controlled substances, and personal information.

22 (t) (Blank).

23 (u) "Medical device" means an instrument, apparatus,  
24 implement, machine, contrivance, implant, in vitro reagent, or  
25 other similar or related article, including any component part  
26 or accessory, required under federal law to bear the label

1 "Caution: Federal law requires dispensing by or on the order of  
2 a physician". A seller of goods and services who, only for the  
3 purpose of retail sales, compounds, sells, rents, or leases  
4 medical devices shall not, by reasons thereof, be required to  
5 be a licensed pharmacy.

6 (v) "Unique identifier" means an electronic signature,  
7 handwritten signature or initials, thumb print, or other  
8 acceptable biometric or electronic identification process as  
9 approved by the Department.

10 (w) "Current usual and customary retail price" means the  
11 price that a pharmacy charges to a non-third-party payor.

12 (x) "Automated pharmacy system" means a mechanical system  
13 located within the confines of the pharmacy or remote location  
14 that performs operations or activities, other than compounding  
15 or administration, relative to storage, packaging, dispensing,  
16 or distribution of medication, and which collects, controls,  
17 and maintains all transaction information.

18 (y) "Drug regimen review" means and includes the evaluation  
19 of prescription drug orders and patient records for (1) known  
20 allergies; (2) drug or potential therapy contraindications;  
21 (3) reasonable dose, duration of use, and route of  
22 administration, taking into consideration factors such as age,  
23 gender, and contraindications; (4) reasonable directions for  
24 use; (5) potential or actual adverse drug reactions; (6)  
25 drug-drug interactions; (7) drug-food interactions; (8)  
26 drug-disease contraindications; (9) therapeutic duplication;



1 (10) patient laboratory values when authorized and available;  
2 (11) proper utilization (including over or under utilization)  
3 and optimum therapeutic outcomes; and (12) abuse and misuse.

4 (z) "Electronic transmission prescription" means any  
5 prescription order for which a facsimile or electronic image of  
6 the order is electronically transmitted from a licensed  
7 prescriber to a pharmacy. "Electronic transmission  
8 prescription" includes both data and image prescriptions.

9 (aa) "Medication therapy management services" means a  
10 distinct service or group of services offered by licensed  
11 pharmacists, physicians licensed to practice medicine in all  
12 its branches, advanced practice nurses authorized in a written  
13 agreement with a physician licensed to practice medicine in all  
14 its branches, or physician assistants authorized in guidelines  
15 by a supervising physician that optimize therapeutic outcomes  
16 for individual patients through improved medication use. In a  
17 retail or other non-hospital pharmacy, medication therapy  
18 management services shall consist of the evaluation of  
19 prescription drug orders and patient medication records to  
20 resolve conflicts with the following:

21 (1) known allergies;

22 (2) drug or potential therapy contraindications;

23 (3) reasonable dose, duration of use, and route of  
24 administration, taking into consideration factors such as  
25 age, gender, and contraindications;

26 (4) reasonable directions for use;

- 1 (5) potential or actual adverse drug reactions;
- 2 (6) drug-drug interactions;
- 3 (7) drug-food interactions;
- 4 (8) drug-disease contraindications;
- 5 (9) identification of therapeutic duplication;
- 6 (10) patient laboratory values when authorized and
- 7 available;
- 8 (11) proper utilization (including over or under
- 9 utilization) and optimum therapeutic outcomes; and
- 10 (12) drug abuse and misuse.

11 "Medication therapy management services" includes the  
12 following:

- 13 (1) documenting the services delivered and
- 14 communicating the information provided to patients'
- 15 prescribers within an appropriate time frame, not to exceed
- 16 48 hours;
- 17 (2) providing patient counseling designed to enhance a
- 18 patient's understanding and the appropriate use of his or
- 19 her medications; and
- 20 (3) providing information, support services, and
- 21 resources designed to enhance a patient's adherence with
- 22 his or her prescribed therapeutic regimens.

23 "Medication therapy management services" may also include  
24 patient care functions authorized by a physician licensed to  
25 practice medicine in all its branches for his or her identified  
26 patient or groups of patients under specified conditions or

1 limitations in a standing order from the physician.

2 "Medication therapy management services" in a licensed  
3 hospital may also include the following:

4 (1) reviewing assessments of the patient's health  
5 status; and

6 (2) following protocols of a hospital pharmacy and  
7 therapeutics committee with respect to the fulfillment of  
8 medication orders.

9 (bb) "Pharmacist care" means the provision by a pharmacist  
10 of medication therapy management services, with or without the  
11 dispensing of drugs or devices, intended to achieve outcomes  
12 that improve patient health, quality of life, and comfort and  
13 enhance patient safety.

14 (cc) "Protected health information" means individually  
15 identifiable health information that, except as otherwise  
16 provided, is:

17 (1) transmitted by electronic media;

18 (2) maintained in any medium set forth in the  
19 definition of "electronic media" in the federal Health  
20 Insurance Portability and Accountability Act; or

21 (3) transmitted or maintained in any other form or  
22 medium.

23 "Protected health information" does not include individually  
24 identifiable health information found in:

25 (1) education records covered by the federal Family  
26 Educational Right and Privacy Act; or

1           (2) employment records held by a licensee in its role  
2           as an employer.

3           (dd) "Standing order" means a specific order for a patient  
4           or group of patients issued by a physician licensed to practice  
5           medicine in all its branches in Illinois.

6           (ee) "Address of record" means the address recorded by the  
7           Department in the applicant's or licensee's application file or  
8           license file, as maintained by the Department's licensure  
9           maintenance unit.

10          (ff) "Home pharmacy" means the location of a pharmacy's  
11          primary operations.

12          (Source: P.A. 95-689, eff. 10-29-07; 96-339, eff. 7-1-10;  
13          96-673, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1353, eff.  
14          7-28-10.)

15          Section 82. The Nurse Agency Licensing Act is amended by  
16          changing Section 3 as follows:

17               (225 ILCS 510/3) (from Ch. 111, par. 953)

18               Sec. 3. Definitions. As used in this Act:

19               (a) "Certified nurse aide" means an individual certified as  
20               defined in Section 3-206 of the Nursing Home Care Act or  
21               Section 3-206 of the ID/DD ~~MR/DD~~ Community Care Act, as now or  
22               hereafter amended.

23               (b) "Department" means the Department of Labor.

24               (c) "Director" means the Director of Labor.

1           (d) "Health care facility" is defined as in Section 3 of  
2 the Illinois Health Facilities Planning Act, as now or  
3 hereafter amended.

4           (e) "Licensee" means any nursing agency which is properly  
5 licensed under this Act.

6           (f) "Nurse" means a registered nurse or a licensed  
7 practical nurse as defined in the Nurse Practice Act.

8           (g) "Nurse agency" means any individual, firm,  
9 corporation, partnership or other legal entity that employs,  
10 assigns or refers nurses or certified nurse aides to a health  
11 care facility for a fee. The term "nurse agency" includes  
12 nurses registries. The term "nurse agency" does not include  
13 services provided by home health agencies licensed and operated  
14 under the Home Health, Home Services, and Home Nursing Agency  
15 Licensing Act or a licensed or certified individual who  
16 provides his or her own services as a regular employee of a  
17 health care facility, nor does it apply to a health care  
18 facility's organizing nonsalaried employees to provide  
19 services only in that facility.

20           (Source: P.A. 95-639, eff. 10-5-07; 96-339, eff. 7-1-10.)

21           Section 85. The Illinois Public Aid Code is amended by  
22 changing Sections 5-1.1, 5-5.4, 5-5.7, 5-5.17, 5-6, 5-13, 5B-1,  
23 5C-1, 5E-5, 8A-11, and 11-4.1 and by changing and renumbering  
24 Section 12-4.40 as added by Public Act 96-1405 as follows:

1 (305 ILCS 5/5-1.1) (from Ch. 23, par. 5-1.1)

2 Sec. 5-1.1. Definitions. The terms defined in this Section  
3 shall have the meanings ascribed to them, except when the  
4 context otherwise requires.

5 (a) "Nursing facility" means a facility, licensed by the  
6 Department of Public Health under the Nursing Home Care Act,  
7 that provides nursing facility services within the meaning of  
8 Title XIX of the federal Social Security Act.

9 (b) "Intermediate care facility for the developmentally  
10 disabled" or "ICF/DD" means a facility, licensed by the  
11 Department of Public Health under the ID/DD ~~MR/DD~~ Community  
12 Care Act, that is an intermediate care facility for the  
13 mentally retarded within the meaning of Title XIX of the  
14 federal Social Security Act.

15 (c) "Standard services" means those services required for  
16 the care of all patients in the facility and shall, as a  
17 minimum, include the following: (1) administration; (2)  
18 dietary (standard); (3) housekeeping; (4) laundry and linen;  
19 (5) maintenance of property and equipment, including  
20 utilities; (6) medical records; (7) training of employees; (8)  
21 utilization review; (9) activities services; (10) social  
22 services; (11) disability services; and all other similar  
23 services required by either the laws of the State of Illinois  
24 or one of its political subdivisions or municipalities or by  
25 Title XIX of the Social Security Act.

26 (d) "Patient services" means those which vary with the

1 number of personnel; professional and para-professional skills  
2 of the personnel; specialized equipment, and reflect the  
3 intensity of the medical and psycho-social needs of the  
4 patients. Patient services shall as a minimum include: (1)  
5 physical services; (2) nursing services, including restorative  
6 nursing; (3) medical direction and patient care planning; (4)  
7 health related supportive and habilitative services and all  
8 similar services required by either the laws of the State of  
9 Illinois or one of its political subdivisions or municipalities  
10 or by Title XIX of the Social Security Act.

11 (e) "Ancillary services" means those services which  
12 require a specific physician's order and defined as under the  
13 medical assistance program as not being routine in nature for  
14 skilled nursing facilities and ICF/DDs. Such services  
15 generally must be authorized prior to delivery and payment as  
16 provided for under the rules of the Department of Healthcare  
17 and Family Services.

18 (f) "Capital" means the investment in a facility's assets  
19 for both debt and non-debt funds. Non-debt capital is the  
20 difference between an adjusted replacement value of the assets  
21 and the actual amount of debt capital.

22 (g) "Profit" means the amount which shall accrue to a  
23 facility as a result of its revenues exceeding its expenses as  
24 determined in accordance with generally accepted accounting  
25 principles.

26 (h) "Non-institutional services" means those services

1 provided under paragraph (f) of Section 3 of the Disabled  
2 Persons Rehabilitation Act and those services provided under  
3 Section 4.02 of the Illinois Act on the Aging.

4 (i) "Exceptional medical care" means the level of medical  
5 care required by persons who are medically stable for discharge  
6 from a hospital but who require acute intensity hospital level  
7 care for physician, nurse and ancillary specialist services,  
8 including persons with acquired immunodeficiency syndrome  
9 (AIDS) or a related condition. Such care shall consist of those  
10 services which the Department shall determine by rule.

11 (j) "Institutionalized person" means an individual who is  
12 an inpatient in an ICF/DD or nursing facility, or who is an  
13 inpatient in a medical institution receiving a level of care  
14 equivalent to that of an ICF/DD or nursing facility, or who is  
15 receiving services under Section 1915(c) of the Social Security  
16 Act.

17 (k) "Institutionalized spouse" means an institutionalized  
18 person who is expected to receive services at the same level of  
19 care for at least 30 days and is married to a spouse who is not  
20 an institutionalized person.

21 (l) "Community spouse" is the spouse of an  
22 institutionalized spouse.

23 (Source: P.A. 95-331, eff. 8-21-07; 96-1530, eff. 2-16-11.)

24 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

25 Sec. 5-5.4. Standards of Payment - Department of Healthcare



1 and Family Services. The Department of Healthcare and Family  
2 Services shall develop standards of payment of nursing facility  
3 and ICF/DD services in facilities providing such services under  
4 this Article which:

5 (1) Provide for the determination of a facility's payment  
6 for nursing facility or ICF/DD services on a prospective basis.  
7 The amount of the payment rate for all nursing facilities  
8 certified by the Department of Public Health under the ID/DD  
9 ~~MR/DD~~ Community Care Act or the Nursing Home Care Act as  
10 Intermediate Care for the Developmentally Disabled facilities,  
11 Long Term Care for Under Age 22 facilities, Skilled Nursing  
12 facilities, or Intermediate Care facilities under the medical  
13 assistance program shall be prospectively established annually  
14 on the basis of historical, financial, and statistical data  
15 reflecting actual costs from prior years, which shall be  
16 applied to the current rate year and updated for inflation,  
17 except that the capital cost element for newly constructed  
18 facilities shall be based upon projected budgets. The annually  
19 established payment rate shall take effect on July 1 in 1984  
20 and subsequent years. No rate increase and no update for  
21 inflation shall be provided on or after July 1, 1994 and before  
22 July 1, 2012, unless specifically provided for in this Section.  
23 The changes made by Public Act 93-841 extending the duration of  
24 the prohibition against a rate increase or update for inflation  
25 are effective retroactive to July 1, 2004.

26 For facilities licensed by the Department of Public Health

1 under the Nursing Home Care Act as Intermediate Care for the  
2 Developmentally Disabled facilities or Long Term Care for Under  
3 Age 22 facilities, the rates taking effect on July 1, 1998  
4 shall include an increase of 3%. For facilities licensed by the  
5 Department of Public Health under the Nursing Home Care Act as  
6 Skilled Nursing facilities or Intermediate Care facilities,  
7 the rates taking effect on July 1, 1998 shall include an  
8 increase of 3% plus \$1.10 per resident-day, as defined by the  
9 Department. For facilities licensed by the Department of Public  
10 Health under the Nursing Home Care Act as Intermediate Care  
11 Facilities for the Developmentally Disabled or Long Term Care  
12 for Under Age 22 facilities, the rates taking effect on January  
13 1, 2006 shall include an increase of 3%. For facilities  
14 licensed by the Department of Public Health under the Nursing  
15 Home Care Act as Intermediate Care Facilities for the  
16 Developmentally Disabled or Long Term Care for Under Age 22  
17 facilities, the rates taking effect on January 1, 2009 shall  
18 include an increase sufficient to provide a \$0.50 per hour wage  
19 increase for non-executive staff.

20 For facilities licensed by the Department of Public Health  
21 under the Nursing Home Care Act as Intermediate Care for the  
22 Developmentally Disabled facilities or Long Term Care for Under  
23 Age 22 facilities, the rates taking effect on July 1, 1999  
24 shall include an increase of 1.6% plus \$3.00 per resident-day,  
25 as defined by the Department. For facilities licensed by the  
26 Department of Public Health under the Nursing Home Care Act as

1 Skilled Nursing facilities or Intermediate Care facilities,  
2 the rates taking effect on July 1, 1999 shall include an  
3 increase of 1.6% and, for services provided on or after October  
4 1, 1999, shall be increased by \$4.00 per resident-day, as  
5 defined by the Department.

6 For facilities licensed by the Department of Public Health  
7 under the Nursing Home Care Act as Intermediate Care for the  
8 Developmentally Disabled facilities or Long Term Care for Under  
9 Age 22 facilities, the rates taking effect on July 1, 2000  
10 shall include an increase of 2.5% per resident-day, as defined  
11 by the Department. For facilities licensed by the Department of  
12 Public Health under the Nursing Home Care Act as Skilled  
13 Nursing facilities or Intermediate Care facilities, the rates  
14 taking effect on July 1, 2000 shall include an increase of 2.5%  
15 per resident-day, as defined by the Department.

16 For facilities licensed by the Department of Public Health  
17 under the Nursing Home Care Act as skilled nursing facilities  
18 or intermediate care facilities, a new payment methodology must  
19 be implemented for the nursing component of the rate effective  
20 July 1, 2003. The Department of Public Aid (now Healthcare and  
21 Family Services) shall develop the new payment methodology  
22 using the Minimum Data Set (MDS) as the instrument to collect  
23 information concerning nursing home resident condition  
24 necessary to compute the rate. The Department shall develop the  
25 new payment methodology to meet the unique needs of Illinois  
26 nursing home residents while remaining subject to the

1 appropriations provided by the General Assembly. A transition  
2 period from the payment methodology in effect on June 30, 2003  
3 to the payment methodology in effect on July 1, 2003 shall be  
4 provided for a period not exceeding 3 years and 184 days after  
5 implementation of the new payment methodology as follows:

6 (A) For a facility that would receive a lower nursing  
7 component rate per patient day under the new system than  
8 the facility received effective on the date immediately  
9 preceding the date that the Department implements the new  
10 payment methodology, the nursing component rate per  
11 patient day for the facility shall be held at the level in  
12 effect on the date immediately preceding the date that the  
13 Department implements the new payment methodology until a  
14 higher nursing component rate of reimbursement is achieved  
15 by that facility.

16 (B) For a facility that would receive a higher nursing  
17 component rate per patient day under the payment  
18 methodology in effect on July 1, 2003 than the facility  
19 received effective on the date immediately preceding the  
20 date that the Department implements the new payment  
21 methodology, the nursing component rate per patient day for  
22 the facility shall be adjusted.

23 (C) Notwithstanding paragraphs (A) and (B), the  
24 nursing component rate per patient day for the facility  
25 shall be adjusted subject to appropriations provided by the  
26 General Assembly.

1 For facilities licensed by the Department of Public Health  
2 under the Nursing Home Care Act as Intermediate Care for the  
3 Developmentally Disabled facilities or Long Term Care for Under  
4 Age 22 facilities, the rates taking effect on March 1, 2001  
5 shall include a statewide increase of 7.85%, as defined by the  
6 Department.

7 Notwithstanding any other provision of this Section, for  
8 facilities licensed by the Department of Public Health under  
9 the Nursing Home Care Act as skilled nursing facilities or  
10 intermediate care facilities, except facilities participating  
11 in the Department's demonstration program pursuant to the  
12 provisions of Title 77, Part 300, Subpart T of the Illinois  
13 Administrative Code, the numerator of the ratio used by the  
14 Department of Healthcare and Family Services to compute the  
15 rate payable under this Section using the Minimum Data Set  
16 (MDS) methodology shall incorporate the following annual  
17 amounts as the additional funds appropriated to the Department  
18 specifically to pay for rates based on the MDS nursing  
19 component methodology in excess of the funding in effect on  
20 December 31, 2006:

21 (i) For rates taking effect January 1, 2007,  
22 \$60,000,000.

23 (ii) For rates taking effect January 1, 2008,  
24 \$110,000,000.

25 (iii) For rates taking effect January 1, 2009,  
26 \$194,000,000.

1           (iv) For rates taking effect April 1, 2011, or the  
2           first day of the month that begins at least 45 days after  
3           the effective date of this amendatory Act of the 96th  
4           General Assembly, \$416,500,000 or an amount as may be  
5           necessary to complete the transition to the MDS methodology  
6           for the nursing component of the rate.

7           Notwithstanding any other provision of this Section, for  
8           facilities licensed by the Department of Public Health under  
9           the Nursing Home Care Act as skilled nursing facilities or  
10          intermediate care facilities, the support component of the  
11          rates taking effect on January 1, 2008 shall be computed using  
12          the most recent cost reports on file with the Department of  
13          Healthcare and Family Services no later than April 1, 2005,  
14          updated for inflation to January 1, 2006.

15          For facilities licensed by the Department of Public Health  
16          under the Nursing Home Care Act as Intermediate Care for the  
17          Developmentally Disabled facilities or Long Term Care for Under  
18          Age 22 facilities, the rates taking effect on April 1, 2002  
19          shall include a statewide increase of 2.0%, as defined by the  
20          Department. This increase terminates on July 1, 2002; beginning  
21          July 1, 2002 these rates are reduced to the level of the rates  
22          in effect on March 31, 2002, as defined by the Department.

23          For facilities licensed by the Department of Public Health  
24          under the Nursing Home Care Act as skilled nursing facilities  
25          or intermediate care facilities, the rates taking effect on  
26          July 1, 2001 shall be computed using the most recent cost

1 reports on file with the Department of Public Aid no later than  
2 April 1, 2000, updated for inflation to January 1, 2001. For  
3 rates effective July 1, 2001 only, rates shall be the greater  
4 of the rate computed for July 1, 2001 or the rate effective on  
5 June 30, 2001.

6 Notwithstanding any other provision of this Section, for  
7 facilities licensed by the Department of Public Health under  
8 the Nursing Home Care Act as skilled nursing facilities or  
9 intermediate care facilities, the Illinois Department shall  
10 determine by rule the rates taking effect on July 1, 2002,  
11 which shall be 5.9% less than the rates in effect on June 30,  
12 2002.

13 Notwithstanding any other provision of this Section, for  
14 facilities licensed by the Department of Public Health under  
15 the Nursing Home Care Act as skilled nursing facilities or  
16 intermediate care facilities, if the payment methodologies  
17 required under Section 5A-12 and the waiver granted under 42  
18 CFR 433.68 are approved by the United States Centers for  
19 Medicare and Medicaid Services, the rates taking effect on July  
20 1, 2004 shall be 3.0% greater than the rates in effect on June  
21 30, 2004. These rates shall take effect only upon approval and  
22 implementation of the payment methodologies required under  
23 Section 5A-12.

24 Notwithstanding any other provisions of this Section, for  
25 facilities licensed by the Department of Public Health under  
26 the Nursing Home Care Act as skilled nursing facilities or

1 intermediate care facilities, the rates taking effect on  
2 January 1, 2005 shall be 3% more than the rates in effect on  
3 December 31, 2004.

4 Notwithstanding any other provision of this Section, for  
5 facilities licensed by the Department of Public Health under  
6 the Nursing Home Care Act as skilled nursing facilities or  
7 intermediate care facilities, effective January 1, 2009, the  
8 per diem support component of the rates effective on January 1,  
9 2008, computed using the most recent cost reports on file with  
10 the Department of Healthcare and Family Services no later than  
11 April 1, 2005, updated for inflation to January 1, 2006, shall  
12 be increased to the amount that would have been derived using  
13 standard Department of Healthcare and Family Services methods,  
14 procedures, and inflators.

15 Notwithstanding any other provisions of this Section, for  
16 facilities licensed by the Department of Public Health under  
17 the Nursing Home Care Act as intermediate care facilities that  
18 are federally defined as Institutions for Mental Disease, a  
19 socio-development component rate equal to 6.6% of the  
20 facility's nursing component rate as of January 1, 2006 shall  
21 be established and paid effective July 1, 2006. The  
22 socio-development component of the rate shall be increased by a  
23 factor of 2.53 on the first day of the month that begins at  
24 least 45 days after January 11, 2008 (the effective date of  
25 Public Act 95-707). As of August 1, 2008, the socio-development  
26 component rate shall be equal to 6.6% of the facility's nursing



1 component rate as of January 1, 2006, multiplied by a factor of  
2 3.53. For services provided on or after April 1, 2011, or the  
3 first day of the month that begins at least 45 days after the  
4 effective date of this amendatory Act of the 96th General  
5 Assembly, whichever is later, the Illinois Department may by  
6 rule adjust these socio-development component rates, and may  
7 use different adjustment methodologies for those facilities  
8 participating, and those not participating, in the Illinois  
9 Department's demonstration program pursuant to the provisions  
10 of Title 77, Part 300, Subpart T of the Illinois Administrative  
11 Code, but in no case may such rates be diminished below those  
12 in effect on August 1, 2008.

13 For facilities licensed by the Department of Public Health  
14 under the Nursing Home Care Act as Intermediate Care for the  
15 Developmentally Disabled facilities or as long-term care  
16 facilities for residents under 22 years of age, the rates  
17 taking effect on July 1, 2003 shall include a statewide  
18 increase of 4%, as defined by the Department.

19 For facilities licensed by the Department of Public Health  
20 under the Nursing Home Care Act as Intermediate Care for the  
21 Developmentally Disabled facilities or Long Term Care for Under  
22 Age 22 facilities, the rates taking effect on the first day of  
23 the month that begins at least 45 days after the effective date  
24 of this amendatory Act of the 95th General Assembly shall  
25 include a statewide increase of 2.5%, as defined by the  
26 Department.

1           Notwithstanding any other provision of this Section, for  
2 facilities licensed by the Department of Public Health under  
3 the Nursing Home Care Act as skilled nursing facilities or  
4 intermediate care facilities, effective January 1, 2005,  
5 facility rates shall be increased by the difference between (i)  
6 a facility's per diem property, liability, and malpractice  
7 insurance costs as reported in the cost report filed with the  
8 Department of Public Aid and used to establish rates effective  
9 July 1, 2001 and (ii) those same costs as reported in the  
10 facility's 2002 cost report. These costs shall be passed  
11 through to the facility without caps or limitations, except for  
12 adjustments required under normal auditing procedures.

13           Rates established effective each July 1 shall govern  
14 payment for services rendered throughout that fiscal year,  
15 except that rates established on July 1, 1996 shall be  
16 increased by 6.8% for services provided on or after January 1,  
17 1997. Such rates will be based upon the rates calculated for  
18 the year beginning July 1, 1990, and for subsequent years  
19 thereafter until June 30, 2001 shall be based on the facility  
20 cost reports for the facility fiscal year ending at any point  
21 in time during the previous calendar year, updated to the  
22 midpoint of the rate year. The cost report shall be on file  
23 with the Department no later than April 1 of the current rate  
24 year. Should the cost report not be on file by April 1, the  
25 Department shall base the rate on the latest cost report filed  
26 by each skilled care facility and intermediate care facility,

1 updated to the midpoint of the current rate year. In  
2 determining rates for services rendered on and after July 1,  
3 1985, fixed time shall not be computed at less than zero. The  
4 Department shall not make any alterations of regulations which  
5 would reduce any component of the Medicaid rate to a level  
6 below what that component would have been utilizing in the rate  
7 effective on July 1, 1984.

8 (2) Shall take into account the actual costs incurred by  
9 facilities in providing services for recipients of skilled  
10 nursing and intermediate care services under the medical  
11 assistance program.

12 (3) Shall take into account the medical and psycho-social  
13 characteristics and needs of the patients.

14 (4) Shall take into account the actual costs incurred by  
15 facilities in meeting licensing and certification standards  
16 imposed and prescribed by the State of Illinois, any of its  
17 political subdivisions or municipalities and by the U.S.  
18 Department of Health and Human Services pursuant to Title XIX  
19 of the Social Security Act.

20 The Department of Healthcare and Family Services shall  
21 develop precise standards for payments to reimburse nursing  
22 facilities for any utilization of appropriate rehabilitative  
23 personnel for the provision of rehabilitative services which is  
24 authorized by federal regulations, including reimbursement for  
25 services provided by qualified therapists or qualified  
26 assistants, and which is in accordance with accepted

1 professional practices. Reimbursement also may be made for  
2 utilization of other supportive personnel under appropriate  
3 supervision.

4 The Department shall develop enhanced payments to offset  
5 the additional costs incurred by a facility serving exceptional  
6 need residents and shall allocate at least \$8,000,000 of the  
7 funds collected from the assessment established by Section 5B-2  
8 of this Code for such payments. For the purpose of this  
9 Section, "exceptional needs" means, but need not be limited to,  
10 ventilator care, tracheotomy care, bariatric care, complex  
11 wound care, and traumatic brain injury care.

12 (5) Beginning July 1, 2012 the methodologies for  
13 reimbursement of nursing facility services as provided under  
14 this Section 5-5.4 shall no longer be applicable for bills  
15 payable for State fiscal years 2012 and thereafter.

16 (Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707,  
17 eff. 1-11-08; 95-744, eff. 7-18-08; 96-45, eff. 7-15-09;  
18 96-339, eff. 7-1-10; 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10;  
19 96-1530, eff. 2-16-11.)

20 (305 ILCS 5/5-5.7) (from Ch. 23, par. 5-5.7)

21 Sec. 5-5.7. Cost Reports - Audits. The Department of  
22 Healthcare and Family Services shall work with the Department  
23 of Public Health to use cost report information currently being  
24 collected under provisions of the Nursing Home Care Act and the  
25 ID/DD ~~MR/DD~~ Community Care Act. The Department of Healthcare

1 and Family Services may, in conjunction with the Department of  
2 Public Health, develop in accordance with generally accepted  
3 accounting principles a uniform chart of accounts which each  
4 facility providing services under the medical assistance  
5 program shall adopt, after a reasonable period.

6 Nursing homes licensed under the Nursing Home Care Act or  
7 the ID/DD ~~MR/DD~~ Community Care Act and providers of adult  
8 developmental training services certified by the Department of  
9 Human Services pursuant to Section 15.2 of the Mental Health  
10 and Developmental Disabilities Administrative Act which  
11 provide services to clients eligible for medical assistance  
12 under this Article are responsible for submitting the required  
13 annual cost report to the Department of Healthcare and Family  
14 Services.

15 The Department of Healthcare and Family Services shall  
16 audit the financial and statistical records of each provider  
17 participating in the medical assistance program as a nursing  
18 facility or ICF/DD over a 3 year period, beginning with the  
19 close of the first cost reporting year. Following the end of  
20 this 3-year term, audits of the financial and statistical  
21 records will be performed each year in at least 20% of the  
22 facilities participating in the medical assistance program  
23 with at least 10% being selected on a random sample basis, and  
24 the remainder selected on the basis of exceptional profiles.  
25 All audits shall be conducted in accordance with generally  
26 accepted auditing standards.

1           The Department of Healthcare and Family Services shall  
2 establish prospective payment rates for categories of service  
3 needed within the nursing facility or ICF/DD levels of  
4 services, in order to more appropriately recognize the  
5 individual needs of patients in nursing facilities.

6           The Department of Healthcare and Family Services shall  
7 provide, during the process of establishing the payment rate  
8 for nursing facility or ICF/DD services, or when a substantial  
9 change in rates is proposed, an opportunity for public review  
10 and comment on the proposed rates prior to their becoming  
11 effective.

12           (Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10;  
13 96-1530, eff. 2-16-11.)

14           (305 ILCS 5/5-5.17) (from Ch. 23, par. 5-5.17)

15           Sec. 5-5.17. Separate reimbursement rate. The Illinois  
16 Department may by rule establish a separate reimbursement rate  
17 to be paid to long term care facilities for adult developmental  
18 training services as defined in Section 15.2 of the Mental  
19 Health and Developmental Disabilities Administrative Act which  
20 are provided to intellectually disabled ~~mentally-retarded~~  
21 residents of such facilities who receive aid under this  
22 Article. Any such reimbursement shall be based upon cost  
23 reports submitted by the providers of such services and shall  
24 be paid by the long term care facility to the provider within  
25 such time as the Illinois Department shall prescribe by rule,

1 but in no case less than 3 business days after receipt of the  
2 reimbursement by such facility from the Illinois Department.  
3 The Illinois Department may impose a penalty upon a facility  
4 which does not make payment to the provider of adult  
5 developmental training services within the time so prescribed,  
6 up to the amount of payment not made to the provider.

7 (Source: P.A. 89-507, eff. 7-1-97.)

8 (305 ILCS 5/5-6) (from Ch. 23, par. 5-6)

9 Sec. 5-6. Obligations incurred prior to death of a  
10 recipient. Obligations incurred but not paid for at the time of  
11 a recipient's death for services authorized under Section 5-5,  
12 including medical and other care in group care facilities as  
13 defined in the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
14 Community Care Act, or in like facilities not required to be  
15 licensed under that Act, may be paid, subject to the rules and  
16 regulations of the Illinois Department, after the death of the  
17 recipient.

18 (Source: P.A. 96-339, eff. 7-1-10.)

19 (305 ILCS 5/5-13) (from Ch. 23, par. 5-13)

20 Sec. 5-13. Claim against estate of recipients. To the  
21 extent permitted under the federal Social Security Act, the  
22 amount expended under this Article (1) for a person of any age  
23 who is an inpatient in a nursing facility, an intermediate care  
24 facility for the intellectually disabled ~~mentally retarded~~, or

1 other medical institution, or (2) for a person aged 55 or more,  
2 shall be a claim against the person's estate or a claim against  
3 the estate of the person's spouse, regardless of the order of  
4 death, but no recovery may be had thereon until after the death  
5 of the surviving spouse, if any, and then only at such time  
6 when there is no surviving child who is under age 21, or blind,  
7 or permanently and totally disabled. This Section, however,  
8 shall not bar recovery at the death of the person of amounts of  
9 medical assistance paid to or in his behalf to which he was not  
10 entitled; provided that such recovery shall not be enforced  
11 against any real estate while it is occupied as a homestead by  
12 the surviving spouse or other dependent, if no claims by other  
13 creditors have been filed against the estate, or if such claims  
14 have been filed, they remain dormant for failure of prosecution  
15 or failure of the claimant to compel administration of the  
16 estate for the purpose of payment. The term "estate", as used  
17 in this Section, with respect to a deceased person, means all  
18 real and personal property and other assets included within the  
19 person's estate, as that term is used in the Probate Act of  
20 1975; however, in the case of a deceased person who has  
21 received (or is entitled to receive) benefits under a long-term  
22 care insurance policy in connection with which assets or  
23 resources are disregarded to the extent that payments are made  
24 or because the deceased person received (or was entitled to  
25 receive) benefits under a long-term care insurance policy,  
26 "estate" also includes any other real and personal property and



1 other assets in which the deceased person had any legal title  
2 or interest at the time of his or her death (to the extent of  
3 that interest), including assets conveyed to a survivor, heir,  
4 or assignee of the deceased person through joint tenancy,  
5 tenancy in common, survivorship, life estate, living trust, or  
6 other arrangement. The term "homestead", as used in this  
7 Section, means the dwelling house and contiguous real estate  
8 occupied by a surviving spouse or relative, as defined by the  
9 rules and regulations of the Illinois Department, regardless of  
10 the value of the property.

11 A claim arising under this Section against assets conveyed  
12 to a survivor, heir, or assignee of the deceased person through  
13 joint tenancy, tenancy in common, survivorship, life estate,  
14 living trust, or other arrangement is not effective until the  
15 claim is recorded or filed in the manner provided for a notice  
16 of lien in Section 3-10.2. The claim is subject to the same  
17 requirements and conditions to which liens on real property  
18 interests are subject under Sections 3-10.1 through 3-10.10. A  
19 claim arising under this Section attaches to interests owned or  
20 subsequently acquired by the estate of a recipient or the  
21 estate of a recipient's surviving spouse. The transfer or  
22 conveyance of any real or personal property of the estate as  
23 defined in this Section shall be subject to the fraudulent  
24 transfer conditions that apply to real property in Section 3-11  
25 of this Code.

26 The provisions of this Section shall not affect the

1 validity of claims against estates for medical assistance  
2 provided prior to January 1, 1966 to aged, blind, or disabled  
3 persons receiving aid under Articles V, VII and VII-A of the  
4 1949 Code.

5 (Source: P.A. 88-85; 88-554, eff. 7-26-94; 89-21, eff. 7-1-95;  
6 89-437, eff. 12-15-95; 89-686, eff. 12-31-96.)

7 (305 ILCS 5/5B-1) (from Ch. 23, par. 5B-1)

8 Sec. 5B-1. Definitions. As used in this Article, unless the  
9 context requires otherwise:

10 "Fund" means the Long-Term Care Provider Fund.

11 "Long-term care facility" means (i) a nursing facility,  
12 whether public or private and whether organized for profit or  
13 not-for-profit, that is subject to licensure by the Illinois  
14 Department of Public Health under the Nursing Home Care Act or  
15 the ID/DD ~~MR/DD~~ Community Care Act, including a county nursing  
16 home directed and maintained under Section 5-1005 of the  
17 Counties Code, and (ii) a part of a hospital in which skilled  
18 or intermediate long-term care services within the meaning of  
19 Title XVIII or XIX of the Social Security Act are provided;  
20 except that the term "long-term care facility" does not include  
21 a facility operated by a State agency, a facility participating  
22 in the Illinois Department's demonstration program pursuant to  
23 the provisions of Title 77, Part 300, Subpart T of the Illinois  
24 Administrative Code, or operated solely as an intermediate care  
25 facility for the mentally retarded within the meaning of Title

1 XIX of the Social Security Act.

2 "Long-term care provider" means (i) a person licensed by  
3 the Department of Public Health to operate and maintain a  
4 skilled nursing or intermediate long-term care facility or (ii)  
5 a hospital provider that provides skilled or intermediate  
6 long-term care services within the meaning of Title XVIII or  
7 XIX of the Social Security Act. For purposes of this paragraph,  
8 "person" means any political subdivision of the State,  
9 municipal corporation, individual, firm, partnership,  
10 corporation, company, limited liability company, association,  
11 joint stock association, or trust, or a receiver, executor,  
12 trustee, guardian, or other representative appointed by order  
13 of any court. "Hospital provider" means a person licensed by  
14 the Department of Public Health to conduct, operate, or  
15 maintain a hospital.

16 "Occupied bed days" shall be computed separately for each  
17 long-term care facility operated or maintained by a long-term  
18 care provider, and means the sum for all beds of the number of  
19 days during the month on which each bed was occupied by a  
20 resident, other than a resident for whom Medicare Part A is the  
21 primary payer.

22 (Source: P.A. 96-339, eff. 7-1-10; 96-1530, eff. 2-16-11.)

23 (305 ILCS 5/5C-1) (from Ch. 23, par. 5C-1)

24 Sec. 5C-1. Definitions. As used in this Article, unless the  
25 context requires otherwise:

1 "Fund" means the Developmentally Disabled Care Provider  
2 Fund.

3 "Developmentally disabled care facility" means an  
4 intermediate care facility for the intellectually disabled  
5 ~~mentally-retarded~~ within the meaning of Title XIX of the Social  
6 Security Act, whether public or private and whether organized  
7 for profit or not-for-profit, but shall not include any  
8 facility operated by the State.

9 "Developmentally disabled care provider" means a person  
10 conducting, operating, or maintaining a developmentally  
11 disabled care facility. For this purpose, "person" means any  
12 political subdivision of the State, municipal corporation,  
13 individual, firm, partnership, corporation, company, limited  
14 liability company, association, joint stock association, or  
15 trust, or a receiver, executor, trustee, guardian or other  
16 representative appointed by order of any court.

17 "Adjusted gross developmentally disabled care revenue"  
18 shall be computed separately for each developmentally disabled  
19 care facility conducted, operated, or maintained by a  
20 developmentally disabled care provider, and means the  
21 developmentally disabled care provider's total revenue for  
22 inpatient residential services less contractual allowances and  
23 discounts on patients' accounts, but does not include  
24 non-patient revenue from sources such as contributions,  
25 donations or bequests, investments, day training services,  
26 television and telephone service, and rental of facility space.

1 (Source: P.A. 87-861.)

2 (305 ILCS 5/5E-5)

3 Sec. 5E-5. Definitions. As used in this Article, unless the  
4 context requires otherwise:

5 "Nursing home" means (i) a skilled nursing or intermediate  
6 long-term care facility, whether public or private and whether  
7 organized for profit or not-for-profit, that is subject to  
8 licensure by the Illinois Department of Public Health under the  
9 Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act,  
10 including a county nursing home directed and maintained under  
11 Section 5-1005 of the Counties Code, and (ii) a part of a  
12 hospital in which skilled or intermediate long-term care  
13 services within the meaning of Title XVIII or XIX of the Social  
14 Security Act are provided; except that the term "nursing home"  
15 does not include a facility operated solely as an intermediate  
16 care facility for the intellectually disabled ~~mentally~~  
17 ~~retarded~~ within the meaning of Title XIX of the Social Security  
18 Act.

19 "Nursing home provider" means (i) a person licensed by the  
20 Department of Public Health to operate and maintain a skilled  
21 nursing or intermediate long-term care facility which charges  
22 its residents, a third party payor, Medicaid, or Medicare for  
23 skilled nursing or intermediate long-term care services, or  
24 (ii) a hospital provider that provides skilled or intermediate  
25 long-term care services within the meaning of Title XVIII or

1 XIX of the Social Security Act. For purposes of this paragraph,  
2 "person" means any political subdivision of the State,  
3 municipal corporation, individual, firm, partnership,  
4 corporation, company, limited liability company, association,  
5 joint stock association, or trust, or a receiver, executor,  
6 trustee, guardian, or other representative appointed by order  
7 of any court. "Hospital provider" means a person licensed by  
8 the Department of Public Health to conduct, operate, or  
9 maintain a hospital.

10 "Licensed bed days" shall be computed separately for each  
11 nursing home operated or maintained by a nursing home provider  
12 and means, with respect to a nursing home provider, the sum for  
13 all nursing home beds of the number of days during a calendar  
14 quarter on which each bed is covered by a license issued to  
15 that provider under the Nursing Home Care Act or the Hospital  
16 Licensing Act.

17 (Source: P.A. 96-339, eff. 7-1-10.)

18 (305 ILCS 5/8A-11) (from Ch. 23, par. 8A-11)

19 Sec. 8A-11. (a) No person shall:

20 (1) Knowingly charge a resident of a nursing home for  
21 any services provided pursuant to Article V of the Illinois  
22 Public Aid Code, money or other consideration at a rate in  
23 excess of the rates established for covered services by the  
24 Illinois Department pursuant to Article V of The Illinois  
25 Public Aid Code; or

1           (2) Knowingly charge, solicit, accept or receive, in  
2           addition to any amount otherwise authorized or required to  
3           be paid pursuant to Article V of The Illinois Public Aid  
4           Code, any gift, money, donation or other consideration:

5           (i) As a precondition to admitting or expediting  
6           the admission of a recipient or applicant, pursuant to  
7           Article V of The Illinois Public Aid Code, to a  
8           long-term care facility as defined in Section 1-113 of  
9           the Nursing Home Care Act or a facility as defined in  
10          Section 1-113 of the ID/DD ~~MR/DD~~ Community Care Act;  
11          and

12          (ii) As a requirement for the recipient's or  
13          applicant's continued stay in such facility when the  
14          cost of the services provided therein to the recipient  
15          is paid for, in whole or in part, pursuant to Article V  
16          of The Illinois Public Aid Code.

17          (b) Nothing herein shall prohibit a person from making a  
18          voluntary contribution, gift or donation to a long-term care  
19          facility.

20          (c) This paragraph shall not apply to agreements to provide  
21          continuing care or life care between a life care facility as  
22          defined by the Life Care Facilities Act, and a person  
23          financially eligible for benefits pursuant to Article V of The  
24          Illinois Public Aid Code.

25          (d) Any person who violates this Section shall be guilty of  
26          a business offense and fined not less than \$5,000 nor more than

1 \$25,000.

2 (e) "Person", as used in this Section, means an individual,  
3 corporation, partnership, or unincorporated association.

4 (f) The State's Attorney of the county in which the  
5 facility is located and the Attorney General shall be notified  
6 by the Illinois Department of any alleged violations of this  
7 Section known to the Department.

8 (g) The Illinois Department shall adopt rules and  
9 regulations to carry out the provisions of this Section.

10 (Source: P.A. 96-339, eff. 7-1-10.)

11 (305 ILCS 5/11-4.1)

12 Sec. 11-4.1. Medical providers assisting with applications  
13 for medical assistance. A provider enrolled to provide medical  
14 assistance services may, upon the request of an individual,  
15 accompany, represent, and assist the individual in applying for  
16 medical assistance under Article V of this Code. If an  
17 individual is unable to request such assistance due to  
18 incapacity or mental incompetence and has no other  
19 representative willing or able to assist in the application  
20 process, a facility licensed under the Nursing Home Care Act or  
21 the ID/DD ~~MR/DD~~ Community Care Act or certified under this Code  
22 is authorized to assist the individual in applying for  
23 long-term care services. Subject to the provisions of the Free  
24 Healthcare Benefits Application Assistance Act, nothing in  
25 this Section shall be construed as prohibiting any individual



1 or entity from assisting another individual in applying for  
2 medical assistance under Article V of this Code.

3 (Source: P.A. 96-1439, eff. 8-20-10.)

4 (305 ILCS 5/12-4.42)

5 Sec. 12-4.42 ~~12-4.40~~. Medicaid Revenue Maximization.

6 (a) Purpose. The General Assembly finds that there is a  
7 need to make changes to the administration of services provided  
8 by State and local governments in order to maximize federal  
9 financial participation.

10 (b) Definitions. As used in this Section:

11 "Community Medicaid mental health services" means all  
12 mental health services outlined in Section 132 of Title 59 of  
13 the Illinois Administrative Code that are funded through DHS,  
14 eligible for federal financial participation, and provided by a  
15 community-based provider.

16 "Community-based provider" means an entity enrolled as a  
17 provider pursuant to Sections 140.11 and 140.12 of Title 89 of  
18 the Illinois Administrative Code and certified to provide  
19 community Medicaid mental health services in accordance with  
20 Section 132 of Title 59 of the Illinois Administrative Code.

21 "DCFS" means the Department of Children and Family  
22 Services.

23 "Department" means the Illinois Department of Healthcare  
24 and Family Services.

25 "Developmentally disabled care facility" means an

1 intermediate care facility for the intellectually disabled  
2 ~~mentally retarded~~ within the meaning of Title XIX of the Social  
3 Security Act, whether public or private and whether organized  
4 for profit or not-for-profit, but shall not include any  
5 facility operated by the State.

6 "Developmentally disabled care provider" means a person  
7 conducting, operating, or maintaining a developmentally  
8 disabled care facility. For purposes of this definition,  
9 "person" means any political subdivision of the State,  
10 municipal corporation, individual, firm, partnership,  
11 corporation, company, limited liability company, association,  
12 joint stock association, or trust, or a receiver, executor,  
13 trustee, guardian, or other representative appointed by order  
14 of any court.

15 "DHS" means the Illinois Department of Human Services.

16 "Hospital" means an institution, place, building, or  
17 agency located in this State that is licensed as a general  
18 acute hospital by the Illinois Department of Public Health  
19 under the Hospital Licensing Act, whether public or private and  
20 whether organized for profit or not-for-profit.

21 "Long term care facility" means (i) a skilled nursing or  
22 intermediate long term care facility, whether public or private  
23 and whether organized for profit or not-for-profit, that is  
24 subject to licensure by the Illinois Department of Public  
25 Health under the Nursing Home Care Act, including a county  
26 nursing home directed and maintained under Section 5-1005 of

1 the Counties Code, and (ii) a part of a hospital in which  
2 skilled or intermediate long term care services within the  
3 meaning of Title XVIII or XIX of the Social Security Act are  
4 provided; except that the term "long term care facility" does  
5 not include a facility operated solely as an intermediate care  
6 facility for the intellectually disabled ~~mentally-retarded~~  
7 within the meaning of Title XIX of the Social Security Act.

8 "Long term care provider" means (i) a person licensed by  
9 the Department of Public Health to operate and maintain a  
10 skilled nursing or intermediate long term care facility or (ii)  
11 a hospital provider that provides skilled or intermediate long  
12 term care services within the meaning of Title XVIII or XIX of  
13 the Social Security Act. For purposes of this definition,  
14 "person" means any political subdivision of the State,  
15 municipal corporation, individual, firm, partnership,  
16 corporation, company, limited liability company, association,  
17 joint stock association, or trust, or a receiver, executor,  
18 trustee, guardian, or other representative appointed by order  
19 of any court.

20 "State-operated developmentally disabled care facility"  
21 means an intermediate care facility for the intellectually  
22 disabled ~~mentally-retarded~~ within the meaning of Title XIX of  
23 the Social Security Act operated by the State.

24 (c) Administration and deposit of Revenues. The Department  
25 shall coordinate the implementation of changes required by this  
26 amendatory Act of the 96th General Assembly amongst the various

1 State and local government bodies that administer programs  
2 referred to in this Section.

3 Revenues generated by program changes mandated by any  
4 provision in this Section, less reasonable administrative  
5 costs associated with the implementation of these program  
6 changes, shall be deposited into the Healthcare Provider Relief  
7 Fund.

8 The Department shall issue a report to the General Assembly  
9 detailing the implementation progress of this amendatory Act of  
10 the 96th General Assembly as a part of the Department's Medical  
11 Programs annual report for fiscal years 2010 and 2011.

12 (d) Acceleration of payment vouchers. To the extent  
13 practicable and permissible under federal law, the Department  
14 shall create all vouchers for long term care facilities and  
15 developmentally disabled care facilities for dates of service  
16 in the month in which the enhanced federal medical assistance  
17 percentage (FMAP) originally set forth in the American Recovery  
18 and Reinvestment Act (ARRA) expires and for dates of service in  
19 the month prior to that month and shall, no later than the 15th  
20 of the month in which the enhanced FMAP expires, submit these  
21 vouchers to the Comptroller for payment.

22 The Department of Human Services shall create the necessary  
23 documentation for State-operated developmentally disabled care  
24 facilities so that the necessary data for all dates of service  
25 before the expiration of the enhanced FMAP originally set forth  
26 in the ARRA can be adjudicated by the Department no later than

1 the 15th of the month in which the enhanced FMAP expires.

2 (e) Billing of DHS community Medicaid mental health  
3 services. No later than July 1, 2011, community Medicaid mental  
4 health services provided by a community-based provider must be  
5 billed directly to the Department.

6 (f) DCFS Medicaid services. The Department shall work with  
7 DCFS to identify existing programs, pending qualifying  
8 services, that can be converted in an economically feasible  
9 manner to Medicaid in order to secure federal financial  
10 revenue.

11 (g) Third Party Liability recoveries. The Department shall  
12 contract with a vendor to support the Department in  
13 coordinating benefits for Medicaid enrollees. The scope of work  
14 shall include, at a minimum, the identification of other  
15 insurance for Medicaid enrollees and the recovery of funds paid  
16 by the Department when another payer was liable. The vendor may  
17 be paid a percentage of actual cash recovered when practical  
18 and subject to federal law.

19 (h) Public health departments. The Department shall  
20 identify unreimbursed costs for persons covered by Medicaid who  
21 are served by the Chicago Department of Public Health.

22 The Department shall assist the Chicago Department of  
23 Public Health in determining total unreimbursed costs  
24 associated with the provision of healthcare services to  
25 Medicaid enrollees.

26 The Department shall determine and draw the maximum

1 allowable federal matching dollars associated with the cost of  
2 Chicago Department of Public Health services provided to  
3 Medicaid enrollees.

4 (i) Acceleration of hospital-based payments. The  
5 Department shall, by the 10th day of the month in which the  
6 enhanced FMAP originally set forth in the ARRA expires, create  
7 vouchers for all State fiscal year 2011 hospital payments  
8 exempt from the prompt payment requirements of the ARRA. The  
9 Department shall submit these vouchers to the Comptroller for  
10 payment.

11 (Source: P.A. 96-1405, eff. 7-29-10; revised 9-9-10.)

12 Section 90. The Medicaid Revenue Act is amended by changing  
13 Section 1-2 as follows:

14 (305 ILCS 35/1-2) (from Ch. 23, par. 7051-2)

15 Sec. 1-2. Legislative finding and declaration. The General  
16 Assembly hereby finds, determines, and declares:

17 (1) It is in the public interest and it is the public  
18 policy of this State to provide for and improve the basic  
19 medical care and long-term health care services of its  
20 indigent, most vulnerable citizens.

21 (2) Preservation of health, alleviation of sickness,  
22 and correction of handicapping conditions for persons  
23 requiring maintenance support are essential if those  
24 persons are to have an opportunity to become

1 self-supporting or to attain a greater capacity for  
2 self-care.

3 (3) For persons who are medically indigent but  
4 otherwise able to provide themselves a livelihood, it is of  
5 special importance to maintain their incentives for  
6 continued independence and preserve their limited  
7 resources for ordinary maintenance needed to prevent their  
8 total or substantial dependence on public support.

9 (4) The State has historically provided for care and  
10 services, in conjunction with the federal government,  
11 through the establishment and funding of a medical  
12 assistance program administered by the Department of  
13 Healthcare and Family Services (formerly Department of  
14 Public Aid) and approved by the Secretary of Health and  
15 Human Services under Title XIX of the federal Social  
16 Security Act, that program being commonly referred to as  
17 "Medicaid".

18 (5) The Medicaid program is a funding partnership  
19 between the State of Illinois and the federal government,  
20 with the Department of Healthcare and Family Services being  
21 designated as the single State agency responsible for the  
22 administration of the program, but with the State  
23 historically receiving 50% of the amounts expended as  
24 medical assistance under the Medicaid program from the  
25 federal government.

26 (6) To raise a portion of Illinois' share of the

1 Medicaid funds after July 1, 1991, the General Assembly  
2 enacted Public Act 87-13 to provide for the collection of  
3 provider participation fees from designated health care  
4 providers receiving Medicaid payments.

5 (7) On September 12, 1991, the Secretary of Health and  
6 Human Services proposed regulations that could have  
7 reduced the federal matching of Medicaid expenditures  
8 incurred on or after January 1, 1992 by the portion of the  
9 expenditures paid from funds raised through the provider  
10 participation fees.

11 (8) To prevent the Secretary from enacting those  
12 regulations but at the same time to impose certain  
13 statutory limitations on the means by which states may  
14 raise Medicaid funds eligible for federal matching,  
15 Congress enacted the Medicaid Voluntary Contribution and  
16 Provider-Specific Tax Amendments of 1991, Public Law  
17 102-234.

18 (9) Public Law 102-234 provides for a state's share of  
19 Medicaid funding eligible for federal matching to be raised  
20 through "broad-based health care related taxes", meaning,  
21 generally, a tax imposed with respect to a class of health  
22 care items or services (or providers thereof) specified  
23 therein, which (i) is imposed on all items or services or  
24 providers in the class in the state, except federal or  
25 public providers, and (ii) is imposed uniformly on all  
26 providers in the class at the same rate with respect to the



1 same base.

2 (10) The separate classes of health care items and  
3 services established by P.L. 102-234 include inpatient and  
4 outpatient hospital services, nursing facility services,  
5 and services of intermediate care facilities for the  
6 intellectually disabled ~~mentally retarded~~.

7 (11) The provider participation fees imposed under  
8 P.A. 87-13 may not meet the standards under P.L. 102-234.

9 (12) The resulting hospital Medicaid reimbursement  
10 reductions may force the closure of some hospitals now  
11 serving a disproportionately high number of the needy, who  
12 would then have to be cared for by remaining hospitals at  
13 substantial cost to those remaining hospitals.

14 (13) The hospitals in the State are all part of and  
15 benefit from a hospital system linked together in a number  
16 of ways, including common licensing and regulation, health  
17 care standards, education, research and disease control  
18 reporting, patient transfers for specialist care, and  
19 organ donor networks.

20 (14) Each hospital's patient population demographics,  
21 including the proportion of patients whose care is paid by  
22 Medicaid, is subject to change over time.

23 (15) Hospitals in the State have a special interest in  
24 the payment of adequate reimbursement levels for hospital  
25 care by Medicaid.

26 (16) Most hospitals are exempt from payment of most

1 federal, State, and local income, sales, property, and  
2 other taxes.

3 (17) The hospital assessment enacted by this Act under  
4 the guidelines of P.L. 102-234 is the most efficient means  
5 of raising the federally matchable funds needed for  
6 hospital care reimbursement.

7 (18) Cook County Hospital and Oak Forest Hospital are  
8 public hospitals owned and operated by Cook County with  
9 unique fiscal problems, including a patient population  
10 that is primarily Medicaid or altogether nonpaying, that  
11 make an intergovernmental transfer payment arrangement a  
12 more appropriate means of financing than the regular  
13 hospital assessment and reimbursement provisions.

14 (19) Sole community hospitals provide access to  
15 essential care that would otherwise not be reasonably  
16 available in the community they serve, such that imposition  
17 of assessments on them in their precarious financial  
18 circumstances may force their closure and have the effect  
19 of reducing access to health care.

20 (20) Each nursing home's resident population  
21 demographics, including the proportion of residents whose  
22 care is paid by Medicaid, is subject to change over time in  
23 that, among other things, residents currently able to pay  
24 the cost of nursing home care may become dependent on  
25 Medicaid support for continued care and services as  
26 resources are depleted.

1           (21) As the citizens of the State age, increased  
2 pressures will be placed on limited facilities to provide  
3 reasonable levels of care for a greater number of geriatric  
4 residents, and all involved in the nursing home industry,  
5 providers and residents, have a special interest in the  
6 maintenance of adequate Medicaid support for all nursing  
7 facilities.

8           (22) The assessments on nursing homes enacted by this  
9 Act under the guidelines of P.L. 102-234 are the most  
10 efficient means of raising the federally matchable funds  
11 needed for nursing home care reimbursement.

12           (23) All intermediate care facilities for persons with  
13 developmental disabilities receive a high degree of  
14 Medicaid support and benefits and therefore have a special  
15 interest in the maintenance of adequate Medicaid support.

16           (24) The assessments on intermediate care facilities  
17 for persons with developmental disabilities enacted by  
18 this Act under the guidelines of P.L. 102-234 are the most  
19 efficient means of raising the federally matchable funds  
20 needed for reimbursement of providers of intermediate care  
21 for persons with developmental disabilities.

22 (Source: P.A. 95-331, eff. 8-21-07.)

23           Section 91. The Nursing Home Grant Assistance Act is  
24 amended by changing Section 5 as follows:

1 (305 ILCS 40/5) (from Ch. 23, par. 7100-5)

2 Sec. 5. Definitions. As used in this Act, unless the  
3 context requires otherwise:

4 "Applicant" means an eligible individual who makes a  
5 payment of at least \$1 in a quarter to a nursing home.

6 "Application" means the receipt by a nursing home of at  
7 least \$1 from an eligible individual that is a resident of the  
8 home.

9 "Department" means the Department of Revenue.

10 "Director" means the Director of the Department of Revenue.

11 "Distribution agent" means a nursing home that is residence  
12 to one or more eligible individuals, which receives an  
13 application from one or more applicants for participation in  
14 the Nursing Home Grant Assistance Program provided for by this  
15 Act, and is thereby designated as distributing agent by such  
16 applicant or applicants, and which is thereby authorized by  
17 virtue of its license to receive from the Department and  
18 distribute to eligible individuals residing in the nursing home  
19 Nursing Home Grant Assistance payments under this Act.

20 "Qualified distribution agent" means a distribution agent  
21 that the Department of Public Health has certified to the  
22 Department of Revenue to be a licensed nursing home in good  
23 standing.

24 "Eligible individual" means an individual eligible for a  
25 nursing home grant assistance payment because he or she meets  
26 each of the following requirements:

1           (1) The individual resides, after June 30, 1992, in a  
2 nursing home as defined in this Act.

3           (2) For each day for which nursing home grant  
4 assistance is sought, the individual's nursing home care  
5 was not paid for, in whole or in part, by a federal, State,  
6 or combined federal-State medical care program; the  
7 receipt of Medicare Part B benefits does not make a person  
8 ineligible for nursing home grant assistance.

9           (3) The individual's annual adjusted gross income,  
10 after payment of any expenses for nursing home care, does  
11 not exceed 250% of the federal poverty guidelines for an  
12 individual as published annually by the U.S. Department of  
13 Health and Human Services for purposes of determining  
14 Medicaid eligibility.

15           "Fund" means the Nursing Home Grant Assistance Fund.

16           "Nursing home" means a skilled nursing or intermediate long  
17 term care facility that is subject to licensure by the Illinois  
18 Department of Public Health under the Nursing Home Care Act or  
19 the ID/DD ~~MR/DD~~ Community Care Act.

20           "Occupied bed days" means the sum for all beds of the  
21 number of days during a quarter for which grant assistance is  
22 sought under this Act on which a bed is occupied by an  
23 individual.

24           (Source: P.A. 96-339, eff. 7-1-10.)

25           Section 92. The Elder Abuse and Neglect Act is amended by

1 changing Section 2 as follows:

2 (320 ILCS 20/2) (from Ch. 23, par. 6602)

3 Sec. 2. Definitions. As used in this Act, unless the  
4 context requires otherwise:

5 (a) "Abuse" means causing any physical, mental or sexual  
6 injury to an eligible adult, including exploitation of such  
7 adult's financial resources.

8 Nothing in this Act shall be construed to mean that an  
9 eligible adult is a victim of abuse, neglect, or self-neglect  
10 for the sole reason that he or she is being furnished with or  
11 relies upon treatment by spiritual means through prayer alone,  
12 in accordance with the tenets and practices of a recognized  
13 church or religious denomination.

14 Nothing in this Act shall be construed to mean that an  
15 eligible adult is a victim of abuse because of health care  
16 services provided or not provided by licensed health care  
17 professionals.

18 (a-5) "Abuser" means a person who abuses, neglects, or  
19 financially exploits an eligible adult.

20 (a-7) "Caregiver" means a person who either as a result of  
21 a family relationship, voluntarily, or in exchange for  
22 compensation has assumed responsibility for all or a portion of  
23 the care of an eligible adult who needs assistance with  
24 activities of daily living.

25 (b) "Department" means the Department on Aging of the State

1 of Illinois.

2 (c) "Director" means the Director of the Department.

3 (d) "Domestic living situation" means a residence where the  
4 eligible adult lives alone or with his or her family or a  
5 caregiver, or others, or a board and care home or other  
6 community-based unlicensed facility, but is not:

7 (1) A licensed facility as defined in Section 1-113 of  
8 the Nursing Home Care Act;

9 (1.5) A facility licensed under the ID/DD ~~MR/DD~~  
10 Community Care Act;

11 (2) A "life care facility" as defined in the Life Care  
12 Facilities Act;

13 (3) A home, institution, or other place operated by the  
14 federal government or agency thereof or by the State of  
15 Illinois;

16 (4) A hospital, sanitarium, or other institution, the  
17 principal activity or business of which is the diagnosis,  
18 care, and treatment of human illness through the  
19 maintenance and operation of organized facilities  
20 therefor, which is required to be licensed under the  
21 Hospital Licensing Act;

22 (5) A "community living facility" as defined in the  
23 Community Living Facilities Licensing Act;

24 (6) (Blank);

25 (7) A "community-integrated living arrangement" as  
26 defined in the Community-Integrated Living Arrangements

1 Licensure and Certification Act;

2 (8) An assisted living or shared housing establishment  
3 as defined in the Assisted Living and Shared Housing Act;  
4 or

5 (9) A supportive living facility as described in  
6 Section 5-5.01a of the Illinois Public Aid Code.

7 (e) "Eligible adult" means a person 60 years of age or  
8 older who resides in a domestic living situation and is, or is  
9 alleged to be, abused, neglected, or financially exploited by  
10 another individual or who neglects himself or herself.

11 (f) "Emergency" means a situation in which an eligible  
12 adult is living in conditions presenting a risk of death or  
13 physical, mental or sexual injury and the provider agency has  
14 reason to believe the eligible adult is unable to consent to  
15 services which would alleviate that risk.

16 (f-5) "Mandated reporter" means any of the following  
17 persons while engaged in carrying out their professional  
18 duties:

19 (1) a professional or professional's delegate while  
20 engaged in: (i) social services, (ii) law enforcement,  
21 (iii) education, (iv) the care of an eligible adult or  
22 eligible adults, or (v) any of the occupations required to  
23 be licensed under the Clinical Psychologist Licensing Act,  
24 the Clinical Social Work and Social Work Practice Act, the  
25 Illinois Dental Practice Act, the Dietetic and Nutrition  
26 Services Practice Act, the Marriage and Family Therapy



1       Licensing Act, the Medical Practice Act of 1987, the  
2       Naprathic Practice Act, the Nurse Practice Act, the  
3       Nursing Home Administrators Licensing and Disciplinary  
4       Act, the Illinois Occupational Therapy Practice Act, the  
5       Illinois Optometric Practice Act of 1987, the Pharmacy  
6       Practice Act, the Illinois Physical Therapy Act, the  
7       Physician Assistant Practice Act of 1987, the Podiatric  
8       Medical Practice Act of 1987, the Respiratory Care Practice  
9       Act, the Professional Counselor and Clinical Professional  
10      Counselor Licensing Act, the Illinois Speech-Language  
11      Pathology and Audiology Practice Act, the Veterinary  
12      Medicine and Surgery Practice Act of 2004, and the Illinois  
13      Public Accounting Act;

14           (2) an employee of a vocational rehabilitation  
15      facility prescribed or supervised by the Department of  
16      Human Services;

17           (3) an administrator, employee, or person providing  
18      services in or through an unlicensed community based  
19      facility;

20           (4) any religious practitioner who provides treatment  
21      by prayer or spiritual means alone in accordance with the  
22      tenets and practices of a recognized church or religious  
23      denomination, except as to information received in any  
24      confession or sacred communication enjoined by the  
25      discipline of the religious denomination to be held  
26      confidential;

1           (5) field personnel of the Department of Healthcare and  
2           Family Services, Department of Public Health, and  
3           Department of Human Services, and any county or municipal  
4           health department;

5           (6) personnel of the Department of Human Services, the  
6           Guardianship and Advocacy Commission, the State Fire  
7           Marshal, local fire departments, the Department on Aging  
8           and its subsidiary Area Agencies on Aging and provider  
9           agencies, and the Office of State Long Term Care Ombudsman;

10          (7) any employee of the State of Illinois not otherwise  
11          specified herein who is involved in providing services to  
12          eligible adults, including professionals providing medical  
13          or rehabilitation services and all other persons having  
14          direct contact with eligible adults;

15          (8) a person who performs the duties of a coroner or  
16          medical examiner; or

17          (9) a person who performs the duties of a paramedic or  
18          an emergency medical technician.

19          (g) "Neglect" means another individual's failure to  
20          provide an eligible adult with or willful withholding from an  
21          eligible adult the necessities of life including, but not  
22          limited to, food, clothing, shelter or health care. This  
23          subsection does not create any new affirmative duty to provide  
24          support to eligible adults. Nothing in this Act shall be  
25          construed to mean that an eligible adult is a victim of neglect  
26          because of health care services provided or not provided by

1 licensed health care professionals.

2 (h) "Provider agency" means any public or nonprofit agency  
3 in a planning and service area appointed by the regional  
4 administrative agency with prior approval by the Department on  
5 Aging to receive and assess reports of alleged or suspected  
6 abuse, neglect, or financial exploitation.

7 (i) "Regional administrative agency" means any public or  
8 nonprofit agency in a planning and service area so designated  
9 by the Department, provided that the designated Area Agency on  
10 Aging shall be designated the regional administrative agency if  
11 it so requests. The Department shall assume the functions of  
12 the regional administrative agency for any planning and service  
13 area where another agency is not so designated.

14 (i-5) "Self-neglect" means a condition that is the result  
15 of an eligible adult's inability, due to physical or mental  
16 impairments, or both, or a diminished capacity, to perform  
17 essential self-care tasks that substantially threaten his or  
18 her own health, including: providing essential food, clothing,  
19 shelter, and health care; and obtaining goods and services  
20 necessary to maintain physical health, mental health,  
21 emotional well-being, and general safety. The term includes  
22 compulsive hoarding, which is characterized by the acquisition  
23 and retention of large quantities of items and materials that  
24 produce an extensively cluttered living space, which  
25 significantly impairs the performance of essential self-care  
26 tasks or otherwise substantially threatens life or safety.

1 (j) "Substantiated case" means a reported case of alleged  
2 or suspected abuse, neglect, financial exploitation, or  
3 self-neglect in which a provider agency, after assessment,  
4 determines that there is reason to believe abuse, neglect, or  
5 financial exploitation has occurred.

6 (Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07;  
7 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-526, eff. 1-1-10;  
8 96-572, eff. 1-1-10; 96-1000, eff. 7-2-10.)

9 Section 93. The Older Adult Services Act is amended by  
10 changing Section 10 as follows:

11 (320 ILCS 42/10)

12 Sec. 10. Definitions. In this Act:

13 "Advisory Committee" means the Older Adult Services  
14 Advisory Committee.

15 "Certified nursing home" means any nursing home licensed  
16 under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community  
17 Care Act and certified under Title XIX of the Social Security  
18 Act to participate as a vendor in the medical assistance  
19 program under Article V of the Illinois Public Aid Code.

20 "Comprehensive case management" means the assessment of  
21 needs and preferences of an older adult at the direction of the  
22 older adult or the older adult's designated representative and  
23 the arrangement, coordination, and monitoring of an optimum  
24 package of services to meet the needs of the older adult.

1 "Consumer-directed" means decisions made by an informed  
2 older adult from available services and care options, which may  
3 range from independently making all decisions and managing  
4 services directly to limited participation in decision-making,  
5 based upon the functional and cognitive level of the older  
6 adult.

7 "Coordinated point of entry" means an integrated access  
8 point where consumers receive information and assistance,  
9 assessment of needs, care planning, referral, assistance in  
10 completing applications, authorization of services where  
11 permitted, and follow-up to ensure that referrals and services  
12 are accessed.

13 "Department" means the Department on Aging, in  
14 collaboration with the departments of Public Health and  
15 Healthcare and Family Services and other relevant agencies and  
16 in consultation with the Advisory Committee, except as  
17 otherwise provided.

18 "Departments" means the Department on Aging, the  
19 departments of Public Health and Healthcare and Family  
20 Services, and other relevant agencies in collaboration with  
21 each other and in consultation with the Advisory Committee,  
22 except as otherwise provided.

23 "Family caregiver" means an adult family member or another  
24 individual who is an uncompensated provider of home-based or  
25 community-based care to an older adult.

26 "Health services" means activities that promote, maintain,

1 improve, or restore mental or physical health or that are  
2 palliative in nature.

3 "Older adult" means a person age 60 or older and, if  
4 appropriate, the person's family caregiver.

5 "Person-centered" means a process that builds upon an older  
6 adult's strengths and capacities to engage in activities that  
7 promote community life and that reflect the older adult's  
8 preferences, choices, and abilities, to the extent  
9 practicable.

10 "Priority service area" means an area identified by the  
11 Departments as being less-served with respect to the  
12 availability of and access to older adult services in Illinois.  
13 The Departments shall determine by rule the criteria and  
14 standards used to designate such areas.

15 "Priority service plan" means the plan developed pursuant  
16 to Section 25 of this Act.

17 "Provider" means any supplier of services under this Act.

18 "Residential setting" means the place where an older adult  
19 lives.

20 "Restructuring" means the transformation of Illinois'  
21 comprehensive system of older adult services from funding  
22 primarily a facility-based service delivery system to  
23 primarily a home-based and community-based system, taking into  
24 account the continuing need for 24-hour skilled nursing care  
25 and congregate housing with services.

26 "Services" means the range of housing, health, financial,

1 and supportive services, other than acute health care services,  
2 that are delivered to an older adult with functional or  
3 cognitive limitations, or socialization needs, who requires  
4 assistance to perform activities of daily living, regardless of  
5 the residential setting in which the services are delivered.

6 "Supportive services" means non-medical assistance given  
7 over a period of time to an older adult that is needed to  
8 compensate for the older adult's functional or cognitive  
9 limitations, or socialization needs, or those services  
10 designed to restore, improve, or maintain the older adult's  
11 functional or cognitive abilities.

12 (Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

13 Section 94. The Mental Health and Developmental  
14 Disabilities Code is amended by changing Sections 1-106, 1-116,  
15 1-122.4, 2-107, 3-200, 4-201, 4-201.1, 4-203, 4-209, 4-400,  
16 4-500, and 4-701 and by changing the headings of Article IV of  
17 Chapter IV and Article IV of Chapter V as follows:

18 (405 ILCS 5/1-106) (from Ch. 91 1/2, par. 1-106)

19 Sec. 1-106. "Developmental disability" means a disability  
20 which is attributable to: (a) an intellectual disability ~~mental~~  
21 ~~retardation~~, cerebral palsy, epilepsy or autism; or to (b) any  
22 other condition which results in impairment similar to that  
23 caused by an intellectual disability ~~mental retardation~~ and  
24 which requires services similar to those required by

1 intellectually disabled ~~mentally-retarded~~ persons. Such  
2 disability must originate before the age of 18 years, be  
3 expected to continue indefinitely, and constitute a  
4 substantial handicap.

5 (Source: P.A. 80-1414.)

6 (405 ILCS 5/1-116) (from Ch. 91 1/2, par. 1-116)

7 Sec. 1-116. "Intellectual disability" ~~"Mental retardation"~~  
8 means significantly subaverage general intellectual  
9 functioning which exists concurrently with impairment in  
10 adaptive behavior and which originates before the age of 18  
11 years.

12 (Source: P.A. 80-1414.)

13 (405 ILCS 5/1-122.4) (from Ch. 91 1/2, par. 1-122.4)

14 Sec. 1-122.4. "Qualified intellectual disabilities ~~mental-~~  
15 ~~retardation~~ professional" as used in this Act means those  
16 persons who meet this definition under Section 483.430 of  
17 Chapter 42 of the Code of Federal Regulations, subpart G.

18 (Source: P.A. 86-1416.)

19 (405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

20 Sec. 2-107. Refusal of services; informing of risks.

21 (a) An adult recipient of services or the recipient's  
22 guardian, if the recipient is under guardianship, and the  
23 recipient's substitute decision maker, if any, must be informed



1 of the recipient's right to refuse medication or  
2 electroconvulsive therapy. The recipient and the recipient's  
3 guardian or substitute decision maker shall be given the  
4 opportunity to refuse generally accepted mental health or  
5 developmental disability services, including but not limited  
6 to medication or electroconvulsive therapy. If such services  
7 are refused, they shall not be given unless such services are  
8 necessary to prevent the recipient from causing serious and  
9 imminent physical harm to the recipient or others and no less  
10 restrictive alternative is available. The facility director  
11 shall inform a recipient, guardian, or substitute decision  
12 maker, if any, who refuses such services of alternate services  
13 available and the risks of such alternate services, as well as  
14 the possible consequences to the recipient of refusal of such  
15 services.

16 (b) Psychotropic medication or electroconvulsive therapy  
17 may be administered under this Section for up to 24 hours only  
18 if the circumstances leading up to the need for emergency  
19 treatment are set forth in writing in the recipient's record.

20 (c) Administration of medication or electroconvulsive  
21 therapy may not be continued unless the need for such treatment  
22 is redetermined at least every 24 hours based upon a personal  
23 examination of the recipient by a physician or a nurse under  
24 the supervision of a physician and the circumstances  
25 demonstrating that need are set forth in writing in the  
26 recipient's record.

1           (d) Neither psychotropic medication nor electroconvulsive  
2 therapy may be administered under this Section for a period in  
3 excess of 72 hours, excluding Saturdays, Sundays, and holidays,  
4 unless a petition is filed under Section 2-107.1 and the  
5 treatment continues to be necessary under subsection (a) of  
6 this Section. Once the petition has been filed, treatment may  
7 continue in compliance with subsections (a), (b), and (c) of  
8 this Section until the final outcome of the hearing on the  
9 petition.

10          (e) The Department shall issue rules designed to insure  
11 that in State-operated mental health facilities psychotropic  
12 medication and electroconvulsive therapy are administered in  
13 accordance with this Section and only when appropriately  
14 authorized and monitored by a physician or a nurse under the  
15 supervision of a physician in accordance with accepted medical  
16 practice. The facility director of each mental health facility  
17 not operated by the State shall issue rules designed to insure  
18 that in that facility psychotropic medication and  
19 electroconvulsive therapy are administered in accordance with  
20 this Section and only when appropriately authorized and  
21 monitored by a physician or a nurse under the supervision of a  
22 physician in accordance with accepted medical practice. Such  
23 rules shall be available for public inspection and copying  
24 during normal business hours.

25          (f) The provisions of this Section with respect to the  
26 emergency administration of psychotropic medication and

1 electroconvulsive therapy do not apply to facilities licensed  
2 under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community  
3 Care Act.

4 (g) Under no circumstances may long-acting psychotropic  
5 medications be administered under this Section.

6 (h) Whenever psychotropic medication or electroconvulsive  
7 therapy is refused pursuant to subsection (a) of this Section  
8 at least once that day, the physician shall determine and state  
9 in writing the reasons why the recipient did not meet the  
10 criteria for administration of medication or electroconvulsive  
11 therapy under subsection (a) and whether the recipient meets  
12 the standard for administration of psychotropic medication or  
13 electroconvulsive therapy under Section 2-107.1 of this Code.  
14 If the physician determines that the recipient meets the  
15 standard for administration of psychotropic medication or  
16 electroconvulsive therapy under Section 2-107.1, the facility  
17 director or his or her designee shall petition the court for  
18 administration of psychotropic medication or electroconvulsive  
19 therapy pursuant to that Section unless the facility director  
20 or his or her designee states in writing in the recipient's  
21 record why the filing of such a petition is not warranted. This  
22 subsection (h) applies only to State-operated mental health  
23 facilities.

24 (i) The Department shall conduct annual trainings for all  
25 physicians and registered nurses working in State-operated  
26 mental health facilities on the appropriate use of emergency

1 administration of psychotropic medication and  
2 electroconvulsive therapy, standards for their use, and the  
3 methods of authorization under this Section.

4 (Source: P.A. 95-172, eff. 8-14-07; 96-339, eff. 7-1-10.)

5 (405 ILCS 5/3-200) (from Ch. 91 1/2, par. 3-200)

6 Sec. 3-200. (a) A person may be admitted as an inpatient to  
7 a mental health facility for treatment of mental illness only  
8 as provided in this Chapter, except that a person may be  
9 transferred by the Department of Corrections pursuant to the  
10 Unified Code of Corrections. A person transferred by the  
11 Department of Corrections in this manner may be released only  
12 as provided in the Unified Code of Corrections.

13 (b) No person who is diagnosed as intellectually disabled  
14 ~~mentally retarded~~ or a person with a developmental disability  
15 may be admitted or transferred to a Department mental health  
16 facility or, any portion thereof, except as provided in this  
17 Chapter. However, the evaluation and placement of such persons  
18 shall be governed by Article II of Chapter 4 of this Code.

19 (Source: P.A. 88-380.)

20 (405 ILCS 5/4-201) (from Ch. 91 1/2, par. 4-201)

21 Sec. 4-201. (a) An intellectually disabled ~~A mentally~~  
22 ~~retarded~~ person shall not reside in a Department mental health  
23 facility unless the person is evaluated and is determined to be  
24 a person with mental illness and the facility director

1 determines that appropriate treatment and habilitation are  
2 available and will be provided to such person on the unit. In  
3 all such cases the Department mental health facility director  
4 shall certify in writing within 30 days of the completion of  
5 the evaluation and every 30 days thereafter, that the person  
6 has been appropriately evaluated, that services specified in  
7 the treatment and habilitation plan are being provided, that  
8 the setting in which services are being provided is appropriate  
9 to the person's needs, and that provision of such services  
10 fully complies with all applicable federal statutes and  
11 regulations concerning the provision of services to persons  
12 with a developmental disability. Those regulations shall  
13 include, but not be limited to the regulations which govern the  
14 provision of services to persons with a developmental  
15 disability in facilities certified under the Social Security  
16 Act for federal financial participation, whether or not the  
17 facility or portion thereof in which the recipient has been  
18 placed is presently certified under the Social Security Act or  
19 would be eligible for such certification under applicable  
20 federal regulations. The certifications shall be filed in the  
21 recipient's record and with the office of the Secretary of the  
22 Department. A copy of the certification shall be given to the  
23 person, an attorney or advocate who is representing the person  
24 and the person's guardian.

25 (b) Any person admitted to a Department mental health  
26 facility who is reasonably suspected of being mildly or

1 moderately intellectually disabled ~~mentally retarded~~,  
2 including those who also have a mental illness, shall be  
3 evaluated by a multidisciplinary team which includes a  
4 qualified intellectual disabilities ~~mental retardation~~  
5 professional designated by the Department facility director.  
6 The evaluation shall be consistent with Section 4-300 of  
7 Article III in this Chapter, and shall include: (1) a written  
8 assessment of whether the person needs a habilitation plan and,  
9 if so, (2) a written habilitation plan consistent with Section  
10 4-309, and (3) a written determination whether the admitting  
11 facility is capable of providing the specified habilitation  
12 services. This evaluation shall occur within a reasonable  
13 period of time, but in no case shall that period exceed 14 days  
14 after admission. In all events, a treatment plan shall be  
15 prepared for the person within 3 days of admission, and  
16 reviewed and updated every 30 days, consistent with Section  
17 3-209 of this Code.

18 (c) Any person admitted to a Department mental health  
19 facility with an admitting diagnosis of a severe or profound  
20 intellectual disability ~~mental retardation~~ shall be  
21 transferred to an appropriate facility or unit for persons with  
22 a developmental disability within 72 hours of admission unless  
23 transfer is contraindicated by the person's medical condition  
24 documented by appropriate medical personnel. Any person  
25 diagnosed as severely or profoundly intellectually disabled  
26 ~~mentally retarded~~ while in a Department mental health facility

1 shall be transferred to an appropriate facility or unit for  
2 persons with a developmental disability within 72 hours of such  
3 diagnosis unless transfer is contraindicated by the person's  
4 medical condition documented by appropriate medical personnel.

5 (d) The Secretary of the Department shall designate a  
6 qualified intellectual disabilities ~~mental retardation~~  
7 professional in each of its mental health facilities who has  
8 responsibility for insuring compliance with the provisions of  
9 Sections 4-201 and 4-201.1.

10 (Source: P.A. 88-380; 89-439, eff. 6-1-96; 89-507, eff.  
11 7-1-97.)

12 (405 ILCS 5/4-201.1) (from Ch. 91 1/2, par. 4-201.1)

13 Sec. 4-201.1. (a) A person residing in a Department mental  
14 health facility who is evaluated as being mildly or moderately  
15 intellectually disabled ~~mentally retarded~~, an attorney or  
16 advocate representing the person, or a guardian of such person  
17 may object to the Department facility director's certification  
18 required in Section 4-201, the treatment and habilitation plan,  
19 or appropriateness of setting, and obtain an administrative  
20 decision requiring revision of a treatment or habilitation plan  
21 or change of setting, by utilization review as provided in  
22 Sections 3-207 and 4-209 of this Code. As part of this  
23 utilization review, the Committee shall include as one of its  
24 members a qualified intellectual disabilities ~~mental~~  
25 ~~retardation~~ professional.

1 (b) The mental health facility director shall give written  
2 notice to each person evaluated as being mildly or moderately  
3 intellectually disabled ~~mentally retarded~~, the person's  
4 attorney and guardian, if any, or in the case of a minor, to  
5 his or her attorney, to the parent, guardian or person in loco  
6 parentis and to the minor if 12 years of age or older, of the  
7 person's right to request a review of the facility director's  
8 initial or subsequent determination that such person is  
9 appropriately placed or is receiving appropriate services. The  
10 notice shall also provide the address and phone number of the  
11 Legal Advocacy Service of the Guardianship and Advocacy  
12 Commission, which the person or guardian can contact for legal  
13 assistance. If requested, the facility director shall assist  
14 the person or guardian in contacting the Legal Advocacy  
15 Service. This notice shall be given within 24 hours of  
16 Department's evaluation that the person is mildly or moderately  
17 intellectually disabled ~~mentally retarded~~.

18 (c) Any recipient of services who successfully challenges a  
19 final decision of the Secretary of the Department (or his or  
20 her designee) reviewing an objection to the certification  
21 required under Section 4-201, the treatment and habilitation  
22 plan, or the appropriateness of the setting shall be entitled  
23 to recover reasonable attorney's fees incurred in that  
24 challenge, unless the Department's position was substantially  
25 justified.

26 (Source: P.A. 89-507, eff. 7-1-97.)



1 (405 ILCS 5/4-203) (from Ch. 91 1/2, par. 4-203)

2 Sec. 4-203. (a) Every developmental disabilities facility  
3 shall maintain adequate records which shall include the Section  
4 of this Act under which the client was admitted, any subsequent  
5 change in the client's status, and requisite documentation for  
6 such admission and status.

7 (b) The Department shall ensure that a monthly report is  
8 maintained for each Department mental health facility, and each  
9 unit of a Department developmental disability facility for  
10 dually diagnosed persons, which lists (1) initials of persons  
11 admitted to, residing at, or discharged from a Department  
12 mental health facility or unit for dually diagnosed persons of  
13 Department developmental disability facility during that month  
14 with a primary or secondary diagnosis of intellectual  
15 disability ~~mental retardation~~, (2) the date and facility and  
16 unit of admission or continuing, care, (3) the legal admission  
17 status, (4) the recipient's diagnosis, (5) the date and  
18 facility and unit of transfer or discharge, (6) whether or not  
19 there is a public or private guardian, (7) whether the facility  
20 director has certified that appropriate treatment and  
21 habilitation are available for and being provided to such  
22 person pursuant to Section 4-203 of this Chapter, and (8)  
23 whether the person or a guardian has requested review as  
24 provided in Section 4-209 of this Chapter and, if so, the  
25 outcome of the review. The Secretary of the Department shall

1 furnish a copy of each monthly report upon request to the  
2 Guardianship and Advocacy Commission and the agency designated  
3 by the Governor under Section 1 of "An Act in relation to the  
4 protection and advocacy of the rights of persons with  
5 developmental disabilities, and amending certain Acts therein  
6 named", approved September 20, 1985, and under Section 1 of "An  
7 Act for the protection and advocacy of mentally ill persons",  
8 approved September 20, 1987.

9 (c) Nothing contained in this Chapter shall be construed to  
10 limit or otherwise affect the power of any developmental  
11 disabilities facility to determine the qualifications of  
12 persons permitted to admit clients to such facility. This  
13 subsection shall not affect or limit the powers of any court to  
14 order admission to a developmental disabilities facility as set  
15 forth in this Chapter.

16 (Source: P.A. 89-507, eff. 7-1-97.)

17 (405 ILCS 5/4-209) (from Ch. 91 1/2, par. 4-209)

18 Sec. 4-209. (a) Hearings under Sections 4-201.1, 4-312,  
19 4-704 and 4-709 of this Chapter shall be conducted by a  
20 utilization review committee. The Secretary shall appoint a  
21 utilization review committee at each Department facility. Each  
22 such committee shall consist of multi-disciplinary  
23 professional staff members who are trained and equipped to deal  
24 with the habilitation needs of clients. At least one member of  
25 the committee shall be a qualified intellectual disabilities

1 ~~mental-retardation~~ professional. The client and the objector  
2 may be represented by persons of their choice.

3 (b) The utilization review committee shall not be bound by  
4 rules of evidence or procedure but shall conduct the  
5 proceedings in a manner intended to ensure a fair hearing. The  
6 committee may make such investigation as it deems necessary. It  
7 may administer oaths and compel by subpoena testimony and the  
8 production of records. A stenographic or audio recording of the  
9 proceedings shall be made and shall be kept in the client's  
10 record. Within 3 days of conclusion of the hearing, the  
11 committee shall submit to the facility director its written  
12 recommendations which include its factual findings and  
13 conclusions. A copy of the recommendations shall be given to  
14 the client and the objector.

15 (c) Within 7 days of receipt of the recommendations, the  
16 facility director shall give written notice to the client and  
17 objector of his acceptance or rejection of the recommendations  
18 and his reason therefor. If the facility director rejects the  
19 recommendations or if the client or objector requests review of  
20 the facility director's decision, the facility director shall  
21 promptly forward a copy of his decision, the recommendations,  
22 and the record of the hearing to the Secretary of the  
23 Department for final review. The review of the facility  
24 director's decision shall be decided by the Secretary or his or  
25 her designee within 30 days of the receipt of a request for  
26 final review. The decision of the facility director, or the

1 decision of the Secretary (or his or her designee) if review  
2 was requested, shall be considered a final administrative  
3 decision, and shall be subject to review under and in  
4 accordance with Article III of the Code of Civil Procedure. The  
5 decision of the facility director, or the decision of the  
6 Secretary (or his or her designee) if review was requested,  
7 shall be considered a final administrative decision.

8 (Source: P.A. 91-357, eff. 7-29-99.)

9 (405 ILCS 5/Ch. IV Art. IV heading)

10 ARTICLE IV. EMERGENCY ADMISSION

11 OF THE INTELLECTUALLY DISABLED ~~MENTALLY RETARDED~~

12 (405 ILCS 5/4-400) (from Ch. 91 1/2, par. 4-400)

13 Sec. 4-400. (a) A person 18 years of age or older may be  
14 admitted on an emergency basis to a facility under this Article  
15 if the facility director of the facility determines: (1) that  
16 he is intellectually disabled ~~mentally retarded~~; (2) that he is  
17 reasonably expected to inflict serious physical harm upon  
18 himself or another in the near future; and (3) that immediate  
19 admission is necessary to prevent such harm.

20 (b) Persons with a developmental disability under 18 years  
21 of age and persons with a developmental disability 18 years of  
22 age or over who are under guardianship or who are seeking  
23 admission on their own behalf may be admitted for emergency  
24 care under Section 4-311.

1 (Source: P.A. 88-380.)

2 (405 ILCS 5/Ch. IV Art. V heading)

3 ARTICLE V. JUDICIAL ADMISSION FOR THE INTELLECTUALLY DISABLED  
4 ~~MENTALLY RETARDED~~

5 (405 ILCS 5/4-500) (from Ch. 91 1/2, par. 4-500)

6 Sec. 4-500. A person 18 years of age or older may be  
7 admitted to a facility upon court order under this Article if  
8 the court determines: (1) that he is intellectually disabled  
9 ~~mentally retarded~~; and (2) that he is reasonably expected to  
10 inflict serious physical harm upon himself or another in the  
11 near future.

12 (Source: P.A. 80-1414.)

13 (405 ILCS 5/4-701) (from Ch. 91 1/2, par. 4-701)

14 Sec. 4-701. (a) Any client admitted to a developmental  
15 disabilities facility under this Chapter may be discharged  
16 whenever the facility director determines that he is suitable  
17 for discharge.

18 (b) Any client admitted to a facility or program of  
19 nonresidential services upon court order under Article V of  
20 this Chapter or admitted upon court order as intellectually  
21 disabled ~~mentally retarded~~ or mentally deficient under any  
22 prior statute shall be discharged whenever the facility  
23 director determines that he no longer meets the standard for

1 judicial admission. When the facility director believes that  
2 continued residence is advisable for such a client, he shall  
3 inform the client and his guardian, if any, that the client may  
4 remain at the facility on administrative admission status. When  
5 a facility director discharges or changes the status of such  
6 client, he shall promptly notify the clerk of the court who  
7 shall note the action in the court record.

8 (c) When the facility director discharges a client pursuant  
9 to subsection (b) of this Section, he shall promptly notify the  
10 State's Attorney of the county in which the client resided  
11 immediately prior to his admission to a development  
12 disabilities facility. Upon receipt of such notice, the State's  
13 Attorney may notify such peace officers that he deems  
14 appropriate.

15 (d) The facility director may grant a temporary release to  
16 any client when such release is appropriate and consistent with  
17 the habilitation needs of the client.

18 (Source: P.A. 80-1414.)

19 Section 95. The Community Mental Health Act is amended by  
20 changing Section 3e as follows:

21 (405 ILCS 20/3e) (from Ch. 91 1/2, par. 303e)

22 Sec. 3e. Board's powers and duties.

23 (1) Every community mental health board shall, immediately  
24 after appointment, meet and organize, by the election of one of

1 its number as president and one as secretary and such other  
2 officers as it may deem necessary. It shall make rules and  
3 regulations concerning the rendition or operation of services  
4 and facilities which it directs, supervises or funds, not  
5 inconsistent with the provisions of this Act. It shall:

6 (a) Hold a meeting prior to July 1 of each year at  
7 which officers shall be elected for the ensuing year  
8 beginning July 1;

9 (b) Hold meetings at least quarterly;

10 (c) Hold special meetings upon a written request signed  
11 by at least 2 members and filed with the secretary;

12 (d) Review and evaluate community mental health  
13 services and facilities, including services and facilities  
14 for the treatment of alcoholism, drug addiction,  
15 developmental disabilities, and intellectual disabilities  
16 ~~mental retardation~~;

17 (e) Authorize the disbursement of money from the  
18 community mental health fund for payment for the ordinary  
19 and contingent expenses of the board;

20 (f) Submit to the appointing officer and the members of  
21 the governing body a written plan for a program of  
22 community mental health services and facilities for  
23 persons with a mental illness, a developmental disability,  
24 or a substance use disorder. Such plan shall be for the  
25 ensuing 12 month period. In addition, a plan shall be  
26 developed for the ensuing 3 year period and such plan shall

1 be reviewed at the end of every 12 month period and shall  
2 be modified as deemed advisable.

3 (g) Within amounts appropriated therefor, execute such  
4 programs and maintain such services and facilities as may  
5 be authorized under such appropriations, including amounts  
6 appropriated under bond issues, if any;

7 (h) Publish the annual budget and report within 120  
8 days after the end of the fiscal year in a newspaper  
9 distributed within the jurisdiction of the board, or, if no  
10 newspaper is published within the jurisdiction of the  
11 board, then one published in the county, or, if no  
12 newspaper is published in the county, then in a newspaper  
13 having general circulation within the jurisdiction of the  
14 board. The report shall show the condition of its trust of  
15 that year, the sums of money received from all sources,  
16 giving the name of any donor, how all monies have been  
17 expended and for what purpose, and such other statistics  
18 and program information in regard to the work of the board  
19 as it may deem of general interest. A copy of the budget  
20 and the annual report shall be made available to the  
21 Department of Human Services and to members of the General  
22 Assembly whose districts include any part of the  
23 jurisdiction of such board. The names of all employees,  
24 consultants, and other personnel shall be set forth along  
25 with the amounts of money received;

26 (i) Consult with other appropriate private and public



1 agencies in the development of local plans for the most  
2 efficient delivery of mental health, developmental  
3 disabilities, and substance use disorder services. The  
4 Board is authorized to join and to participate in the  
5 activities of associations organized for the purpose of  
6 promoting more efficient and effective services and  
7 programs;

8 (j) Have the authority to review and comment on all  
9 applications for grants by any person, corporation, or  
10 governmental unit providing services within the  
11 geographical area of the board which provides mental health  
12 facilities and services, including services for the person  
13 with a mental illness, a developmental disability, or a  
14 substance use disorder. The board may require funding  
15 applicants to send a copy of their funding application to  
16 the board at the time such application is submitted to the  
17 Department of Human Services or to any other local, State  
18 or federal funding source or governmental agency. Within 60  
19 days of the receipt of any application, the board shall  
20 submit its review and comments to the Department of Human  
21 Services or to any other appropriate local, State or  
22 federal funding source or governmental agency. A copy of  
23 the review and comments shall be submitted to the funding  
24 applicant. Within 60 days thereafter, the Department of  
25 Human Services or any other appropriate local or State  
26 governmental agency shall issue a written response to the

1 board and the funding applicant. The Department of Human  
2 Services shall supply any community mental health board  
3 such information about purchase-of-care funds, State  
4 facility utilization, and costs in its geographical area as  
5 the board may request provided that the information  
6 requested is for the purpose of the Community Mental Health  
7 Board complying with the requirements of Section 3f,  
8 subsection (f) of this Act;

9 (k) Perform such other acts as may be necessary or  
10 proper to carry out the purposes of this Act.

11 (2) The community mental health board has the following  
12 powers:

13 (a) The board may enter into multiple-year contracts  
14 for rendition or operation of services, facilities and  
15 educational programs.

16 (b) The board may arrange through intergovernmental  
17 agreements or intragovernmental agreements or both for the  
18 rendition of services and operation of facilities by other  
19 agencies or departments of the governmental unit or county  
20 in which the governmental unit is located with the approval  
21 of the governing body.

22 (c) To employ, establish compensation for, and set  
23 policies for its personnel, including legal counsel, as may  
24 be necessary to carry out the purposes of this Act and  
25 prescribe the duties thereof. The board may enter into  
26 multiple-year employment contracts as may be necessary for

1 the recruitment and retention of personnel and the proper  
2 functioning of the board.

3 (d) The board may enter into multiple-year joint  
4 agreements, which shall be written, with other mental  
5 health boards and boards of health to provide jointly  
6 agreed upon community mental health facilities and  
7 services and to pool such funds as may be deemed necessary  
8 and available for this purpose.

9 (e) The board may organize a not-for-profit  
10 corporation for the purpose of providing direct recipient  
11 services. Such corporations shall have, in addition to all  
12 other lawful powers, the power to contract with persons to  
13 furnish services for recipients of the corporation's  
14 facilities, including psychiatrists and other physicians  
15 licensed in this State to practice medicine in all of its  
16 branches. Such physicians shall be considered independent  
17 contractors, and liability for any malpractice shall not  
18 extend to such corporation, nor to the community mental  
19 health board, except for gross negligence in entering into  
20 such a contract.

21 (f) The board shall not operate any direct recipient  
22 services for more than a 2-year period when such services  
23 are being provided in the governmental unit, but shall  
24 encourage, by financial support, the development of  
25 private agencies to deliver such needed services, pursuant  
26 to regulations of the board.

1           (g) Where there are multiple boards within the same  
2           planning area, as established by the Department of Human  
3           Services, services may be purchased through a single  
4           delivery system. In such areas, a coordinating body with  
5           representation from each board shall be established to  
6           carry out the service functions of this Act. In the event  
7           any such coordinating body purchases or improves real  
8           property, such body shall first obtain the approval of the  
9           governing bodies of the governmental units in which the  
10          coordinating body is located.

11          (h) The board may enter into multiple-year joint  
12          agreements with other governmental units located within  
13          the geographical area of the board. Such agreements shall  
14          be written and shall provide for the rendition of services  
15          by the board to the residents of such governmental units.

16          (i) The board may enter into multiple-year joint  
17          agreements with federal, State, and local governments,  
18          including the Department of Human Services, whereby the  
19          board will provide certain services. All such joint  
20          agreements must provide for the exchange of relevant data.  
21          However, nothing in this Act shall be construed to permit  
22          the abridgement of the confidentiality of patient records.

23          (j) The board may receive gifts from private sources  
24          for purposes not inconsistent with the provisions of this  
25          Act.

26          (k) The board may receive Federal, State and local

1 funds for purposes not inconsistent with the provisions of  
2 this Act.

3 (l) The board may establish scholarship programs. Such  
4 programs shall require equivalent service or reimbursement  
5 pursuant to regulations of the board.

6 (m) The board may sell, rent, or lease real property  
7 for purposes consistent with this Act.

8 (n) The board may: (i) own real property, lease real  
9 property as lessee, or acquire real property by purchase,  
10 construction, lease-purchase agreement, or otherwise; (ii)  
11 take title to the property in the board's name; (iii)  
12 borrow money and issue debt instruments, mortgages,  
13 purchase-money mortgages, and other security instruments  
14 with respect to the property; and (iv) maintain, repair,  
15 remodel, or improve the property. All of these activities  
16 must be for purposes consistent with this Act as may be  
17 reasonably necessary for the housing and proper  
18 functioning of the board. The board may use moneys in the  
19 Community Mental Health Fund for these purposes.

20 (o) The board may organize a not-for-profit  
21 corporation (i) for the purpose of raising money to be  
22 distributed by the board for providing community mental  
23 health services and facilities for the treatment of  
24 alcoholism, drug addiction, developmental disabilities,  
25 and intellectual disabilities ~~mental retardation~~ or (ii)  
26 for other purposes not inconsistent with this Act.

1 (Source: P.A. 95-336, eff. 8-21-07.)

2 Section 100. The Specialized Living Centers Act is amended  
3 by changing Section 2.03 as follows:

4 (405 ILCS 25/2.03) (from Ch. 91 1/2, par. 602.03)

5 Sec. 2.03. "Person with a developmental disability" means  
6 individuals whose disability is attributable to an  
7 intellectual disability ~~mental retardation~~, cerebral palsy,  
8 epilepsy or other neurological condition which generally  
9 originates before such individuals attain age 18 which had  
10 continued or can be expected to continue indefinitely and which  
11 constitutes a substantial handicap to such individuals.

12 (Source: P.A. 88-380.)

13 Section 101. The Protection and Advocacy for  
14 Developmentally Disabled Persons Act is amended by changing  
15 Section 1 as follows:

16 (405 ILCS 40/1) (from Ch. 91 1/2, par. 1151)

17 Sec. 1. The Governor may designate a private not-for-profit  
18 corporation as the agency to administer a State plan to protect  
19 and advocate the rights of persons with developmental  
20 disabilities pursuant to the requirements of the federal  
21 Developmental Disabilities Assistance and Bill of Rights Act,  
22 42 U.S.C. 6001 to 6081, as now or hereafter amended. The

1 designated agency may pursue legal, administrative, and other  
2 appropriate remedies to ensure the protection of the rights of  
3 such persons who are receiving treatment, services or  
4 habilitation within this State. The agency designated by the  
5 Governor shall be independent of any agency which provides  
6 treatment, services, guardianship, or habilitation to persons  
7 with developmental disabilities, and such agency shall not be  
8 administered by the Governor's Planning Council on  
9 Developmental Disabilities or any successor State Planning  
10 Council organized pursuant to federal law.

11 The designated agency may receive and expend funds to  
12 protect and advocate the rights of persons with developmental  
13 disabilities. In order to properly exercise its powers and  
14 duties, such agency shall have access to developmental  
15 disability facilities and mental health facilities, as defined  
16 under Sections 1-107 and 1-114 of the Mental Health and  
17 Developmental Disabilities Code, and facilities as defined in  
18 Section 1-113 of the Nursing Home Care Act or Section 1-113 of  
19 the ID/DD ~~MR/DD~~ Community Care Act. Such access shall be  
20 granted for the purposes of meeting with residents and staff,  
21 informing them of services available from the agency,  
22 distributing written information about the agency and the  
23 rights of persons with developmental disabilities, conducting  
24 scheduled and unscheduled visits, and performing other  
25 activities designed to protect the rights of persons with  
26 developmental disabilities. The agency also shall have access,

1 for the purpose of inspection and copying, to the records of a  
2 person with developmental disabilities who resides in any such  
3 facility subject to the limitations of this Act, the Mental  
4 Health and Developmental Disabilities Confidentiality Act, the  
5 Nursing Home Care Act, and the ID/DD ~~MR/DD~~ Community Care Act.  
6 The agency also shall have access, for the purpose of  
7 inspection and copying, to the records of a person with  
8 developmental disabilities who resides in any such facility if  
9 (1) a complaint is received by the agency from or on behalf of  
10 the person with a developmental disability, and (2) such person  
11 does not have a legal guardian or the State or the designee of  
12 the State is the legal guardian of such person. The designated  
13 agency shall provide written notice to the person with  
14 developmental disabilities and the State guardian of the nature  
15 of the complaint based upon which the designated agency has  
16 gained access to the records. No record or the contents of any  
17 record shall be redisclosed by the designated agency unless the  
18 person with developmental disabilities and the State guardian  
19 are provided 7 days advance written notice, except in emergency  
20 situations, of the designated agency's intent to redisclose  
21 such record, during which time the person with developmental  
22 disabilities or the State guardian may seek to judicially  
23 enjoin the designated agency's redisclosure of such record on  
24 the grounds that such redisclosure is contrary to the interests  
25 of the person with developmental disabilities. Any person who  
26 in good faith complains to the designated agency on behalf of a



1 person with developmental disabilities, or provides  
2 information or participates in the investigation of any such  
3 complaint shall have immunity from any liability, civil,  
4 criminal or otherwise, and shall not be subject to any  
5 penalties, sanctions, restrictions or retaliation as a  
6 consequence of making such complaint, providing such  
7 information or participating in such investigation.

8 Upon request, the designated agency shall be entitled to  
9 inspect and copy any records or other materials which may  
10 further the agency's investigation of problems affecting  
11 numbers of persons with developmental disabilities. When  
12 required by law any personally identifiable information of  
13 persons with developmental disabilities shall be removed from  
14 the records. However, the designated agency may not inspect or  
15 copy any records or other materials when the removal of  
16 personally identifiable information imposes an unreasonable  
17 burden on mental health and developmental disabilities  
18 facilities pursuant to the Mental Health and Developmental  
19 Disabilities Code or facilities as defined in the Nursing Home  
20 Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

21 The Governor shall not redesignate the agency to administer  
22 the State plan to protect and advocate the rights of persons  
23 with developmental disabilities unless there is good cause for  
24 the redesignation and unless notice of the intent to make such  
25 redesignation is given to persons with developmental  
26 disabilities or their representatives, the federal Secretary

1 of Health and Human Services, and the General Assembly at least  
2 60 days prior thereto.

3 As used in this Act, the term "developmental disability"  
4 means a severe, chronic disability of a person which:

5 (A) is attributable to a mental or physical impairment  
6 or combination of mental and physical impairments;

7 (B) is manifested before the person attains age 22;

8 (C) is likely to continue indefinitely;

9 (D) results in substantial functional limitations in 3  
10 or more of the following areas of major life activity: (i)  
11 self-care, (ii) receptive and expressive language, (iii)  
12 learning, (iv) mobility, (v) self-direction, (vi) capacity  
13 for independent living, and (vii) economic  
14 self-sufficiency; and

15 (E) reflects the person's need for combination and  
16 sequence of special, interdisciplinary or generic care,  
17 treatment or other services which are of lifelong or  
18 extended duration and are individually planned and  
19 coordinated.

20 (Source: P.A. 96-339, eff. 7-1-10.)

21 Section 102. The Protection and Advocacy for Mentally Ill  
22 Persons Act is amended by changing Section 3 as follows:

23 (405 ILCS 45/3) (from Ch. 91 1/2, par. 1353)

24 Sec. 3. Powers and Duties.

1           (A) In order to properly exercise its powers and duties,  
2 the agency shall have the authority to:

3           (1) Investigate incidents of abuse and neglect of  
4 mentally ill persons if the incidents are reported to the  
5 agency or if there is probable cause to believe that the  
6 incidents occurred. In case of conflict with provisions of  
7 the Abused and Neglected Child Reporting Act or the Nursing  
8 Home Care Act, the provisions of those Acts shall apply.

9           (2) Pursue administrative, legal and other appropriate  
10 remedies to ensure the protection of the rights of mentally  
11 ill persons who are receiving care and treatment in this  
12 State.

13           (3) Pursue administrative, legal and other remedies on  
14 behalf of an individual who:

15                   (a) was a mentally ill individual; and

16                   (b) is a resident of this State, but only with  
17 respect to matters which occur within 90 days after the  
18 date of the discharge of such individual from a  
19 facility providing care and treatment.

20           (4) Establish a board which shall:

21                   (a) advise the protection and advocacy system on  
22 policies and priorities to be carried out in protecting  
23 and advocating the rights of mentally ill individuals;  
24 and

25                   (b) include attorneys, mental health  
26 professionals, individuals from the public who are

1            knowledgeable about mental illness, a provider of  
2            mental health services, individuals who have received  
3            or are receiving mental health services and family  
4            members of such individuals. At least one-half the  
5            members of the board shall be individuals who have  
6            received or are receiving mental health services or who  
7            are family members of such individuals.

8            (5) On January 1, 1988, and on January 1 of each  
9            succeeding year, prepare and transmit to the Secretary of  
10           the United States Department of Health and Human Services  
11           and to the Illinois Secretary of Human Services a report  
12           describing the activities, accomplishments and  
13           expenditures of the protection and advocacy system during  
14           the most recently completed fiscal year.

15           (B) The agency shall have access to all mental health  
16           facilities as defined in Sections 1-107 and 1-114 of the Mental  
17           Health and Developmental Disabilities Code, all facilities as  
18           defined in Section 1-113 of the Nursing Home Care Act, all  
19           facilities as defined in Section 1-113 of the ID/DD ~~MR/DD~~  
20           Community Care Act, all facilities as defined in Section 2.06  
21           of the Child Care Act of 1969, as now or hereafter amended, and  
22           all other facilities providing care or treatment to mentally  
23           ill persons. Such access shall be granted for the purposes of  
24           meeting with residents and staff, informing them of services  
25           available from the agency, distributing written information  
26           about the agency and the rights of persons who are mentally

1 ill, conducting scheduled and unscheduled visits, and  
2 performing other activities designed to protect the rights of  
3 mentally ill persons.

4 (C) The agency shall have access to all records of mentally  
5 ill persons who are receiving care or treatment from a  
6 facility, subject to the limitations of this Act, the Mental  
7 Health and Developmental Disabilities Confidentiality Act, the  
8 Nursing Home Care Act and the Child Care Act of 1969, as now or  
9 hereafter amended. If the mentally ill person has a legal  
10 guardian other than the State or a designee of the State, the  
11 facility director shall disclose the guardian's name, address  
12 and telephone number to the agency upon its request. In cases  
13 of conflict with provisions of the Abused and Neglected Child  
14 Reporting Act and the Nursing Home Care Act, the provisions of  
15 the Abused and Neglected Child Reporting Act and the Nursing  
16 Home Care Act shall apply. The agency shall also have access,  
17 for the purpose of inspection and copying, to the records of a  
18 mentally ill person (i) who by reason of his or her mental or  
19 physical condition is unable to authorize the agency to have  
20 such access; (ii) who does not have a legal guardian or for  
21 whom the State or a designee of the State is the legal  
22 guardian; and (iii) with respect to whom a complaint has been  
23 received by the agency or with respect to whom there is  
24 probable cause to believe that such person has been subjected  
25 to abuse or neglect.

26 The agency shall provide written notice to the mentally ill

1 person and the State guardian of the nature of the complaint  
2 based upon which the agency has gained access to the records.  
3 No record or the contents of the record shall be redisclosed by  
4 the agency unless the person who is mentally ill and the State  
5 guardian are provided 7 days advance written notice, except in  
6 emergency situations, of the agency's intent to redisclose such  
7 record. Within such 7-day period, the mentally ill person or  
8 the State guardian may seek an injunction prohibiting the  
9 agency's redisclosure of such record on the grounds that such  
10 redisclosure is contrary to the interests of the mentally ill  
11 person.

12       Upon request, the authorized agency shall be entitled to  
13 inspect and copy any clinical or trust fund records of mentally  
14 ill persons which may further the agency's investigation of  
15 alleged problems affecting numbers of mentally ill persons.  
16 When required by law, any personally identifiable information  
17 of mentally ill persons shall be removed from the records.  
18 However, the agency may not inspect or copy any records or  
19 other materials when the removal of personally identifiable  
20 information imposes an unreasonable burden on any facility as  
21 defined by the Mental Health and Developmental Disabilities  
22 Code, the Nursing Home Care Act or the Child Care Act of 1969,  
23 or any other facility providing care or treatment to mentally  
24 ill persons.

25       (D) Prior to instituting any legal action in a federal or  
26 State court on behalf of a mentally ill individual, an eligible

1 protection and advocacy system, or a State agency or nonprofit  
2 organization which entered into a contract with such an  
3 eligible system under Section 104(a) of the federal Protection  
4 and Advocacy for Mentally Ill Individuals Act of 1986, shall  
5 exhaust in a timely manner all administrative remedies where  
6 appropriate. If, in pursuing administrative remedies, the  
7 system, State agency or organization determines that any matter  
8 with respect to such individual will not be resolved within a  
9 reasonable time, the system, State agency or organization may  
10 pursue alternative remedies, including the initiation of  
11 appropriate legal action.

12 (Source: P.A. 96-339, eff. 7-1-10.)

13 Section 105. The Developmental Disability and Mental  
14 Disability Services Act is amended by changing Sections 2-3,  
15 2-5, 2-17, 3-3, 3-5, 5-1, 5-4, and 6-1 as follows:

16 (405 ILCS 80/2-3) (from Ch. 91 1/2, par. 1802-3)

17 Sec. 2-3. As used in this Article, unless the context  
18 requires otherwise:

19 (a) "Agency" means an agency or entity licensed by the  
20 Department pursuant to this Article or pursuant to the  
21 Community Residential Alternatives Licensing Act.

22 (b) "Department" means the Department of Human Services, as  
23 successor to the Department of Mental Health and Developmental  
24 Disabilities.

1 (c) "Home-based services" means services provided to a  
2 mentally disabled adult who lives in his or her own home. These  
3 services include but are not limited to:

4 (1) home health services;

5 (2) case management;

6 (3) crisis management;

7 (4) training and assistance in self-care;

8 (5) personal care services;

9 (6) habilitation and rehabilitation services;

10 (7) employment-related services;

11 (8) respite care; and

12 (9) other skill training that enables a person to  
13 become self-supporting.

14 (d) "Legal guardian" means a person appointed by a court of  
15 competent jurisdiction to exercise certain powers on behalf of  
16 a mentally disabled adult.

17 (e) "Mentally disabled adult" means a person over the age  
18 of 18 years who lives in his or her own home; who needs  
19 home-based services, but does not require 24-hour-a-day  
20 supervision; and who has one of the following conditions:  
21 severe autism, severe mental illness, a severe or profound  
22 intellectual disability ~~mental retardation~~, or severe and  
23 multiple impairments.

24 (f) In one's "own home" means that a mentally disabled  
25 adult lives alone; or that a mentally disabled adult is in  
26 full-time residence with his or her parents, legal guardian, or



1 other relatives; or that a mentally disabled adult is in  
2 full-time residence in a setting not subject to licensure under  
3 the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act,  
4 or the Child Care Act of 1969, as now or hereafter amended,  
5 with 3 or fewer other adults unrelated to the mentally disabled  
6 adult who do not provide home-based services to the mentally  
7 disabled adult.

8 (g) "Parent" means the biological or adoptive parent of a  
9 mentally disabled adult, or a person licensed as a foster  
10 parent under the laws of this State who acts as a mentally  
11 disabled adult's foster parent.

12 (h) "Relative" means any of the following relationships by  
13 blood, marriage or adoption: parent, son, daughter, brother,  
14 sister, grandparent, uncle, aunt, nephew, niece, great  
15 grandparent, great uncle, great aunt, stepbrother, stepsister,  
16 stepson, stepdaughter, stepparent or first cousin.

17 (i) "Severe autism" means a lifelong developmental  
18 disability which is typically manifested before 30 months of  
19 age and is characterized by severe disturbances in reciprocal  
20 social interactions; verbal and nonverbal communication and  
21 imaginative activity; and repertoire of activities and  
22 interests. A person shall be determined severely autistic, for  
23 purposes of this Article, if both of the following are present:

24 (1) Diagnosis consistent with the criteria for  
25 autistic disorder in the current edition of the Diagnostic  
26 and Statistical Manual of Mental Disorders.

1           (2) Severe disturbances in reciprocal social  
2 interactions; verbal and nonverbal communication and  
3 imaginative activity; repertoire of activities and  
4 interests. A determination of severe autism shall be based  
5 upon a comprehensive, documented assessment with an  
6 evaluation by a licensed clinical psychologist or  
7 psychiatrist. A determination of severe autism shall not be  
8 based solely on behaviors relating to environmental,  
9 cultural or economic differences.

10          (j) "Severe mental illness" means the manifestation of all  
11 of the following characteristics:

12           (1) A primary diagnosis of one of the major mental  
13 disorders in the current edition of the Diagnostic and  
14 Statistical Manual of Mental Disorders listed below:

- 15                   (A) Schizophrenia disorder.  
16                   (B) Delusional disorder.  
17                   (C) Schizo-affective disorder.  
18                   (D) Bipolar affective disorder.  
19                   (E) Atypical psychosis.  
20                   (F) Major depression, recurrent.

21           (2) The individual's mental illness must substantially  
22 impair his or her functioning in at least 2 of the  
23 following areas:

- 24                   (A) Self-maintenance.  
25                   (B) Social functioning.  
26                   (C) Activities of community living.

1 (D) Work skills.

2 (3) Disability must be present or expected to be  
3 present for at least one year.

4 A determination of severe mental illness shall be based  
5 upon a comprehensive, documented assessment with an evaluation  
6 by a licensed clinical psychologist or psychiatrist, and shall  
7 not be based solely on behaviors relating to environmental,  
8 cultural or economic differences.

9 (k) "Severe or profound intellectual disability ~~mental~~  
10 ~~retardation~~" means a manifestation of all of the following  
11 characteristics:

12 (1) A diagnosis which meets Classification in Mental  
13 Retardation or criteria in the current edition of the  
14 Diagnostic and Statistical Manual of Mental Disorders for  
15 severe or profound mental retardation (an IQ of 40 or  
16 below). This must be measured by a standardized instrument  
17 for general intellectual functioning.

18 (2) A severe or profound level of disturbed adaptive  
19 behavior. This must be measured by a standardized adaptive  
20 behavior scale or informal appraisal by the professional in  
21 keeping with illustrations in Classification in Mental  
22 Retardation, 1983.

23 (3) Disability diagnosed before age of 18.

24 A determination of a severe or profound intellectual  
25 disability ~~mental—retardation~~ shall be based upon a  
26 comprehensive, documented assessment with an evaluation by a

1 licensed clinical psychologist or certified school  
2 psychologist or a psychiatrist, and shall not be based solely  
3 on behaviors relating to environmental, cultural or economic  
4 differences.

5 (1) "Severe and multiple impairments" means the  
6 manifestation of all of the following characteristics:

7 (1) The evaluation determines the presence of a  
8 developmental disability which is expected to continue  
9 indefinitely, constitutes a substantial handicap and is  
10 attributable to any of the following:

11 (A) Intellectual disability ~~Mental retardation~~,  
12 which is defined as general intellectual functioning  
13 that is 2 or more standard deviations below the mean  
14 concurrent with impairment of adaptive behavior which  
15 is 2 or more standard deviations below the mean.  
16 Assessment of the individual's intellectual  
17 functioning must be measured by a standardized  
18 instrument for general intellectual functioning.

19 (B) Cerebral palsy.

20 (C) Epilepsy.

21 (D) Autism.

22 (E) Any other condition which results in  
23 impairment similar to that caused by an intellectual  
24 disability ~~mental retardation~~ and which requires  
25 services similar to those required by intellectually  
26 disabled ~~mentally retarded~~ persons.

1           (2) The evaluation determines multiple handicaps in  
2           physical, sensory, behavioral or cognitive functioning  
3           which constitute a severe or profound impairment  
4           attributable to one or more of the following:

5                 (A) Physical functioning, which severely impairs  
6                 the individual's motor performance that may be due to:

7                     (i) Neurological, psychological or physical  
8                     involvement resulting in a variety of disabling  
9                     conditions such as hemiplegia, quadriplegia or  
10                    ataxia,

11                   (ii) Severe organ systems involvement such as  
12                    congenital heart defect,

13                   (iii) Physical abnormalities resulting in the  
14                    individual being non-mobile and non-ambulatory or  
15                    confined to bed and receiving assistance in  
16                    transferring, or

17                   (iv) The need for regular medical or nursing  
18                    supervision such as gastrostomy care and feeding.

19                 Assessment of physical functioning must be based  
20                 on clinical medical assessment by a physician licensed  
21                 to practice medicine in all its branches, using the  
22                 appropriate instruments, techniques and standards of  
23                 measurement required by the professional.

24                 (B) Sensory, which involves severe restriction due  
25                 to hearing or visual impairment limiting the  
26                 individual's movement and creating dependence in

1 completing most daily activities. Hearing impairment  
2 is defined as a loss of 70 decibels aided or speech  
3 discrimination of less than 50% aided. Visual  
4 impairment is defined as 20/200 corrected in the better  
5 eye or a visual field of 20 degrees or less. Sensory  
6 functioning must be based on clinical medical  
7 assessment by a physician licensed to practice  
8 medicine in all its branches using the appropriate  
9 instruments, techniques and standards of measurement  
10 required by the professional.

11 (C) Behavioral, which involves behavior that is  
12 maladaptive and presents a danger to self or others, is  
13 destructive to property by deliberately breaking,  
14 destroying or defacing objects, is disruptive by  
15 fighting, or has other socially offensive behaviors in  
16 sufficient frequency or severity to seriously limit  
17 social integration. Assessment of behavioral  
18 functioning may be measured by a standardized scale or  
19 informal appraisal by a clinical psychologist or  
20 psychiatrist.

21 (D) Cognitive, which involves intellectual  
22 functioning at a measured IQ of 70 or below. Assessment  
23 of cognitive functioning must be measured by a  
24 standardized instrument for general intelligence.

25 (3) The evaluation determines that development is  
26 substantially less than expected for the age in cognitive,

1 affective or psychomotor behavior as follows:

2 (A) Cognitive, which involves intellectual  
3 functioning at a measured IQ of 70 or below. Assessment  
4 of cognitive functioning must be measured by a  
5 standardized instrument for general intelligence.

6 (B) Affective behavior, which involves over and  
7 under responding to stimuli in the environment and may  
8 be observed in mood, attention to awareness, or in  
9 behaviors such as euphoria, anger or sadness that  
10 seriously limit integration into society. Affective  
11 behavior must be based on clinical assessment using the  
12 appropriate instruments, techniques and standards of  
13 measurement required by the professional.

14 (C) Psychomotor, which includes a severe  
15 developmental delay in fine or gross motor skills so  
16 that development in self-care, social interaction,  
17 communication or physical activity will be greatly  
18 delayed or restricted.

19 (4) A determination that the disability originated  
20 before the age of 18 years.

21 A determination of severe and multiple impairments shall be  
22 based upon a comprehensive, documented assessment with an  
23 evaluation by a licensed clinical psychologist or  
24 psychiatrist.

25 If the examiner is a licensed clinical psychologist,  
26 ancillary evaluation of physical impairment, cerebral palsy or

1 epilepsy must be made by a physician licensed to practice  
2 medicine in all its branches.

3       Regardless of the discipline of the examiner, ancillary  
4 evaluation of visual impairment must be made by an  
5 ophthalmologist or a licensed optometrist.

6       Regardless of the discipline of the examiner, ancillary  
7 evaluation of hearing impairment must be made by an  
8 otolaryngologist or an audiologist with a certificate of  
9 clinical competency.

10       The only exception to the above is in the case of a person  
11 with cerebral palsy or epilepsy who, according to the  
12 eligibility criteria listed below, has multiple impairments  
13 which are only physical and sensory. In such a case, a  
14 physician licensed to practice medicine in all its branches may  
15 serve as the examiner.

16       (m)       "Twenty-four-hour-a-day supervision" means  
17 24-hour-a-day care by a trained mental health or developmental  
18 disability professional on an ongoing basis.

19       (Source: P.A. 96-339, eff. 7-1-10.)

20       (405 ILCS 80/2-5) (from Ch. 91 1/2, par. 1802-5)

21       Sec. 2-5. The Department shall establish eligibility  
22 standards for the Program, taking into consideration the  
23 disability levels and service needs of the target population.  
24 The Department shall create application forms which shall be  
25 used to determine the eligibility of mentally disabled adults



1 to participate in the Program. The forms shall be made  
2 available by the Department and shall require at least the  
3 following items of information which constitute eligibility  
4 criteria for participation in the Program:

5 (a) A statement that the mentally disabled adult  
6 resides in the State of Illinois and is over the age of 18  
7 years.

8 (b) Verification that the mentally disabled adult has  
9 one of the following conditions: severe autism, severe  
10 mental illness, a severe or profound intellectual  
11 disability ~~mental retardation~~, or severe and multiple  
12 impairments.

13 (c) Verification that the mentally disabled adult has  
14 applied and is eligible for federal Supplemental Security  
15 Income or federal Social Security Disability Income  
16 benefits.

17 (d) Verification that the mentally disabled adult  
18 resides full-time in his or her own home or that, within 2  
19 months of receipt of services under this Article, he or she  
20 will reside full-time in his or her own home.

21 The Department may by rule adopt provisions establishing  
22 liability of responsible relatives of a recipient of services  
23 under this Article for the payment of sums representing charges  
24 for services to such recipient. Such rules shall be  
25 substantially similar to the provisions for such liability  
26 contained in Chapter 5 of the Mental Health and Developmental

1 Disabilities Code, as now or hereafter amended, and rules  
2 adopted pursuant thereto.

3 (Source: P.A. 86-921; 87-447.)

4 (405 ILCS 80/2-17)

5 Sec. 2-17. Transition from special education.

6 (a) If a person receiving special educational services  
7 under Article 14 of the School Code at a school in this State  
8 has severe autism, severe mental illness, a severe or profound  
9 intellectual disability ~~mental retardation~~, or severe and  
10 multiple impairments and is not over 18 years of age but is  
11 otherwise eligible to participate in the Program, the person  
12 shall be determined eligible to participate in the Program,  
13 subject to the availability of funds appropriated for this  
14 purpose, when he or she becomes an adult and no longer receives  
15 special educational services.

16 (b) The Department shall implement this Section for fiscal  
17 years beginning July 1, 1996 and thereafter.

18 (Source: P.A. 89-425, eff. 6-1-96.)

19 (405 ILCS 80/3-3) (from Ch. 91 1/2, par. 1803-3)

20 Sec. 3-3. As used in this Article, unless the context  
21 requires otherwise:

22 (a) "Agency" means an agency or entity licensed by the  
23 Department pursuant to this Article or pursuant to the  
24 Community Residential Alternatives Licensing Act.

1 (b) "Department" means the Department of Human Services, as  
2 successor to the Department of Mental Health and Developmental  
3 Disabilities.

4 (c) "Department-funded out-of-home placement services"  
5 means those services for which the Department pays the partial  
6 or full cost of care of the residential placement.

7 (d) "Family" or "families" means a family member or members  
8 and his, her or their parents or legal guardians.

9 (e) "Family member" means a child 17 years old or younger  
10 who has one of the following conditions: severe autism, severe  
11 emotional disturbance, a severe or profound intellectual  
12 disability ~~mental retardation~~, or severe and multiple  
13 impairments.

14 (f) "Legal guardian" means a person appointed by a court of  
15 competent jurisdiction to exercise certain powers on behalf of  
16 a family member and with whom the family member resides.

17 (g) "Parent" means a biological or adoptive parent with  
18 whom the family member resides, or a person licensed as a  
19 foster parent under the laws of this State, acting as a family  
20 member's foster parent, and with whom the family member  
21 resides.

22 (h) "Severe autism" means a lifelong developmental  
23 disability which is typically manifested before 30 months of  
24 age and is characterized by severe disturbances in reciprocal  
25 social interactions; verbal and nonverbal communication and  
26 imaginative activity; and repertoire of activities and

1 interests. A person shall be determined severely autistic, for  
2 purposes of this Article, if both of the following are present:

3 (1) Diagnosis consistent with the criteria for  
4 autistic disorder in the current edition of the Diagnostic  
5 and Statistical Manual of Mental Disorders;

6 (2) Severe disturbances in reciprocal social  
7 interactions; verbal and nonverbal communication and  
8 imaginative activity; and repertoire of activities and  
9 interests. A determination of severe autism shall be based  
10 upon a comprehensive, documented assessment with an  
11 evaluation by a licensed clinical psychologist or  
12 psychiatrist. A determination of severe autism shall not be  
13 based solely on behaviors relating to environmental,  
14 cultural or economic differences.

15 (i) "Severe mental illness" means the manifestation of all  
16 of the following characteristics:

17 (1) a severe mental illness characterized by the  
18 presence of a mental disorder in children or adolescents,  
19 classified in the Diagnostic and Statistical Manual of  
20 Mental Disorders (Third Edition - Revised), as now or  
21 hereafter revised, excluding V-codes (as that term is used  
22 in the current edition of the Diagnostic and Statistical  
23 Manual of Mental Disorders), adjustment disorders, the  
24 presence of an intellectual disability ~~mental retardation~~  
25 when no other mental disorder is present, alcohol or  
26 substance abuse, or other forms of dementia based upon

1 organic or physical disorders; and

2 (2) a functional disability of an extended duration  
3 which results in substantial limitations in major life  
4 activities.

5 A determination of severe mental illness shall be based  
6 upon a comprehensive, documented assessment with an evaluation  
7 by a licensed clinical psychologist or a psychiatrist.

8 (j) "Severe or profound intellectual disability ~~mental~~  
9 ~~retardation~~" means a manifestation of all of the following  
10 characteristics:

11 (1) A diagnosis which meets Classification in Mental  
12 Retardation or criteria in the current edition of the  
13 Diagnostic and Statistical Manual of Mental Disorders for  
14 severe or profound mental retardation (an IQ of 40 or  
15 below). This must be measured by a standardized instrument  
16 for general intellectual functioning.

17 (2) A severe or profound level of adaptive behavior.  
18 This must be measured by a standardized adaptive behavior  
19 scale or informal appraisal by the professional in keeping  
20 with illustrations in Classification in Mental  
21 Retardation, 1983.

22 (3) Disability diagnosed before age of 18.

23 A determination of a severe or profound intellectual  
24 disability ~~mental—retardation~~ shall be based upon a  
25 comprehensive, documented assessment with an evaluation by a  
26 licensed clinical psychologist, certified school psychologist,

1 a psychiatrist or other physician licensed to practice medicine  
2 in all its branches, and shall not be based solely on behaviors  
3 relating to environmental, cultural or economic differences.

4 (k) "Severe and multiple impairments" means the  
5 manifestation of all the following characteristics:

6 (1) The evaluation determines the presence of a  
7 developmental disability which is expected to continue  
8 indefinitely, constitutes a substantial handicap and is  
9 attributable to any of the following:

10 (A) Intellectual disability ~~Mental retardation~~,  
11 which is defined as general intellectual functioning  
12 that is 2 or more standard deviations below the mean  
13 concurrent with impairment of adaptive behavior which  
14 is 2 or more standard deviations below the mean.  
15 Assessment of the individual's intellectual  
16 functioning must be measured by a standardized  
17 instrument for general intellectual functioning.

18 (B) Cerebral palsy.

19 (C) Epilepsy.

20 (D) Autism.

21 (E) Any other condition which results in  
22 impairment similar to that caused by an intellectual  
23 disability ~~mental retardation~~ and which requires  
24 services similar to those required by intellectually  
25 disabled ~~mentally retarded~~ persons.

26 (2) The evaluation determines multiple handicaps in

1 physical, sensory, behavioral or cognitive functioning  
2 which constitute a severe or profound impairment  
3 attributable to one or more of the following:

4 (A) Physical functioning, which severely impairs  
5 the individual's motor performance that may be due to:

6 (i) Neurological, psychological or physical  
7 involvement resulting in a variety of disabling  
8 conditions such as hemiplegia, quadriplegia or  
9 ataxia,

10 (ii) Severe organ systems involvement such as  
11 congenital heart defect,

12 (iii) Physical abnormalities resulting in the  
13 individual being non-mobile and non-ambulatory or  
14 confined to bed and receiving assistance in  
15 transferring, or

16 (iv) The need for regular medical or nursing  
17 supervision such as gastrostomy care and feeding.

18 Assessment of physical functioning must be based  
19 on clinical medical assessment, using the appropriate  
20 instruments, techniques and standards of measurement  
21 required by the professional.

22 (B) Sensory, which involves severe restriction due  
23 to hearing or visual impairment limiting the  
24 individual's movement and creating dependence in  
25 completing most daily activities. Hearing impairment  
26 is defined as a loss of 70 decibels aided or speech

1 discrimination of less than 50% aided. Visual  
2 impairment is defined as 20/200 corrected in the better  
3 eye or a visual field of 20 degrees or less. Sensory  
4 functioning must be based on clinical medical  
5 assessment using the appropriate instruments,  
6 techniques and standards of measurement required by  
7 the professional.

8 (C) Behavioral, which involves behavior that is  
9 maladaptive and presents a danger to self or others, is  
10 destructive to property by deliberately breaking,  
11 destroying or defacing objects, is disruptive by  
12 fighting, or has other socially offensive behaviors in  
13 sufficient frequency or severity to seriously limit  
14 social integration. Assessment of behavioral  
15 functioning may be measured by a standardized scale or  
16 informal appraisal by the medical professional.

17 (D) Cognitive, which involves intellectual  
18 functioning at a measured IQ of 70 or below. Assessment  
19 of cognitive functioning must be measured by a  
20 standardized instrument for general intelligence.

21 (3) The evaluation determines that development is  
22 substantially less than expected for the age in cognitive,  
23 affective or psychomotor behavior as follows:

24 (A) Cognitive, which involves intellectual  
25 functioning at a measured IQ of 70 or below. Assessment  
26 of cognitive functioning must be measured by a



1 standardized instrument for general intelligence.

2 (B) Affective behavior, which involves over and  
3 under responding to stimuli in the environment and may  
4 be observed in mood, attention to awareness, or in  
5 behaviors such as euphoria, anger or sadness that  
6 seriously limit integration into society. Affective  
7 behavior must be based on clinical medical and  
8 psychiatric assessment using the appropriate  
9 instruments, techniques and standards of measurement  
10 required by the professional.

11 (C) Psychomotor, which includes a severe  
12 developmental delay in fine or gross motor skills so  
13 that development in self-care, social interaction,  
14 communication or physical activity will be greatly  
15 delayed or restricted.

16 (4) A determination that the disability originated  
17 before the age of 18 years.

18 A determination of severe and multiple impairments shall be  
19 based upon a comprehensive, documented assessment with an  
20 evaluation by a licensed clinical psychologist or  
21 psychiatrist. If the examiner is a licensed clinical  
22 psychologist, ancillary evaluation of physical impairment,  
23 cerebral palsy or epilepsy must be made by a physician licensed  
24 to practice medicine in all its branches.

25 Regardless of the discipline of the examiner, ancillary  
26 evaluation of visual impairment must be made by an

1 ophthalmologist or a licensed optometrist.

2       Regardless of the discipline of the examiner, ancillary  
3 evaluation of hearing impairment must be made by an  
4 otolaryngologist or an audiologist with a certificate of  
5 clinical competency.

6       The only exception to the above is in the case of a person  
7 with cerebral palsy or epilepsy who, according to the  
8 eligibility criteria listed below, has multiple impairments  
9 which are only physical and sensory. In such a case, a  
10 physician licensed to practice medicine in all its branches may  
11 serve as the examiner.

12       (Source: P.A. 89-507, eff. 7-1-97.)

13       (405 ILCS 80/3-5) (from Ch. 91 1/2, par. 1803-5)

14       Sec. 3-5. The Department shall create application forms  
15 which shall be used to determine the eligibility of families  
16 for the Program. The forms shall require at least the following  
17 items of information which constitute the eligibility criteria  
18 for participation in the Program:

19       (a) A statement that the family resides in the State of  
20 Illinois.

21       (b) A statement that the family member is 17 years of age  
22 or younger.

23       (c) A statement that the family member resides, or is  
24 expected to reside, with his or her parent or legal guardian,  
25 or that the family member resides in an out-of-home placement

1 with the expectation of residing with the parent or legal  
2 guardian within 2 months of the date of the application.

3 (d) Verification that the family member has one of the  
4 following conditions: severe autism, severe mental illness, a  
5 severe or profound intellectual disability ~~mental retardation~~,  
6 or severe and multiple impairments. Verification of the family  
7 member's condition shall be:

8 (1) by the family member's local school district for  
9 family members enrolled with a local school district; or

10 (2) by an entity designated by the Department.

11 (e) Verification that the taxable income for the family for  
12 the year immediately preceding the date of the application did  
13 not exceed an amount to be established by rule of the  
14 Department, unless it can be verified that the taxable income  
15 for the family for the year in which the application is made  
16 will be less than such amount. The maximum taxable family  
17 income set by rule of the Department may not be less than  
18 \$65,000 beginning January 1, 2008.

19 (Source: P.A. 95-112, eff. 8-13-07.)

20 (405 ILCS 80/5-1) (from Ch. 91 1/2, par. 1805-1)

21 Sec. 5-1. As the mental health and developmental  
22 disabilities or intellectual disabilities ~~mental retardation~~  
23 authority for the State of Illinois, the Department of Human  
24 Services shall have the authority to license, certify and  
25 prescribe standards governing the programs and services

1 provided under this Act, as well as all other agencies or  
2 programs which provide home-based or community-based services  
3 to the mentally disabled, except those services, programs or  
4 agencies established under or otherwise subject to the Child  
5 Care Act of 1969 or the ID/DD ~~MR/DD~~ Community Care Act, as now  
6 or hereafter amended, and this Act shall not be construed to  
7 limit the application of those Acts.

8 (Source: P.A. 96-339, eff. 7-1-10.)

9 (405 ILCS 80/5-4)

10 Sec. 5-4. Home and Community-Based Services Waivers;  
11 autism spectrum disorder. A person diagnosed with an autism  
12 spectrum disorder may be assessed for eligibility for services  
13 under Home and Community-Based Services Waivers for persons  
14 with developmental disabilities, without regard to whether  
15 that person is also diagnosed with an intellectual disability  
16 ~~mental retardation~~, so long as the person otherwise meets  
17 applicable level-of-care criteria under those waivers. This  
18 amendatory Act of the 95th General Assembly does not create any  
19 new entitlement to a service, program, or benefit, but shall  
20 not affect any entitlement to a service, program, or benefit  
21 created by any other law.

22 (Source: P.A. 95-251, eff. 8-17-07.)

23 (405 ILCS 80/6-1)

24 Sec. 6-1. Community Residential Choices Program.

1           (a) The purpose of this Article is to promote greater  
2 compatibility among individuals with developmental  
3 disabilities who live together by allowing individuals with  
4 developmental disabilities who meet either the emergency or  
5 critical need criteria of the Department of Human Services as  
6 defined under the Department's developmental disabilities  
7 cross-disability database (as required by Section 10-26 of the  
8 Department of Human Services Act), and who also meet the  
9 Department's developmental disabilities priority population  
10 criteria for residential services as defined in the  
11 Department's developmental disabilities Community Services  
12 Agreement and whose parents are over the age of 60, to choose  
13 to live together in a community-based residential program.

14           (b) For purposes of this Article:

15           "Community-based residential program" means one of a  
16 variety of living arrangements for persons with developmental  
17 disabilities, including existing settings such as  
18 community-integrated living arrangements, and may also include  
19 newly developed settings that are consistent with this  
20 definition.

21           "Developmental disability" may include an autism spectrum  
22 disorder.

23           (c) A person diagnosed with an autism spectrum disorder may  
24 be assessed for eligibility for services under Home and  
25 Community-Based Services Waivers for persons with  
26 developmental disabilities without regard to whether that

1 person is also diagnosed with an intellectual disability ~~mental~~  
2 ~~retardation~~, so long as the person otherwise meets applicable  
3 level-of-care criteria under those waivers. This provision  
4 does not create any new entitlement to a service, program, or  
5 benefit, but shall not affect any entitlement to a service,  
6 program, or benefit created by any other law.

7 (Source: P.A. 95-636, eff. 10-5-07.)

8 Section 110. The Medical Patient Rights Act is amended by  
9 changing Section 2.03 as follows:

10 (410 ILCS 50/2.03) (from Ch. 111 1/2, par. 5402.03)

11 Sec. 2.03. "Health care provider" means any public or  
12 private facility that provides, on an inpatient or outpatient  
13 basis, preventive, diagnostic, therapeutic, convalescent,  
14 rehabilitation, mental health, or intellectual disability  
15 ~~mental retardation~~ services, including general or special  
16 hospitals, skilled nursing homes, extended care facilities,  
17 intermediate care facilities and mental health centers.

18 (Source: P.A. 81-1167.)

19 Section 115. The Newborn Metabolic Screening Act is amended  
20 by changing Section 2 as follows:

21 (410 ILCS 240/2) (from Ch. 111 1/2, par. 4904)

22 Sec. 2. The Department of Public Health shall administer

1 the provisions of this Act and shall:

2 (a) Institute and carry on an intensive educational program  
3 among physicians, hospitals, public health nurses and the  
4 public concerning the diseases phenylketonuria,  
5 hypothyroidism, galactosemia and other metabolic diseases.  
6 This educational program shall include information about the  
7 nature of the diseases and examinations for the detection of  
8 the diseases in early infancy in order that measures may be  
9 taken to prevent the intellectual disabilities ~~mental~~  
10 ~~retardation~~ resulting from the diseases.

11 (a-5) Beginning July 1, 2002, provide all newborns with  
12 expanded screening tests for the presence of genetic,  
13 endocrine, or other metabolic disorders, including  
14 phenylketonuria, galactosemia, hypothyroidism, congenital  
15 adrenal hyperplasia, biotinidase deficiency, and sickling  
16 disorders, as well as other amino acid disorders, organic acid  
17 disorders, fatty acid oxidation disorders, and other  
18 abnormalities detectable through the use of a tandem mass  
19 spectrometer. If by July 1, 2002, the Department is unable to  
20 provide expanded screening using the State Laboratory, it shall  
21 temporarily provide such screening through an accredited  
22 laboratory selected by the Department until the Department has  
23 the capacity to provide screening through the State Laboratory.  
24 If expanded screening is provided on a temporary basis through  
25 an accredited laboratory, the Department shall substitute the  
26 fee charged by the accredited laboratory, plus a 5% surcharge

1 for documentation and handling, for the fee authorized in  
2 subsection (e) of this Section.

3 (a-6) In accordance with the timetable specified in this  
4 subsection, provide all newborns with expanded screening tests  
5 for the presence of certain Lysosomal Storage Disorders known  
6 as Krabbe, Pompe, Gaucher, Fabry, and Niemann-Pick. The testing  
7 shall begin within 6 months following the occurrence of all of  
8 the following:

9 (i) the registration with the federal Food and Drug  
10 Administration of the necessary reagents;

11 (ii) the availability of the necessary reagents from  
12 the Centers for Disease Control and Prevention;

13 (iii) the availability of quality assurance testing  
14 methodology for these processes; and

15 (iv) the acquisition and installment by the Department  
16 of the equipment necessary to implement the expanded  
17 screening tests.

18 It is the goal of this amendatory Act of the 95th General  
19 Assembly that the expanded screening for the specified  
20 Lysosomal Storage Disorders begins within 3 years after the  
21 effective date of this Act. The Department is authorized to  
22 implement an additional fee for the screening prior to  
23 beginning the testing in order to accumulate the resources for  
24 start-up and other costs associated with implementation of the  
25 screening and thereafter to support the costs associated with  
26 screening and follow-up programs for the specified Lysosomal



1 Storage Disorders.

2 (b) Maintain a registry of cases including information of  
3 importance for the purpose of follow-up services to prevent  
4 intellectual disabilities ~~mental retardation~~.

5 (c) Supply the necessary metabolic treatment formulas  
6 where practicable for diagnosed cases of amino acid metabolism  
7 disorders, including phenylketonuria, organic acid disorders,  
8 and fatty acid oxidation disorders for as long as medically  
9 indicated, when the product is not available through other  
10 State agencies.

11 (d) Arrange for or provide public health nursing, nutrition  
12 and social services and clinical consultation as indicated.

13 (e) Require that all specimens collected pursuant to this  
14 Act or the rules and regulations promulgated hereunder be  
15 submitted for testing to the nearest Department of Public  
16 Health laboratory designated to perform such tests. The  
17 Department may develop a reasonable fee structure and may levy  
18 fees according to such structure to cover the cost of providing  
19 this testing service. Fees collected from the provision of this  
20 testing service shall be placed in a special fund in the State  
21 Treasury, hereafter known as the Metabolic Screening and  
22 Treatment Fund. Other State and federal funds for expenses  
23 related to metabolic screening, follow-up and treatment  
24 programs may also be placed in such Fund. Moneys shall be  
25 appropriated from such Fund to the Department of Public Health  
26 solely for the purposes of providing metabolic screening,

1 follow-up and treatment programs. Nothing in this Act shall be  
2 construed to prohibit any licensed medical facility from  
3 collecting additional specimens for testing for metabolic or  
4 neonatal diseases or any other diseases or conditions, as it  
5 deems fit. Any person violating the provisions of this  
6 subsection (e) is guilty of a petty offense.

7 (Source: P.A. 95-695, eff. 11-5-07.)

8 Section 120. The Developmental Disability Prevention Act  
9 is amended by changing Section 2 as follows:

10 (410 ILCS 250/2) (from Ch. 111 1/2, par. 2102)

11 Sec. 2.

12 As used in this Act:

13 a "perinatal" means the period of time between the  
14 conception of an infant and the end of the first month of life;

15 b "congenital" means those intrauterine factors which  
16 influence the growth, development and function of the fetus;

17 c "environmental" means those extrauterine factors which  
18 influence the adaptation, well being or life of the newborn and  
19 may lead to disability;

20 d "high risk" means an increased level of risk of harm or  
21 mortality to the woman of childbearing age, fetus or newborn  
22 from congenital and/or environmental factors;

23 e "perinatal center" means a referral facility intended to  
24 care for the high risk patient before, during, or after labor

1 and delivery and characterized by sophistication and  
2 availability of personnel, equipment, laboratory,  
3 transportation techniques, consultation and other support  
4 services;

5 f "developmental disability" means an intellectual  
6 disability ~~mental retardation~~, cerebral palsy, epilepsy, or  
7 other neurological handicapping conditions of an individual  
8 found to be closely related to an intellectual disability  
9 ~~mental retardation~~ or to require treatment similar to that  
10 required by intellectually disabled ~~mentally retarded~~  
11 individuals, and the disability originates before such  
12 individual attains age 18, and has continued, or can be  
13 expected to continue indefinitely, and constitutes a  
14 substantial handicap of such individuals;

15 g "disability" means a condition characterized by  
16 temporary or permanent, partial or complete impairment of  
17 physical, mental or physiological function;

18 h "Department" means the Department of Public Health.

19 (Source: P.A. 78-557.)

20 Section 125. The Communicable Disease Prevention Act is  
21 amended by changing Section 1 as follows:

22 (410 ILCS 315/1) (from Ch. 111 1/2, par. 22.11)

23 Sec. 1. Certain communicable diseases such as measles,  
24 poliomyelitis, invasive pneumococcal disease, and tetanus, may

1 and do result in serious physical and mental disability  
2 including an intellectual disability ~~mental retardation~~,  
3 permanent paralysis, encephalitis, convulsions, pneumonia, and  
4 not infrequently, death.

5 Most of these diseases attack young children, and if they  
6 have not been immunized, may spread to other susceptible  
7 children and possibly, adults, thus, posing serious threats to  
8 the health of the community. Effective, safe and widely used  
9 vaccines and immunization procedures have been developed and  
10 are available to prevent these diseases and to limit their  
11 spread. Even though such immunization procedures are  
12 available, many children fail to receive this protection either  
13 through parental oversight, lack of concern, knowledge or  
14 interest, or lack of available facilities or funds. The  
15 existence of susceptible children in the community constitutes  
16 a health hazard to the individual and to the public at large by  
17 serving as a focus for the spread of these communicable  
18 diseases.

19 It is declared to be the public policy of this State that  
20 all children shall be protected, as soon after birth as  
21 medically indicated, by the appropriate vaccines and  
22 immunizing procedures to prevent communicable diseases which  
23 are or which may in the future become preventable by  
24 immunization.

25 (Source: P.A. 95-159, eff. 8-14-07.)

1 Section 126. The Facilities Requiring Smoke Detectors Act  
2 is amended by changing Section 1 as follows:

3 (425 ILCS 10/1) (from Ch. 127 1/2, par. 821)

4 Sec. 1. For purposes of this Act, unless the context  
5 requires otherwise:

6 (a) "Facility" means:

7 (1) Any long-term care facility as defined in Section  
8 1-113 of the Nursing Home Care Act or any facility as  
9 defined in Section 1-113 of the ID/DD ~~MR/DD~~ Community Care  
10 Act, as amended;

11 (2) Any community residential alternative as defined  
12 in paragraph (4) of Section 3 of the Community Residential  
13 Alternatives Licensing Act, as amended; and

14 (3) Any child care facility as defined in Section 2.05  
15 of the Child Care Act of 1969, as amended.

16 (b) "Approved smoke detector" or "detector" means a smoke  
17 detector of the ionization or photoelectric type which complies  
18 with all the requirements of the rules and regulations of the  
19 Illinois State Fire Marshal.

20 (Source: P.A. 96-339, eff. 7-1-10.)

21 Section 130. The Firearm Owners Identification Card Act is  
22 amended by changing Sections 4 and 8 as follows:

23 (430 ILCS 65/4) (from Ch. 38, par. 83-4)

1           Sec. 4. (a) Each applicant for a Firearm Owner's  
2 Identification Card must:

3           (1) Make application on blank forms prepared and  
4 furnished at convenient locations throughout the State by  
5 the Department of State Police, or by electronic means, if  
6 and when made available by the Department of State Police;  
7 and

8           (2) Submit evidence to the Department of State Police  
9 that:

10           (i) He or she is 21 years of age or over, or if he  
11 or she is under 21 years of age that he or she has the  
12 written consent of his or her parent or legal guardian  
13 to possess and acquire firearms and firearm ammunition  
14 and that he or she has never been convicted of a  
15 misdemeanor other than a traffic offense or adjudged  
16 delinquent, provided, however, that such parent or  
17 legal guardian is not an individual prohibited from  
18 having a Firearm Owner's Identification Card and files  
19 an affidavit with the Department as prescribed by the  
20 Department stating that he or she is not an individual  
21 prohibited from having a Card;

22           (ii) He or she has not been convicted of a felony  
23 under the laws of this or any other jurisdiction;

24           (iii) He or she is not addicted to narcotics;

25           (iv) He or she has not been a patient in a mental  
26 institution within the past 5 years and he or she has

1 not been adjudicated as a mental defective;

2 (v) He or she is not intellectually disabled  
3 ~~mentally retarded~~;

4 (vi) He or she is not an alien who is unlawfully  
5 present in the United States under the laws of the  
6 United States;

7 (vii) He or she is not subject to an existing order  
8 of protection prohibiting him or her from possessing a  
9 firearm;

10 (viii) He or she has not been convicted within the  
11 past 5 years of battery, assault, aggravated assault,  
12 violation of an order of protection, or a substantially  
13 similar offense in another jurisdiction, in which a  
14 firearm was used or possessed;

15 (ix) He or she has not been convicted of domestic  
16 battery or a substantially similar offense in another  
17 jurisdiction committed on or after the effective date  
18 of this amendatory Act of 1997;

19 (x) He or she has not been convicted within the  
20 past 5 years of domestic battery or a substantially  
21 similar offense in another jurisdiction committed  
22 before the effective date of this amendatory Act of  
23 1997;

24 (xi) He or she is not an alien who has been  
25 admitted to the United States under a non-immigrant  
26 visa (as that term is defined in Section 101(a)(26) of

1 the Immigration and Nationality Act (8 U.S.C.  
2 1101(a)(26)), or that he or she is an alien who has  
3 been lawfully admitted to the United States under a  
4 non-immigrant visa if that alien is:

5 (1) admitted to the United States for lawful  
6 hunting or sporting purposes;

7 (2) an official representative of a foreign  
8 government who is:

9 (A) accredited to the United States  
10 Government or the Government's mission to an  
11 international organization having its  
12 headquarters in the United States; or

13 (B) en route to or from another country to  
14 which that alien is accredited;

15 (3) an official of a foreign government or  
16 distinguished foreign visitor who has been so  
17 designated by the Department of State;

18 (4) a foreign law enforcement officer of a  
19 friendly foreign government entering the United  
20 States on official business; or

21 (5) one who has received a waiver from the  
22 Attorney General of the United States pursuant to  
23 18 U.S.C. 922(y)(3);

24 (xii) He or she is not a minor subject to a  
25 petition filed under Section 5-520 of the Juvenile  
26 Court Act of 1987 alleging that the minor is a



1 delinquent minor for the commission of an offense that  
2 if committed by an adult would be a felony; and

3 (xiii) He or she is not an adult who had been  
4 adjudicated a delinquent minor under the Juvenile  
5 Court Act of 1987 for the commission of an offense that  
6 if committed by an adult would be a felony; and

7 (3) Upon request by the Department of State Police,  
8 sign a release on a form prescribed by the Department of  
9 State Police waiving any right to confidentiality and  
10 requesting the disclosure to the Department of State Police  
11 of limited mental health institution admission information  
12 from another state, the District of Columbia, any other  
13 territory of the United States, or a foreign nation  
14 concerning the applicant for the sole purpose of  
15 determining whether the applicant is or was a patient in a  
16 mental health institution and disqualified because of that  
17 status from receiving a Firearm Owner's Identification  
18 Card. No mental health care or treatment records may be  
19 requested. The information received shall be destroyed  
20 within one year of receipt.

21 (a-5) Each applicant for a Firearm Owner's Identification  
22 Card who is over the age of 18 shall furnish to the Department  
23 of State Police either his or her driver's license number or  
24 Illinois Identification Card number.

25 (a-10) Each applicant for a Firearm Owner's Identification  
26 Card, who is employed as an armed security officer at a nuclear

1 energy, storage, weapons, or development facility regulated by  
2 the Nuclear Regulatory Commission and who is not an Illinois  
3 resident, shall furnish to the Department of State Police his  
4 or her driver's license number or state identification card  
5 number from his or her state of residence. The Department of  
6 State Police may promulgate rules to enforce the provisions of  
7 this subsection (a-10).

8 (b) Each application form shall include the following  
9 statement printed in bold type: "Warning: Entering false  
10 information on an application for a Firearm Owner's  
11 Identification Card is punishable as a Class 2 felony in  
12 accordance with subsection (d-5) of Section 14 of the Firearm  
13 Owners Identification Card Act."

14 (c) Upon such written consent, pursuant to Section 4,  
15 paragraph (a)(2)(i), the parent or legal guardian giving the  
16 consent shall be liable for any damages resulting from the  
17 applicant's use of firearms or firearm ammunition.

18 (Source: P.A. 95-581, eff. 6-1-08.)

19 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

20 Sec. 8. The Department of State Police has authority to  
21 deny an application for or to revoke and seize a Firearm  
22 Owner's Identification Card previously issued under this Act  
23 only if the Department finds that the applicant or the person  
24 to whom such card was issued is or was at the time of issuance:

25 (a) A person under 21 years of age who has been convicted

1 of a misdemeanor other than a traffic offense or adjudged  
2 delinquent;

3 (b) A person under 21 years of age who does not have the  
4 written consent of his parent or guardian to acquire and  
5 possess firearms and firearm ammunition, or whose parent or  
6 guardian has revoked such written consent, or where such parent  
7 or guardian does not qualify to have a Firearm Owner's  
8 Identification Card;

9 (c) A person convicted of a felony under the laws of this  
10 or any other jurisdiction;

11 (d) A person addicted to narcotics;

12 (e) A person who has been a patient of a mental institution  
13 within the past 5 years or has been adjudicated as a mental  
14 defective;

15 (f) A person whose mental condition is of such a nature  
16 that it poses a clear and present danger to the applicant, any  
17 other person or persons or the community;

18 For the purposes of this Section, "mental condition" means  
19 a state of mind manifested by violent, suicidal, threatening or  
20 assaultive behavior.

21 (g) A person who is intellectually disabled ~~mentally~~  
22 ~~retarded~~;

23 (h) A person who intentionally makes a false statement in  
24 the Firearm Owner's Identification Card application;

25 (i) An alien who is unlawfully present in the United States  
26 under the laws of the United States;

1 (i-5) An alien who has been admitted to the United States  
2 under a non-immigrant visa (as that term is defined in Section  
3 101(a)(26) of the Immigration and Nationality Act (8 U.S.C.  
4 1101(a)(26))), except that this subsection (i-5) does not apply  
5 to any alien who has been lawfully admitted to the United  
6 States under a non-immigrant visa if that alien is:

7 (1) admitted to the United States for lawful hunting or  
8 sporting purposes;

9 (2) an official representative of a foreign government  
10 who is:

11 (A) accredited to the United States Government or  
12 the Government's mission to an international  
13 organization having its headquarters in the United  
14 States; or

15 (B) en route to or from another country to which  
16 that alien is accredited;

17 (3) an official of a foreign government or  
18 distinguished foreign visitor who has been so designated by  
19 the Department of State;

20 (4) a foreign law enforcement officer of a friendly  
21 foreign government entering the United States on official  
22 business; or

23 (5) one who has received a waiver from the Attorney  
24 General of the United States pursuant to 18 U.S.C.  
25 922(y)(3);

26 (j) (Blank);

1           (k) A person who has been convicted within the past 5 years  
2 of battery, assault, aggravated assault, violation of an order  
3 of protection, or a substantially similar offense in another  
4 jurisdiction, in which a firearm was used or possessed;

5           (l) A person who has been convicted of domestic battery or  
6 a substantially similar offense in another jurisdiction  
7 committed on or after January 1, 1998;

8           (m) A person who has been convicted within the past 5 years  
9 of domestic battery or a substantially similar offense in  
10 another jurisdiction committed before January 1, 1998;

11           (n) A person who is prohibited from acquiring or possessing  
12 firearms or firearm ammunition by any Illinois State statute or  
13 by federal law;

14           (o) A minor subject to a petition filed under Section 5-520  
15 of the Juvenile Court Act of 1987 alleging that the minor is a  
16 delinquent minor for the commission of an offense that if  
17 committed by an adult would be a felony; or

18           (p) An adult who had been adjudicated a delinquent minor  
19 under the Juvenile Court Act of 1987 for the commission of an  
20 offense that if committed by an adult would be a felony.

21           (Source: P.A. 95-581, eff. 6-1-08; 96-701, eff. 1-1-10.)

22           Section 135. The Criminal Code of 1961 is amended by  
23 changing Sections 2-10.1, 10-1, 10-2, 10-5, 11-14.1, 11-15.1,  
24 11-17.1, 11-18.1, 11-19.1, 11-19.2, 11-20.1, 11-20.3, 12-4.3,  
25 12-14, 12-16, 12-19, 12-21, 17-29, 24-3, 24-3.1, and 26-1 as

1 follows:

2 (720 ILCS 5/2-10.1) (from Ch. 38, par. 2-10.1)

3 Sec. 2-10.1. "Severely or profoundly intellectually  
4 disabled ~~mentally-retarded~~ person" means a person (i) whose  
5 intelligence quotient does not exceed 40 or (ii) whose  
6 intelligence quotient does not exceed 55 and who suffers from  
7 significant mental illness to the extent that the person's  
8 ability to exercise rational judgment is impaired. In any  
9 proceeding in which the defendant is charged with committing a  
10 violation of Section 10-2, 10-5, 11-15.1, 11-19.1, 11-19.2,  
11 11-20.1, 12-4.3, 12-14, or 12-16 of this Code against a victim  
12 who is alleged to be a severely or profoundly intellectually  
13 disabled ~~mentally-retarded~~ person, any findings concerning the  
14 victim's status as a severely or profoundly intellectually  
15 disabled ~~mentally-retarded~~ person, made by a court after a  
16 judicial admission hearing concerning the victim under  
17 Articles V and VI of Chapter 4 of the Mental Health and  
18 Developmental Disabilities Code shall be admissible.

19 (Source: P.A. 92-434, eff. 1-1-02.)

20 (720 ILCS 5/10-1) (from Ch. 38, par. 10-1)

21 Sec. 10-1. Kidnapping.

22 (a) A person commits the offense of kidnapping when he or  
23 she knowingly:

24 (1) and secretly confines another against his or her

1 will;

2 (2) by force or threat of imminent force carries  
3 another from one place to another with intent secretly to  
4 confine that other person against his or her will; or

5 (3) by deceit or enticement induces another to go from  
6 one place to another with intent secretly to confine that  
7 other person against his or her will.

8 (b) Confinement of a child under the age of 13 years, or of  
9 a severely or profoundly intellectually disabled ~~mentally~~  
10 ~~retarded~~ person, is against that child's or person's will  
11 within the meaning of this Section if that confinement is  
12 without the consent of that child's or person's parent or legal  
13 guardian.

14 (c) Sentence. Kidnapping is a Class 2 felony.

15 (Source: P.A. 96-710, eff. 1-1-10.)

16 (720 ILCS 5/10-2) (from Ch. 38, par. 10-2)

17 Sec. 10-2. Aggravated kidnaping.

18 (a) A person commits the offense of aggravated kidnaping  
19 when he or she commits kidnaping and:

20 (1) kidnaps with the intent to obtain ransom from the  
21 person kidnaped or from any other person;

22 (2) takes as his or her victim a child under the age of  
23 13 years, or a severely or profoundly intellectually  
24 disabled ~~mentally retarded~~ person;

25 (3) inflicts great bodily harm, other than by the

1 discharge of a firearm, or commits another felony upon his  
2 or her victim;

3 (4) wears a hood, robe, or mask or conceals his or her  
4 identity;

5 (5) commits the offense of kidnaping while armed with a  
6 dangerous weapon, other than a firearm, as defined in  
7 Section 33A-1 of this Code;

8 (6) commits the offense of kidnaping while armed with a  
9 firearm;

10 (7) during the commission of the offense of kidnaping,  
11 personally discharges a firearm; or

12 (8) during the commission of the offense of kidnaping,  
13 personally discharges a firearm that proximately causes  
14 great bodily harm, permanent disability, permanent  
15 disfigurement, or death to another person.

16 As used in this Section, "ransom" includes money, benefit,  
17 or other valuable thing or concession.

18 (b) Sentence. Aggravated kidnaping in violation of  
19 paragraph (1), (2), (3), (4), or (5) of subsection (a) is a  
20 Class X felony. A violation of subsection (a)(6) is a Class X  
21 felony for which 15 years shall be added to the term of  
22 imprisonment imposed by the court. A violation of subsection  
23 (a)(7) is a Class X felony for which 20 years shall be added to  
24 the term of imprisonment imposed by the court. A violation of  
25 subsection (a)(8) is a Class X felony for which 25 years or up  
26 to a term of natural life shall be added to the term of



1 imprisonment imposed by the court.

2 A person who is convicted of a second or subsequent offense  
3 of aggravated kidnaping shall be sentenced to a term of natural  
4 life imprisonment; except that a sentence of natural life  
5 imprisonment shall not be imposed under this Section unless the  
6 second or subsequent offense was committed after conviction on  
7 the first offense.

8 (Source: P.A. 96-710, eff. 1-1-10.)

9 (720 ILCS 5/10-5) (from Ch. 38, par. 10-5)

10 Sec. 10-5. Child abduction.

11 (a) For purposes of this Section, the following terms have  
12 the following meanings:

13 (1) "Child" means a person who, at the time the alleged  
14 violation occurred, was under the age of 18 or severely or  
15 profoundly intellectually disabled ~~mentally retarded~~.

16 (2) "Detains" means taking or retaining physical  
17 custody of a child, whether or not the child resists or  
18 objects.

19 (3) "Lawful custodian" means a person or persons  
20 granted legal custody of a child or entitled to physical  
21 possession of a child pursuant to a court order. It is  
22 presumed that, when the parties have never been married to  
23 each other, the mother has legal custody of the child  
24 unless a valid court order states otherwise. If an  
25 adjudication of paternity has been completed and the father

1 has been assigned support obligations or visitation  
2 rights, such a paternity order should, for the purposes of  
3 this Section, be considered a valid court order granting  
4 custody to the mother.

5 (4) "Putative father" means a man who has a reasonable  
6 belief that he is the father of a child born of a woman who  
7 is not his wife.

8 (b) A person commits the offense of child abduction when he  
9 or she does any one of the following:

10 (1) Intentionally violates any terms of a valid court  
11 order granting sole or joint custody, care, or possession  
12 to another by concealing or detaining the child or removing  
13 the child from the jurisdiction of the court.

14 (2) Intentionally violates a court order prohibiting  
15 the person from concealing or detaining the child or  
16 removing the child from the jurisdiction of the court.

17 (3) Intentionally conceals, detains, or removes the  
18 child without the consent of the mother or lawful custodian  
19 of the child if the person is a putative father and either:

20 (A) the paternity of the child has not been legally  
21 established or (B) the paternity of the child has been  
22 legally established but no orders relating to custody have  
23 been entered. Notwithstanding the presumption created by  
24 paragraph (3) of subsection (a), however, a mother commits  
25 child abduction when she intentionally conceals or removes  
26 a child, whom she has abandoned or relinquished custody of,

1 from an unadjudicated father who has provided sole ongoing  
2 care and custody of the child in her absence.

3 (4) Intentionally conceals or removes the child from a  
4 parent after filing a petition or being served with process  
5 in an action affecting marriage or paternity but prior to  
6 the issuance of a temporary or final order determining  
7 custody.

8 (5) At the expiration of visitation rights outside the  
9 State, intentionally fails or refuses to return or impedes  
10 the return of the child to the lawful custodian in  
11 Illinois.

12 (6) Being a parent of the child, and if the parents of  
13 that child are or have been married and there has been no  
14 court order of custody, knowingly conceals the child for 15  
15 days, and fails to make reasonable attempts within the  
16 15-day period to notify the other parent as to the specific  
17 whereabouts of the child, including a means by which to  
18 contact the child, or to arrange reasonable visitation or  
19 contact with the child. It is not a violation of this  
20 Section for a person fleeing domestic violence to take the  
21 child with him or her to housing provided by a domestic  
22 violence program.

23 (7) Being a parent of the child, and if the parents of  
24 the child are or have been married and there has been no  
25 court order of custody, knowingly conceals, detains, or  
26 removes the child with physical force or threat of physical

1 force.

2 (8) Knowingly conceals, detains, or removes the child  
3 for payment or promise of payment at the instruction of a  
4 person who has no legal right to custody.

5 (9) Knowingly retains in this State for 30 days a child  
6 removed from another state without the consent of the  
7 lawful custodian or in violation of a valid court order of  
8 custody.

9 (10) Intentionally lures or attempts to lure a child  
10 under the age of 16 into a motor vehicle, building,  
11 housetrailer, or dwelling place without the consent of the  
12 child's parent or lawful custodian for other than a lawful  
13 purpose. For the purposes of this item (10), the luring or  
14 attempted luring of a child under the age of 16 into a  
15 motor vehicle, building, housetrailer, or dwelling place  
16 without the consent of the child's parent or lawful  
17 custodian is prima facie evidence of other than a lawful  
18 purpose.

19 (11) With the intent to obstruct or prevent efforts to  
20 locate the child victim of a child abduction, knowingly  
21 destroys, alters, conceals, or disguises physical evidence  
22 or furnishes false information.

23 (c) It is an affirmative defense to subsections (b) (1)  
24 through (b) (10) of this Section that:

25 (1) the person had custody of the child pursuant to a  
26 court order granting legal custody or visitation rights

1 that existed at the time of the alleged violation;

2 (2) the person had physical custody of the child  
3 pursuant to a court order granting legal custody or  
4 visitation rights and failed to return the child as a  
5 result of circumstances beyond his or her control, and the  
6 person notified and disclosed to the other parent or legal  
7 custodian the specific whereabouts of the child and a means  
8 by which the child could be contacted or made a reasonable  
9 attempt to notify the other parent or lawful custodian of  
10 the child of those circumstances and made the disclosure  
11 within 24 hours after the visitation period had expired and  
12 returned the child as soon as possible;

13 (3) the person was fleeing an incidence or pattern of  
14 domestic violence; or

15 (4) the person lured or attempted to lure a child under  
16 the age of 16 into a motor vehicle, building, housetrailer,  
17 or dwelling place for a lawful purpose in prosecutions  
18 under paragraph (10) of subsection (b).

19 (d) A person convicted of child abduction under this  
20 Section is guilty of a Class 4 felony. A person convicted of a  
21 second or subsequent violation of paragraph (10) of subsection  
22 (b) of this Section is guilty of a Class 3 felony. It is a  
23 factor in aggravation under subsections (b)(1) through (b)(10)  
24 of this Section for which a court may impose a more severe  
25 sentence under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5  
26 of Chapter V of the Unified Code of Corrections if, upon

1 sentencing, the court finds evidence of any of the following  
2 aggravating factors:

3 (1) that the defendant abused or neglected the child  
4 following the concealment, detention, or removal of the  
5 child;

6 (2) that the defendant inflicted or threatened to  
7 inflict physical harm on a parent or lawful custodian of  
8 the child or on the child with intent to cause that parent  
9 or lawful custodian to discontinue criminal prosecution of  
10 the defendant under this Section;

11 (3) that the defendant demanded payment in exchange for  
12 return of the child or demanded that he or she be relieved  
13 of the financial or legal obligation to support the child  
14 in exchange for return of the child;

15 (4) that the defendant has previously been convicted of  
16 child abduction;

17 (5) that the defendant committed the abduction while  
18 armed with a deadly weapon or the taking of the child  
19 resulted in serious bodily injury to another; or

20 (6) that the defendant committed the abduction while in  
21 a school, regardless of the time of day or time of year; in  
22 a playground; on any conveyance owned, leased, or  
23 contracted by a school to transport students to or from  
24 school or a school related activity; on the real property  
25 of a school; or on a public way within 1,000 feet of the  
26 real property comprising any school or playground. For

1 purposes of this paragraph (6), "playground" means a piece  
2 of land owned or controlled by a unit of local government  
3 that is designated by the unit of local government for use  
4 solely or primarily for children's recreation; and  
5 "school" means a public or private elementary or secondary  
6 school, community college, college, or university.

7 (e) The court may order the child to be returned to the  
8 parent or lawful custodian from whom the child was concealed,  
9 detained, or removed. In addition to any sentence imposed, the  
10 court may assess any reasonable expense incurred in searching  
11 for or returning the child against any person convicted of  
12 violating this Section.

13 (f) Nothing contained in this Section shall be construed to  
14 limit the court's contempt power.

15 (g) Every law enforcement officer investigating an alleged  
16 incident of child abduction shall make a written police report  
17 of any bona fide allegation and the disposition of that  
18 investigation. Every police report completed pursuant to this  
19 Section shall be compiled and recorded within the meaning of  
20 Section 5.1 of the Criminal Identification Act.

21 (h) Whenever a law enforcement officer has reasons to  
22 believe a child abduction has occurred, she or he shall provide  
23 the lawful custodian a summary of her or his rights under this  
24 Code, including the procedures and relief available to her or  
25 him.

26 (i) If during the course of an investigation under this

1 Section the child is found in the physical custody of the  
2 defendant or another, the law enforcement officer shall return  
3 the child to the parent or lawful custodian from whom the child  
4 was concealed, detained, or removed, unless there is good cause  
5 for the law enforcement officer or the Department of Children  
6 and Family Services to retain temporary protective custody of  
7 the child pursuant to the Abused and Neglected Child Reporting  
8 Act.

9 (Source: P.A. 95-1052, eff. 7-1-09; 96-710, eff. 1-1-10; ;  
10 96-1000, eff. 7-2-10.)

11 (720 ILCS 5/11-14.1)

12 Sec. 11-14.1. Solicitation of a sexual act.

13 (a) Any person who offers a person not his or her spouse  
14 any money, property, token, object, or article or anything of  
15 value for that person or any other person not his or her spouse  
16 to perform any act of sexual penetration as defined in Section  
17 12-12 of this Code, or any touching or fondling of the sex  
18 organs of one person by another person for the purpose of  
19 sexual arousal or gratification, commits the offense of  
20 solicitation of a sexual act.

21 (b) Sentence. Solicitation of a sexual act is a Class A  
22 misdemeanor. Solicitation of a sexual act from a person who is  
23 under the age of 18 or who is severely or profoundly  
24 intellectually disabled ~~mentally retarded~~ is a Class 4 felony.

25 (b-5) It is an affirmative defense to a charge of



1 solicitation of a sexual act with a person who is under the age  
2 of 18 or who is severely or profoundly intellectually disabled  
3 ~~mentally retarded~~ that the accused reasonably believed the  
4 person was of the age of 18 years or over or was not a severely  
5 or profoundly intellectually disabled ~~mentally retarded~~ person  
6 at the time of the act giving rise to the charge.

7 (Source: P.A. 96-1464, eff. 8-20-10.)

8 (720 ILCS 5/11-15.1) (from Ch. 38, par. 11-15.1)

9 Sec. 11-15.1. Soliciting for a minor engaged in  
10 prostitution.

11 (a) Any person who violates any of the provisions of  
12 Section 11-15(a) of this Act commits soliciting for a minor  
13 engaged in prostitution where the person for whom such person  
14 is soliciting is under 18 years of age or is a severely or  
15 profoundly intellectually disabled ~~mentally retarded~~ person.

16 (b) It is an affirmative defense to a charge of soliciting  
17 for a minor engaged in prostitution that the accused reasonably  
18 believed the person was of the age of 18 years or over or was  
19 not a severely or profoundly intellectually disabled ~~mentally~~  
20 ~~retarded~~ person at the time of the act giving rise to the  
21 charge.

22 (c) Sentence.

23 Soliciting for a minor engaged in prostitution is a Class 1  
24 felony. A person convicted of a second or subsequent violation  
25 of this Section, or of any combination of such number of

1 convictions under this Section and Sections 11-14, 11-14.1,  
2 11-15, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,  
3 or 11-19.2 of this Code, is guilty of a Class X felony. The  
4 fact of such prior conviction is not an element of the offense  
5 and may not be disclosed to the jury during trial unless  
6 otherwise permitted by issues properly raised during the trial.

7 (c-5) A person who violates this Section within 1,000 feet  
8 of real property comprising a school commits a Class X felony.

9 (Source: P.A. 95-95, eff. 1-1-08; 96-1464, eff. 8-20-10.)

10 (720 ILCS 5/11-17.1) (from Ch. 38, par. 11-17.1)

11 Sec. 11-17.1. Keeping a Place of Juvenile Prostitution.

12 (a) Any person who knowingly violates any of the provisions  
13 of Section 11-17 of this Act commits keeping a place of  
14 juvenile prostitution when any person engaged in prostitution  
15 in the place of prostitution is under 18 years of age or is a  
16 severely or profoundly intellectually disabled ~~mentally~~  
17 ~~retarded~~ person.

18 (b) If the accused did not have a reasonable opportunity to  
19 observe the person, it is an affirmative defense to a charge of  
20 keeping a place of juvenile prostitution that the accused  
21 reasonably believed the person was of the age of 18 years or  
22 over or was not a severely or profoundly intellectually  
23 disabled ~~mentally-retarded~~ person at the time of the act giving  
24 rise to the charge.

25 (c) Sentence. Keeping a place of juvenile prostitution is a

1 Class 1 felony. A person convicted of a second or subsequent  
2 violation of this Section, or of any combination of such number  
3 of convictions under this Section and Sections 11-14, 11-14.1,  
4 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1,  
5 or 11-19.2 of this Code, is guilty of a Class X felony.

6 (d) Forfeiture. Any person convicted under this Section is  
7 subject to the property forfeiture provisions set forth in  
8 Article 124B of the Code of Criminal Procedure of 1963.

9 (Source: P.A. 95-95, eff. 1-1-08; 96-712, eff. 1-1-10; 96-1464,  
10 eff. 8-20-10.)

11 (720 ILCS 5/11-18.1) (from Ch. 38, par. 11-18.1)

12 Sec. 11-18.1. Patronizing a minor engaged in prostitution.

13 (a) Any person who engages in an act of sexual penetration  
14 as defined in Section 12-12 of this Code with a person engaged  
15 in prostitution who is under 18 years of age or is a severely  
16 or profoundly intellectually disabled ~~mentally retarded~~ person  
17 commits the offense of patronizing a minor engaged in  
18 prostitution.

19 (b) It is an affirmative defense to the charge of  
20 patronizing a minor engaged in prostitution that the accused  
21 reasonably believed that the person was of the age of 18 years  
22 or over or was not a severely or profoundly intellectually  
23 disabled ~~mentally retarded~~ person at the time of the act giving  
24 rise to the charge.

25 (c) Sentence. A person who commits patronizing a juvenile

1 prostitute is guilty of a Class 3 felony. A person convicted of  
2 a second or subsequent violation of this Section, or of any  
3 combination of such number of convictions under this Section  
4 and Sections 11-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17,  
5 11-17.1, 11-18, 11-19, 11-19.1, or 11-19.2 of this Code, is  
6 guilty of a Class 2 felony. The fact of such conviction is not  
7 an element of the offense and may not be disclosed to the jury  
8 during trial unless otherwise permitted by issues properly  
9 raised during such trial. A person who violates this Section  
10 within 1,000 feet of real property comprising a school commits  
11 a Class 2 felony.

12 (Source: P.A. 96-1464, eff. 8-20-10.)

13 (720 ILCS 5/11-19.1) (from Ch. 38, par. 11-19.1)

14 Sec. 11-19.1. Juvenile Pimping and aggravated juvenile  
15 pimping.

16 (a) A person commits the offense of juvenile pimping if the  
17 person knowingly receives any form of consideration derived  
18 from the practice of prostitution, in whole or in part, and

19 (1) the prostituted person was under the age of 18 at  
20 the time the act of prostitution occurred; or

21 (2) the prostitute was a severely or profoundly  
22 intellectually disabled ~~mentally retarded~~ person at the  
23 time the act of prostitution occurred.

24 (b) A person commits the offense of aggravated juvenile  
25 pimping if the person knowingly receives any form of

1 consideration derived from the practice of prostitution, in  
2 whole or in part, and the prostituted person was under the age  
3 of 13 at the time the act of prostitution occurred.

4 (c) If the accused did not have a reasonable opportunity to  
5 observe the prostituted person, it is an affirmative defense to  
6 a charge of juvenile pimping that the accused reasonably  
7 believed the person was of the age of 18 years or over or was  
8 not a severely or profoundly intellectually disabled ~~mentally~~  
9 ~~retarded~~ person at the time of the act giving rise to the  
10 charge.

11 (d) Sentence.

12 A person who commits a violation of subsection (a) is  
13 guilty of a Class 1 felony. A person convicted of a second or  
14 subsequent violation of this Section, or of any combination of  
15 such number of convictions under this Section and Sections  
16 11-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18,  
17 11-18.1, 11-19, or 11-19.2 of this Code, is guilty of a Class X  
18 felony. A person who commits a violation of subsection (b) is  
19 guilty of a Class X felony.

20 (e) For the purposes of this Section, "prostituted person"  
21 means any person who engages in, or agrees or offers to engage  
22 in, any act of sexual penetration as defined in Section 12-12  
23 of this Code for any money, property, token, object, or article  
24 or anything of value, or any touching or fondling of the sex  
25 organs of one person by another person, for any money,  
26 property, token, object, or article or anything of value, for

1 the purpose of sexual arousal or gratification.

2 (Source: P.A. 95-95, eff. 1-1-08; 96-1464, eff. 8-20-10.)

3 (720 ILCS 5/11-19.2) (from Ch. 38, par. 11-19.2)

4 Sec. 11-19.2. Exploitation of a child.

5 (A) A person commits exploitation of a child when he or she  
6 confines a child under the age of 18 or a severely or  
7 profoundly intellectually disabled ~~mentally retarded~~ person  
8 against his or her will by the infliction or threat of imminent  
9 infliction of great bodily harm, permanent disability or  
10 disfigurement or by administering to the child or severely or  
11 profoundly intellectually disabled ~~mentally retarded~~ person  
12 without his or her consent or by threat or deception and for  
13 other than medical purposes, any alcoholic intoxicant or a drug  
14 as defined in the Illinois Controlled Substances Act or the  
15 Cannabis Control Act or methamphetamine as defined in the  
16 Methamphetamine Control and Community Protection Act and:

17 (1) compels the child or severely or profoundly  
18 intellectually disabled ~~mentally retarded~~ person to engage  
19 in prostitution; or

20 (2) arranges a situation in which the child or severely  
21 or profoundly intellectually disabled ~~mentally retarded~~  
22 person may practice prostitution; or

23 (3) receives any money, property, token, object, or  
24 article or anything of value from the child or severely or  
25 profoundly intellectually disabled ~~mentally retarded~~

1 person knowing it was obtained in whole or in part from the  
2 practice of prostitution.

3 (B) For purposes of this Section, administering drugs, as  
4 defined in subsection (A), or an alcoholic intoxicant to a  
5 child under the age of 13 or a severely or profoundly  
6 intellectually disabled ~~mentally-retarded~~ person shall be  
7 deemed to be without consent if such administering is done  
8 without the consent of the parents or legal guardian or if such  
9 administering is performed by the parents or legal guardians  
10 for other than medical purposes.

11 (C) Exploitation of a child is a Class X felony, for which  
12 the person shall be sentenced to a term of imprisonment of not  
13 less than 6 years and not more than 60 years.

14 (D) Any person convicted under this Section is subject to  
15 the property forfeiture provisions set forth in Article 124B of  
16 the Code of Criminal Procedure of 1963.

17 (Source: P.A. 95-640, eff. 6-1-08; 96-712, eff. 1-1-10;  
18 96-1464, eff. 8-20-10.)

19 (720 ILCS 5/11-20.1) (from Ch. 38, par. 11-20.1)

20 Sec. 11-20.1. Child pornography.

21 (a) A person commits the offense of child pornography who:

22 (1) films, videotapes, photographs, or otherwise  
23 depicts or portrays by means of any similar visual medium  
24 or reproduction or depicts by computer any child whom he  
25 knows or reasonably should know to be under the age of 18

1 or any severely or profoundly intellectually disabled  
2 ~~mentally retarded~~ person where such child or severely or  
3 profoundly intellectually disabled ~~mentally retarded~~  
4 person is:

5 (i) actually or by simulation engaged in any act of  
6 sexual penetration or sexual conduct with any person or  
7 animal; or

8 (ii) actually or by simulation engaged in any act  
9 of sexual penetration or sexual conduct involving the  
10 sex organs of the child or severely or profoundly  
11 intellectually disabled ~~mentally retarded~~ person and  
12 the mouth, anus, or sex organs of another person or  
13 animal; or which involves the mouth, anus or sex organs  
14 of the child or severely or profoundly intellectually  
15 disabled ~~mentally retarded~~ person and the sex organs of  
16 another person or animal; or

17 (iii) actually or by simulation engaged in any act  
18 of masturbation; or

19 (iv) actually or by simulation portrayed as being  
20 the object of, or otherwise engaged in, any act of lewd  
21 fondling, touching, or caressing involving another  
22 person or animal; or

23 (v) actually or by simulation engaged in any act of  
24 excretion or urination within a sexual context; or

25 (vi) actually or by simulation portrayed or  
26 depicted as bound, fettered, or subject to sadistic,



1 masochistic, or sadomasochistic abuse in any sexual  
2 context; or

3 (vii) depicted or portrayed in any pose, posture or  
4 setting involving a lewd exhibition of the unclothed or  
5 transparently clothed genitals, pubic area, buttocks,  
6 or, if such person is female, a fully or partially  
7 developed breast of the child or other person; or

8 (2) with the knowledge of the nature or content  
9 thereof, reproduces, disseminates, offers to disseminate,  
10 exhibits or possesses with intent to disseminate any film,  
11 videotape, photograph or other similar visual reproduction  
12 or depiction by computer of any child or severely or  
13 profoundly intellectually disabled ~~mentally-retarded~~  
14 person whom the person knows or reasonably should know to  
15 be under the age of 18 or to be a severely or profoundly  
16 intellectually disabled ~~mentally-retarded~~ person, engaged  
17 in any activity described in subparagraphs (i) through  
18 (vii) of paragraph (1) of this subsection; or

19 (3) with knowledge of the subject matter or theme  
20 thereof, produces any stage play, live performance, film,  
21 videotape or other similar visual portrayal or depiction by  
22 computer which includes a child whom the person knows or  
23 reasonably should know to be under the age of 18 or a  
24 severely or profoundly intellectually disabled ~~mentally~~  
25 ~~retarded~~ person engaged in any activity described in  
26 subparagraphs (i) through (vii) of paragraph (1) of this

1 subsection; or

2 (4) solicits, uses, persuades, induces, entices, or  
3 coerces any child whom he knows or reasonably should know  
4 to be under the age of 18 or a severely or profoundly  
5 intellectually disabled ~~mentally retarded~~ person to appear  
6 in any stage play, live presentation, film, videotape,  
7 photograph or other similar visual reproduction or  
8 depiction by computer in which the child or severely or  
9 profoundly intellectually disabled ~~mentally retarded~~  
10 person is or will be depicted, actually or by simulation,  
11 in any act, pose or setting described in subparagraphs (i)  
12 through (vii) of paragraph (1) of this subsection; or

13 (5) is a parent, step-parent, legal guardian or other  
14 person having care or custody of a child whom the person  
15 knows or reasonably should know to be under the age of 18  
16 or a severely or profoundly intellectually disabled  
17 ~~mentally retarded~~ person and who knowingly permits,  
18 induces, promotes, or arranges for such child or severely  
19 or profoundly intellectually disabled ~~mentally retarded~~  
20 person to appear in any stage play, live performance, film,  
21 videotape, photograph or other similar visual  
22 presentation, portrayal or simulation or depiction by  
23 computer of any act or activity described in subparagraphs  
24 (i) through (vii) of paragraph (1) of this subsection; or

25 (6) with knowledge of the nature or content thereof,  
26 possesses any film, videotape, photograph or other similar

1 visual reproduction or depiction by computer of any child  
2 or severely or profoundly intellectually disabled ~~mentally~~  
3 ~~retarded~~ person whom the person knows or reasonably should  
4 know to be under the age of 18 or to be a severely or  
5 profoundly intellectually disabled ~~mentally—retarded~~  
6 person, engaged in any activity described in subparagraphs  
7 (i) through (vii) of paragraph (1) of this subsection; or

8 (7) solicits, uses, persuades, induces, entices, or  
9 coerces a person to provide a child under the age of 18 or  
10 a severely or profoundly intellectually disabled ~~mentally~~  
11 ~~retarded~~ person to appear in any videotape, photograph,  
12 film, stage play, live presentation, or other similar  
13 visual reproduction or depiction by computer in which the  
14 child or severely or profoundly intellectually disabled  
15 ~~mentally—retarded~~ person will be depicted, actually or by  
16 simulation, in any act, pose, or setting described in  
17 subparagraphs (i) through (vii) of paragraph (1) of this  
18 subsection.

19 (b) (1) It shall be an affirmative defense to a charge of  
20 child pornography that the defendant reasonably believed,  
21 under all of the circumstances, that the child was 18 years  
22 of age or older or that the person was not a severely or  
23 profoundly intellectually disabled ~~mentally—retarded~~  
24 person but only where, prior to the act or acts giving rise  
25 to a prosecution under this Section, he took some  
26 affirmative action or made a bonafide inquiry designed to

1           ascertain whether the child was 18 years of age or older or  
2           that the person was not a severely or profoundly  
3           intellectually disabled ~~mentally retarded~~ person and his  
4           reliance upon the information so obtained was clearly  
5           reasonable.

6           (2) (Blank).

7           (3) The charge of child pornography shall not apply to  
8           the performance of official duties by law enforcement or  
9           prosecuting officers or persons employed by law  
10          enforcement or prosecuting agencies, court personnel or  
11          attorneys, nor to bonafide treatment or professional  
12          education programs conducted by licensed physicians,  
13          psychologists or social workers.

14          (4) Possession by the defendant of more than one of the  
15          same film, videotape or visual reproduction or depiction by  
16          computer in which child pornography is depicted shall raise  
17          a rebuttable presumption that the defendant possessed such  
18          materials with the intent to disseminate them.

19          (5) The charge of child pornography does not apply to a  
20          person who does not voluntarily possess a film, videotape,  
21          or visual reproduction or depiction by computer in which  
22          child pornography is depicted. Possession is voluntary if  
23          the defendant knowingly procures or receives a film,  
24          videotape, or visual reproduction or depiction for a  
25          sufficient time to be able to terminate his or her  
26          possession.

1           (6) Any violation of paragraph (1), (2), (3), (4), (5),  
2           or (7) of subsection (a) that includes a child engaged in,  
3           solicited for, depicted in, or posed in any act of sexual  
4           penetration or bound, fettered, or subject to sadistic,  
5           masochistic, or sadomasochistic abuse in a sexual context  
6           shall be deemed a crime of violence.

7           (c) Violation of paragraph (1), (4), (5), or (7) of  
8           subsection (a) is a Class 1 felony with a mandatory minimum  
9           fine of \$2,000 and a maximum fine of \$100,000. Violation of  
10          paragraph (3) of subsection (a) is a Class 1 felony with a  
11          mandatory minimum fine of \$1500 and a maximum fine of \$100,000.  
12          Violation of paragraph (2) of subsection (a) is a Class 1  
13          felony with a mandatory minimum fine of \$1000 and a maximum  
14          fine of \$100,000. Violation of paragraph (6) of subsection (a)  
15          is a Class 3 felony with a mandatory minimum fine of \$1000 and  
16          a maximum fine of \$100,000.

17          (d) If a person is convicted of a second or subsequent  
18          violation of this Section within 10 years of a prior  
19          conviction, the court shall order a presentence psychiatric  
20          examination of the person. The examiner shall report to the  
21          court whether treatment of the person is necessary.

22          (e) Any film, videotape, photograph or other similar visual  
23          reproduction or depiction by computer which includes a child  
24          under the age of 18 or a severely or profoundly intellectually  
25          disabled ~~mentally retarded~~ person engaged in any activity  
26          described in subparagraphs (i) through (vii) or paragraph 1 of

1 subsection (a), and any material or equipment used or intended  
2 for use in photographing, filming, printing, producing,  
3 reproducing, manufacturing, projecting, exhibiting, depiction  
4 by computer, or disseminating such material shall be seized and  
5 forfeited in the manner, method and procedure provided by  
6 Section 36-1 of this Code for the seizure and forfeiture of  
7 vessels, vehicles and aircraft.

8 In addition, any person convicted under this Section is  
9 subject to the property forfeiture provisions set forth in  
10 Article 124B of the Code of Criminal Procedure of 1963.

11 (e-5) Upon the conclusion of a case brought under this  
12 Section, the court shall seal all evidence depicting a victim  
13 or witness that is sexually explicit. The evidence may be  
14 unsealed and viewed, on a motion of the party seeking to unseal  
15 and view the evidence, only for good cause shown and in the  
16 discretion of the court. The motion must expressly set forth  
17 the purpose for viewing the material. The State's attorney and  
18 the victim, if possible, shall be provided reasonable notice of  
19 the hearing on the motion to unseal the evidence. Any person  
20 entitled to notice of a hearing under this subsection (e-5) may  
21 object to the motion.

22 (f) Definitions. For the purposes of this Section:

23 (1) "Disseminate" means (i) to sell, distribute,  
24 exchange or transfer possession, whether with or without  
25 consideration or (ii) to make a depiction by computer  
26 available for distribution or downloading through the

1 facilities of any telecommunications network or through  
2 any other means of transferring computer programs or data  
3 to a computer.

4 (2) "Produce" means to direct, promote, advertise,  
5 publish, manufacture, issue, present or show.

6 (3) "Reproduce" means to make a duplication or copy.

7 (4) "Depict by computer" means to generate or create,  
8 or cause to be created or generated, a computer program or  
9 data that, after being processed by a computer either alone  
10 or in conjunction with one or more computer programs,  
11 results in a visual depiction on a computer monitor,  
12 screen, or display.

13 (5) "Depiction by computer" means a computer program or  
14 data that, after being processed by a computer either alone  
15 or in conjunction with one or more computer programs,  
16 results in a visual depiction on a computer monitor,  
17 screen, or display.

18 (6) "Computer", "computer program", and "data" have  
19 the meanings ascribed to them in Section 16D-2 of this  
20 Code.

21 (7) "Child" includes a film, videotape, photograph, or  
22 other similar visual medium or reproduction or depiction by  
23 computer that is, or appears to be, that of a person,  
24 either in part, or in total, under the age of 18,  
25 regardless of the method by which the film, videotape,  
26 photograph, or other similar visual medium or reproduction

1 or depiction by computer is created, adopted, or modified  
2 to appear as such. "Child" also includes a film, videotape,  
3 photograph, or other similar visual medium or reproduction  
4 or depiction by computer that is advertised, promoted,  
5 presented, described, or distributed in such a manner that  
6 conveys the impression that the film, videotape,  
7 photograph, or other similar visual medium or reproduction  
8 or depiction by computer is of a person under the age of  
9 18.

10 (8) "Sexual penetration" and "sexual conduct" have the  
11 meanings ascribed to them in Section 12-12 of this Code.

12 (g) Re-enactment; findings; purposes.

13 (1) The General Assembly finds and declares that:

14 (i) Section 50-5 of Public Act 88-680, effective  
15 January 1, 1995, contained provisions amending the  
16 child pornography statute, Section 11-20.1 of the  
17 Criminal Code of 1961. Section 50-5 also contained  
18 other provisions.

19 (ii) In addition, Public Act 88-680 was entitled  
20 "AN ACT to create a Safe Neighborhoods Law". (A)  
21 Article 5 was entitled JUVENILE JUSTICE and amended the  
22 Juvenile Court Act of 1987. (B) Article 15 was entitled  
23 GANGS and amended various provisions of the Criminal  
24 Code of 1961 and the Unified Code of Corrections. (C)  
25 Article 20 was entitled ALCOHOL ABUSE and amended  
26 various provisions of the Illinois Vehicle Code. (D)



1 Article 25 was entitled DRUG ABUSE and amended the  
2 Cannabis Control Act and the Illinois Controlled  
3 Substances Act. (E) Article 30 was entitled FIREARMS  
4 and amended the Criminal Code of 1961 and the Code of  
5 Criminal Procedure of 1963. (F) Article 35 amended the  
6 Criminal Code of 1961, the Rights of Crime Victims and  
7 Witnesses Act, and the Unified Code of Corrections. (G)  
8 Article 40 amended the Criminal Code of 1961 to  
9 increase the penalty for compelling organization  
10 membership of persons. (H) Article 45 created the  
11 Secure Residential Youth Care Facility Licensing Act  
12 and amended the State Finance Act, the Juvenile Court  
13 Act of 1987, the Unified Code of Corrections, and the  
14 Private Correctional Facility Moratorium Act. (I)  
15 Article 50 amended the WIC Vendor Management Act, the  
16 Firearm Owners Identification Card Act, the Juvenile  
17 Court Act of 1987, the Criminal Code of 1961, the  
18 Wrongs to Children Act, and the Unified Code of  
19 Corrections.

20 (iii) On September 22, 1998, the Third District  
21 Appellate Court in *People v. Dainty*, 701 N.E. 2d 118,  
22 ruled that Public Act 88-680 violates the single  
23 subject clause of the Illinois Constitution (Article  
24 IV, Section 8 (d)) and was unconstitutional in its  
25 entirety. As of the time this amendatory Act of 1999  
26 was prepared, *People v. Dainty* was still subject to

1           appeal.

2           (iv) Child pornography is a vital concern to the  
3           people of this State and the validity of future  
4           prosecutions under the child pornography statute of  
5           the Criminal Code of 1961 is in grave doubt.

6           (2) It is the purpose of this amendatory Act of 1999 to  
7           prevent or minimize any problems relating to prosecutions  
8           for child pornography that may result from challenges to  
9           the constitutional validity of Public Act 88-680 by  
10          re-enacting the Section relating to child pornography that  
11          was included in Public Act 88-680.

12          (3) This amendatory Act of 1999 re-enacts Section  
13          11-20.1 of the Criminal Code of 1961, as it has been  
14          amended. This re-enactment is intended to remove any  
15          question as to the validity or content of that Section; it  
16          is not intended to supersede any other Public Act that  
17          amends the text of the Section as set forth in this  
18          amendatory Act of 1999. The material is shown as existing  
19          text (i.e., without underscoring) because, as of the time  
20          this amendatory Act of 1999 was prepared, *People v. Dainty*  
21          was subject to appeal to the Illinois Supreme Court.

22          (4) The re-enactment by this amendatory Act of 1999 of  
23          Section 11-20.1 of the Criminal Code of 1961 relating to  
24          child pornography that was amended by Public Act 88-680 is  
25          not intended, and shall not be construed, to imply that  
26          Public Act 88-680 is invalid or to limit or impair any

1 legal argument concerning whether those provisions were  
2 substantially re-enacted by other Public Acts.

3 (Source: P.A. ; 96-292, eff. 1-1-10; 96-712, eff. 1-1-10;  
4 96-1000, eff. 7-2-10.)

5 (720 ILCS 5/11-20.3)

6 Sec. 11-20.3. Aggravated child pornography.

7 (a) A person commits the offense of aggravated child  
8 pornography who:

9 (1) films, videotapes, photographs, or otherwise  
10 depicts or portrays by means of any similar visual medium  
11 or reproduction or depicts by computer any child whom he or  
12 she knows or reasonably should know to be under the age of  
13 13 years where such child is:

14 (i) actually or by simulation engaged in any act of  
15 sexual penetration or sexual conduct with any person or  
16 animal; or

17 (ii) actually or by simulation engaged in any act  
18 of sexual penetration or sexual conduct involving the  
19 sex organs of the child and the mouth, anus, or sex  
20 organs of another person or animal; or which involves  
21 the mouth, anus or sex organs of the child and the sex  
22 organs of another person or animal; or

23 (iii) actually or by simulation engaged in any act  
24 of masturbation; or

25 (iv) actually or by simulation portrayed as being

1           the object of, or otherwise engaged in, any act of lewd  
2           fondling, touching, or caressing involving another  
3           person or animal; or

4                   (v) actually or by simulation engaged in any act of  
5           excretion or urination within a sexual context; or

6                   (vi) actually or by simulation portrayed or  
7           depicted as bound, fettered, or subject to sadistic,  
8           masochistic, or sadomasochistic abuse in any sexual  
9           context; or

10                   (vii) depicted or portrayed in any pose, posture or  
11           setting involving a lewd exhibition of the unclothed or  
12           transparently clothed genitals, pubic area, buttocks,  
13           or, if such person is female, a fully or partially  
14           developed breast of the child or other person; or

15           (2) with the knowledge of the nature or content  
16           thereof, reproduces, disseminates, offers to disseminate,  
17           exhibits or possesses with intent to disseminate any film,  
18           videotape, photograph or other similar visual reproduction  
19           or depiction by computer of any child whom the person knows  
20           or reasonably should know to be under the age of 13 engaged  
21           in any activity described in subparagraphs (i) through  
22           (vii) of paragraph (1) of this subsection; or

23           (3) with knowledge of the subject matter or theme  
24           thereof, produces any stage play, live performance, film,  
25           videotape or other similar visual portrayal or depiction by  
26           computer which includes a child whom the person knows or

1 reasonably should know to be under the age of 13 engaged in  
2 any activity described in subparagraphs (i) through (vii)  
3 of paragraph (1) of this subsection; or

4 (4) solicits, uses, persuades, induces, entices, or  
5 coerces any child whom he or she knows or reasonably should  
6 know to be under the age of 13 to appear in any stage play,  
7 live presentation, film, videotape, photograph or other  
8 similar visual reproduction or depiction by computer in  
9 which the child or severely or profoundly intellectually  
10 disabled ~~mentally retarded~~ person is or will be depicted,  
11 actually or by simulation, in any act, pose or setting  
12 described in subparagraphs (i) through (vii) of paragraph  
13 (1) of this subsection; or

14 (5) is a parent, step-parent, legal guardian or other  
15 person having care or custody of a child whom the person  
16 knows or reasonably should know to be under the age of 13  
17 and who knowingly permits, induces, promotes, or arranges  
18 for such child to appear in any stage play, live  
19 performance, film, videotape, photograph or other similar  
20 visual presentation, portrayal or simulation or depiction  
21 by computer of any act or activity described in  
22 subparagraphs (i) through (vii) of paragraph (1) of this  
23 subsection; or

24 (6) with knowledge of the nature or content thereof,  
25 possesses any film, videotape, photograph or other similar  
26 visual reproduction or depiction by computer of any child

1           whom the person knows or reasonably should know to be under  
2           the age of 13 engaged in any activity described in  
3           subparagraphs (i) through (vii) of paragraph (1) of this  
4           subsection; or

5           (7) solicits, or knowingly uses, persuades, induces,  
6           entices, or coerces a person to provide a child under the  
7           age of 13 to appear in any videotape, photograph, film,  
8           stage play, live presentation, or other similar visual  
9           reproduction or depiction by computer in which the child  
10          will be depicted, actually or by simulation, in any act,  
11          pose, or setting described in subparagraphs (i) through  
12          (vii) of paragraph (1) of this subsection.

13          (b)(1) It shall be an affirmative defense to a charge of  
14          aggravated child pornography that the defendant reasonably  
15          believed, under all of the circumstances, that the child was 13  
16          years of age or older, but only where, prior to the act or acts  
17          giving rise to a prosecution under this Section, he or she took  
18          some affirmative action or made a bonafide inquiry designed to  
19          ascertain whether the child was 13 years of age or older and  
20          his or her reliance upon the information so obtained was  
21          clearly reasonable.

22          (2) The charge of aggravated child pornography shall not  
23          apply to the performance of official duties by law enforcement  
24          or prosecuting officers or persons employed by law enforcement  
25          or prosecuting agencies, court personnel or attorneys, nor to  
26          bonafide treatment or professional education programs

1 conducted by licensed physicians, psychologists or social  
2 workers.

3 (3) If the defendant possessed more than 3 of the same  
4 film, videotape or visual reproduction or depiction by computer  
5 in which aggravated child pornography is depicted, then the  
6 trier of fact may infer that the defendant possessed such  
7 materials with the intent to disseminate them.

8 (4) The charge of aggravated child pornography does not  
9 apply to a person who does not voluntarily possess a film,  
10 videotape, or visual reproduction or depiction by computer in  
11 which aggravated child pornography is depicted. Possession is  
12 voluntary if the defendant knowingly procures or receives a  
13 film, videotape, or visual reproduction or depiction for a  
14 sufficient time to be able to terminate his or her possession.

15 (5) Any violation of paragraph (1), (2), (3), (4), (5), or  
16 (7) of subsection (a) that includes a child engaged in,  
17 solicited for, depicted in, or posed in any act of sexual  
18 penetration or bound, fettered, or subject to sadistic,  
19 masochistic, or sadomasochistic abuse in a sexual context shall  
20 be deemed a crime of violence.

21 (c) Sentence: (1) A person who commits a violation of  
22 paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) is  
23 guilty of a Class X felony with a mandatory minimum fine of  
24 \$2,000 and a maximum fine of \$100,000.

25 (2) A person who commits a violation of paragraph (6) of  
26 subsection (a) is guilty of a Class 2 felony with a mandatory

1 minimum fine of \$1000 and a maximum fine of \$100,000.

2 (3) A person who commits a violation of paragraph (1), (2),  
3 (3), (4), (5), or (7) of subsection (a) where the defendant has  
4 previously been convicted under the laws of this State or any  
5 other state of the offense of child pornography, aggravated  
6 child pornography, aggravated criminal sexual abuse,  
7 aggravated criminal sexual assault, predatory criminal sexual  
8 assault of a child, or any of the offenses formerly known as  
9 rape, deviate sexual assault, indecent liberties with a child,  
10 or aggravated indecent liberties with a child where the victim  
11 was under the age of 18 years or an offense that is  
12 substantially equivalent to those offenses, is guilty of a  
13 Class X felony for which the person shall be sentenced to a  
14 term of imprisonment of not less than 9 years with a mandatory  
15 minimum fine of \$2,000 and a maximum fine of \$100,000.

16 (4) A person who commits a violation of paragraph (6) of  
17 subsection (a) where the defendant has previously been  
18 convicted under the laws of this State or any other state of  
19 the offense of child pornography, aggravated child  
20 pornography, aggravated criminal sexual abuse, aggravated  
21 criminal sexual assault, predatory criminal sexual assault of a  
22 child, or any of the offenses formerly known as rape, deviate  
23 sexual assault, indecent liberties with a child, or aggravated  
24 indecent liberties with a child where the victim was under the  
25 age of 18 years or an offense that is substantially equivalent  
26 to those offenses, is guilty of a Class 1 felony with a



1 mandatory minimum fine of \$1000 and a maximum fine of \$100,000.

2 (d) If a person is convicted of a second or subsequent  
3 violation of this Section within 10 years of a prior  
4 conviction, the court shall order a presentence psychiatric  
5 examination of the person. The examiner shall report to the  
6 court whether treatment of the person is necessary.

7 (e) Any film, videotape, photograph or other similar visual  
8 reproduction or depiction by computer which includes a child  
9 under the age of 13 engaged in any activity described in  
10 subparagraphs (i) through (vii) of paragraph (1) of subsection  
11 (a), and any material or equipment used or intended for use in  
12 photographing, filming, printing, producing, reproducing,  
13 manufacturing, projecting, exhibiting, depiction by computer,  
14 or disseminating such material shall be seized and forfeited in  
15 the manner, method and procedure provided by Section 36-1 of  
16 this Code for the seizure and forfeiture of vessels, vehicles  
17 and aircraft.

18 In addition, any person convicted under this Section is  
19 subject to the property forfeiture provisions set forth in  
20 Article 124B of the Code of Criminal Procedure of 1963.

21 (e-5) Upon the conclusion of a case brought under this  
22 Section, the court shall seal all evidence depicting a victim  
23 or witness that is sexually explicit. The evidence may be  
24 unsealed and viewed, on a motion of the party seeking to unseal  
25 and view the evidence, only for good cause shown and in the  
26 discretion of the court. The motion must expressly set forth

1 the purpose for viewing the material. The State's attorney and  
2 the victim, if possible, shall be provided reasonable notice of  
3 the hearing on the motion to unseal the evidence. Any person  
4 entitled to notice of a hearing under this subsection (e-5) may  
5 object to the motion.

6 (f) Definitions. For the purposes of this Section:

7 (1) "Disseminate" means (i) to sell, distribute,  
8 exchange or transfer possession, whether with or without  
9 consideration or (ii) to make a depiction by computer  
10 available for distribution or downloading through the  
11 facilities of any telecommunications network or through  
12 any other means of transferring computer programs or data  
13 to a computer.

14 (2) "Produce" means to direct, promote, advertise,  
15 publish, manufacture, issue, present or show.

16 (3) "Reproduce" means to make a duplication or copy.

17 (4) "Depict by computer" means to generate or create,  
18 or cause to be created or generated, a computer program or  
19 data that, after being processed by a computer either alone  
20 or in conjunction with one or more computer programs,  
21 results in a visual depiction on a computer monitor,  
22 screen, or display.

23 (5) "Depiction by computer" means a computer program or  
24 data that, after being processed by a computer either alone  
25 or in conjunction with one or more computer programs,  
26 results in a visual depiction on a computer monitor,

1 screen, or display.

2 (6) "Computer", "computer program", and "data" have  
3 the meanings ascribed to them in Section 16D-2 of this  
4 Code.

5 (7) For the purposes of this Section, "child" means a  
6 person, either in part or in total, under the age of 13,  
7 regardless of the method by which the film, videotape,  
8 photograph, or other similar visual medium or reproduction  
9 or depiction by computer is created, adopted, or modified  
10 to appear as such.

11 (8) "Sexual penetration" and "sexual conduct" have the  
12 meanings ascribed to them in Section 12-12 of this Code.

13 (g) When a charge of aggravated child pornography is  
14 brought, the age of the child is an element of the offense to  
15 be resolved by the trier of fact as either exceeding or not  
16 exceeding the age in question. The trier of fact can rely on  
17 its own everyday observations and common experiences in making  
18 this determination.

19 (Source: P.A. 95-579, eff. 6-1-08; 96-292, eff. 1-1-10; 96-712,  
20 eff. 1-1-10; 96-1000, eff. 7-2-10.)

21 (720 ILCS 5/12-4.3) (from Ch. 38, par. 12-4.3)

22 Sec. 12-4.3. Aggravated battery of a child.

23 (a) Any person of the age 18 years and upwards who  
24 intentionally or knowingly, and without legal justification  
25 and by any means, causes great bodily harm or permanent

1 disability or disfigurement to any child under the age of 13  
2 years or to any severely or profoundly intellectually disabled  
3 ~~mentally retarded~~ person, commits the offense of aggravated  
4 battery of a child.

5 (a-5) Any person of the age 18 years and upwards who  
6 intentionally or knowingly, and without legal justification  
7 and by any means, causes bodily harm or disability or  
8 disfigurement to any child under the age of 13 years or to any  
9 severely or profoundly intellectually disabled ~~mentally~~  
10 ~~retarded~~ person, commits the offense of aggravated battery of a  
11 child.

12 (b) Sentence.

13 (1) Aggravated battery of a child under subsection (a) of  
14 this Section is a Class X felony, except that:

15 (A) if the person committed the offense while armed  
16 with a firearm, 15 years shall be added to the term of  
17 imprisonment imposed by the court;

18 (B) if, during the commission of the offense, the  
19 person personally discharged a firearm, 20 years shall be  
20 added to the term of imprisonment imposed by the court;

21 (C) if, during the commission of the offense, the  
22 person personally discharged a firearm that proximately  
23 caused great bodily harm, permanent disability, permanent  
24 disfigurement, or death to another person, 25 years or up  
25 to a term of natural life shall be added to the term of  
26 imprisonment imposed by the court.

1           (2) Aggravated battery of a child under subsection (a-5) of  
2 this Section is a Class 3 felony.

3           (Source: P.A. 95-768, eff. 1-1-09.)

4           (720 ILCS 5/12-14) (from Ch. 38, par. 12-14)

5           Sec. 12-14. Aggravated Criminal Sexual Assault.

6           (a) The accused commits aggravated criminal sexual assault  
7 if he or she commits criminal sexual assault and any of the  
8 following aggravating circumstances existed during, or for the  
9 purposes of paragraph (7) of this subsection (a) as part of the  
10 same course of conduct as, the commission of the offense:

11           (1) the accused displayed, threatened to use, or used a  
12 dangerous weapon, other than a firearm, or any object  
13 fashioned or utilized in such a manner as to lead the  
14 victim under the circumstances reasonably to believe it to  
15 be a dangerous weapon; or

16           (2) the accused caused bodily harm, except as provided  
17 in subsection (a)(10), to the victim; or

18           (3) the accused acted in such a manner as to threaten  
19 or endanger the life of the victim or any other person; or

20           (4) the criminal sexual assault was perpetrated during  
21 the course of the commission or attempted commission of any  
22 other felony by the accused; or

23           (5) the victim was 60 years of age or over when the  
24 offense was committed; or

25           (6) the victim was a physically handicapped person; or

1 (7) the accused delivered (by injection, inhalation,  
2 ingestion, transfer of possession, or any other means) to  
3 the victim without his or her consent, or by threat or  
4 deception, and for other than medical purposes, any  
5 controlled substance; or

6 (8) the accused was armed with a firearm; or

7 (9) the accused personally discharged a firearm during  
8 the commission of the offense; or

9 (10) the accused, during the commission of the offense,  
10 personally discharged a firearm that proximately caused  
11 great bodily harm, permanent disability, permanent  
12 disfigurement, or death to another person.

13 (b) The accused commits aggravated criminal sexual assault  
14 if the accused was under 17 years of age and (i) commits an act  
15 of sexual penetration with a victim who was under 9 years of  
16 age when the act was committed; or (ii) commits an act of  
17 sexual penetration with a victim who was at least 9 years of  
18 age but under 13 years of age when the act was committed and  
19 the accused used force or threat of force to commit the act.

20 (c) The accused commits aggravated criminal sexual assault  
21 if he or she commits an act of sexual penetration with a victim  
22 who was a severely or profoundly intellectually disabled  
23 ~~mentally retarded~~ person at the time the act was committed.

24 (d) Sentence.

25 (1) Aggravated criminal sexual assault in violation of  
26 paragraph (2), (3), (4), (5), (6), or (7) of subsection (a)

1 or in violation of subsection (b) or (c) is a Class X  
2 felony. A violation of subsection (a)(1) is a Class X  
3 felony for which 10 years shall be added to the term of  
4 imprisonment imposed by the court. A violation of  
5 subsection (a)(8) is a Class X felony for which 15 years  
6 shall be added to the term of imprisonment imposed by the  
7 court. A violation of subsection (a)(9) is a Class X felony  
8 for which 20 years shall be added to the term of  
9 imprisonment imposed by the court. A violation of  
10 subsection (a)(10) is a Class X felony for which 25 years  
11 or up to a term of natural life imprisonment shall be added  
12 to the term of imprisonment imposed by the court.

13 (2) A person who is convicted of a second or subsequent  
14 offense of aggravated criminal sexual assault, or who is  
15 convicted of the offense of aggravated criminal sexual  
16 assault after having previously been convicted of the  
17 offense of criminal sexual assault or the offense of  
18 predatory criminal sexual assault of a child, or who is  
19 convicted of the offense of aggravated criminal sexual  
20 assault after having previously been convicted under the  
21 laws of this or any other state of an offense that is  
22 substantially equivalent to the offense of criminal sexual  
23 assault, the offense of aggravated criminal sexual assault  
24 or the offense of predatory criminal sexual assault of a  
25 child, shall be sentenced to a term of natural life  
26 imprisonment. The commission of the second or subsequent

1 offense is required to have been after the initial  
2 conviction for this paragraph (2) to apply.

3 (Source: P.A. 91-404, eff. 1-1-00; 92-434, eff. 1-1-02; 92-502,  
4 eff. 12-19-01; 92-721, eff. 1-1-03.)

5 (720 ILCS 5/12-16) (from Ch. 38, par. 12-16)  
6 Sec. 12-16. Aggravated Criminal Sexual Abuse.

7 (a) The accused commits aggravated criminal sexual abuse if  
8 he or she commits criminal sexual abuse as defined in  
9 subsection (a) of Section 12-15 of this Code and any of the  
10 following aggravating circumstances existed during, or for the  
11 purposes of paragraph (7) of this subsection (a) as part of the  
12 same course of conduct as, the commission of the offense:

13 (1) the accused displayed, threatened to use or used a  
14 dangerous weapon or any object fashioned or utilized in  
15 such a manner as to lead the victim under the circumstances  
16 reasonably to believe it to be a dangerous weapon; or

17 (2) the accused caused bodily harm to the victim; or

18 (3) the victim was 60 years of age or over when the  
19 offense was committed; or

20 (4) the victim was a physically handicapped person; or

21 (5) the accused acted in such a manner as to threaten  
22 or endanger the life of the victim or any other person; or

23 (6) the criminal sexual abuse was perpetrated during  
24 the course of the commission or attempted commission of any  
25 other felony by the accused; or



1           (7) the accused delivered (by injection, inhalation,  
2           ingestion, transfer of possession, or any other means) to  
3           the victim without his or her consent, or by threat or  
4           deception, and for other than medical purposes, any  
5           controlled substance.

6           (b) The accused commits aggravated criminal sexual abuse if  
7           he or she commits an act of sexual conduct with a victim who  
8           was under 18 years of age when the act was committed and the  
9           accused was a family member.

10          (c) The accused commits aggravated criminal sexual abuse  
11          if:

12               (1) the accused was 17 years of age or over and (i)  
13               commits an act of sexual conduct with a victim who was  
14               under 13 years of age when the act was committed; or (ii)  
15               commits an act of sexual conduct with a victim who was at  
16               least 13 years of age but under 17 years of age when the  
17               act was committed and the accused used force or threat of  
18               force to commit the act; or

19               (2) the accused was under 17 years of age and (i)  
20               commits an act of sexual conduct with a victim who was  
21               under 9 years of age when the act was committed; or (ii)  
22               commits an act of sexual conduct with a victim who was at  
23               least 9 years of age but under 17 years of age when the act  
24               was committed and the accused used force or threat of force  
25               to commit the act.

26          (d) The accused commits aggravated criminal sexual abuse if

1 he or she commits an act of sexual penetration or sexual  
2 conduct with a victim who was at least 13 years of age but  
3 under 17 years of age and the accused was at least 5 years  
4 older than the victim.

5 (e) The accused commits aggravated criminal sexual abuse if  
6 he or she commits an act of sexual conduct with a victim who  
7 was a severely or profoundly intellectually disabled ~~mentally~~  
8 ~~retarded~~ person at the time the act was committed.

9 (f) The accused commits aggravated criminal sexual abuse if  
10 he or she commits an act of sexual conduct with a victim who  
11 was at least 13 years of age but under 18 years of age when the  
12 act was committed and the accused was 17 years of age or over  
13 and held a position of trust, authority or supervision in  
14 relation to the victim.

15 (g) Sentence. Aggravated criminal sexual abuse is a Class 2  
16 felony.

17 (Source: P.A. 92-434, eff. 1-1-02.)

18 (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

19 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care  
20 Facility Resident.

21 (a) Any person or any owner or licensee of a long term care  
22 facility who abuses a long term care facility resident is  
23 guilty of a Class 3 felony. Any person or any owner or licensee  
24 of a long term care facility who criminally neglects a long  
25 term care facility resident is guilty of a Class 4 felony. A

1 person whose criminal neglect of a long term care facility  
2 resident results in the resident's death is guilty of a Class 3  
3 felony. However, nothing herein shall be deemed to apply to a  
4 physician licensed to practice medicine in all its branches or  
5 a duly licensed nurse providing care within the scope of his or  
6 her professional judgment and within the accepted standards of  
7 care within the community.

8 (b) Notwithstanding the penalties in subsections (a) and  
9 (c) and in addition thereto, if a licensee or owner of a long  
10 term care facility or his or her employee has caused neglect of  
11 a resident, the licensee or owner is guilty of a petty offense.  
12 An owner or licensee is guilty under this subsection (b) only  
13 if the owner or licensee failed to exercise reasonable care in  
14 the hiring, training, supervising or providing of staff or  
15 other related routine administrative responsibilities.

16 (c) Notwithstanding the penalties in subsections (a) and  
17 (b) and in addition thereto, if a licensee or owner of a long  
18 term care facility or his or her employee has caused gross  
19 neglect of a resident, the licensee or owner is guilty of a  
20 business offense for which a fine of not more than \$10,000 may  
21 be imposed. An owner or licensee is guilty under this  
22 subsection (c) only if the owner or licensee failed to exercise  
23 reasonable care in the hiring, training, supervising or  
24 providing of staff or other related routine administrative  
25 responsibilities.

26 (d) For the purpose of this Section:

1           (1) "Abuse" means intentionally or knowingly causing  
2 any physical or mental injury or committing any sexual  
3 offense set forth in this Code.

4           (2) "Criminal neglect" means an act whereby a person  
5 recklessly (i) performs acts that cause an elderly person's  
6 or person with a disability's life to be endangered, health  
7 to be injured, or pre-existing physical or mental condition  
8 to deteriorate or that create the substantial likelihood  
9 that an elderly person's or person with a disability's life  
10 will be endangered, health will be injured, or pre-existing  
11 physical or mental condition will deteriorate, or (ii)  
12 fails to perform acts that he or she knows or reasonably  
13 should know are necessary to maintain or preserve the life  
14 or health of an elderly person or person with a disability,  
15 and that failure causes the elderly person's or person with  
16 a disability's life to be endangered, health to be injured,  
17 or pre-existing physical or mental condition to  
18 deteriorate or that create the substantial likelihood that  
19 an elderly person's or person with a disability's life will  
20 be endangered, health will be injured, or pre-existing  
21 physical or mental condition will deteriorate, or (iii)  
22 abandons an elderly person or person with a disability.

23           (3) "Neglect" means negligently failing to provide  
24 adequate medical or personal care or maintenance, which  
25 failure results in physical or mental injury or the  
26 deterioration of a physical or mental condition.

1           (4) "Resident" means a person residing in a long term  
2           care facility.

3           (5) "Owner" means the person who owns a long term care  
4           facility as provided under the Nursing Home Care Act, a  
5           facility as provided under the ID/DD ~~MR/DD~~ Community Care  
6           Act, or an assisted living or shared housing establishment  
7           under the Assisted Living and Shared Housing Act.

8           (6) "Licensee" means the individual or entity licensed  
9           to operate a facility under the Nursing Home Care Act, the  
10          ID/DD ~~MR/DD~~ Community Care Act, or the Assisted Living and  
11          Shared Housing Act.

12          (7) "Facility" or "long term care facility" means a  
13          private home, institution, building, residence, or any  
14          other place, whether operated for profit or not, or a  
15          county home for the infirm and chronically ill operated  
16          pursuant to Division 5-21 or 5-22 of the Counties Code, or  
17          any similar institution operated by the State of Illinois  
18          or a political subdivision thereof, which provides,  
19          through its ownership or management, personal care,  
20          sheltered care or nursing for 3 or more persons not related  
21          to the owner by blood or marriage. The term also includes  
22          skilled nursing facilities and intermediate care  
23          facilities as defined in Title XVIII and Title XIX of the  
24          federal Social Security Act and assisted living  
25          establishments and shared housing establishments licensed  
26          under the Assisted Living and Shared Housing Act.

1           (e) Nothing contained in this Section shall be deemed to  
2 apply to the medical supervision, regulation or control of the  
3 remedial care or treatment of residents in a facility conducted  
4 for those who rely upon treatment by prayer or spiritual means  
5 in accordance with the creed or tenets of any well recognized  
6 church or religious denomination and which is licensed in  
7 accordance with Section 3-803 of the Nursing Home Care Act or  
8 Section 3-803 of the ID/DD ~~MR/DD~~ Community Care Act.

9           (Source: P.A. 96-339, eff. 7-1-10; 96-1373, eff. 7-29-10.)

10           (720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

11           Sec. 12-21. Criminal abuse or neglect of an elderly person  
12 or person with a disability.

13           (a) A person commits the offense of criminal abuse or  
14 neglect of an elderly person or person with a disability when  
15 he or she is a caregiver and he or she knowingly:

16                 (1) performs acts that cause the elderly person or  
17 person with a disability's life to be endangered, health to  
18 be injured, or pre-existing physical or mental condition to  
19 deteriorate; or

20                 (2) fails to perform acts that he or she knows or  
21 reasonably should know are necessary to maintain or  
22 preserve the life or health of the elderly person or person  
23 with a disability and such failure causes the elderly  
24 person or person with a disability's life to be endangered,  
25 health to be injured or pre-existing physical or mental

1 condition to deteriorate; or

2 (3) abandons the elderly person or person with a  
3 disability; or

4 (4) physically abuses, harasses, intimidates, or  
5 interferes with the personal liberty of the elderly person  
6 or person with a disability or exposes the elderly person  
7 or person with a disability to willful deprivation.

8 Criminal abuse or neglect of an elderly person or person  
9 with a disability is a Class 3 felony. Criminal neglect of an  
10 elderly person or person with a disability is a Class 2 felony  
11 if the criminal neglect results in the death of the person  
12 neglected for which the defendant, if sentenced to a term of  
13 imprisonment, shall be sentenced to a term of not less than 3  
14 years and not more than 14 years.

15 (b) For purposes of this Section:

16 (1) "Elderly person" means a person 60 years of age or  
17 older who is incapable of adequately providing for his own  
18 health and personal care.

19 (2) "Person with a disability" means a person who  
20 suffers from a permanent physical or mental impairment,  
21 resulting from disease, injury, functional disorder or  
22 congenital condition which renders such person incapable  
23 of adequately providing for his own health and personal  
24 care.

25 (3) "Caregiver" means a person who has a duty to  
26 provide for an elderly person or person with a disability's

1 health and personal care, at such person's place of  
2 residence, including but not limited to, food and  
3 nutrition, shelter, hygiene, prescribed medication and  
4 medical care and treatment.

5 "Caregiver" shall include:

6 (A) a parent, spouse, adult child or other relative  
7 by blood or marriage who resides with or resides in the  
8 same building with or regularly visits the elderly  
9 person or person with a disability, knows or reasonably  
10 should know of such person's physical or mental  
11 impairment and knows or reasonably should know that  
12 such person is unable to adequately provide for his own  
13 health and personal care;

14 (B) a person who is employed by the elderly person  
15 or person with a disability or by another to reside  
16 with or regularly visit the elderly person or person  
17 with a disability and provide for such person's health  
18 and personal care;

19 (C) a person who has agreed for consideration to  
20 reside with or regularly visit the elderly person or  
21 person with a disability and provide for such person's  
22 health and personal care; and

23 (D) a person who has been appointed by a private or  
24 public agency or by a court of competent jurisdiction  
25 to provide for the elderly person or person with a  
26 disability's health and personal care.



1           "Caregiver" shall not include a long-term care  
2           facility licensed or certified under the Nursing Home Care  
3           Act or a facility licensed or certified under the ID/DD  
4           ~~MR/DD~~ Community Care Act, or any administrative, medical or  
5           other personnel of such a facility, or a health care  
6           provider who is licensed under the Medical Practice Act of  
7           1987 and renders care in the ordinary course of his  
8           profession.

9           (4) "Abandon" means to desert or knowingly forsake an  
10          elderly person or person with a disability under  
11          circumstances in which a reasonable person would continue  
12          to provide care and custody.

13          (5) "Willful deprivation" has the meaning ascribed to  
14          it in paragraph (15) of Section 103 of the Illinois  
15          Domestic Violence Act of 1986.

16          (c) Nothing in this Section shall be construed to limit the  
17          remedies available to the victim under the Illinois Domestic  
18          Violence Act.

19          (d) Nothing in this Section shall be construed to impose  
20          criminal liability on a person who has made a good faith effort  
21          to provide for the health and personal care of an elderly  
22          person or person with a disability, but through no fault of his  
23          own has been unable to provide such care.

24          (e) Nothing in this Section shall be construed as  
25          prohibiting a person from providing treatment by spiritual  
26          means through prayer alone and care consistent therewith in

1 lieu of medical care and treatment in accordance with the  
2 tenets and practices of any church or religious denomination of  
3 which the elderly person or person with a disability is a  
4 member.

5 (f) It is not a defense to criminal abuse or neglect of an  
6 elderly person or person with a disability that the accused  
7 reasonably believed that the victim was not an elderly person  
8 or person with a disability.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 (720 ILCS 5/17-29)

11 Sec. 17-29. Businesses owned by minorities, females, and  
12 persons with disabilities; fraudulent contracts with  
13 governmental units.

14 (a) In this Section:

15 "Minority person" means a person who is: (1) African  
16 American (a person having origins in any of the black  
17 racial groups in Africa); (2) Hispanic (a person of Spanish  
18 or Portuguese culture with origins in Mexico, South or  
19 Central America, or the Caribbean Islands, regardless of  
20 race); (3) Asian American (a person having origins in any  
21 of the original peoples of the Far East, Southeast Asia,  
22 the Indian Subcontinent or the Pacific Islands); or (4)  
23 Native American or Alaskan Native (a person having origins  
24 in any of the original peoples of North America).

25 "Female" means a person who is of the female gender.

1           "Person with a disability" means a person who is a  
2 person qualifying as being disabled.

3           "Disabled" means a severe physical or mental  
4 disability that: (1) results from: amputation, arthritis,  
5 autism, blindness, burn injury, cancer, cerebral palsy,  
6 cystic fibrosis, deafness, head injury, heart disease,  
7 hemiplegia, hemophilia, respiratory or pulmonary  
8 dysfunction, an intellectual disability ~~mental~~  
9 ~~retardation~~, mental illness, multiple sclerosis, muscular  
10 dystrophy, musculoskeletal disorders, neurological  
11 disorders, including stroke and epilepsy, paraplegia,  
12 quadriplegia and other spinal cord conditions, sickle cell  
13 anemia, specific learning disabilities, or end stage renal  
14 failure disease; and (2) substantially limits one or more  
15 of the person's major life activities.

16           "Minority owned business" means a business concern  
17 that is at least 51% owned by one or more minority persons,  
18 or in the case of a corporation, at least 51% of the stock  
19 in which is owned by one or more minority persons; and the  
20 management and daily business operations of which are  
21 controlled by one or more of the minority individuals who  
22 own it.

23           "Female owned business" means a business concern that  
24 is at least 51% owned by one or more females, or, in the  
25 case of a corporation, at least 51% of the stock in which  
26 is owned by one or more females; and the management and

1           daily business operations of which are controlled by one or  
2           more of the females who own it.

3           "Business owned by a person with a disability" means a  
4           business concern that is at least 51% owned by one or more  
5           persons with a disability and the management and daily  
6           business operations of which are controlled by one or more  
7           of the persons with disabilities who own it. A  
8           not-for-profit agency for persons with disabilities that  
9           is exempt from taxation under Section 501 of the Internal  
10          Revenue Code of 1986 is also considered a "business owned  
11          by a person with a disability".

12          "Governmental unit" means the State, a unit of local  
13          government, or school district.

14          (b) In addition to any other penalties imposed by law or by  
15          an ordinance or resolution of a unit of local government or  
16          school district, any individual or entity that knowingly  
17          obtains, or knowingly assists another to obtain, a contract  
18          with a governmental unit, or a subcontract or written  
19          commitment for a subcontract under a contract with a  
20          governmental unit, by falsely representing that the individual  
21          or entity, or the individual or entity assisted, is a minority  
22          owned business, female owned business, or business owned by a  
23          person with a disability is guilty of a Class 2 felony,  
24          regardless of whether the preference for awarding the contract  
25          to a minority owned business, female owned business, or  
26          business owned by a person with a disability was established by

1 statute or by local ordinance or resolution.

2 (c) In addition to any other penalties authorized by law,  
3 the court shall order that an individual or entity convicted of  
4 a violation of this Section must pay to the governmental unit  
5 that awarded the contract a penalty equal to one and one-half  
6 times the amount of the contract obtained because of the false  
7 representation.

8 (Source: P.A. 94-126, eff. 1-1-06; 94-863, eff. 6-16-06.)

9 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

10 Sec. 24-3. Unlawful Sale of Firearms.

11 (A) A person commits the offense of unlawful sale of  
12 firearms when he or she knowingly does any of the following:

13 (a) Sells or gives any firearm of a size which may be  
14 concealed upon the person to any person under 18 years of  
15 age.

16 (b) Sells or gives any firearm to a person under 21  
17 years of age who has been convicted of a misdemeanor other  
18 than a traffic offense or adjudged delinquent.

19 (c) Sells or gives any firearm to any narcotic addict.

20 (d) Sells or gives any firearm to any person who has  
21 been convicted of a felony under the laws of this or any  
22 other jurisdiction.

23 (e) Sells or gives any firearm to any person who has  
24 been a patient in a mental hospital within the past 5  
25 years.

1 (f) Sells or gives any firearms to any person who is  
2 intellectually disabled ~~mentally retarded~~.

3 (g) Delivers any firearm of a size which may be  
4 concealed upon the person, incidental to a sale, without  
5 withholding delivery of such firearm for at least 72 hours  
6 after application for its purchase has been made, or  
7 delivers any rifle, shotgun or other long gun, or a stun  
8 gun or taser, incidental to a sale, without withholding  
9 delivery of such rifle, shotgun or other long gun, or a  
10 stun gun or taser for at least 24 hours after application  
11 for its purchase has been made. However, this paragraph (g)  
12 does not apply to: (1) the sale of a firearm to a law  
13 enforcement officer if the seller of the firearm knows that  
14 the person to whom he or she is selling the firearm is a  
15 law enforcement officer or the sale of a firearm to a  
16 person who desires to purchase a firearm for use in  
17 promoting the public interest incident to his or her  
18 employment as a bank guard, armed truck guard, or other  
19 similar employment; (2) a mail order sale of a firearm to a  
20 nonresident of Illinois under which the firearm is mailed  
21 to a point outside the boundaries of Illinois; (3) the sale  
22 of a firearm to a nonresident of Illinois while at a  
23 firearm showing or display recognized by the Illinois  
24 Department of State Police; or (4) the sale of a firearm to  
25 a dealer licensed as a federal firearms dealer under  
26 Section 923 of the federal Gun Control Act of 1968 (18

1 U.S.C. 923). For purposes of this paragraph (g),  
2 "application" means when the buyer and seller reach an  
3 agreement to purchase a firearm.

4 (h) While holding any license as a dealer, importer,  
5 manufacturer or pawnbroker under the federal Gun Control  
6 Act of 1968, manufactures, sells or delivers to any  
7 unlicensed person a handgun having a barrel, slide, frame  
8 or receiver which is a die casting of zinc alloy or any  
9 other nonhomogeneous metal which will melt or deform at a  
10 temperature of less than 800 degrees Fahrenheit. For  
11 purposes of this paragraph, (1) "firearm" is defined as in  
12 the Firearm Owners Identification Card Act; and (2)  
13 "handgun" is defined as a firearm designed to be held and  
14 fired by the use of a single hand, and includes a  
15 combination of parts from which such a firearm can be  
16 assembled.

17 (i) Sells or gives a firearm of any size to any person  
18 under 18 years of age who does not possess a valid Firearm  
19 Owner's Identification Card.

20 (j) Sells or gives a firearm while engaged in the  
21 business of selling firearms at wholesale or retail without  
22 being licensed as a federal firearms dealer under Section  
23 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).  
24 In this paragraph (j):

25 A person "engaged in the business" means a person who  
26 devotes time, attention, and labor to engaging in the

1 activity as a regular course of trade or business with the  
2 principal objective of livelihood and profit, but does not  
3 include a person who makes occasional repairs of firearms  
4 or who occasionally fits special barrels, stocks, or  
5 trigger mechanisms to firearms.

6 "With the principal objective of livelihood and  
7 profit" means that the intent underlying the sale or  
8 disposition of firearms is predominantly one of obtaining  
9 livelihood and pecuniary gain, as opposed to other intents,  
10 such as improving or liquidating a personal firearms  
11 collection; however, proof of profit shall not be required  
12 as to a person who engages in the regular and repetitive  
13 purchase and disposition of firearms for criminal purposes  
14 or terrorism.

15 (k) Sells or transfers ownership of a firearm to a  
16 person who does not display to the seller or transferor of  
17 the firearm a currently valid Firearm Owner's  
18 Identification Card that has previously been issued in the  
19 transferee's name by the Department of State Police under  
20 the provisions of the Firearm Owners Identification Card  
21 Act. This paragraph (k) does not apply to the transfer of a  
22 firearm to a person who is exempt from the requirement of  
23 possessing a Firearm Owner's Identification Card under  
24 Section 2 of the Firearm Owners Identification Card Act.  
25 For the purposes of this Section, a currently valid Firearm  
26 Owner's Identification Card means (i) a Firearm Owner's



1 Identification Card that has not expired or (ii) if the  
2 transferor is licensed as a federal firearms dealer under  
3 Section 923 of the federal Gun Control Act of 1968 (18  
4 U.S.C. 923), an approval number issued in accordance with  
5 Section 3.1 of the Firearm Owners Identification Card Act  
6 shall be proof that the Firearm Owner's Identification Card  
7 was valid.

8 (B) Paragraph (h) of subsection (A) does not include  
9 firearms sold within 6 months after enactment of Public Act  
10 78-355 (approved August 21, 1973, effective October 1, 1973),  
11 nor is any firearm legally owned or possessed by any citizen or  
12 purchased by any citizen within 6 months after the enactment of  
13 Public Act 78-355 subject to confiscation or seizure under the  
14 provisions of that Public Act. Nothing in Public Act 78-355  
15 shall be construed to prohibit the gift or trade of any firearm  
16 if that firearm was legally held or acquired within 6 months  
17 after the enactment of that Public Act.

18 (C) Sentence.

19 (1) Any person convicted of unlawful sale of firearms  
20 in violation of paragraph (c), (e), (f), (g), or (h) of  
21 subsection (A) commits a Class 4 felony.

22 (2) Any person convicted of unlawful sale of firearms  
23 in violation of paragraph (b) or (i) of subsection (A)  
24 commits a Class 3 felony.

25 (3) Any person convicted of unlawful sale of firearms  
26 in violation of paragraph (a) of subsection (A) commits a

1 Class 2 felony.

2 (4) Any person convicted of unlawful sale of firearms  
3 in violation of paragraph (a), (b), or (i) of subsection  
4 (A) in any school, on the real property comprising a  
5 school, within 1,000 feet of the real property comprising a  
6 school, at a school related activity, or on or within 1,000  
7 feet of any conveyance owned, leased, or contracted by a  
8 school or school district to transport students to or from  
9 school or a school related activity, regardless of the time  
10 of day or time of year at which the offense was committed,  
11 commits a Class 1 felony. Any person convicted of a second  
12 or subsequent violation of unlawful sale of firearms in  
13 violation of paragraph (a), (b), or (i) of subsection (A)  
14 in any school, on the real property comprising a school,  
15 within 1,000 feet of the real property comprising a school,  
16 at a school related activity, or on or within 1,000 feet of  
17 any conveyance owned, leased, or contracted by a school or  
18 school district to transport students to or from school or  
19 a school related activity, regardless of the time of day or  
20 time of year at which the offense was committed, commits a  
21 Class 1 felony for which the sentence shall be a term of  
22 imprisonment of no less than 5 years and no more than 15  
23 years.

24 (5) Any person convicted of unlawful sale of firearms  
25 in violation of paragraph (a) or (i) of subsection (A) in  
26 residential property owned, operated, or managed by a

1 public housing agency or leased by a public housing agency  
2 as part of a scattered site or mixed-income development, in  
3 a public park, in a courthouse, on residential property  
4 owned, operated, or managed by a public housing agency or  
5 leased by a public housing agency as part of a scattered  
6 site or mixed-income development, on the real property  
7 comprising any public park, on the real property comprising  
8 any courthouse, or on any public way within 1,000 feet of  
9 the real property comprising any public park, courthouse,  
10 or residential property owned, operated, or managed by a  
11 public housing agency or leased by a public housing agency  
12 as part of a scattered site or mixed-income development  
13 commits a Class 2 felony.

14 (6) Any person convicted of unlawful sale of firearms  
15 in violation of paragraph (j) of subsection (A) commits a  
16 Class A misdemeanor. A second or subsequent violation is a  
17 Class 4 felony.

18 (7) Any person convicted of unlawful sale of firearms  
19 in violation of paragraph (k) of subsection (A) commits a  
20 Class 4 felony. A third or subsequent conviction for a  
21 violation of paragraph (k) of subsection (A) is a Class 1  
22 felony.

23 (8) A person 18 years of age or older convicted of  
24 unlawful sale of firearms in violation of paragraph (a) or  
25 (i) of subsection (A), when the firearm that was sold or  
26 given to another person under 18 years of age was used in

1 the commission of or attempt to commit a forcible felony,  
2 shall be fined or imprisoned, or both, not to exceed the  
3 maximum provided for the most serious forcible felony so  
4 committed or attempted by the person under 18 years of age  
5 who was sold or given the firearm.

6 (9) Any person convicted of unlawful sale of firearms  
7 in violation of paragraph (d) of subsection (A) commits a  
8 Class 3 felony.

9 (D) For purposes of this Section:

10 "School" means a public or private elementary or secondary  
11 school, community college, college, or university.

12 "School related activity" means any sporting, social,  
13 academic, or other activity for which students' attendance or  
14 participation is sponsored, organized, or funded in whole or in  
15 part by a school or school district.

16 (E) A prosecution for a violation of paragraph (k) of  
17 subsection (A) of this Section may be commenced within 6 years  
18 after the commission of the offense. A prosecution for a  
19 violation of this Section other than paragraph (g) of  
20 subsection (A) of this Section may be commenced within 5 years  
21 after the commission of the offense defined in the particular  
22 paragraph.

23 (Source: P.A. 95-331, eff. 8-21-07; 95-735, eff. 7-16-08;  
24 96-190, eff. 1-1-10.)

25 (720 ILCS 5/24-3.1) (from Ch. 38, par. 24-3.1)

1           Sec. 24-3.1. Unlawful possession of firearms and firearm  
2 ammunition.

3           (a) A person commits the offense of unlawful possession of  
4 firearms or firearm ammunition when:

5           (1) He is under 18 years of age and has in his  
6 possession any firearm of a size which may be concealed  
7 upon the person; or

8           (2) He is under 21 years of age, has been convicted of  
9 a misdemeanor other than a traffic offense or adjudged  
10 delinquent and has any firearms or firearm ammunition in  
11 his possession; or

12           (3) He is a narcotic addict and has any firearms or  
13 firearm ammunition in his possession; or

14           (4) He has been a patient in a mental hospital within  
15 the past 5 years and has any firearms or firearm ammunition  
16 in his possession; or

17           (5) He is intellectually disabled ~~mentally retarded~~  
18 and has any firearms or firearm ammunition in his  
19 possession; or

20           (6) He has in his possession any explosive bullet.

21           For purposes of this paragraph "explosive bullet" means the  
22 projectile portion of an ammunition cartridge which contains or  
23 carries an explosive charge which will explode upon contact  
24 with the flesh of a human or an animal. "Cartridge" means a  
25 tubular metal case having a projectile affixed at the front  
26 thereof and a cap or primer at the rear end thereof, with the

1 propellant contained in such tube between the projectile and  
2 the cap.

3 (b) Sentence.

4 Unlawful possession of firearms, other than handguns, and  
5 firearm ammunition is a Class A misdemeanor. Unlawful  
6 possession of handguns is a Class 4 felony. The possession of  
7 each firearm or firearm ammunition in violation of this Section  
8 constitutes a single and separate violation.

9 (c) Nothing in paragraph (1) of subsection (a) of this  
10 Section prohibits a person under 18 years of age from  
11 participating in any lawful recreational activity with a  
12 firearm such as, but not limited to, practice shooting at  
13 targets upon established public or private target ranges or  
14 hunting, trapping, or fishing in accordance with the Wildlife  
15 Code or the Fish and Aquatic Life Code.

16 (Source: P.A. 94-284, eff. 7-21-05; 95-331, eff. 8-21-07.)

17 (720 ILCS 5/26-1) (from Ch. 38, par. 26-1)

18 Sec. 26-1. Elements of the Offense.

19 (a) A person commits disorderly conduct when he knowingly:

20 (1) Does any act in such unreasonable manner as to  
21 alarm or disturb another and to provoke a breach of the  
22 peace; or

23 (2) Transmits or causes to be transmitted in any manner  
24 to the fire department of any city, town, village or fire  
25 protection district a false alarm of fire, knowing at the

1 time of such transmission that there is no reasonable  
2 ground for believing that such fire exists; or

3 (3) Transmits or causes to be transmitted in any manner  
4 to another a false alarm to the effect that a bomb or other  
5 explosive of any nature or a container holding poison gas,  
6 a deadly biological or chemical contaminant, or  
7 radioactive substance is concealed in such place that its  
8 explosion or release would endanger human life, knowing at  
9 the time of such transmission that there is no reasonable  
10 ground for believing that such bomb, explosive or a  
11 container holding poison gas, a deadly biological or  
12 chemical contaminant, or radioactive substance is  
13 concealed in such place; or

14 (4) Transmits or causes to be transmitted in any manner  
15 to any peace officer, public officer or public employee a  
16 report to the effect that an offense will be committed, is  
17 being committed, or has been committed, knowing at the time  
18 of such transmission that there is no reasonable ground for  
19 believing that such an offense will be committed, is being  
20 committed, or has been committed; or

21 (5) Enters upon the property of another and for a lewd  
22 or unlawful purpose deliberately looks into a dwelling on  
23 the property through any window or other opening in it; or

24 (6) While acting as a collection agency as defined in  
25 the "Collection Agency Act" or as an employee of such  
26 collection agency, and while attempting to collect an

1           alleged debt, makes a telephone call to the alleged debtor  
2           which is designed to harass, annoy or intimidate the  
3           alleged debtor; or

4           (7) Transmits or causes to be transmitted a false  
5           report to the Department of Children and Family Services  
6           under Section 4 of the "Abused and Neglected Child  
7           Reporting Act"; or

8           (8) Transmits or causes to be transmitted a false  
9           report to the Department of Public Health under the Nursing  
10          Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act; or

11          (9) Transmits or causes to be transmitted in any manner  
12          to the police department or fire department of any  
13          municipality or fire protection district, or any privately  
14          owned and operated ambulance service, a false request for  
15          an ambulance, emergency medical technician-ambulance or  
16          emergency medical technician-paramedic knowing at the time  
17          there is no reasonable ground for believing that such  
18          assistance is required; or

19          (10) Transmits or causes to be transmitted a false  
20          report under Article II of "An Act in relation to victims  
21          of violence and abuse", approved September 16, 1984, as  
22          amended; or

23          (11) Transmits or causes to be transmitted a false  
24          report to any public safety agency without the reasonable  
25          grounds necessary to believe that transmitting such a  
26          report is necessary for the safety and welfare of the



1 public; or

2 (12) Calls the number "911" for the purpose of making  
3 or transmitting a false alarm or complaint and reporting  
4 information when, at the time the call or transmission is  
5 made, the person knows there is no reasonable ground for  
6 making the call or transmission and further knows that the  
7 call or transmission could result in the emergency response  
8 of any public safety agency; or

9 (13) Transmits or causes to be transmitted a threat of  
10 destruction of a school building or school property, or a  
11 threat of violence, death, or bodily harm directed against  
12 persons at a school, school function, or school event,  
13 whether or not school is in session.

14 (b) Sentence. A violation of subsection (a)(1) of this  
15 Section is a Class C misdemeanor. A violation of subsection  
16 (a)(5) or (a)(11) of this Section is a Class A misdemeanor. A  
17 violation of subsection (a)(8) or (a)(10) of this Section is a  
18 Class B misdemeanor. A violation of subsection (a)(2), (a)(4),  
19 (a)(7), (a)(9), (a)(12), or (a)(13) of this Section is a Class  
20 4 felony. A violation of subsection (a)(3) of this Section is a  
21 Class 3 felony, for which a fine of not less than \$3,000 and no  
22 more than \$10,000 shall be assessed in addition to any other  
23 penalty imposed.

24 A violation of subsection (a)(6) of this Section is a  
25 Business Offense and shall be punished by a fine not to exceed  
26 \$3,000. A second or subsequent violation of subsection (a)(7)

1 or (a)(11) of this Section is a Class 4 felony. A third or  
2 subsequent violation of subsection (a)(5) of this Section is a  
3 Class 4 felony.

4 (c) In addition to any other sentence that may be imposed,  
5 a court shall order any person convicted of disorderly conduct  
6 to perform community service for not less than 30 and not more  
7 than 120 hours, if community service is available in the  
8 jurisdiction and is funded and approved by the county board of  
9 the county where the offense was committed. In addition,  
10 whenever any person is placed on supervision for an alleged  
11 offense under this Section, the supervision shall be  
12 conditioned upon the performance of the community service.

13 This subsection does not apply when the court imposes a  
14 sentence of incarceration.

15 (d) In addition to any other sentence that may be imposed,  
16 the court shall order any person convicted of disorderly  
17 conduct under paragraph (3) of subsection (a) involving a false  
18 alarm of a threat that a bomb or explosive device has been  
19 placed in a school to reimburse the unit of government that  
20 employs the emergency response officer or officers that were  
21 dispatched to the school for the cost of the search for a bomb  
22 or explosive device. For the purposes of this Section,  
23 "emergency response" means any incident requiring a response by  
24 a police officer, a firefighter, a State Fire Marshal employee,  
25 or an ambulance.

26 (Source: P.A. 96-339, eff. 7-1-10; 96-413, eff. 8-13-09;

1 96-772, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1261, eff.  
2 1-1-11.)

3 Section 140. The Code of Criminal Procedure of 1963 is  
4 amended by changing Sections 102-23, 106B-5, 114-15, 115-10,  
5 and 122-2.2 as follows:

6 (725 ILCS 5/102-23)

7 Sec. 102-23. "Moderately intellectually disabled ~~mentally~~  
8 ~~retarded~~ person" means a person whose intelligence quotient is  
9 between 41 and 55 and who does not suffer from significant  
10 mental illness to the extent that the person's ability to  
11 exercise rational judgment is impaired.

12 (Source: P.A. 92-434, eff. 1-1-02.)

13 (725 ILCS 5/106B-5)

14 Sec. 106B-5. Testimony by a victim who is a child or a  
15 moderately, severely, or profoundly intellectually disabled  
16 ~~mentally—retarded~~ person or a person affected by a  
17 developmental disability.

18 (a) In a proceeding in the prosecution of an offense of  
19 criminal sexual assault, predatory criminal sexual assault of a  
20 child, aggravated criminal sexual assault, criminal sexual  
21 abuse, or aggravated criminal sexual abuse, a court may order  
22 that the testimony of a victim who is a child under the age of  
23 18 years or a moderately, severely, or profoundly

1 intellectually disabled ~~mentally retarded~~ person or a person  
2 affected by a developmental disability be taken outside the  
3 courtroom and shown in the courtroom by means of a closed  
4 circuit television if:

5 (1) the testimony is taken during the proceeding; and

6 (2) the judge determines that testimony by the child  
7 victim or moderately, severely, or profoundly  
8 intellectually disabled ~~mentally retarded~~ victim or victim  
9 affected by a developmental disability in the courtroom  
10 will result in the child or moderately, severely, or  
11 profoundly intellectually disabled ~~mentally retarded~~  
12 person or person affected by a developmental disability  
13 suffering serious emotional distress such that the child or  
14 moderately, severely, or profoundly intellectually  
15 disabled ~~mentally retarded~~ person or person affected by a  
16 developmental disability cannot reasonably communicate or  
17 that the child or moderately, severely, or profoundly  
18 intellectually disabled ~~mentally retarded~~ person or person  
19 affected by a developmental disability will suffer severe  
20 emotional distress that is likely to cause the child or  
21 moderately, severely, or profoundly intellectually  
22 disabled ~~mentally retarded~~ person or person affected by a  
23 developmental disability to suffer severe adverse effects.

24 (b) Only the prosecuting attorney, the attorney for the  
25 defendant, and the judge may question the child or moderately,  
26 severely, or profoundly intellectually disabled ~~mentally~~

1 ~~retarded~~ person or person affected by a developmental  
2 disability.

3 (c) The operators of the closed circuit television shall  
4 make every effort to be unobtrusive.

5 (d) Only the following persons may be in the room with the  
6 child or moderately, severely, or profoundly intellectually  
7 disabled ~~mentally-retarded~~ person or person affected by a  
8 developmental disability when the child or moderately,  
9 severely, or profoundly intellectually disabled ~~mentally~~  
10 ~~retarded~~ person or person affected by a developmental  
11 disability testifies by closed circuit television:

12 (1) the prosecuting attorney;

13 (2) the attorney for the defendant;

14 (3) the judge;

15 (4) the operators of the closed circuit television  
16 equipment; and

17 (5) any person or persons whose presence, in the  
18 opinion of the court, contributes to the well-being of the  
19 child or moderately, severely, or profoundly  
20 intellectually disabled ~~mentally-retarded~~ person or person  
21 affected by a developmental disability, including a person  
22 who has dealt with the child in a therapeutic setting  
23 concerning the abuse, a parent or guardian of the child or  
24 moderately, severely, or profoundly intellectually  
25 disabled ~~mentally-retarded~~ person or person affected by a  
26 developmental disability, and court security personnel.

1 (e) During the child's or moderately, severely, or  
2 profoundly intellectually disabled ~~mentally retarded~~ person's  
3 or person affected by a developmental disability's testimony by  
4 closed circuit television, the defendant shall be in the  
5 courtroom and shall not communicate with the jury if the cause  
6 is being heard before a jury.

7 (f) The defendant shall be allowed to communicate with the  
8 persons in the room where the child or moderately, severely, or  
9 profoundly intellectually disabled ~~mentally retarded~~ person or  
10 person affected by a developmental disability is testifying by  
11 any appropriate electronic method.

12 (g) The provisions of this Section do not apply if the  
13 defendant represents himself pro se.

14 (h) This Section may not be interpreted to preclude, for  
15 purposes of identification of a defendant, the presence of both  
16 the victim and the defendant in the courtroom at the same time.

17 (i) This Section applies to prosecutions pending on or  
18 commenced on or after the effective date of this amendatory Act  
19 of 1994.

20 (j) For the purposes of this Section, "developmental  
21 disability" includes, but is not limited to, cerebral palsy,  
22 epilepsy, and autism.

23 (Source: P.A. 95-897, eff. 1-1-09.)

24 (725 ILCS 5/114-15)

25 Sec. 114-15. Intellectual disability ~~Mental retardation~~.

1           (a) In a first degree murder case in which the State seeks  
2 the death penalty as an appropriate sentence, any party may  
3 raise the issue of the defendant's intellectual disabilities  
4 ~~mental retardation~~ by motion. A defendant wishing to raise the  
5 issue of his or her intellectual disabilities ~~mental~~  
6 ~~retardation~~ shall provide written notice to the State and the  
7 court as soon as the defendant reasonably believes such issue  
8 will be raised.

9           (b) The issue of the defendant's intellectual disabilities  
10 ~~mental retardation~~ shall be determined in a pretrial hearing.  
11 The court shall be the fact finder on the issue of the  
12 defendant's intellectual disabilities ~~mental retardation~~ and  
13 shall determine the issue by a preponderance of evidence in  
14 which the moving party has the burden of proof. The court may  
15 appoint an expert in the field of intellectual disabilities  
16 ~~mental retardation~~. The defendant and the State may offer  
17 experts from the field of intellectual disabilities ~~mental~~  
18 ~~retardation~~. The court shall determine admissibility of  
19 evidence and qualification as an expert.

20           (c) If after a plea of guilty to first degree murder, or a  
21 finding of guilty of first degree murder in a bench trial, or a  
22 verdict of guilty for first degree murder in a jury trial, or  
23 on a matter remanded from the Supreme Court for sentencing for  
24 first degree murder, and the State seeks the death penalty as  
25 an appropriate sentence, the defendant may raise the issue of  
26 defendant's intellectual disabilities ~~mental retardation~~ not

1 at eligibility but at aggravation and mitigation. The defendant  
2 and the State may offer experts from the field of intellectual  
3 disabilities ~~mental retardation~~. The court shall determine  
4 admissibility of evidence and qualification as an expert.

5 (d) In determining whether the defendant is intellectually  
6 disabled ~~mentally retarded~~, the intellectual disability ~~mental~~  
7 ~~retardation~~ must have manifested itself by the age of 18. IQ  
8 tests and psychometric tests administered to the defendant must  
9 be the kind and type recognized by experts in the field of  
10 intellectual disabilities ~~mental retardation~~. In order for the  
11 defendant to be considered intellectually disabled ~~mentally~~  
12 ~~retarded~~, a low IQ must be accompanied by significant deficits  
13 in adaptive behavior in at least 2 of the following skill  
14 areas: communication, self-care, social or interpersonal  
15 skills, home living, self-direction, academics, health and  
16 safety, use of community resources, and work. An intelligence  
17 quotient (IQ) of 75 or below is presumptive evidence of an  
18 intellectual disability ~~mental retardation~~.

19 (e) Evidence of an intellectual disability ~~mental~~  
20 ~~retardation~~ that did not result in disqualifying the case as a  
21 capital case, may be introduced as evidence in mitigation  
22 during a capital sentencing hearing. A failure of the court to  
23 determine that the defendant is intellectually disabled  
24 ~~mentally retarded~~ does not preclude the court during trial from  
25 allowing evidence relating to mental disability should the  
26 court deem it appropriate.



1 (f) If the court determines at a pretrial hearing or after  
2 remand that a capital defendant is intellectually disabled  
3 ~~mentally retarded~~, and the State does not appeal pursuant to  
4 Supreme Court Rule 604, the case shall no longer be considered  
5 a capital case and the procedural guidelines established for  
6 capital cases shall no longer be applicable to the defendant.  
7 In that case, the defendant shall be sentenced under the  
8 sentencing provisions of Chapter V of the Unified Code of  
9 Corrections.

10 (Source: P.A. 93-605, eff. 11-19-03.)

11 (725 ILCS 5/115-10) (from Ch. 38, par. 115-10)

12 Sec. 115-10. Certain hearsay exceptions.

13 (a) In a prosecution for a physical or sexual act  
14 perpetrated upon or against a child under the age of 13, or a  
15 person who was a moderately, severely, or profoundly  
16 intellectually disabled ~~mentally retarded~~ person as defined in  
17 this Code and in Section 2-10.1 of the Criminal Code of 1961 at  
18 the time the act was committed, including but not limited to  
19 prosecutions for violations of Sections 12-13 through 12-16 of  
20 the Criminal Code of 1961 and prosecutions for violations of  
21 Sections 10-1 (kidnapping), 10-2 (aggravated kidnapping), 10-3  
22 (unlawful restraint), 10-3.1 (aggravated unlawful restraint),  
23 10-4 (forcible detention), 10-5 (child abduction), 10-6  
24 (harboring a runaway), 10-7 (aiding or abetting child  
25 abduction), 11-9 (public indecency), 11-11 (sexual relations

1 within families), 11-21 (harmful material), 12-1 (assault),  
2 12-2 (aggravated assault), 12-3 (battery), 12-3.2 (domestic  
3 battery), 12-4 (aggravated battery), 12-4.1 (heinous battery),  
4 12-4.2 (aggravated battery with a firearm), 12-4.3 (aggravated  
5 battery of a child), 12-4.7 (drug induced infliction of great  
6 bodily harm), 12-5 (reckless conduct), 12-6 (intimidation),  
7 12-6.1 (compelling organization membership of persons), 12-7.1  
8 (hate crime), 12-7.3 (stalking), 12-7.4 (aggravated stalking),  
9 12-10 (tattooing body of minor), 12-11 (home invasion), 12-21.5  
10 (child abandonment), 12-21.6 (endangering the life or health of  
11 a child) or 12-32 (ritual mutilation) of the Criminal Code of  
12 1961 or any sex offense as defined in subsection (B) of Section  
13 2 of the Sex Offender Registration Act, the following evidence  
14 shall be admitted as an exception to the hearsay rule:

15 (1) testimony by the victim of an out of court  
16 statement made by the victim that he or she complained of  
17 such act to another; and

18 (2) testimony of an out of court statement made by the  
19 victim describing any complaint of such act or matter or  
20 detail pertaining to any act which is an element of an  
21 offense which is the subject of a prosecution for a sexual  
22 or physical act against that victim.

23 (b) Such testimony shall only be admitted if:

24 (1) The court finds in a hearing conducted outside the  
25 presence of the jury that the time, content, and  
26 circumstances of the statement provide sufficient

1 safeguards of reliability; and

2 (2) The child or moderately, severely, or profoundly  
3 intellectually disabled ~~mentally retarded~~ person either:

4 (A) testifies at the proceeding; or

5 (B) is unavailable as a witness and there is  
6 corroborative evidence of the act which is the subject  
7 of the statement; and

8 (3) In a case involving an offense perpetrated against  
9 a child under the age of 13, the out of court statement was  
10 made before the victim attained 13 years of age or within 3  
11 months after the commission of the offense, whichever  
12 occurs later, but the statement may be admitted regardless  
13 of the age of the victim at the time of the proceeding.

14 (c) If a statement is admitted pursuant to this Section,  
15 the court shall instruct the jury that it is for the jury to  
16 determine the weight and credibility to be given the statement  
17 and that, in making the determination, it shall consider the  
18 age and maturity of the child, or the intellectual capabilities  
19 of the moderately, severely, or profoundly intellectually  
20 disabled ~~mentally retarded~~ person, the nature of the statement,  
21 the circumstances under which the statement was made, and any  
22 other relevant factor.

23 (d) The proponent of the statement shall give the adverse  
24 party reasonable notice of his intention to offer the statement  
25 and the particulars of the statement.

26 (e) Statements described in paragraphs (1) and (2) of

1 subsection (a) shall not be excluded on the basis that they  
2 were obtained as a result of interviews conducted pursuant to a  
3 protocol adopted by a Child Advocacy Advisory Board as set  
4 forth in subsections (c), (d), and (e) of Section 3 of the  
5 Children's Advocacy Center Act or that an interviewer or  
6 witness to the interview was or is an employee, agent, or  
7 investigator of a State's Attorney's office.

8 (Source: P.A. 95-892, eff. 1-1-09; 96-710, eff. 1-1-10.)

9 (725 ILCS 5/122-2.2)

10 Sec. 122-2.2. Intellectual disability ~~Mental retardation~~  
11 and post-conviction relief.

12 (a) In cases where no determination of an intellectual  
13 disability ~~mental retardation~~ was made and a defendant has been  
14 convicted of first-degree murder, sentenced to death, and is in  
15 custody pending execution of the sentence of death, the  
16 following procedures shall apply:

17 (1) Notwithstanding any other provision of law or rule  
18 of court, a defendant may seek relief from the death  
19 sentence through a petition for post-conviction relief  
20 under this Article alleging that the defendant was  
21 intellectually disabled ~~mentally retarded~~ as defined in  
22 Section 114-15 at the time the offense was alleged to have  
23 been committed.

24 (2) The petition must be filed within 180 days of the  
25 effective date of this amendatory Act of the 93rd General

1           Assembly or within 180 days of the issuance of the mandate  
2           by the Illinois Supreme Court setting the date of  
3           execution, whichever is later.

4           (3) All other provisions of this Article governing  
5           petitions for post-conviction relief shall apply to a petition  
6           for post-conviction relief alleging an intellectual disability  
7           ~~mental retardation~~.

8           (Source: P.A. 93-605, eff. 11-19-03.)

9           Section 145. The Unified Code of Corrections is amended by  
10          changing Sections 5-1-8, 5-1-13, 5-2-6, and 5-5-3.1 as follows:

11          (730 ILCS 5/5-1-8) (from Ch. 38, par. 1005-1-8)

12          Sec. 5-1-8. Defendant in Need of Mental Treatment.

13          "Defendant in need of mental treatment" means any defendant  
14          afflicted with a mental disorder, not including a person who is  
15          intellectually disabled ~~mentally retarded~~, if that defendant,  
16          as a result of such mental disorder, is reasonably expected at  
17          the time of determination or within a reasonable time  
18          thereafter to intentionally or unintentionally physically  
19          injure himself or other persons, or is unable to care for  
20          himself so as to guard himself from physical injury or to  
21          provide for his own physical needs.

22          (Source: P.A. 77-2097.)

23          (730 ILCS 5/5-1-13) (from Ch. 38, par. 1005-1-13)

1           Sec. 5-1-13. Intellectually Disabled ~~Mentally Retarded~~.

2           "Intellectually disabled" ~~Mentally retarded~~ and  
3           "intellectual disability ~~mental retardation~~" mean sub-average  
4           general intellectual functioning generally originating during  
5           the developmental period and associated with impairment in  
6           adaptive behavior reflected in delayed maturation or reduced  
7           learning ability or inadequate social adjustment.

8           (Source: P.A. 77-2097.)

9           (730 ILCS 5/5-2-6) (from Ch. 38, par. 1005-2-6)

10          Sec. 5-2-6. Sentencing and Treatment of Defendant Found  
11          Guilty but Mentally Ill.

12          (a) After a plea or verdict of guilty but mentally ill  
13          under Sections 115-2, 115-3 or 115-4 of the Code of Criminal  
14          Procedure of 1963, the court shall order a presentence  
15          investigation and report pursuant to Sections 5-3-1 and 5-3-2  
16          of this Act, and shall set a date for a sentencing hearing. The  
17          court may impose any sentence upon the defendant which could be  
18          imposed pursuant to law upon a defendant who had been convicted  
19          of the same offense without a finding of mental illness.

20          (b) If the court imposes a sentence of imprisonment upon a  
21          defendant who has been found guilty but mentally ill, the  
22          defendant shall be committed to the Department of Corrections,  
23          which shall cause periodic inquiry and examination to be made  
24          concerning the nature, extent, continuance, and treatment of  
25          the defendant's mental illness. The Department of Corrections

1 shall provide such psychiatric, psychological, or other  
2 counseling and treatment for the defendant as it determines  
3 necessary.

4 (c) The Department of Corrections may transfer the  
5 defendant's custody to the Department of Human Services in  
6 accordance with the provisions of Section 3-8-5 of this Act.

7 (d) (1) The Department of Human Services shall return to  
8 the Department of Corrections any person committed to it  
9 pursuant to this Section whose sentence has not expired and  
10 whom the Department of Human Services deems no longer requires  
11 hospitalization for mental treatment, an intellectual  
12 disability ~~mental retardation~~, or addiction.

13 (2) The Department of Corrections shall notify the  
14 Secretary of Human Services of the expiration of the sentence  
15 of any person transferred to the Department of Human Services  
16 under this Section. If the Department of Human Services  
17 determines that any such person requires further  
18 hospitalization, it shall file an appropriate petition for  
19 involuntary commitment pursuant to the Mental Health and  
20 Developmental Disabilities Code.

21 (e) (1) All persons found guilty but mentally ill, whether  
22 by plea or by verdict, who are placed on probation or sentenced  
23 to a term of periodic imprisonment or a period of conditional  
24 discharge shall be required to submit to a course of mental  
25 treatment prescribed by the sentencing court.

26 (2) The course of treatment prescribed by the court shall

1 reasonably assure the defendant's satisfactory progress in  
2 treatment or habilitation and for the safety of the defendant  
3 and others. The court shall consider terms, conditions and  
4 supervision which may include, but need not be limited to,  
5 notification and discharge of the person to the custody of his  
6 family, community adjustment programs, periodic checks with  
7 legal authorities and outpatient care and utilization of local  
8 mental health or developmental disabilities facilities.

9 (3) Failure to continue treatment, except by agreement with  
10 the treating person or agency and the court, shall be a basis  
11 for the institution of probation revocation proceedings.

12 (4) The period of probation shall be in accordance with  
13 Article 4.5 of Chapter V of this Code and shall not be  
14 shortened without receipt and consideration of such  
15 psychiatric or psychological report or reports as the court may  
16 require.

17 (Source: P.A. 95-1052, eff. 7-1-09.)

18 (730 ILCS 5/5-5-3.1) (from Ch. 38, par. 1005-5-3.1)

19 Sec. 5-5-3.1. Factors in Mitigation.

20 (a) The following grounds shall be accorded weight in favor  
21 of withholding or minimizing a sentence of imprisonment:

22 (1) The defendant's criminal conduct neither caused  
23 nor threatened serious physical harm to another.

24 (2) The defendant did not contemplate that his criminal  
25 conduct would cause or threaten serious physical harm to



1 another.

2 (3) The defendant acted under a strong provocation.

3 (4) There were substantial grounds tending to excuse or  
4 justify the defendant's criminal conduct, though failing  
5 to establish a defense.

6 (5) The defendant's criminal conduct was induced or  
7 facilitated by someone other than the defendant.

8 (6) The defendant has compensated or will compensate  
9 the victim of his criminal conduct for the damage or injury  
10 that he sustained.

11 (7) The defendant has no history of prior delinquency  
12 or criminal activity or has led a law-abiding life for a  
13 substantial period of time before the commission of the  
14 present crime.

15 (8) The defendant's criminal conduct was the result of  
16 circumstances unlikely to recur.

17 (9) The character and attitudes of the defendant  
18 indicate that he is unlikely to commit another crime.

19 (10) The defendant is particularly likely to comply  
20 with the terms of a period of probation.

21 (11) The imprisonment of the defendant would entail  
22 excessive hardship to his dependents.

23 (12) The imprisonment of the defendant would endanger  
24 his or her medical condition.

25 (13) The defendant was intellectually disabled  
26 ~~mentally retarded~~ as defined in Section 5-1-13 of this

1 Code.

2 (b) If the court, having due regard for the character of  
3 the offender, the nature and circumstances of the offense and  
4 the public interest finds that a sentence of imprisonment is  
5 the most appropriate disposition of the offender, or where  
6 other provisions of this Code mandate the imprisonment of the  
7 offender, the grounds listed in paragraph (a) of this  
8 subsection shall be considered as factors in mitigation of the  
9 term imposed.

10 (Source: P.A. 91-357, eff. 7-29-99.)

11 Section 146. The Unified Code of Corrections is amended by  
12 changing Section 5-5-3.2 as follows:

13 (730 ILCS 5/5-5-3.2)

14 Sec. 5-5-3.2. Factors in Aggravation and Extended-Term  
15 Sentencing.

16 (a) The following factors shall be accorded weight in favor  
17 of imposing a term of imprisonment or may be considered by the  
18 court as reasons to impose a more severe sentence under Section  
19 5-8-1 or Article 4.5 of Chapter V:

20 (1) the defendant's conduct caused or threatened  
21 serious harm;

22 (2) the defendant received compensation for committing  
23 the offense;

24 (3) the defendant has a history of prior delinquency or

1 criminal activity;

2 (4) the defendant, by the duties of his office or by  
3 his position, was obliged to prevent the particular offense  
4 committed or to bring the offenders committing it to  
5 justice;

6 (5) the defendant held public office at the time of the  
7 offense, and the offense related to the conduct of that  
8 office;

9 (6) the defendant utilized his professional reputation  
10 or position in the community to commit the offense, or to  
11 afford him an easier means of committing it;

12 (7) the sentence is necessary to deter others from  
13 committing the same crime;

14 (8) the defendant committed the offense against a  
15 person 60 years of age or older or such person's property;

16 (9) the defendant committed the offense against a  
17 person who is physically handicapped or such person's  
18 property;

19 (10) by reason of another individual's actual or  
20 perceived race, color, creed, religion, ancestry, gender,  
21 sexual orientation, physical or mental disability, or  
22 national origin, the defendant committed the offense  
23 against (i) the person or property of that individual; (ii)  
24 the person or property of a person who has an association  
25 with, is married to, or has a friendship with the other  
26 individual; or (iii) the person or property of a relative

1 (by blood or marriage) of a person described in clause (i)  
2 or (ii). For the purposes of this Section, "sexual  
3 orientation" means heterosexuality, homosexuality, or  
4 bisexuality;

5 (11) the offense took place in a place of worship or on  
6 the grounds of a place of worship, immediately prior to,  
7 during or immediately following worship services. For  
8 purposes of this subparagraph, "place of worship" shall  
9 mean any church, synagogue or other building, structure or  
10 place used primarily for religious worship;

11 (12) the defendant was convicted of a felony committed  
12 while he was released on bail or his own recognizance  
13 pending trial for a prior felony and was convicted of such  
14 prior felony, or the defendant was convicted of a felony  
15 committed while he was serving a period of probation,  
16 conditional discharge, or mandatory supervised release  
17 under subsection (d) of Section 5-8-1 for a prior felony;

18 (13) the defendant committed or attempted to commit a  
19 felony while he was wearing a bulletproof vest. For the  
20 purposes of this paragraph (13), a bulletproof vest is any  
21 device which is designed for the purpose of protecting the  
22 wearer from bullets, shot or other lethal projectiles;

23 (14) the defendant held a position of trust or  
24 supervision such as, but not limited to, family member as  
25 defined in Section 12-12 of the Criminal Code of 1961,  
26 teacher, scout leader, baby sitter, or day care worker, in

1 relation to a victim under 18 years of age, and the  
2 defendant committed an offense in violation of Section  
3 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,  
4 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961  
5 against that victim;

6 (15) the defendant committed an offense related to the  
7 activities of an organized gang. For the purposes of this  
8 factor, "organized gang" has the meaning ascribed to it in  
9 Section 10 of the Streetgang Terrorism Omnibus Prevention  
10 Act;

11 (16) the defendant committed an offense in violation of  
12 one of the following Sections while in a school, regardless  
13 of the time of day or time of year; on any conveyance  
14 owned, leased, or contracted by a school to transport  
15 students to or from school or a school related activity; on  
16 the real property of a school; or on a public way within  
17 1,000 feet of the real property comprising any school:  
18 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
19 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
20 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
21 33A-2 of the Criminal Code of 1961;

22 (16.5) the defendant committed an offense in violation  
23 of one of the following Sections while in a day care  
24 center, regardless of the time of day or time of year; on  
25 the real property of a day care center, regardless of the  
26 time of day or time of year; or on a public way within

1 1,000 feet of the real property comprising any day care  
2 center, regardless of the time of day or time of year:  
3 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
4 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
5 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
6 33A-2 of the Criminal Code of 1961;

7 (17) the defendant committed the offense by reason of  
8 any person's activity as a community policing volunteer or  
9 to prevent any person from engaging in activity as a  
10 community policing volunteer. For the purpose of this  
11 Section, "community policing volunteer" has the meaning  
12 ascribed to it in Section 2-3.5 of the Criminal Code of  
13 1961;

14 (18) the defendant committed the offense in a nursing  
15 home or on the real property comprising a nursing home. For  
16 the purposes of this paragraph (18), "nursing home" means a  
17 skilled nursing or intermediate long term care facility  
18 that is subject to license by the Illinois Department of  
19 Public Health under the Nursing Home Care Act or the ID/DD  
20 ~~MR/DD~~ Community Care Act;

21 (19) the defendant was a federally licensed firearm  
22 dealer and was previously convicted of a violation of  
23 subsection (a) of Section 3 of the Firearm Owners  
24 Identification Card Act and has now committed either a  
25 felony violation of the Firearm Owners Identification Card  
26 Act or an act of armed violence while armed with a firearm;

1           (20) the defendant (i) committed the offense of  
2 reckless homicide under Section 9-3 of the Criminal Code of  
3 1961 or the offense of driving under the influence of  
4 alcohol, other drug or drugs, intoxicating compound or  
5 compounds or any combination thereof under Section 11-501  
6 of the Illinois Vehicle Code or a similar provision of a  
7 local ordinance and (ii) was operating a motor vehicle in  
8 excess of 20 miles per hour over the posted speed limit as  
9 provided in Article VI of Chapter 11 of the Illinois  
10 Vehicle Code;

11           (21) the defendant (i) committed the offense of  
12 reckless driving or aggravated reckless driving under  
13 Section 11-503 of the Illinois Vehicle Code and (ii) was  
14 operating a motor vehicle in excess of 20 miles per hour  
15 over the posted speed limit as provided in Article VI of  
16 Chapter 11 of the Illinois Vehicle Code;

17           (22) the defendant committed the offense against a  
18 person that the defendant knew, or reasonably should have  
19 known, was a member of the Armed Forces of the United  
20 States serving on active duty. For purposes of this clause  
21 (22), the term "Armed Forces" means any of the Armed Forces  
22 of the United States, including a member of any reserve  
23 component thereof or National Guard unit called to active  
24 duty;

25           (23) the defendant committed the offense against a  
26 person who was elderly, disabled, or infirm by taking

1 advantage of a family or fiduciary relationship with the  
2 elderly, disabled, or infirm person;

3 (24) the defendant committed any offense under Section  
4 11-20.1 of the Criminal Code of 1961 and possessed 100 or  
5 more images;

6 (25) the defendant committed the offense while the  
7 defendant or the victim was in a train, bus, or other  
8 vehicle used for public transportation; ~~or~~

9 (26) the defendant committed the offense of child  
10 pornography or aggravated child pornography, specifically  
11 including paragraph (1), (2), (3), (4), (5), or (7) of  
12 subsection (a) of Section 11-20.1 of the Criminal Code of  
13 1961 where a child engaged in, solicited for, depicted in,  
14 or posed in any act of sexual penetration or bound,  
15 fettered, or subject to sadistic, masochistic, or  
16 sadomasochistic abuse in a sexual context and specifically  
17 including paragraph (1), (2), (3), (4), (5), or (7) of  
18 subsection (a) of Section 11-20.3 of the Criminal Code of  
19 1961 where a child engaged in, solicited for, depicted in,  
20 or posed in any act of sexual penetration or bound,  
21 fettered, or subject to sadistic, masochistic, or  
22 sadomasochistic abuse in a sexual context; or

23 (27) the defendant committed the offense of first  
24 degree murder, assault, aggravated assault, battery,  
25 aggravated battery, robbery, armed robbery, or aggravated  
26 robbery against a person who was a veteran and the



1 defendant knew, or reasonably should have known, that the  
2 person was a veteran performing duties as a representative  
3 of a veterans' organization. For the purposes of this  
4 paragraph (27), "veteran" means an Illinois resident who  
5 has served as a member of the United States Armed Forces, a  
6 member of the Illinois National Guard, or a member of the  
7 United States Reserve Forces; and "veterans' organization"  
8 means an organization comprised of members of which  
9 substantially all are individuals who are veterans or  
10 spouses, widows, or widowers of veterans, the primary  
11 purpose of which is to promote the welfare of its members  
12 and to provide assistance to the general public in such a  
13 way as to confer a public benefit.

14 For the purposes of this Section:

15 "School" is defined as a public or private elementary or  
16 secondary school, community college, college, or university.

17 "Day care center" means a public or private State certified  
18 and licensed day care center as defined in Section 2.09 of the  
19 Child Care Act of 1969 that displays a sign in plain view  
20 stating that the property is a day care center.

21 "Public transportation" means the transportation or  
22 conveyance of persons by means available to the general public,  
23 and includes paratransit services.

24 (b) The following factors, related to all felonies, may be  
25 considered by the court as reasons to impose an extended term  
26 sentence under Section 5-8-2 upon any offender:

1           (1) When a defendant is convicted of any felony, after  
2           having been previously convicted in Illinois or any other  
3           jurisdiction of the same or similar class felony or greater  
4           class felony, when such conviction has occurred within 10  
5           years after the previous conviction, excluding time spent  
6           in custody, and such charges are separately brought and  
7           tried and arise out of different series of acts; or

8           (2) When a defendant is convicted of any felony and the  
9           court finds that the offense was accompanied by  
10          exceptionally brutal or heinous behavior indicative of  
11          wanton cruelty; or

12          (3) When a defendant is convicted of any felony  
13          committed against:

14               (i) a person under 12 years of age at the time of  
15               the offense or such person's property;

16               (ii) a person 60 years of age or older at the time  
17               of the offense or such person's property; or

18               (iii) a person physically handicapped at the time  
19               of the offense or such person's property; or

20          (4) When a defendant is convicted of any felony and the  
21          offense involved any of the following types of specific  
22          misconduct committed as part of a ceremony, rite,  
23          initiation, observance, performance, practice or activity  
24          of any actual or ostensible religious, fraternal, or social  
25          group:

26               (i) the brutalizing or torturing of humans or

1 animals;

2 (ii) the theft of human corpses;

3 (iii) the kidnapping of humans;

4 (iv) the desecration of any cemetery, religious,  
5 fraternal, business, governmental, educational, or  
6 other building or property; or

7 (v) ritualized abuse of a child; or

8 (5) When a defendant is convicted of a felony other  
9 than conspiracy and the court finds that the felony was  
10 committed under an agreement with 2 or more other persons  
11 to commit that offense and the defendant, with respect to  
12 the other individuals, occupied a position of organizer,  
13 supervisor, financier, or any other position of management  
14 or leadership, and the court further finds that the felony  
15 committed was related to or in furtherance of the criminal  
16 activities of an organized gang or was motivated by the  
17 defendant's leadership in an organized gang; or

18 (6) When a defendant is convicted of an offense  
19 committed while using a firearm with a laser sight attached  
20 to it. For purposes of this paragraph, "laser sight" has  
21 the meaning ascribed to it in Section 24.6-5 of the  
22 Criminal Code of 1961; or

23 (7) When a defendant who was at least 17 years of age  
24 at the time of the commission of the offense is convicted  
25 of a felony and has been previously adjudicated a  
26 delinquent minor under the Juvenile Court Act of 1987 for

1 an act that if committed by an adult would be a Class X or  
2 Class 1 felony when the conviction has occurred within 10  
3 years after the previous adjudication, excluding time  
4 spent in custody; or

5 (8) When a defendant commits any felony and the  
6 defendant used, possessed, exercised control over, or  
7 otherwise directed an animal to assault a law enforcement  
8 officer engaged in the execution of his or her official  
9 duties or in furtherance of the criminal activities of an  
10 organized gang in which the defendant is engaged.

11 (c) The following factors may be considered by the court as  
12 reasons to impose an extended term sentence under Section 5-8-2  
13 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

14 (1) When a defendant is convicted of first degree  
15 murder, after having been previously convicted in Illinois  
16 of any offense listed under paragraph (c)(2) of Section  
17 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred  
18 within 10 years after the previous conviction, excluding  
19 time spent in custody, and the charges are separately  
20 brought and tried and arise out of different series of  
21 acts.

22 (1.5) When a defendant is convicted of first degree  
23 murder, after having been previously convicted of domestic  
24 battery (720 ILCS 5/12-3.2) or aggravated domestic battery  
25 (720 ILCS 5/12-3.3) committed on the same victim or after  
26 having been previously convicted of violation of an order

1 of protection (720 ILCS 5/12-30) in which the same victim  
2 was the protected person.

3 (2) When a defendant is convicted of voluntary  
4 manslaughter, second degree murder, involuntary  
5 manslaughter, or reckless homicide in which the defendant  
6 has been convicted of causing the death of more than one  
7 individual.

8 (3) When a defendant is convicted of aggravated  
9 criminal sexual assault or criminal sexual assault, when  
10 there is a finding that aggravated criminal sexual assault  
11 or criminal sexual assault was also committed on the same  
12 victim by one or more other individuals, and the defendant  
13 voluntarily participated in the crime with the knowledge of  
14 the participation of the others in the crime, and the  
15 commission of the crime was part of a single course of  
16 conduct during which there was no substantial change in the  
17 nature of the criminal objective.

18 (4) If the victim was under 18 years of age at the time  
19 of the commission of the offense, when a defendant is  
20 convicted of aggravated criminal sexual assault or  
21 predatory criminal sexual assault of a child under  
22 subsection (a)(1) of Section 12-14.1 of the Criminal Code  
23 of 1961 (720 ILCS 5/12-14.1).

24 (5) When a defendant is convicted of a felony violation  
25 of Section 24-1 of the Criminal Code of 1961 (720 ILCS  
26 5/24-1) and there is a finding that the defendant is a

1 member of an organized gang.

2 (6) When a defendant was convicted of unlawful use of  
3 weapons under Section 24-1 of the Criminal Code of 1961  
4 (720 ILCS 5/24-1) for possessing a weapon that is not  
5 readily distinguishable as one of the weapons enumerated in  
6 Section 24-1 of the Criminal Code of 1961 (720 ILCS  
7 5/24-1).

8 (7) When a defendant is convicted of an offense  
9 involving the illegal manufacture of a controlled  
10 substance under Section 401 of the Illinois Controlled  
11 Substances Act (720 ILCS 570/401), the illegal manufacture  
12 of methamphetamine under Section 25 of the Methamphetamine  
13 Control and Community Protection Act (720 ILCS 646/25), or  
14 the illegal possession of explosives and an emergency  
15 response officer in the performance of his or her duties is  
16 killed or injured at the scene of the offense while  
17 responding to the emergency caused by the commission of the  
18 offense. In this paragraph, "emergency" means a situation  
19 in which a person's life, health, or safety is in jeopardy;  
20 and "emergency response officer" means a peace officer,  
21 community policing volunteer, fireman, emergency medical  
22 technician-ambulance, emergency medical  
23 technician-intermediate, emergency medical  
24 technician-paramedic, ambulance driver, other medical  
25 assistance or first aid personnel, or hospital emergency  
26 room personnel.

1 (d) For the purposes of this Section, "organized gang" has  
2 the meaning ascribed to it in Section 10 of the Illinois  
3 Streetgang Terrorism Omnibus Prevention Act.

4 (e) The court may impose an extended term sentence under  
5 Article 4.5 of Chapter V upon an offender who has been  
6 convicted of a felony violation of Section 12-13, 12-14,  
7 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 when the  
8 victim of the offense is under 18 years of age at the time of  
9 the commission of the offense and, during the commission of the  
10 offense, the victim was under the influence of alcohol,  
11 regardless of whether or not the alcohol was supplied by the  
12 offender; and the offender, at the time of the commission of  
13 the offense, knew or should have known that the victim had  
14 consumed alcohol.

15 (Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569,  
16 eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09;  
17 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10;  
18 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff.  
19 7-2-10; 96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390,  
20 eff. 1-1-11; revised 9-16-10.)

21 Section 147. The Secure Residential Youth Care Facility  
22 Licensing Act is amended by changing Section 45-10 as follows:

23 (730 ILCS 175/45-10)

24 Sec. 45-10. Definitions. As used in this Act:

1 "Department" means the Illinois Department of Corrections.

2 "Director" means the Director of Corrections.

3 "Secure residential youth care facility" means a facility  
4 (1) where youth are placed and reside for care, treatment, and  
5 custody; (2) that is designed and operated so as to ensure that  
6 all entrances and exits from the facility, or from a building  
7 or distinct part of a building within the facility, are under  
8 the exclusive control of the staff of the facility, whether or  
9 not the youth has freedom of movement within the perimeter of  
10 the facility or within the perimeter of a building or distinct  
11 part of a building within the facility; and (3) that uses  
12 physically restrictive construction including, but not limited  
13 to, locks, bolts, gates, doors, bars, fences, and screen  
14 barriers. This definition does not include jails, prisons,  
15 detention centers, or other such correctional facilities;  
16 State operated mental health facilities; or facilities  
17 operating as psychiatric hospitals under a license pursuant to  
18 the ID/DD ~~MR/DD~~ Community Care Act, the Nursing Home Care Act,  
19 or the Hospital Licensing Act.

20 "Youth" means an adjudicated delinquent who is 18 years of  
21 age or under and is transferred to the Department pursuant to  
22 Section 3-10-11 of the Unified Code of Corrections.

23 (Source: P.A. 96-339, eff. 7-1-10.)

24 Section 150. The Code of Civil Procedure is amended by  
25 changing Sections 2-203 and 8-201 as follows:



1 (735 ILCS 5/2-203) (from Ch. 110, par. 2-203)

2 Sec. 2-203. Service on individuals.

3 (a) Except as otherwise expressly provided, service of  
4 summons upon an individual defendant shall be made (1) by  
5 leaving a copy of the summons with the defendant personally,  
6 (2) by leaving a copy at the defendant's usual place of abode,  
7 with some person of the family or a person residing there, of  
8 the age of 13 years or upwards, and informing that person of  
9 the contents of the summons, provided the officer or other  
10 person making service shall also send a copy of the summons in  
11 a sealed envelope with postage fully prepaid, addressed to the  
12 defendant at his or her usual place of abode, or (3) as  
13 provided in Section 1-2-9.2 of the Illinois Municipal Code with  
14 respect to violation of an ordinance governing parking or  
15 standing of vehicles in cities with a population over 500,000.  
16 The certificate of the officer or affidavit of the person that  
17 he or she has sent the copy in pursuance of this Section is  
18 evidence that he or she has done so. No employee of a facility  
19 licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
20 Community Care Act shall obstruct an officer or other person  
21 making service in compliance with this Section.

22 (b) The officer, in his or her certificate or in a record  
23 filed and maintained in the Sheriff's office, or other person  
24 making service, in his or her affidavit or in a record filed  
25 and maintained in his or her employer's office, shall (1)

1 identify as to sex, race, and approximate age the defendant or  
2 other person with whom the summons was left and (2) state the  
3 place where (whenever possible in terms of an exact street  
4 address) and the date and time of the day when the summons was  
5 left with the defendant or other person.

6 (c) Any person who knowingly sets forth in the certificate  
7 or affidavit any false statement, shall be liable in civil  
8 contempt. When the court holds a person in civil contempt under  
9 this Section, it shall award such damages as it determines to  
10 be just and, when the contempt is prosecuted by a private  
11 attorney, may award reasonable attorney's fees.

12 (Source: P.A. 95-858, eff. 8-18-08; 96-339, eff. 7-1-10.)

13 (735 ILCS 5/8-201) (from Ch. 110, par. 8-201)

14 Sec. 8-201. Dead-Man's Act. In the trial of any action in  
15 which any party sues or defends as the representative of a  
16 deceased person or person under a legal disability, no adverse  
17 party or person directly interested in the action shall be  
18 allowed to testify on his or her own behalf to any conversation  
19 with the deceased or person under legal disability or to any  
20 event which took place in the presence of the deceased or  
21 person under legal disability, except in the following  
22 instances:

23 (a) If any person testifies on behalf of the representative  
24 to any conversation with the deceased or person under legal  
25 disability or to any event which took place in the presence of

1 the deceased or person under legal disability, any adverse  
2 party or interested person, if otherwise competent, may testify  
3 concerning the same conversation or event.

4 (b) If the deposition of the deceased or person under legal  
5 disability is admitted in evidence on behalf of the  
6 representative, any adverse party or interested person, if  
7 otherwise competent, may testify concerning the same matters  
8 admitted in evidence.

9 (c) Any testimony competent under Section 8-401 of this  
10 Act, is not barred by this Section.

11 (d) No person shall be barred from testifying as to any  
12 fact relating to the heirship of a decedent.

13 As used in this Section:

14 (a) "Person under legal disability" means any person who is  
15 adjudged by the court in the pending civil action to be unable  
16 to testify by reason of mental illness, an intellectual  
17 disability, ~~mental retardation~~ or deterioration of mentality.

18 (b) "Representative" means an executor, administrator,  
19 heir or legatee of a deceased person and any guardian or  
20 trustee of any such heir or legatee, or a guardian or guardian  
21 ad litem for a person under legal disability.

22 (c) "Person directly interested in the action" or  
23 "interested person" does not include a person who is interested  
24 solely as executor, trustee or in any other fiduciary capacity,  
25 whether or not he or she receives or expects to receive  
26 compensation for acting in that capacity.

1 (d) This Section applies to proceedings filed on or after  
2 October 1, 1973.

3 (Source: P.A. 82-280.)

4 Section 155. The Predator Accountability Act is amended by  
5 changing Section 10 as follows:

6 (740 ILCS 128/10)

7 Sec. 10. Definitions. As used in this Act:

8 "Sex trade" means any act, which if proven beyond a  
9 reasonable doubt could support a conviction for a violation or  
10 attempted violation of any of the following Sections of the  
11 Criminal Code of 1961: 11-15 (soliciting for a prostitute);  
12 11-15.1 (soliciting for a juvenile prostitute); 11-16  
13 (pandering); 11-17 (keeping a place of prostitution); 11-17.1  
14 (keeping a place of juvenile prostitution); 11-19 (pimping);  
15 11-19.1 (juvenile pimping and aggravated juvenile pimping);  
16 11-19.2 (exploitation of a child); 11-20 (obscenity); or  
17 11-20.1 (child pornography); or Section 10-9 of the Criminal  
18 Code of 1961 (trafficking of persons and involuntary  
19 servitude).

20 "Sex trade" activity may involve adults and youth of all  
21 genders and sexual orientations.

22 "Victim of the sex trade" means, for the following sex  
23 trade acts, the person or persons indicated:

24 (1) soliciting for a prostitute: the prostitute who is

1 the object of the solicitation;

2 (2) soliciting for a juvenile prostitute: the juvenile  
3 prostitute, or severely or profoundly intellectually  
4 disabled ~~mentally retarded~~ person, who is the object of the  
5 solicitation;

6 (3) pandering: the person intended or compelled to act  
7 as a prostitute;

8 (4) keeping a place of prostitution: any person  
9 intended or compelled to act as a prostitute, while present  
10 at the place, during the time period in question;

11 (5) keeping a place of juvenile prostitution: any  
12 juvenile intended or compelled to act as a prostitute,  
13 while present at the place, during the time period in  
14 question;

15 (6) pimping: the prostitute from whom anything of value  
16 is received;

17 (7) juvenile pimping and aggravated juvenile pimping:  
18 the juvenile, or severely or profoundly intellectually  
19 disabled ~~mentally retarded~~ person, from whom anything of  
20 value is received for that person's act of prostitution;

21 (8) exploitation of a child: the juvenile, or severely  
22 or profoundly intellectually disabled ~~mentally retarded~~  
23 person, intended or compelled to act as a prostitute or  
24 from whom anything of value is received for that person's  
25 act of prostitution;

26 (9) obscenity: any person who appears in or is

1 described or depicted in the offending conduct or material;

2 (10) child pornography: any child, or severely or  
3 profoundly intellectually disabled ~~mentally retarded~~  
4 person, who appears in or is described or depicted in the  
5 offending conduct or material; or

6 (11) trafficking of persons or involuntary servitude:  
7 a "trafficking victim" as defined in Section 10-9 of the  
8 Criminal Code of 1961.

9 (Source: P.A. 96-710, eff. 1-1-10.)

10 Section 160. The Sports Volunteer Immunity Act is amended  
11 by changing Section 1 as follows:

12 (745 ILCS 80/1) (from Ch. 70, par. 701)

13 Sec. 1. Manager, coach, umpire or referee negligence  
14 standard. (a) General rule. Except as provided otherwise in  
15 this Section, no person who, without compensation and as a  
16 volunteer, renders services as a manager, coach, instructor,  
17 umpire or referee or who, without compensation and as a  
18 volunteer, assists a manager, coach, instructor, umpire or  
19 referee in a sports program of a nonprofit association, shall  
20 be liable to any person for any civil damages as a result of  
21 any acts or omissions in rendering such services or in  
22 conducting or sponsoring such sports program, unless the  
23 conduct of such person falls substantially below the standards  
24 generally practiced and accepted in like circumstances by

1 similar persons rendering such services or conducting or  
2 sponsoring such sports programs, and unless it is shown that  
3 such person did an act or omitted the doing of an act which  
4 such person was under a recognized duty to another to do,  
5 knowing or having reason to know that such act or omission  
6 created a substantial risk of actual harm to the person or  
7 property of another. It shall be insufficient to impose  
8 liability to establish only that the conduct of such person  
9 fell below ordinary standards of care.

10 (b) Exceptions.

11 (1) Nothing in this Section shall be construed as affecting  
12 or modifying the liability of such person or a nonprofit  
13 association for any of the following:

14 (i) acts or omissions relating to the transportation of  
15 participants in a sports program or others to or from a game,  
16 event or practice.

17 (ii) acts or omissions relating to the care and maintenance  
18 of real estate unrelated to the practice or playing areas which  
19 such persons or nonprofit associations own, possess or control.

20 (2) Nothing in this Section shall be construed as affecting  
21 or modifying any existing legal basis for determining the  
22 liability, or any defense thereto, of any person not covered by  
23 the standard of negligence established by this Section.

24 (c) Assumption of risk or comparative fault. Nothing in  
25 this Section shall be construed as affecting or modifying the  
26 doctrine of assumption of risk or comparative fault on the part

1 of the participant.

2 (d) Definitions. As used in this Act the following words  
3 and phrases shall have the meanings given to them in this  
4 subsection:

5 "Compensation" means any payment for services performed  
6 but does not include reimbursement for reasonable expenses  
7 actually incurred or to be incurred or, solely in the case of  
8 umpires or referees, a modest honorarium.

9 "Nonprofit association" means an entity which is organized  
10 as a not-for-profit corporation under the laws of this State or  
11 the United States or a nonprofit unincorporated association or  
12 any entity which is authorized to do business in this State as  
13 a not-for-profit corporation under the laws of this State,  
14 including, but not limited to, youth or athletic associations,  
15 volunteer fire, ambulance, religious, charitable, fraternal,  
16 veterans, civic, county fair or agricultural associations, or  
17 any separately chartered auxiliary of the foregoing, if  
18 organized and operated on a nonprofit basis.

19 "Sports program" means baseball (including softball),  
20 football, basketball, soccer or any other competitive sport  
21 formally recognized as a sport by the United States Olympic  
22 Committee as specified by and under the jurisdiction of the  
23 Amateur Sports Act of 1978 (36 U.S.C. 371 et seq.), the Amateur  
24 Athletic Union or the National Collegiate Athletic  
25 Association. The term shall be limited to a program or that  
26 portion of a program that is organized for recreational



1 purposes and whose activities are substantially for such  
2 purposes and which is primarily for participants who are 18  
3 years of age or younger or whose 19th birthday occurs during  
4 the year of participation or the competitive season, whichever  
5 is longer. There shall, however, be no age limitation for  
6 programs operated for the physically handicapped or  
7 intellectually disabled ~~mentally retarded~~.

8 (e) Nothing in this Section is intended to bar any cause of  
9 action against a nonprofit association or change the liability  
10 of such an association which arises out of an act or omission  
11 of any person exempt from liability under this Act.

12 (Source: P.A. 85-959.)

13 Section 165. The Adoption Act is amended by changing  
14 Sections 1 and 12 as follows:

15 (750 ILCS 50/1) (from Ch. 40, par. 1501)

16 Sec. 1. Definitions. When used in this Act, unless the  
17 context otherwise requires:

18 A. "Child" means a person under legal age subject to  
19 adoption under this Act.

20 B. "Related child" means a child subject to adoption where  
21 either or both of the adopting parents stands in any of the  
22 following relationships to the child by blood or marriage:  
23 parent, grand-parent, brother, sister, step-parent,  
24 step-grandparent, step-brother, step-sister, uncle, aunt,

1 great-uncle, great-aunt, or cousin of first degree. A child  
2 whose parent has executed a final irrevocable consent to  
3 adoption or a final irrevocable surrender for purposes of  
4 adoption, or whose parent has had his or her parental rights  
5 terminated, is not a related child to that person, unless the  
6 consent is determined to be void or is void pursuant to  
7 subsection O of Section 10.

8 C. "Agency" for the purpose of this Act means a public  
9 child welfare agency or a licensed child welfare agency.

10 D. "Unfit person" means any person whom the court shall  
11 find to be unfit to have a child, without regard to the  
12 likelihood that the child will be placed for adoption. The  
13 grounds of unfitness are any one or more of the following,  
14 except that a person shall not be considered an unfit person  
15 for the sole reason that the person has relinquished a child in  
16 accordance with the Abandoned Newborn Infant Protection Act:

17 (a) Abandonment of the child.

18 (a-1) Abandonment of a newborn infant in a hospital.

19 (a-2) Abandonment of a newborn infant in any setting  
20 where the evidence suggests that the parent intended to  
21 relinquish his or her parental rights.

22 (b) Failure to maintain a reasonable degree of  
23 interest, concern or responsibility as to the child's  
24 welfare.

25 (c) Desertion of the child for more than 3 months next  
26 preceding the commencement of the Adoption proceeding.

1           (d) Substantial neglect of the child if continuous or  
2 repeated.

3           (d-1) Substantial neglect, if continuous or repeated,  
4 of any child residing in the household which resulted in  
5 the death of that child.

6           (e) Extreme or repeated cruelty to the child.

7           (f) There is a rebuttable presumption, which can be  
8 overcome only by clear and convincing evidence, that a  
9 parent is unfit if:

10           (1) Two or more findings of physical abuse have  
11 been entered regarding any children under Section 2-21  
12 of the Juvenile Court Act of 1987, the most recent of  
13 which was determined by the juvenile court hearing the  
14 matter to be supported by clear and convincing  
15 evidence; or

16           (2) The parent has been convicted or found not  
17 guilty by reason of insanity and the conviction or  
18 finding resulted from the death of any child by  
19 physical abuse; or

20           (3) There is a finding of physical child abuse  
21 resulting from the death of any child under Section  
22 2-21 of the Juvenile Court Act of 1987.

23           No conviction or finding of delinquency pursuant  
24 to Article 5 of the Juvenile Court Act of 1987 shall be  
25 considered a criminal conviction for the purpose of  
26 applying any presumption under this item (f).

1 (g) Failure to protect the child from conditions within  
2 his environment injurious to the child's welfare.

3 (h) Other neglect of, or misconduct toward the child;  
4 provided that in making a finding of unfitness the court  
5 hearing the adoption proceeding shall not be bound by any  
6 previous finding, order or judgment affecting or  
7 determining the rights of the parents toward the child  
8 sought to be adopted in any other proceeding except such  
9 proceedings terminating parental rights as shall be had  
10 under either this Act, the Juvenile Court Act or the  
11 Juvenile Court Act of 1987.

12 (i) Depravity. Conviction of any one of the following  
13 crimes shall create a presumption that a parent is depraved  
14 which can be overcome only by clear and convincing  
15 evidence: (1) first degree murder in violation of paragraph  
16 1 or 2 of subsection (a) of Section 9-1 of the Criminal  
17 Code of 1961 or conviction of second degree murder in  
18 violation of subsection (a) of Section 9-2 of the Criminal  
19 Code of 1961 of a parent of the child to be adopted; (2)  
20 first degree murder or second degree murder of any child in  
21 violation of the Criminal Code of 1961; (3) attempt or  
22 conspiracy to commit first degree murder or second degree  
23 murder of any child in violation of the Criminal Code of  
24 1961; (4) solicitation to commit murder of any child,  
25 solicitation to commit murder of any child for hire, or  
26 solicitation to commit second degree murder of any child in

1 violation of the Criminal Code of 1961; (5) predatory  
2 criminal sexual assault of a child in violation of Section  
3 12-14.1 of the Criminal Code of 1961; (6) heinous battery  
4 of any child in violation of the Criminal Code of 1961; or  
5 (7) aggravated battery of any child in violation of the  
6 Criminal Code of 1961.

7 There is a rebuttable presumption that a parent is  
8 deprived if the parent has been criminally convicted of at  
9 least 3 felonies under the laws of this State or any other  
10 state, or under federal law, or the criminal laws of any  
11 United States territory; and at least one of these  
12 convictions took place within 5 years of the filing of the  
13 petition or motion seeking termination of parental rights.

14 There is a rebuttable presumption that a parent is  
15 deprived if that parent has been criminally convicted of  
16 either first or second degree murder of any person as  
17 defined in the Criminal Code of 1961 within 10 years of the  
18 filing date of the petition or motion to terminate parental  
19 rights.

20 No conviction or finding of delinquency pursuant to  
21 Article 5 of the Juvenile Court Act of 1987 shall be  
22 considered a criminal conviction for the purpose of  
23 applying any presumption under this item (i).

24 (j) Open and notorious adultery or fornication.

25 (j-1) (Blank).

26 (k) Habitual drunkenness or addiction to drugs, other

1 than those prescribed by a physician, for at least one year  
2 immediately prior to the commencement of the unfitness  
3 proceeding.

4 There is a rebuttable presumption that a parent is  
5 unfit under this subsection with respect to any child to  
6 which that parent gives birth where there is a confirmed  
7 test result that at birth the child's blood, urine, or  
8 meconium contained any amount of a controlled substance as  
9 defined in subsection (f) of Section 102 of the Illinois  
10 Controlled Substances Act or metabolites of such  
11 substances, the presence of which in the newborn infant was  
12 not the result of medical treatment administered to the  
13 mother or the newborn infant; and the biological mother of  
14 this child is the biological mother of at least one other  
15 child who was adjudicated a neglected minor under  
16 subsection (c) of Section 2-3 of the Juvenile Court Act of  
17 1987.

18 (l) Failure to demonstrate a reasonable degree of  
19 interest, concern or responsibility as to the welfare of a  
20 new born child during the first 30 days after its birth.

21 (m) Failure by a parent (i) to make reasonable efforts  
22 to correct the conditions that were the basis for the  
23 removal of the child from the parent, or (ii) to make  
24 reasonable progress toward the return of the child to the  
25 parent within 9 months after an adjudication of neglected  
26 or abused minor under Section 2-3 of the Juvenile Court Act

1 of 1987 or dependent minor under Section 2-4 of that Act,  
2 or (iii) to make reasonable progress toward the return of  
3 the child to the parent during any 9-month period after the  
4 end of the initial 9-month period following the  
5 adjudication of neglected or abused minor under Section 2-3  
6 of the Juvenile Court Act of 1987 or dependent minor under  
7 Section 2-4 of that Act. If a service plan has been  
8 established as required under Section 8.2 of the Abused and  
9 Neglected Child Reporting Act to correct the conditions  
10 that were the basis for the removal of the child from the  
11 parent and if those services were available, then, for  
12 purposes of this Act, "failure to make reasonable progress  
13 toward the return of the child to the parent" includes (I)  
14 the parent's failure to substantially fulfill his or her  
15 obligations under the service plan and correct the  
16 conditions that brought the child into care within 9 months  
17 after the adjudication under Section 2-3 or 2-4 of the  
18 Juvenile Court Act of 1987 and (II) the parent's failure to  
19 substantially fulfill his or her obligations under the  
20 service plan and correct the conditions that brought the  
21 child into care during any 9-month period after the end of  
22 the initial 9-month period following the adjudication  
23 under Section 2-3 or 2-4 of the Juvenile Court Act of 1987.  
24 Notwithstanding any other provision, when a petition or  
25 motion seeks to terminate parental rights on the basis of  
26 item (iii) of this subsection (m), the petitioner shall

1 file with the court and serve on the parties a pleading  
2 that specifies the 9-month period or periods relied on. The  
3 pleading shall be filed and served on the parties no later  
4 than 3 weeks before the date set by the court for closure  
5 of discovery, and the allegations in the pleading shall be  
6 treated as incorporated into the petition or motion.  
7 Failure of a respondent to file a written denial of the  
8 allegations in the pleading shall not be treated as an  
9 admission that the allegations are true.

10 (m-1) Pursuant to the Juvenile Court Act of 1987, a  
11 child has been in foster care for 15 months out of any 22  
12 month period which begins on or after the effective date of  
13 this amendatory Act of 1998 unless the child's parent can  
14 prove by a preponderance of the evidence that it is more  
15 likely than not that it will be in the best interests of  
16 the child to be returned to the parent within 6 months of  
17 the date on which a petition for termination of parental  
18 rights is filed under the Juvenile Court Act of 1987. The  
19 15 month time limit is tolled during any period for which  
20 there is a court finding that the appointed custodian or  
21 guardian failed to make reasonable efforts to reunify the  
22 child with his or her family, provided that (i) the finding  
23 of no reasonable efforts is made within 60 days of the  
24 period when reasonable efforts were not made or (ii) the  
25 parent filed a motion requesting a finding of no reasonable  
26 efforts within 60 days of the period when reasonable



1 efforts were not made. For purposes of this subdivision  
2 (m-1), the date of entering foster care is the earlier of:  
3 (i) the date of a judicial finding at an adjudicatory  
4 hearing that the child is an abused, neglected, or  
5 dependent minor; or (ii) 60 days after the date on which  
6 the child is removed from his or her parent, guardian, or  
7 legal custodian.

8 (n) Evidence of intent to forgo his or her parental  
9 rights, whether or not the child is a ward of the court,  
10 (1) as manifested by his or her failure for a period of 12  
11 months: (i) to visit the child, (ii) to communicate with  
12 the child or agency, although able to do so and not  
13 prevented from doing so by an agency or by court order, or  
14 (iii) to maintain contact with or plan for the future of  
15 the child, although physically able to do so, or (2) as  
16 manifested by the father's failure, where he and the mother  
17 of the child were unmarried to each other at the time of  
18 the child's birth, (i) to commence legal proceedings to  
19 establish his paternity under the Illinois Parentage Act of  
20 1984 or the law of the jurisdiction of the child's birth  
21 within 30 days of being informed, pursuant to Section 12a  
22 of this Act, that he is the father or the likely father of  
23 the child or, after being so informed where the child is  
24 not yet born, within 30 days of the child's birth, or (ii)  
25 to make a good faith effort to pay a reasonable amount of  
26 the expenses related to the birth of the child and to

1 provide a reasonable amount for the financial support of  
2 the child, the court to consider in its determination all  
3 relevant circumstances, including the financial condition  
4 of both parents; provided that the ground for termination  
5 provided in this subparagraph (n)(2)(ii) shall only be  
6 available where the petition is brought by the mother or  
7 the husband of the mother.

8 Contact or communication by a parent with his or her  
9 child that does not demonstrate affection and concern does  
10 not constitute reasonable contact and planning under  
11 subdivision (n). In the absence of evidence to the  
12 contrary, the ability to visit, communicate, maintain  
13 contact, pay expenses and plan for the future shall be  
14 presumed. The subjective intent of the parent, whether  
15 expressed or otherwise, unsupported by evidence of the  
16 foregoing parental acts manifesting that intent, shall not  
17 preclude a determination that the parent has intended to  
18 forgo his or her parental rights. In making this  
19 determination, the court may consider but shall not require  
20 a showing of diligent efforts by an authorized agency to  
21 encourage the parent to perform the acts specified in  
22 subdivision (n).

23 It shall be an affirmative defense to any allegation  
24 under paragraph (2) of this subsection that the father's  
25 failure was due to circumstances beyond his control or to  
26 impediments created by the mother or any other person

1           having legal custody. Proof of that fact need only be by a  
2           preponderance of the evidence.

3           (o) Repeated or continuous failure by the parents,  
4           although physically and financially able, to provide the  
5           child with adequate food, clothing, or shelter.

6           (p) Inability to discharge parental responsibilities  
7           supported by competent evidence from a psychiatrist,  
8           licensed clinical social worker, or clinical psychologist  
9           of mental impairment, mental illness or an intellectual  
10          disability ~~mental retardation~~ as defined in Section 1-116  
11          of the Mental Health and Developmental Disabilities Code,  
12          or developmental disability as defined in Section 1-106 of  
13          that Code, and there is sufficient justification to believe  
14          that the inability to discharge parental responsibilities  
15          shall extend beyond a reasonable time period. However, this  
16          subdivision (p) shall not be construed so as to permit a  
17          licensed clinical social worker to conduct any medical  
18          diagnosis to determine mental illness or mental  
19          impairment.

20          (q) (Blank).

21          (r) The child is in the temporary custody or  
22          guardianship of the Department of Children and Family  
23          Services, the parent is incarcerated as a result of  
24          criminal conviction at the time the petition or motion for  
25          termination of parental rights is filed, prior to  
26          incarceration the parent had little or no contact with the

1 child or provided little or no support for the child, and  
2 the parent's incarceration will prevent the parent from  
3 discharging his or her parental responsibilities for the  
4 child for a period in excess of 2 years after the filing of  
5 the petition or motion for termination of parental rights.

6 (s) The child is in the temporary custody or  
7 guardianship of the Department of Children and Family  
8 Services, the parent is incarcerated at the time the  
9 petition or motion for termination of parental rights is  
10 filed, the parent has been repeatedly incarcerated as a  
11 result of criminal convictions, and the parent's repeated  
12 incarceration has prevented the parent from discharging  
13 his or her parental responsibilities for the child.

14 (t) A finding that at birth the child's blood, urine,  
15 or meconium contained any amount of a controlled substance  
16 as defined in subsection (f) of Section 102 of the Illinois  
17 Controlled Substances Act, or a metabolite of a controlled  
18 substance, with the exception of controlled substances or  
19 metabolites of such substances, the presence of which in  
20 the newborn infant was the result of medical treatment  
21 administered to the mother or the newborn infant, and that  
22 the biological mother of this child is the biological  
23 mother of at least one other child who was adjudicated a  
24 neglected minor under subsection (c) of Section 2-3 of the  
25 Juvenile Court Act of 1987, after which the biological  
26 mother had the opportunity to enroll in and participate in

1 a clinically appropriate substance abuse counseling,  
2 treatment, and rehabilitation program.

3 E. "Parent" means the father or mother of a lawful child of  
4 the parties or child born out of wedlock. For the purpose of  
5 this Act, a person who has executed a final and irrevocable  
6 consent to adoption or a final and irrevocable surrender for  
7 purposes of adoption, or whose parental rights have been  
8 terminated by a court, is not a parent of the child who was the  
9 subject of the consent or surrender, unless the consent is void  
10 pursuant to subsection O of Section 10.

11 F. A person is available for adoption when the person is:

12 (a) a child who has been surrendered for adoption to an  
13 agency and to whose adoption the agency has thereafter  
14 consented;

15 (b) a child to whose adoption a person authorized by  
16 law, other than his parents, has consented, or to whose  
17 adoption no consent is required pursuant to Section 8 of  
18 this Act;

19 (c) a child who is in the custody of persons who intend  
20 to adopt him through placement made by his parents;

21 (c-1) a child for whom a parent has signed a specific  
22 consent pursuant to subsection O of Section 10;

23 (d) an adult who meets the conditions set forth in  
24 Section 3 of this Act; or

25 (e) a child who has been relinquished as defined in  
26 Section 10 of the Abandoned Newborn Infant Protection Act.

1           A person who would otherwise be available for adoption  
2 shall not be deemed unavailable for adoption solely by reason  
3 of his or her death.

4           G. The singular includes the plural and the plural includes  
5 the singular and the "male" includes the "female", as the  
6 context of this Act may require.

7           H. "Adoption disruption" occurs when an adoptive placement  
8 does not prove successful and it becomes necessary for the  
9 child to be removed from placement before the adoption is  
10 finalized.

11           I. "Foreign placing agency" is an agency or individual  
12 operating in a country or territory outside the United States  
13 that is authorized by its country to place children for  
14 adoption either directly with families in the United States or  
15 through United States based international agencies.

16           J. "Immediate relatives" means the biological parents, the  
17 parents of the biological parents and siblings of the  
18 biological parents.

19           K. "Intercountry adoption" is a process by which a child  
20 from a country other than the United States is adopted.

21           L. "Intercountry Adoption Coordinator" is a staff person of  
22 the Department of Children and Family Services appointed by the  
23 Director to coordinate the provision of services by the public  
24 and private sector to prospective parents of foreign-born  
25 children.

26           M. "Interstate Compact on the Placement of Children" is a

1 law enacted by most states for the purpose of establishing  
2 uniform procedures for handling the interstate placement of  
3 children in foster homes, adoptive homes, or other child care  
4 facilities.

5 N. "Non-Compact state" means a state that has not enacted  
6 the Interstate Compact on the Placement of Children.

7 O. "Preadoption requirements" are any conditions  
8 established by the laws or regulations of the Federal  
9 Government or of each state that must be met prior to the  
10 placement of a child in an adoptive home.

11 P. "Abused child" means a child whose parent or immediate  
12 family member, or any person responsible for the child's  
13 welfare, or any individual residing in the same home as the  
14 child, or a paramour of the child's parent:

15 (a) inflicts, causes to be inflicted, or allows to be  
16 inflicted upon the child physical injury, by other than  
17 accidental means, that causes death, disfigurement,  
18 impairment of physical or emotional health, or loss or  
19 impairment of any bodily function;

20 (b) creates a substantial risk of physical injury to  
21 the child by other than accidental means which would be  
22 likely to cause death, disfigurement, impairment of  
23 physical or emotional health, or loss or impairment of any  
24 bodily function;

25 (c) commits or allows to be committed any sex offense  
26 against the child, as sex offenses are defined in the

1 Criminal Code of 1961 and extending those definitions of  
2 sex offenses to include children under 18 years of age;

3 (d) commits or allows to be committed an act or acts of  
4 torture upon the child; or

5 (e) inflicts excessive corporal punishment.

6 Q. "Neglected child" means any child whose parent or other  
7 person responsible for the child's welfare withholds or denies  
8 nourishment or medically indicated treatment including food or  
9 care denied solely on the basis of the present or anticipated  
10 mental or physical impairment as determined by a physician  
11 acting alone or in consultation with other physicians or  
12 otherwise does not provide the proper or necessary support,  
13 education as required by law, or medical or other remedial care  
14 recognized under State law as necessary for a child's  
15 well-being, or other care necessary for his or her well-being,  
16 including adequate food, clothing and shelter; or who is  
17 abandoned by his or her parents or other person responsible for  
18 the child's welfare.

19 A child shall not be considered neglected or abused for the  
20 sole reason that the child's parent or other person responsible  
21 for his or her welfare depends upon spiritual means through  
22 prayer alone for the treatment or cure of disease or remedial  
23 care as provided under Section 4 of the Abused and Neglected  
24 Child Reporting Act. A child shall not be considered neglected  
25 or abused for the sole reason that the child's parent or other  
26 person responsible for the child's welfare failed to vaccinate,



1 delayed vaccination, or refused vaccination for the child due  
2 to a waiver on religious or medical grounds as permitted by  
3 law.

4 R. "Putative father" means a man who may be a child's  
5 father, but who (1) is not married to the child's mother on or  
6 before the date that the child was or is to be born and (2) has  
7 not established paternity of the child in a court proceeding  
8 before the filing of a petition for the adoption of the child.  
9 The term includes a male who is less than 18 years of age.  
10 "Putative father" does not mean a man who is the child's father  
11 as a result of criminal sexual abuse or assault as defined  
12 under Article 12 of the Criminal Code of 1961.

13 S. "Standby adoption" means an adoption in which a parent  
14 consents to custody and termination of parental rights to  
15 become effective upon the occurrence of a future event, which  
16 is either the death of the parent or the request of the parent  
17 for the entry of a final judgment of adoption.

18 T. (Blank).

19 (Source: P.A. 93-732, eff. 1-1-05; 94-229, eff. 1-1-06; 94-563,  
20 eff. 1-1-06; 94-939, eff. 1-1-07.)

21 (750 ILCS 50/12) (from Ch. 40, par. 1514)

22 Sec. 12. Consent of child or adult. If, upon the date of  
23 the entry of the judgment the person sought to be adopted is of  
24 the age of 14 years or upwards, the adoption shall not be made  
25 without the consent of such person. Such consent shall be in

1 writing and shall be acknowledged by such person as provided in  
2 Section 10 of this Act, provided, that if such person is in  
3 need of mental treatment or is intellectually disabled ~~mentally~~  
4 ~~retarded~~, the court may waive the provisions of this Section.  
5 No consent shall be required under this Section if the person  
6 sought to be adopted has died before giving such consent.  
7 (Source: P.A. 85-517.)

8 Section 170. The Probate Act of 1975 is amended by changing  
9 Section 11a-1 as follows:

10 (755 ILCS 5/11a-1) (from Ch. 110 1/2, par. 11a-1)  
11 Sec. 11a-1. Developmental disability defined.)  
12 "Developmental disability" means a disability which is  
13 attributable to: (a) an intellectual disability ~~mental~~  
14 ~~retardation~~, cerebral palsy, epilepsy or autism; or to (b) any  
15 other condition which results in impairment similar to that  
16 caused by an intellectual disability ~~mental retardation~~ and  
17 which requires services similar to those required by  
18 intellectually disabled ~~mentally retarded~~ persons. Such  
19 disability must originate before the age of 18 years, be  
20 expected to continue indefinitely, and constitute a  
21 substantial handicap.  
22 (Source: P.A. 80-1415.)

23 Section 175. The Health Care Surrogate Act is amended by

1 changing Section 20 as follows:

2 (755 ILCS 40/20) (from Ch. 110 1/2, par. 851-20)

3 Sec. 20. Private decision making process. (a)

4 Decisions whether to forgo life-sustaining or any other form of  
5 medical treatment involving an adult patient with decisional  
6 capacity may be made by that adult patient.

7 (b) Decisions whether to forgo life-sustaining treatment  
8 on behalf of a patient without decisional capacity are lawful,  
9 without resort to the courts or legal process, if the patient  
10 has a qualifying condition and if the decisions are made in  
11 accordance with one of the following paragraphs in this  
12 subsection and otherwise meet the requirements of this Act:

13 (1) Decisions whether to forgo life-sustaining  
14 treatment on behalf of a minor or an adult patient who  
15 lacks decisional capacity may be made by a surrogate  
16 decision maker or makers in consultation with the attending  
17 physician, in the order or priority provided in Section 25.  
18 A surrogate decision maker shall make decisions for the  
19 adult patient conforming as closely as possible to what the  
20 patient would have done or intended under the  
21 circumstances, taking into account evidence that includes,  
22 but is not limited to, the patient's personal,  
23 philosophical, religious and moral beliefs and ethical  
24 values relative to the purpose of life, sickness, medical  
25 procedures, suffering, and death. Where possible, the

1 surrogate shall determine how the patient would have  
2 weighed the burdens and benefits of initiating or  
3 continuing life-sustaining treatment against the burdens  
4 and benefits of that treatment. In the event an unrevoked  
5 advance directive, such as a living will, a declaration for  
6 mental health treatment, or a power of attorney for health  
7 care, is no longer valid due to a technical deficiency or  
8 is not applicable to the patient's condition, that document  
9 may be used as evidence of a patient's wishes. The absence  
10 of a living will, declaration for mental health treatment,  
11 or power of attorney for health care shall not give rise to  
12 any presumption as to the patient's preferences regarding  
13 the initiation or continuation of life-sustaining  
14 procedures. If the adult patient's wishes are unknown and  
15 remain unknown after reasonable efforts to discern them or  
16 if the patient is a minor, the decision shall be made on  
17 the basis of the patient's best interests as determined by  
18 the surrogate decision maker. In determining the patient's  
19 best interests, the surrogate shall weigh the burdens on  
20 and benefits to the patient of initiating or continuing  
21 life-sustaining treatment against the burdens and benefits  
22 of that treatment and shall take into account any other  
23 information, including the views of family and friends,  
24 that the surrogate decision maker believes the patient  
25 would have considered if able to act for herself or  
26 himself.

1           (2) Decisions whether to forgo life-sustaining  
2 treatment on behalf of a minor or an adult patient who  
3 lacks decisional capacity, but without any surrogate  
4 decision maker or guardian being available determined  
5 after reasonable inquiry by the health care provider, may  
6 be made by a court appointed guardian. A court appointed  
7 guardian shall be treated as a surrogate for the purposes  
8 of this Act.

9           (b-5) Decisions concerning medical treatment on behalf of a  
10 patient without decisional capacity are lawful, without resort  
11 to the courts or legal process, if the patient does not have a  
12 qualifying condition and if decisions are made in accordance  
13 with one of the following paragraphs in this subsection and  
14 otherwise meet the requirements of this Act:

15           (1) Decisions concerning medical treatment on behalf  
16 of a minor or adult patient who lacks decisional capacity  
17 may be made by a surrogate decision maker or makers in  
18 consultation with the attending physician, in the order of  
19 priority provided in Section 25 with the exception that  
20 decisions to forgo life-sustaining treatment may be made  
21 only when a patient has a qualifying condition. A surrogate  
22 decision maker shall make decisions for the patient  
23 conforming as closely as possible to what the patient would  
24 have done or intended under the circumstances, taking into  
25 account evidence that includes, but is not limited to, the  
26 patient's personal, philosophical, religious, and moral

1 beliefs and ethical values relative to the purpose of life,  
2 sickness, medical procedures, suffering, and death. In the  
3 event an unrevoked advance directive, such as a living  
4 will, a declaration for mental health treatment, or a power  
5 of attorney for health care, is no longer valid due to a  
6 technical deficiency or is not applicable to the patient's  
7 condition, that document may be used as evidence of a  
8 patient's wishes. The absence of a living will, declaration  
9 for mental health treatment, or power of attorney for  
10 health care shall not give rise to any presumption as to  
11 the patient's preferences regarding any process. If the  
12 adult patient's wishes are unknown and remain unknown after  
13 reasonable efforts to discern them or if the patient is a  
14 minor, the decision shall be made on the basis of the  
15 patient's best interests as determined by the surrogate  
16 decision maker. In determining the patient's best  
17 interests, the surrogate shall weigh the burdens on and  
18 benefits to the patient of the treatment against the  
19 burdens and benefits of that treatment and shall take into  
20 account any other information, including the views of  
21 family and friends, that the surrogate decision maker  
22 believes the patient would have considered if able to act  
23 for herself or himself.

24 (2) Decisions concerning medical treatment on behalf  
25 of a minor or adult patient who lacks decisional capacity,  
26 but without any surrogate decision maker or guardian being

1 available as determined after reasonable inquiry by the  
2 health care provider, may be made by a court appointed  
3 guardian. A court appointed guardian shall be treated as a  
4 surrogate for the purposes of this Act.

5 (c) For the purposes of this Act, a patient or surrogate  
6 decision maker is presumed to have decisional capacity in the  
7 absence of actual notice to the contrary without regard to  
8 advanced age. With respect to a patient, a diagnosis of mental  
9 illness or an intellectual disability ~~mental retardation~~, of  
10 itself, is not a bar to a determination of decisional capacity.  
11 A determination that an adult patient lacks decisional capacity  
12 shall be made by the attending physician to a reasonable degree  
13 of medical certainty. The determination shall be in writing in  
14 the patient's medical record and shall set forth the attending  
15 physician's opinion regarding the cause, nature, and duration  
16 of the patient's lack of decisional capacity. Before  
17 implementation of a decision by a surrogate decision maker to  
18 forgo life-sustaining treatment, at least one other qualified  
19 physician must concur in the determination that an adult  
20 patient lacks decisional capacity. The concurring  
21 determination shall be made in writing in the patient's medical  
22 record after personal examination of the patient. The attending  
23 physician shall inform the patient that it has been determined  
24 that the patient lacks decisional capacity and that a surrogate  
25 decision maker will be making life-sustaining treatment  
26 decisions on behalf of the patient. Moreover, the patient shall

1 be informed of the identity of the surrogate decision maker and  
2 any decisions made by that surrogate. If the person identified  
3 as the surrogate decision maker is not a court appointed  
4 guardian and the patient objects to the statutory surrogate  
5 decision maker or any decision made by that surrogate decision  
6 maker, then the provisions of this Act shall not apply.

7 (d) A surrogate decision maker acting on behalf of the  
8 patient shall express decisions to forgo life-sustaining  
9 treatment to the attending physician and one adult witness who  
10 is at least 18 years of age. This decision and the substance of  
11 any known discussion before making the decision shall be  
12 documented by the attending physician in the patient's medical  
13 record and signed by the witness.

14 (e) The existence of a qualifying condition shall be  
15 documented in writing in the patient's medical record by the  
16 attending physician and shall include its cause and nature, if  
17 known. The written concurrence of another qualified physician  
18 is also required.

19 (f) Once the provisions of this Act are complied with, the  
20 attending physician shall thereafter promptly implement the  
21 decision to forgo life-sustaining treatment on behalf of the  
22 patient unless he or she believes that the surrogate decision  
23 maker is not acting in accordance with his or her  
24 responsibilities under this Act, or is unable to do so for  
25 reasons of conscience or other personal views or beliefs.

26 (g) In the event of a patient's death as determined by a



1 physician, all life-sustaining treatment and other medical  
2 care is to be terminated, unless the patient is an organ donor,  
3 in which case appropriate organ donation treatment may be  
4 applied or continued temporarily.

5 (Source: P.A. 93-794, eff. 7-22-04.)

6 Section 177. The Consumer Fraud and Deceptive Business  
7 Practices Act is amended by changing Section 2BBB as follows:

8 (815 ILCS 505/2BBB)

9 Sec. 2BBB. Long term care or ID/DD ~~MR/DD~~ facility; Consumer  
10 Choice Information Report. A long term care facility that fails  
11 to comply with Section 2-214 of the Nursing Home Care Act or a  
12 facility that fails to comply with Section 2-214 of the ID/DD  
13 ~~MR/DD~~ Community Care Act commits an unlawful practice within  
14 the meaning of this Act.

15 (Source: P.A. 95-823, eff. 1-1-09; 96-328, eff. 8-11-09;  
16 96-339, eff. 7-1-10.)

17 Section 999. Effective date. This Act takes effect June 1,  
18 2012.

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