



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5772

by Rep. Dennis M. Reboletti

SYNOPSIS AS INTRODUCED:

205 ILCS 657/90	
720 ILCS 5/29B-1	from Ch. 38, par. 29B-1
720 ILCS 5/29B-2 new	
720 ILCS 5/29B-3 new	
725 ILCS 5/111-4	
730 ILCS 5/5-5-3	from Ch. 38, par. 1005-5-3

Amends the Transmitters of Money Act. Deletes provision that a person who engages in conduct requiring a license under the Act and fails to obtain a license from the Director is guilty of a Class 3 felony. Amends the Criminal Code of 2012. In the statute concerning money laundering, provides that the laundering of property of a value exceeding \$1,000,000 is a Class X felony. Creates the offense of engaging in monetary transactions in criminally derived property and the offense of unlawful money transmitting business. Defines offenses and establishes penalties. Amends the Code of Criminal Procedure of 1963. Provides that 2 or more acts or transactions involving money laundering, engaging in monetary transactions in criminally derived property, unlawful money transmitting business, online sale of stolen property, online theft by deception, electronic fencing, or workers' compensation fraud, may be charged as a single offense in a single count of the same indictment, information, or complaint, if the acts or transactions by one or more defendants are in furtherance of a single intention and design or if the property, labor, or services obtained are of the same person or are of several persons having a common interest in the property, labor, or services. Amends the Unified Code of Corrections to make conforming changes.

LRB098 17067 RLC 52152 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Transmitters of Money Act is amended by
5 changing Section 90 as follows:

6 (205 ILCS 657/90)

7 Sec. 90. Enforcement.

8 (a) If it appears to the Director that a person has
9 committed or is about to commit a violation of this Act, a rule
10 promulgated under this Act, or an order of the Director, the
11 Director may apply to the circuit court for an order enjoining
12 the person from violating or continuing to violate this Act,
13 the rule, or order and for injunctive or other relief that the
14 nature of the case may require and may, in addition, request
15 the court to assess a civil penalty up to \$1,000 along with
16 costs and attorney fees.

17 (b) If the Director finds, after an investigation that he
18 considers appropriate, that a licensee or other person is
19 engaged in practices contrary to this Act or to the rules
20 promulgated under this Act, the Director may issue an order
21 directing the licensee or person to cease and desist the
22 violation. The Director may, in addition to or without the
23 issuance of a cease and desist order, assess an administrative

1 penalty up to \$1,000 against a licensee for each violation of
2 this Act or the rules promulgated under this Act. The issuance
3 of an order under this Section shall not be a prerequisite to
4 the taking of any action by the Director under this or any
5 other Section of this Act. The Director shall serve notice of
6 his action, including a statement of the reasons for his
7 actions, either personally or by certified mail, return receipt
8 requested. Service by mail shall be deemed completed if the
9 notice is deposited in the post office, postage paid, addressed
10 to the last known address for a license.

11 (c) In the case of the issuance of a cease and desist order
12 or assessment order, a hearing may be requested in writing
13 within 30 days after the date of service. The hearing shall be
14 held at the time and place designated by the Director in either
15 the City of Springfield or the City of Chicago. The Director
16 and any administrative law judge designated by him shall have
17 the power to administer oaths and affirmations, subpoena
18 witnesses and compel their attendance, take evidence,
19 authorize the taking of depositions, and require the production
20 of books, papers, correspondence, and other records or
21 information that he considers relevant or material to the
22 inquiry.

23 (d) After the Director's final determination under a
24 hearing under this Section, a party to the proceedings whose
25 interests are affected by the Director's final determination
26 shall be entitled to judicial review of that final

1 determination under the Administrative Review Law.

2 (e) The costs for administrative hearings shall be set by
3 rule.

4 (f) Except as otherwise provided in this Act, a violation
5 of this Act shall subject to the party violating it to a fine
6 of \$1,000 for each offense.

7 (g) Each transaction in violation of this Act or the rules
8 promulgated under this Act and each day that a violation
9 continues shall be a separate offense.

10 (h) A person who ~~engages in conduct requiring a license~~
11 ~~under this Act and fails to obtain a license from the Director~~
12 ~~or~~ knowingly makes a false statement, misrepresentation, or
13 false certification in an application, financial statement,
14 account record, report, or other document filed or required to
15 be maintained or filed under this Act or who knowingly makes a
16 false entry or omits a material entry in a document is guilty
17 of a Class 3 felony.

18 (i) The Director is authorized to compromise, settle, and
19 collect civil penalties and administrative penalties, as set by
20 rule, with any person for violations of this Act or of any rule
21 or order issued or promulgated under this Act. Any person who,
22 without the required license, engages in conduct requiring a
23 license under this Act shall be liable to the Department in an
24 amount equal to the greater of (i) \$5,000 or (ii) an amount of
25 money accepted for transmission plus an amount equal to 3 times
26 the amount accepted for transmission. The Department shall

1 cause any funds so recovered to be deposited in the TOMA
2 Consumer Protection Fund.

3 (j) The Director may enter into consent orders at any time
4 with a person to resolve a matter arising under this Act. A
5 consent order must be signed by the person to whom it is issued
6 and must indicate agreement to the terms contained in it. A
7 consent order need not constitute an admission by a person that
8 this Act or a rule or order issued or promulgated under this
9 Act has been violated, nor need it constitute a finding by the
10 Director that the person has violated this Act or a rule or
11 order promulgated under this Act.

12 (k) Notwithstanding the issuance of a consent order, the
13 Director may seek civil or criminal penalties or compromise
14 civil penalties concerning matter encompassed by the consent
15 order unless the consent order by its terms expressly precludes
16 the Director from doing so.

17 (l) Appeals from all final orders and judgments entered by
18 the circuit court under this Section in review of a decision of
19 the Director may be taken as in other civil actions by any
20 party to the proceeding.

21 (Source: P.A. 93-535, eff. 1-1-04.)

22 Section 10. The Criminal Code of 2012 is amended by
23 changing Section 29B-1 and by adding Sections 29B-2 and 29B-3
24 as follows:

1 (720 ILCS 5/29B-1) (from Ch. 38, par. 29B-1)

2 Sec. 29B-1. (a) A person commits the offense of money
3 laundering:

4 (1) when, knowing that the property involved in a
5 financial transaction represents the proceeds of some form
6 of unlawful activity, he or she conducts or attempts to
7 conduct such a financial transaction which in fact involves
8 criminally derived property:

9 (A) with the intent to promote the carrying on of
10 the unlawful activity from which the criminally
11 derived property was obtained; or

12 (B) where he or she knows or reasonably should know
13 that the financial transaction is designed in whole or
14 in part:

15 (i) to conceal or disguise the nature, the
16 location, the source, the ownership or the control
17 of the criminally derived property; or

18 (ii) to avoid a transaction reporting
19 requirement under State law; or

20 (1.5) when he or she transports, transmits, or
21 transfers, or attempts to transport, transmit, or transfer
22 a monetary instrument:

23 (A) with the intent to promote the carrying on of
24 the unlawful activity from which the criminally
25 derived property was obtained; or

26 (B) knowing, or having reason to know, that the

1 financial transaction is designed in whole or in part:

2 (i) to conceal or disguise the nature, the
3 location, the source, the ownership or the control
4 of the criminally derived property; or

5 (ii) to avoid a transaction reporting
6 requirement under State law; or

7 (2) when, with the intent to:

8 (A) promote the carrying on of a specified criminal
9 activity as defined in this Article; or

10 (B) conceal or disguise the nature, location,
11 source, ownership, or control of property believed to
12 be the proceeds of a specified criminal activity as
13 defined by subdivision (b) (6); or

14 (C) avoid a transaction reporting requirement
15 under State law,

16 he or she conducts or attempts to conduct a financial
17 transaction involving property he or she believes to be the
18 proceeds of specified criminal activity as defined by
19 subdivision (b) (6) or property used to conduct or
20 facilitate specified criminal activity as defined by
21 subdivision (b) (6).

22 (b) As used in this Section:

23 (0.5) "Knowing that the property involved in a
24 financial transaction represents the proceeds of some form
25 of unlawful activity" means that the person knew the
26 property involved in the transaction represented proceeds

1 from some form, though not necessarily which form, of
2 activity that constitutes a felony under State, federal, or
3 foreign law.

4 (1) "Financial transaction" means a purchase, sale,
5 loan, pledge, gift, transfer, delivery or other
6 disposition utilizing criminally derived property, and
7 with respect to financial institutions, includes a
8 deposit, withdrawal, transfer between accounts, exchange
9 of currency, loan, extension of credit, purchase or sale of
10 any stock, bond, certificate of deposit or other monetary
11 instrument, use of safe deposit box, or any other payment,
12 transfer or delivery by, through, or to a financial
13 institution. For purposes of clause (a) (2) of this Section,
14 the term "financial transaction" also means a transaction
15 which without regard to whether the funds, monetary
16 instruments, or real or personal property involved in the
17 transaction are criminally derived, any transaction which
18 in any way or degree: (1) involves the movement of funds by
19 wire or any other means; (2) involves one or more monetary
20 instruments; or (3) the transfer of title to any real or
21 personal property. The receipt by an attorney of bona fide
22 fees for the purpose of legal representation is not a
23 financial transaction for purposes of this Section.

24 (2) "Financial institution" means any bank; saving and
25 loan association; trust company; agency or branch of a
26 foreign bank in the United States; currency exchange;

1 credit union, mortgage banking institution; pawnbroker;
2 loan or finance company; operator of a credit card system;
3 issuer, redeemer or cashier of travelers checks, checks or
4 money orders; dealer in precious metals, stones or jewels;
5 broker or dealer in securities or commodities; investment
6 banker; or investment company.

7 (3) "Monetary instrument" means United States coins
8 and currency; coins and currency of a foreign country;
9 travelers checks; personal checks, bank checks, and money
10 orders; investment securities; bearer negotiable
11 instruments; bearer investment securities; or bearer
12 securities and certificates of stock in such form that
13 title thereto passes upon delivery.

14 (4) "Criminally derived property" means: (A) any
15 property, real or personal, constituting or derived from
16 proceeds obtained, directly or indirectly, from activity
17 that constitutes a felony under State, federal, or foreign
18 law; or (B) any property represented to be property
19 constituting or derived from proceeds obtained, directly
20 or indirectly, from activity that constitutes a felony
21 under State, federal, or foreign law.

22 (5) "Conduct" or "conducts" includes, in addition to
23 its ordinary meaning, initiating, concluding, or
24 participating in initiating or concluding a transaction.

25 (6) "Specified criminal activity" means any violation
26 of Section 29D-15.1 (720 ILCS 5/29D-15.1) and any violation

1 of Article 29D of this Code.

2 (7) "Director" means the Director of State Police or
3 his or her designated agents.

4 (8) "Department" means the Department of State Police
5 of the State of Illinois or its successor agency.

6 (9) "Transaction reporting requirement under State
7 law" means any violation as defined under the Currency
8 Reporting Act.

9 (c) Sentence.

10 (1) Laundering of criminally derived property of a
11 value not exceeding \$10,000 is a Class 3 felony;

12 (2) Laundering of criminally derived property of a
13 value exceeding \$10,000 but not exceeding \$100,000 is a
14 Class 2 felony;

15 (3) Laundering of criminally derived property of a
16 value exceeding \$100,000 but not exceeding \$500,000 is a
17 Class 1 felony;

18 (4) Money laundering in violation of subsection (a)(2)
19 of this Section is a Class X felony;

20 (5) Laundering of criminally derived property of a
21 value exceeding \$500,000 is a Class 1 non-probationable
22 felony;

23 (6) In a prosecution under clause (a)(1.5)(B)(ii) of
24 this Section, the sentences are as follows:

25 (A) Laundering of property of a value not exceeding
26 \$10,000 is a Class 3 felony;

1 (B) Laundering of property of a value exceeding
2 \$10,000 but not exceeding \$100,000 is a Class 2 felony;

3 (C) Laundering of property of a value exceeding
4 \$100,000 but not exceeding \$500,000 is a Class 1
5 felony;

6 (D) Laundering of property of a value exceeding
7 \$500,000 but not exceeding \$1,000,000 is a Class 1
8 non-probationable felony.

9 (E) Laundering of property of a value exceeding
10 \$1,000,000 is a Class X felony.

11 (d) Evidence. In a prosecution under this Article, either
12 party may introduce the following evidence pertaining to the
13 issue of whether the property or proceeds were known to be some
14 form of criminally derived property or from some form of
15 unlawful activity:

16 (1) A financial transaction was conducted or
17 structured or attempted in violation of the reporting
18 requirements of any State or federal law; or

19 (2) A financial transaction was conducted or attempted
20 with the use of a false or fictitious name or a forged
21 instrument; or

22 (3) A falsely altered or completed written instrument
23 or a written instrument that contains any materially false
24 personal identifying information was made, used, offered
25 or presented, whether accepted or not, in connection with a
26 financial transaction; or

1 (4) A financial transaction was structured or
2 attempted to be structured so as to falsely report the
3 actual consideration or value of the transaction; or

4 (5) A money transmitter, a person engaged in a trade or
5 business or any employee of a money transmitter or a person
6 engaged in a trade or business, knows or reasonably should
7 know that false personal identifying information has been
8 presented and incorporates the false personal identifying
9 information into any report or record; or

10 (6) The criminally derived property is transported or
11 possessed in a fashion inconsistent with the ordinary or
12 usual means of transportation or possession of such
13 property and where the property is discovered in the
14 absence of any documentation or other indicia of legitimate
15 origin or right to such property; or

16 (7) A person pays or receives substantially less than
17 face value for one or more monetary instruments; or

18 (8) A person engages in a transaction involving one or
19 more monetary instruments, where the physical condition or
20 form of the monetary instrument or instruments makes it
21 apparent that they are not the product of bona fide
22 business or financial transactions.

23 (e) Duty to enforce this Article.

24 (1) It is the duty of the Department of State Police,
25 and its agents, officers, and investigators, to enforce all
26 provisions of this Article, except those specifically

1 delegated, and to cooperate with all agencies charged with
2 the enforcement of the laws of the United States, or of any
3 state, relating to money laundering. Only an agent,
4 officer, or investigator designated by the Director may be
5 authorized in accordance with this Section to serve seizure
6 notices, warrants, subpoenas, and summonses under the
7 authority of this State.

8 (2) Any agent, officer, investigator, or peace officer
9 designated by the Director may: (A) make seizure of
10 property pursuant to the provisions of this Article; and
11 (B) perform such other law enforcement duties as the
12 Director designates. It is the duty of all State's
13 Attorneys to prosecute violations of this Article and
14 institute legal proceedings as authorized under this
15 Article.

16 (f) Protective orders.

17 (1) Upon application of the State, the court may enter
18 a restraining order or injunction, require the execution of
19 a satisfactory performance bond, or take any other action
20 to preserve the availability of property described in
21 subsection (h) for forfeiture under this Article:

22 (A) upon the filing of an indictment, information,
23 or complaint charging a violation of this Article for
24 which forfeiture may be ordered under this Article and
25 alleging that the property with respect to which the
26 order is sought would be subject to forfeiture under

1 this Article; or

2 (B) prior to the filing of such an indictment,
3 information, or complaint, if, after notice to persons
4 appearing to have an interest in the property and
5 opportunity for a hearing, the court determines that:

6 (i) there is probable cause to believe that the
7 State will prevail on the issue of forfeiture and
8 that failure to enter the order will result in the
9 property being destroyed, removed from the
10 jurisdiction of the court, or otherwise made
11 unavailable for forfeiture; and

12 (ii) the need to preserve the availability of
13 the property through the entry of the requested
14 order outweighs the hardship on any party against
15 whom the order is to be entered.

16 Provided, however, that an order entered pursuant
17 to subparagraph (B) shall be effective for not more
18 than 90 days, unless extended by the court for good
19 cause shown or unless an indictment, information,
20 complaint, or administrative notice has been filed.

21 (2) A temporary restraining order under this
22 subsection may be entered upon application of the State
23 without notice or opportunity for a hearing when an
24 indictment, information, complaint, or administrative
25 notice has not yet been filed with respect to the property,
26 if the State demonstrates that there is probable cause to

1 believe that the property with respect to which the order
2 is sought would be subject to forfeiture under this Section
3 and that provision of notice will jeopardize the
4 availability of the property for forfeiture. Such a
5 temporary order shall expire not more than 30 days after
6 the date on which it is entered, unless extended for good
7 cause shown or unless the party against whom it is entered
8 consents to an extension for a longer period. A hearing
9 requested concerning an order entered under this paragraph
10 shall be held at the earliest possible time and prior to
11 the expiration of the temporary order.

12 (3) The court may receive and consider, at a hearing
13 held pursuant to this subsection (f), evidence and
14 information that would be inadmissible under the Illinois
15 rules of evidence.

16 (4) Order to repatriate and deposit.

17 (A) In general. Pursuant to its authority to enter
18 a pretrial restraining order under this Section, the
19 court may order a defendant to repatriate any property
20 that may be seized and forfeited and to deposit that
21 property pending trial with the Illinois State Police
22 or another law enforcement agency designated by the
23 Illinois State Police.

24 (B) Failure to comply. Failure to comply with an
25 order under this subsection (f) is punishable as a
26 civil or criminal contempt of court.

1 (g) Warrant of seizure. The State may request the issuance
2 of a warrant authorizing the seizure of property described in
3 subsection (h) in the same manner as provided for a search
4 warrant. If the court determines that there is probable cause
5 to believe that the property to be seized would be subject to
6 forfeiture, the court shall issue a warrant authorizing the
7 seizure of such property.

8 (h) Forfeiture.

9 (1) The following are subject to forfeiture:

10 (A) any property, real or personal, constituting,
11 derived from, or traceable to any proceeds the person
12 obtained directly or indirectly, as a result of a
13 violation of this Article;

14 (B) any of the person's property used, or intended
15 to be used, in any manner or part, to commit, or to
16 facilitate the commission of, a violation of this
17 Article;

18 (C) all conveyances, including aircraft, vehicles
19 or vessels, which are used, or intended for use, to
20 transport, or in any manner to facilitate the
21 transportation, sale, receipt, possession, or
22 concealment of property described in subparagraphs (A)
23 and (B), but:

24 (i) no conveyance used by any person as a
25 common carrier in the transaction of business as a
26 common carrier is subject to forfeiture under this

1 Section unless it appears that the owner or other
2 person in charge of the conveyance is a consenting
3 party or privy to a violation of this Article;

4 (ii) no conveyance is subject to forfeiture
5 under this Section by reason of any act or omission
6 which the owner proves to have been committed or
7 omitted without his or her knowledge or consent;

8 (iii) a forfeiture of a conveyance encumbered
9 by a bona fide security interest is subject to the
10 interest of the secured party if he or she neither
11 had knowledge of nor consented to the act or
12 omission;

13 (D) all real property, including any right, title,
14 and interest (including, but not limited to, any
15 leasehold interest or the beneficial interest in a land
16 trust) in the whole of any lot or tract of land and any
17 appurtenances or improvements, which is used or
18 intended to be used, in any manner or part, to commit,
19 or in any manner to facilitate the commission of, any
20 violation of this Article or that is the proceeds of
21 any violation or act that constitutes a violation of
22 this Article.

23 (2) Property subject to forfeiture under this Article
24 may be seized by the Director or any peace officer upon
25 process or seizure warrant issued by any court having
26 jurisdiction over the property. Seizure by the Director or

1 any peace officer without process may be made:

2 (A) if the seizure is incident to a seizure
3 warrant;

4 (B) if the property subject to seizure has been the
5 subject of a prior judgment in favor of the State in a
6 criminal proceeding, or in an injunction or forfeiture
7 proceeding based upon this Article;

8 (C) if there is probable cause to believe that the
9 property is directly or indirectly dangerous to health
10 or safety;

11 (D) if there is probable cause to believe that the
12 property is subject to forfeiture under this Article
13 and the property is seized under circumstances in which
14 a warrantless seizure or arrest would be reasonable; or

15 (E) in accordance with the Code of Criminal
16 Procedure of 1963.

17 (3) In the event of seizure pursuant to paragraph (2),
18 forfeiture proceedings shall be instituted in accordance
19 with subsections (i) through (r).

20 (4) Property taken or detained under this Section shall
21 not be subject to replevin, but is deemed to be in the
22 custody of the Director subject only to the order and
23 judgments of the circuit court having jurisdiction over the
24 forfeiture proceedings and the decisions of the State's
25 Attorney under this Article. When property is seized under
26 this Article, the seizing agency shall promptly conduct an

1 inventory of the seized property and estimate the
2 property's value and shall forward a copy of the inventory
3 of seized property and the estimate of the property's value
4 to the Director. Upon receiving notice of seizure, the
5 Director may:

6 (A) place the property under seal;

7 (B) remove the property to a place designated by
8 the Director;

9 (C) keep the property in the possession of the
10 seizing agency;

11 (D) remove the property to a storage area for
12 safekeeping or, if the property is a negotiable
13 instrument or money and is not needed for evidentiary
14 purposes, deposit it in an interest bearing account;

15 (E) place the property under constructive seizure
16 by posting notice of pending forfeiture on it, by
17 giving notice of pending forfeiture to its owners and
18 interest holders, or by filing notice of pending
19 forfeiture in any appropriate public record relating
20 to the property; or

21 (F) provide for another agency or custodian,
22 including an owner, secured party, or lienholder, to
23 take custody of the property upon the terms and
24 conditions set by the Director.

25 (5) When property is forfeited under this Article, the
26 Director shall sell all such property unless such property

1 is required by law to be destroyed or is harmful to the
2 public, and shall distribute the proceeds of the sale,
3 together with any moneys forfeited or seized, in accordance
4 with paragraph (6). However, upon the application of the
5 seizing agency or prosecutor who was responsible for the
6 investigation, arrest or arrests and prosecution which
7 lead to the forfeiture, the Director may return any item of
8 forfeited property to the seizing agency or prosecutor for
9 official use in the enforcement of laws, if the agency or
10 prosecutor can demonstrate that the item requested would be
11 useful to the agency or prosecutor in its enforcement
12 efforts. When any real property returned to the seizing
13 agency is sold by the agency or its unit of government, the
14 proceeds of the sale shall be delivered to the Director and
15 distributed in accordance with paragraph (6).

16 (6) All monies and the sale proceeds of all other
17 property forfeited and seized under this Article shall be
18 distributed as follows:

19 (A) 65% shall be distributed to the metropolitan
20 enforcement group, local, municipal, county, or State
21 law enforcement agency or agencies which conducted or
22 participated in the investigation resulting in the
23 forfeiture. The distribution shall bear a reasonable
24 relationship to the degree of direct participation of
25 the law enforcement agency in the effort resulting in
26 the forfeiture, taking into account the total value of

1 the property forfeited and the total law enforcement
2 effort with respect to the violation of the law upon
3 which the forfeiture is based. Amounts distributed to
4 the agency or agencies shall be used for the
5 enforcement of laws.

6 (B) (i) 12.5% shall be distributed to the Office of
7 the State's Attorney of the county in which the
8 prosecution resulting in the forfeiture was
9 instituted, deposited in a special fund in the county
10 treasury and appropriated to the State's Attorney for
11 use in the enforcement of laws. In counties over
12 3,000,000 population, 25% shall be distributed to the
13 Office of the State's Attorney for use in the
14 enforcement of laws. If the prosecution is undertaken
15 solely by the Attorney General, the portion provided
16 hereunder shall be distributed to the Attorney General
17 for use in the enforcement of laws.

18 (ii) 12.5% shall be distributed to the Office
19 of the State's Attorneys Appellate Prosecutor and
20 deposited in the Narcotics Profit Forfeiture Fund
21 of that office to be used for additional expenses
22 incurred in the investigation, prosecution and
23 appeal of cases arising under laws. The Office of
24 the State's Attorneys Appellate Prosecutor shall
25 not receive distribution from cases brought in
26 counties with over 3,000,000 population.

1 (C) 10% shall be retained by the Department of
2 State Police for expenses related to the
3 administration and sale of seized and forfeited
4 property.

5 Moneys and the sale proceeds distributed to the
6 Department of State Police under this Article shall be
7 deposited in the Money Laundering Asset Recovery Fund
8 created in the State treasury and shall be used by the
9 Department of State Police for State law enforcement
10 purposes.

11 (i) Notice to owner or interest holder.

12 (1) Whenever notice of pending forfeiture or service of
13 an in rem complaint is required under the provisions of
14 this Article, such notice or service shall be given as
15 follows:

16 (A) If the owner's or interest holder's name and
17 current address are known, then by either personal
18 service or mailing a copy of the notice by certified
19 mail, return receipt requested, to that address. For
20 purposes of notice under this Section, if a person has
21 been arrested for the conduct giving rise to the
22 forfeiture, then the address provided to the arresting
23 agency at the time of arrest shall be deemed to be that
24 person's known address. Provided, however, if an owner
25 or interest holder's address changes prior to the
26 effective date of the notice of pending forfeiture, the

1 owner or interest holder shall promptly notify the
2 seizing agency of the change in address or, if the
3 owner or interest holder's address changes subsequent
4 to the effective date of the notice of pending
5 forfeiture, the owner or interest holder shall
6 promptly notify the State's Attorney of the change in
7 address; or

8 (B) If the property seized is a conveyance, to the
9 address reflected in the office of the agency or
10 official in which title or interest to the conveyance
11 is required by law to be recorded, then by mailing a
12 copy of the notice by certified mail, return receipt
13 requested, to that address; or

14 (C) If the owner's or interest holder's address is
15 not known, and is not on record as provided in
16 paragraph (B), then by publication for 3 successive
17 weeks in a newspaper of general circulation in the
18 county in which the seizure occurred.

19 (2) Notice served under this Article is effective upon
20 personal service, the last date of publication, or the
21 mailing of written notice, whichever is earlier.

22 (j) Notice to State's Attorney. The law enforcement agency
23 seizing property for forfeiture under this Article shall,
24 within 90 days after seizure, notify the State's Attorney for
25 the county, either where an act or omission giving rise to the
26 forfeiture occurred or where the property was seized, of the

1 seizure of the property and the facts and circumstances giving
2 rise to the seizure and shall provide the State's Attorney with
3 the inventory of the property and its estimated value. When the
4 property seized for forfeiture is a vehicle, the law
5 enforcement agency seizing the property shall immediately
6 notify the Secretary of State that forfeiture proceedings are
7 pending regarding such vehicle.

8 (k) Non-judicial forfeiture. If non-real property that
9 exceeds \$20,000 in value excluding the value of any conveyance,
10 or if real property is seized under the provisions of this
11 Article, the State's Attorney shall institute judicial in rem
12 forfeiture proceedings as described in subsection (l) of this
13 Section within 45 days from receipt of notice of seizure from
14 the seizing agency under subsection (j) of this Section.
15 However, if non-real property that does not exceed \$20,000 in
16 value excluding the value of any conveyance is seized, the
17 following procedure shall be used:

18 (1) If, after review of the facts surrounding the
19 seizure, the State's Attorney is of the opinion that the
20 seized property is subject to forfeiture, then within 45
21 days after the receipt of notice of seizure from the
22 seizing agency, the State's Attorney shall cause notice of
23 pending forfeiture to be given to the owner of the property
24 and all known interest holders of the property in
25 accordance with subsection (i) of this Section.

26 (2) The notice of pending forfeiture must include a

1 description of the property, the estimated value of the
2 property, the date and place of seizure, the conduct giving
3 rise to forfeiture or the violation of law alleged, and a
4 summary of procedures and procedural rights applicable to
5 the forfeiture action.

6 (3) (A) Any person claiming an interest in property
7 which is the subject of notice under paragraph (1) of this
8 subsection (k), must, in order to preserve any rights or
9 claims to the property, within 45 days after the effective
10 date of notice as described in subsection (i) of this
11 Section, file a verified claim with the State's Attorney
12 expressing his or her interest in the property. The claim
13 must set forth:

14 (i) the caption of the proceedings as set forth on
15 the notice of pending forfeiture and the name of the
16 claimant;

17 (ii) the address at which the claimant will accept
18 mail;

19 (iii) the nature and extent of the claimant's
20 interest in the property;

21 (iv) the date, identity of the transferor, and
22 circumstances of the claimant's acquisition of the
23 interest in the property;

24 (v) the name and address of all other persons known
25 to have an interest in the property;

26 (vi) the specific provision of law relied on in

1 asserting the property is not subject to forfeiture;

2 (vii) all essential facts supporting each
3 assertion; and

4 (viii) the relief sought.

5 (B) If a claimant files the claim and deposits with the
6 State's Attorney a cost bond, in the form of a cashier's
7 check payable to the clerk of the court, in the sum of 10%
8 of the reasonable value of the property as alleged by the
9 State's Attorney or the sum of \$100, whichever is greater,
10 upon condition that, in the case of forfeiture, the
11 claimant must pay all costs and expenses of forfeiture
12 proceedings, then the State's Attorney shall institute
13 judicial in rem forfeiture proceedings and deposit the cost
14 bond with the clerk of the court as described in subsection
15 (1) of this Section within 45 days after receipt of the
16 claim and cost bond. In lieu of a cost bond, a person
17 claiming interest in the seized property may file, under
18 penalty of perjury, an indigency affidavit which has been
19 approved by a circuit court judge.

20 (C) If none of the seized property is forfeited in the
21 judicial in rem proceeding, the clerk of the court shall
22 return to the claimant, unless the court orders otherwise,
23 90% of the sum which has been deposited and shall retain as
24 costs 10% of the money deposited. If any of the seized
25 property is forfeited under the judicial forfeiture
26 proceeding, the clerk of the court shall transfer 90% of

1 the sum which has been deposited to the State's Attorney
2 prosecuting the civil forfeiture to be applied to the costs
3 of prosecution and the clerk shall retain as costs 10% of
4 the sum deposited.

5 (4) If no claim is filed or bond given within the 45
6 day period as described in paragraph (3) of this subsection
7 (k), the State's Attorney shall declare the property
8 forfeited and shall promptly notify the owner and all known
9 interest holders of the property and the Director of State
10 Police of the declaration of forfeiture and the Director
11 shall dispose of the property in accordance with law.

12 (1) Judicial in rem procedures. If property seized under
13 the provisions of this Article is non-real property that
14 exceeds \$20,000 in value excluding the value of any conveyance,
15 or is real property, or a claimant has filed a claim and a cost
16 bond under paragraph (3) of subsection (k) of this Section, the
17 following judicial in rem procedures shall apply:

18 (1) If, after a review of the facts surrounding the
19 seizure, the State's Attorney is of the opinion that the
20 seized property is subject to forfeiture, then within 45
21 days of the receipt of notice of seizure by the seizing
22 agency or the filing of the claim and cost bond, whichever
23 is later, the State's Attorney shall institute judicial
24 forfeiture proceedings by filing a verified complaint for
25 forfeiture and, if the claimant has filed a claim and cost
26 bond, by depositing the cost bond with the clerk of the

1 court. When authorized by law, a forfeiture must be ordered
2 by a court on an action in rem brought by a State's
3 Attorney under a verified complaint for forfeiture.

4 (2) During the probable cause portion of the judicial
5 in rem proceeding wherein the State presents its
6 case-in-chief, the court must receive and consider, among
7 other things, all relevant hearsay evidence and
8 information. The laws of evidence relating to civil actions
9 apply to all other portions of the judicial in rem
10 proceeding.

11 (3) Only an owner of or interest holder in the property
12 may file an answer asserting a claim against the property
13 in the action in rem. For purposes of this Section, the
14 owner or interest holder shall be referred to as claimant.
15 Upon motion of the State, the court shall first hold a
16 hearing, wherein any claimant must establish by a
17 preponderance of the evidence, that he or she has a lawful,
18 legitimate ownership interest in the property and that it
19 was obtained through a lawful source.

20 (4) The answer must be signed by the owner or interest
21 holder under penalty of perjury and must set forth:

22 (A) the caption of the proceedings as set forth on
23 the notice of pending forfeiture and the name of the
24 claimant;

25 (B) the address at which the claimant will accept
26 mail;

1 (C) the nature and extent of the claimant's
2 interest in the property;

3 (D) the date, identity of transferor, and
4 circumstances of the claimant's acquisition of the
5 interest in the property;

6 (E) the name and address of all other persons known
7 to have an interest in the property;

8 (F) all essential facts supporting each assertion;
9 and

10 (G) the precise relief sought.

11 (5) The answer must be filed with the court within 45
12 days after service of the civil in rem complaint.

13 (6) The hearing must be held within 60 days after
14 filing of the answer unless continued for good cause.

15 (7) The State shall show the existence of probable
16 cause for forfeiture of the property. If the State shows
17 probable cause, the claimant has the burden of showing by a
18 preponderance of the evidence that the claimant's interest
19 in the property is not subject to forfeiture.

20 (8) If the State does not show existence of probable
21 cause, the court shall order the interest in the property
22 returned or conveyed to the claimant and shall order all
23 other property forfeited to the State. If the State does
24 show existence of probable cause, the court shall order all
25 property forfeited to the State.

26 (9) A defendant convicted in any criminal proceeding is

1 precluded from later denying the essential allegations of
2 the criminal offense of which the defendant was convicted
3 in any proceeding under this Article regardless of the
4 pendency of an appeal from that conviction. However,
5 evidence of the pendency of an appeal is admissible.

6 (10) An acquittal or dismissal in a criminal proceeding
7 does not preclude civil proceedings under this Article;
8 however, for good cause shown, on a motion by the State's
9 Attorney, the court may stay civil forfeiture proceedings
10 during the criminal trial for a related criminal indictment
11 or information alleging a money laundering violation. Such
12 a stay shall not be available pending an appeal. Property
13 subject to forfeiture under this Article shall not be
14 subject to return or release by a court exercising
15 jurisdiction over a criminal case involving the seizure of
16 such property unless such return or release is consented to
17 by the State's Attorney.

18 (11) All property declared forfeited under this
19 Article vests in this State on the commission of the
20 conduct giving rise to forfeiture together with the
21 proceeds of the property after that time. Any such property
22 or proceeds subsequently transferred to any person remain
23 subject to forfeiture and thereafter shall be ordered
24 forfeited.

25 (12) A civil action under this Article must be
26 commenced within 5 years after the last conduct giving rise

1 to forfeiture became known or should have become known or 5
2 years after the forfeitable property is discovered,
3 whichever is later, excluding any time during which either
4 the property or claimant is out of the State or in
5 confinement or during which criminal proceedings relating
6 to the same conduct are in progress.

7 (m) Stay of time periods. If property is seized for
8 evidence and for forfeiture, the time periods for instituting
9 judicial and non-judicial forfeiture proceedings shall not
10 begin until the property is no longer necessary for evidence.

11 (n) Settlement of claims. Notwithstanding other provisions
12 of this Article, the State's Attorney and a claimant of seized
13 property may enter into an agreed-upon settlement concerning
14 the seized property in such an amount and upon such terms as
15 are set out in writing in a settlement agreement.

16 (o) Property constituting attorney fees. Nothing in this
17 Article applies to property which constitutes reasonable bona
18 fide attorney's fees paid to an attorney for services rendered
19 or to be rendered in the forfeiture proceeding or criminal
20 proceeding relating directly thereto where such property was
21 paid before its seizure, before the issuance of any seizure
22 warrant or court order prohibiting transfer of the property and
23 where the attorney, at the time he or she received the property
24 did not know that it was property subject to forfeiture under
25 this Article.

26 (p) Construction. It is the intent of the General Assembly

1 that the forfeiture provisions of this Article be liberally
2 construed so as to effect their remedial purpose. The
3 forfeiture of property and other remedies hereunder shall be
4 considered to be in addition to, and not exclusive of, any
5 sentence or other remedy provided by law.

6 (q) Judicial review. If property has been declared
7 forfeited under subsection (k) of this Section, any person who
8 has an interest in the property declared forfeited may, within
9 30 days after the effective date of the notice of the
10 declaration of forfeiture, file a claim and cost bond as
11 described in paragraph (3) of subsection (k) of this Section.
12 If a claim and cost bond is filed under this Section, then the
13 procedures described in subsection (l) of this Section apply.

14 (r) Burden of proof of exemption or exception. It is not
15 necessary for the State to negate any exemption or exception in
16 this Article in any complaint, information, indictment or other
17 pleading or in any trial, hearing, or other proceeding under
18 this Article. The burden of proof of any exemption or exception
19 is upon the person claiming it.

20 (s) Review of administrative decisions. All administrative
21 findings, rulings, final determinations, findings, and
22 conclusions of the State's Attorney's Office under this Article
23 are final and conclusive decisions of the matters involved. Any
24 person aggrieved by the decision may obtain review of the
25 decision pursuant to the provisions of the Administrative
26 Review Law and the rules adopted pursuant to that Law. Pending

1 final decision on such review, the administrative acts, orders,
2 and rulings of the State's Attorney's Office remain in full
3 force and effect unless modified or suspended by order of court
4 pending final judicial decision. Pending final decision on such
5 review, the acts, orders, and rulings of the State's Attorney's
6 Office remain in full force and effect, unless stayed by order
7 of court. However, no stay of any decision of the
8 administrative agency shall issue unless the person aggrieved
9 by the decision establishes by a preponderance of the evidence
10 that good cause exists for the stay. In determining good cause,
11 the court shall find that the aggrieved party has established a
12 substantial likelihood of prevailing on the merits and that
13 granting the stay will not have an injurious effect on the
14 general public.

15 (Source: P.A. 96-275, eff. 8-11-09; 96-710, eff. 1-1-10;
16 96-1000, eff. 7-2-10; 96-1234, eff. 7-23-10.)

17 (720 ILCS 5/29B-2 new)

18 Sec. 29B-2. Engaging in monetary transactions in
19 criminally derived property.

20 (a) A person commits engaging in monetary transactions in
21 criminally derived property when he or she knowingly engages or
22 attempts to engage in a monetary transaction in criminally
23 derived property of a value greater than \$10,000.

24 (b) In a prosecution for an offense under this Section, the
25 State is not required to prove the defendant knew that the

1 offense from which the criminally derived property was derived
2 constituted a felony under State, federal, or foreign law.

3 (c) Engaging in monetary transactions in property derived
4 from specified unlawful activity occurs in the county from
5 which the monetary transaction is sent, if the monetary
6 transaction is sent from within this State, and the county
7 within this State in which a monetary transaction is received.

8 (d) As used in this Section:

9 (1) "Monetary transaction" means the deposit,
10 withdrawal, transfer, or exchange of funds or a monetary
11 instrument (as defined in paragraph (3) of subsection (b)
12 of Section 29B-1 of this Code) by, through, or to a
13 financial institution (as defined in paragraph (2) of
14 subsection (b) of Section 29B-1 of this Code), including
15 any transaction that would be a financial transaction under
16 paragraph (1) of subsection (b) of Section 29B-1 of this
17 Code, but that term does not include any transaction
18 necessary to preserve a person's right to representation as
19 guaranteed by the Sixth Amendment to the United States
20 Constitution.

21 (2) "Criminally derived property" has the meaning
22 given that term in paragraph (4) of subsection (b) of
23 Section 29B-1 of this Code.

24 (e) Duty to enforce; protective orders; seizure warrants;
25 and forfeiture. All provisions of subsections (e) through (s)
26 of Section 29B-1 of this Code are incorporated by reference

1 into this Section.

2 (f) Sentence.

3 (1) Engaging in monetary transactions in criminally
4 derived property exceeding \$10,000 but not exceeding
5 \$100,000 is a Class 2 felony.

6 (2) Engaging in monetary transactions in criminally
7 derived property exceeding \$100,000 but not exceeding
8 \$500,000 is a Class 1 felony.

9 (3) Engaging in monetary transactions in criminally
10 derived property exceeding \$500,000 but not exceeding
11 \$1,000,000 is a Class 1 non-probationable felony.

12 (4) Engaging in monetary transactions in criminally
13 derived property exceeding \$1,000,000 is a Class X felony.

14 (g) Fines. The court may impose an alternate fine to that
15 imposable under paragraph (f) of not more than twice the amount
16 of the criminally derived property involved in the transaction.

17 (720 ILCS 5/29B-3 new)

18 Sec. 29B-3. Unlawful money transmitting business.

19 (a) A person commits unlawful money transmitting business
20 when he or she knowingly conducts, controls, manages,
21 supervises, directs, or owns all or part of an unlawful money
22 transmitting business.

23 (b) As used in this Section:

24 "Money transmitting" means the transmission of money
25 by any means, including transporting, transferring,

1 exchanging, or transmitting to or from locations within the
2 United States or to and from locations outside of the
3 United States by payment instrument, facsimile or
4 electronic transfer, or otherwise, and includes bill
5 payment services.

6 "Money transmitting business" means any business other
7 than the exemptions under Section 15 of the Transmitters of
8 Money Act, which provides check cashing, currency
9 exchange, money transmitting or remittance services, or
10 issues, sells, or redeems money orders, travelers' checks,
11 prepaid access devices, digital currencies, or other
12 similar instruments, or any other person or association of
13 persons, formal or informal, engaging as a business in
14 transporting, transferring, exchanging, or transmitting
15 currency or funds in any form, including any person or
16 association of persons, formal or informal, engaging as a
17 business in any informal money transfer system, monetary
18 value represented in digital electronic format, or any
19 network of persons who engage as a business in facilitating
20 the transfer of money domestically or internationally
21 outside of the conventional financial institutions system.

22 "Payment instrument" means a check, draft, money
23 order, traveler's check, stored value card, digital
24 currencies, or other similar instrument, or other
25 instrument or memorandum, written order or written receipt
26 for the transmission or payment of money sold or issued to

1 one or more persons whether or not that instrument or order
2 is negotiable. Payment instrument does not include an
3 instrument that is redeemable by the issuer in merchandise
4 or service, a credit card voucher, or a letter of credit. A
5 written order for the transmission or payment of money that
6 results in the issuance of a check, draft, money order,
7 traveler's check, or other instrument or memorandum is not
8 a payment instrument.

9 "Unlawful money transmitting business" means a money
10 transmitting business which:

11 (1) is operated without an appropriate money
12 transmitting license as required under Section 10 of
13 the Transmitters of Money Act, whether or not the
14 defendant knew that the operation was required to be
15 licensed or that the operation was so punishable; or

16 (2) otherwise involves the transportation,
17 transfer, exchange, or transmission of funds that are
18 known to the defendant to have been derived from a
19 criminal offense or are intended to be used to promote
20 or support unlawful activity.

21 (c) Duty to enforce; protective orders; seizure warrants;
22 and forfeiture. All provisions of subsections (e) through (s)
23 of Section 29B-1 of this Code are incorporated by reference
24 into this Section.

25 (d) Sentence.

26 (1) Unlawful money transmitting business where the

1 value of the funds does not exceed \$10,000 is a Class 3
2 felony.

3 (2) Unlawful money transmitting business where the
4 value of the funds exceeds \$10,000 but does not exceed
5 \$100,000 is a Class 2 felony.

6 (3) Unlawful money transmitting business where the
7 value of the funds exceeds \$100,000 but does not exceed
8 \$500,000 is a Class 1 felony.

9 (4) Unlawful money transmitting business where the
10 value of the funds exceeds \$500,000 but does not exceed
11 \$1,000,000 is a Class 1 non-probationable felony.

12 (5) Unlawful money transmitting business where the
13 value of the funds exceeds \$1,000,000 is a Class X felony.

14 Section 15. The Code of Criminal Procedure of 1963 is
15 amended by changing Section 111-4 as follows:

16 (725 ILCS 5/111-4)

17 Sec. 111-4. Joinder of offenses and defendants.

18 (a) Two or more offenses may be charged in the same
19 indictment, information or complaint in a separate count for
20 each offense if the offenses charged, whether felonies or
21 misdemeanors or both, are based on the same act or on 2 or more
22 acts which are part of the same comprehensive transaction.

23 (b) Two or more defendants may be charged in the same
24 indictment, information or complaint if they are alleged to

1 have participated in the same act or in the same comprehensive
2 transaction out of which the offense or offenses arose. Such
3 defendants may be charged in one or more counts together or
4 separately and all of the defendants need not be charged in
5 each count.

6 (c) Two or more acts or transactions in violation of any
7 provision or provisions of Sections 8A-2, 8A-3, 8A-4, 8A-4A and
8 8A-5 of the Illinois Public Aid Code, Section 14 of the
9 Illinois Wage Payment and Collection Act, Section 25.5 of the
10 Workers' Compensation Act, Sections 16-1, 16-1.3, 16-2, 16-3,
11 16-5, 16-7, 16-8, 16-10, 16-25, 16-30, 16-40, 16A-3, 16B-2,
12 16G-15, 16G-20, 16H-15, 16H-20, 16H-25, 16H-30, 16H-45,
13 16H-50, 16H-55, 17-1, 17-3, 17-6, 17-6.3, 17-10.6, 17-30,
14 17-56, ~~or~~ 17-60, 29B-1, 29B-2, or 29B-3, or item (ii) of
15 subsection (a) or (b) of Section 17-9, or subdivision (a)(1)
16 ~~(a)(2)~~ of Section 17-10.5, ~~or subsection (a), (b), (c), (d),~~
17 ~~(g), (h), or (i) of Section 17-10.6~~, or subsection (a) of
18 Section 17-32 of the Criminal Code of 1961 or the Criminal Code
19 of 2012 and Section 118 of Division I of the Criminal
20 Jurisprudence Act, may be charged as a single offense in a
21 single count of the same indictment, information or complaint,
22 if such acts or transactions by one or more defendants are in
23 furtherance of a single intention and design or if the
24 property, labor or services obtained are of the same person or
25 are of several persons having a common interest in such
26 property, labor or services. In such a charge, the period

1 between the dates of the first and the final such acts or
2 transactions may be alleged as the date of the offense and, if
3 any such act or transaction by any defendant was committed in
4 the county where the prosecution was commenced, such county may
5 be alleged as the county of the offense.

6 (Source: P.A. 96-354, eff. 8-13-09; 96-1207, eff. 7-22-10;
7 96-1407, eff. 1-1-11; 96-1551, eff. 7-1-11; 97-333, eff.
8 8-12-11; 97-597, eff. 1-1-12; 97-1150, eff. 1-25-13.)

9 Section 20. The Unified Code of Corrections is amended by
10 changing Section 5-5-3 as follows:

11 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

12 Sec. 5-5-3. Disposition.

13 (a) (Blank).

14 (b) (Blank).

15 (c) (1) (Blank).

16 (2) A period of probation, a term of periodic
17 imprisonment or conditional discharge shall not be imposed
18 for the following offenses. The court shall sentence the
19 offender to not less than the minimum term of imprisonment
20 set forth in this Code for the following offenses, and may
21 order a fine or restitution or both in conjunction with
22 such term of imprisonment:

23 (A) First degree murder where the death penalty is
24 not imposed.

1 (B) Attempted first degree murder.

2 (C) A Class X felony.

3 (D) A violation of Section 401.1 or 407 of the
4 Illinois Controlled Substances Act, or a violation of
5 subdivision (c)(1.5) or (c)(2) of Section 401 of that
6 Act which relates to more than 5 grams of a substance
7 containing cocaine, fentanyl, or an analog thereof.

8 (D-5) A violation of subdivision (c)(1) of Section
9 401 of the Illinois Controlled Substances Act which
10 relates to 3 or more grams of a substance containing
11 heroin or an analog thereof.

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

14 (F) A Class 2 or greater felony if the offender had
15 been convicted of a Class 2 or greater felony,
16 including any state or federal conviction for an
17 offense that contained, at the time it was committed,
18 the same elements as an offense now (the date of the
19 offense committed after the prior Class 2 or greater
20 felony) classified as a Class 2 or greater felony,
21 within 10 years of the date on which the offender
22 committed the offense for which he or she is being
23 sentenced, except as otherwise provided in Section
24 40-10 of the Alcoholism and Other Drug Abuse and
25 Dependency Act.

26 (F-5) A violation of Section 24-1, 24-1.1, or

1 24-1.6 of the Criminal Code of 1961 or the Criminal
2 Code of 2012 for which imprisonment is prescribed in
3 those Sections.

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

7 (H) Criminal sexual assault.

8 (I) Aggravated battery of a senior citizen as
9 described in Section 12-4.6 or subdivision (a)(4) of
10 Section 12-3.05 of the Criminal Code of 1961 or the
11 Criminal Code of 2012.

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

14 Before July 1, 1994, for the purposes of this
15 paragraph, "organized gang" means an association of 5
16 or more persons, with an established hierarchy, that
17 encourages members of the association to perpetrate
18 crimes or provides support to the members of the
19 association who do commit crimes.

20 Beginning July 1, 1994, for the purposes of this
21 paragraph, "organized gang" has the meaning ascribed
22 to it in Section 10 of the Illinois Streetgang
23 Terrorism Omnibus Prevention Act.

24 (K) Vehicular hijacking.

25 (L) A second or subsequent conviction for the
26 offense of hate crime when the underlying offense upon

1 which the hate crime is based is felony aggravated
2 assault or felony mob action.

3 (M) A second or subsequent conviction for the
4 offense of institutional vandalism if the damage to the
5 property exceeds \$300.

6 (N) A Class 3 felony violation of paragraph (1) of
7 subsection (a) of Section 2 of the Firearm Owners
8 Identification Card Act.

9 (O) A violation of Section 12-6.1 or 12-6.5 of the
10 Criminal Code of 1961 or the Criminal Code of 2012.

11 (P) A violation of paragraph (1), (2), (3), (4),
12 (5), or (7) of subsection (a) of Section 11-20.1 of the
13 Criminal Code of 1961 or the Criminal Code of 2012.

14 (Q) A violation of subsection (b) or (b-5) of
15 Section 20-1, Section 20-1.2, or Section 20-1.3 of the
16 Criminal Code of 1961 or the Criminal Code of 2012.

17 (R) A violation of Section 24-3A of the Criminal
18 Code of 1961 or the Criminal Code of 2012.

19 (S) (Blank).

20 (T) A second or subsequent violation of the
21 Methamphetamine Control and Community Protection Act.

22 (U) A second or subsequent violation of Section
23 6-303 of the Illinois Vehicle Code committed while his
24 or her driver's license, permit, or privilege was
25 revoked because of a violation of Section 9-3 of the
26 Criminal Code of 1961 or the Criminal Code of 2012,

1 relating to the offense of reckless homicide, or a
2 similar provision of a law of another state.

3 (V) A violation of paragraph (4) of subsection (c)
4 of Section 11-20.1B or paragraph (4) of subsection (c)
5 of Section 11-20.3 of the Criminal Code of 1961, or
6 paragraph (6) of subsection (a) of Section 11-20.1 of
7 the Criminal Code of 2012 when the victim is under 13
8 years of age and the defendant has previously been
9 convicted under the laws of this State or any other
10 state of the offense of child pornography, aggravated
11 child pornography, aggravated criminal sexual abuse,
12 aggravated criminal sexual assault, predatory criminal
13 sexual assault of a child, or any of the offenses
14 formerly known as rape, deviate sexual assault,
15 indecent liberties with a child, or aggravated
16 indecent liberties with a child where the victim was
17 under the age of 18 years or an offense that is
18 substantially equivalent to those offenses.

19 (W) A violation of Section 24-3.5 of the Criminal
20 Code of 1961 or the Criminal Code of 2012.

21 (X) A violation of subsection (a) of Section 31-1a
22 of the Criminal Code of 1961 or the Criminal Code of
23 2012.

24 (Y) A conviction for unlawful possession of a
25 firearm by a street gang member when the firearm was
26 loaded or contained firearm ammunition.

1 (Z) A Class 1 felony committed while he or she was
2 serving a term of probation or conditional discharge
3 for a felony.

4 (AA) Theft of property exceeding \$500,000 and not
5 exceeding \$1,000,000 in value.

6 (BB) Laundering of criminally derived property of
7 a value exceeding \$500,000.

8 (CC) Knowingly selling, offering for sale, holding
9 for sale, or using 2,000 or more counterfeit items or
10 counterfeit items having a retail value in the
11 aggregate of \$500,000 or more.

12 (DD) A conviction for aggravated assault under
13 paragraph (6) of subsection (c) of Section 12-2 of the
14 Criminal Code of 1961 or the Criminal Code of 2012 if
15 the firearm is aimed toward the person against whom the
16 firearm is being used.

17 (EE) Engaging in monetary transactions in
18 criminally derived property exceeding \$500,000.

19 (FF) Unlawful money transmitting business where
20 the value of the funds exceeds \$500,000.

21 (3) (Blank).

22 (4) A minimum term of imprisonment of not less than 10
23 consecutive days or 30 days of community service shall be
24 imposed for a violation of paragraph (c) of Section 6-303
25 of the Illinois Vehicle Code.

26 (4.1) (Blank).

1 (4.2) Except as provided in paragraphs (4.3) and (4.8)
2 of this subsection (c), a minimum of 100 hours of community
3 service shall be imposed for a second violation of Section
4 6-303 of the Illinois Vehicle Code.

5 (4.3) A minimum term of imprisonment of 30 days or 300
6 hours of community service, as determined by the court,
7 shall be imposed for a second violation of subsection (c)
8 of Section 6-303 of the Illinois Vehicle Code.

9 (4.4) Except as provided in paragraphs (4.5), (4.6),
10 and (4.9) of this subsection (c), a minimum term of
11 imprisonment of 30 days or 300 hours of community service,
12 as determined by the court, shall be imposed for a third or
13 subsequent violation of Section 6-303 of the Illinois
14 Vehicle Code.

15 (4.5) A minimum term of imprisonment of 30 days shall
16 be imposed for a third violation of subsection (c) of
17 Section 6-303 of the Illinois Vehicle Code.

18 (4.6) Except as provided in paragraph (4.10) of this
19 subsection (c), a minimum term of imprisonment of 180 days
20 shall be imposed for a fourth or subsequent violation of
21 subsection (c) of Section 6-303 of the Illinois Vehicle
22 Code.

23 (4.7) A minimum term of imprisonment of not less than
24 30 consecutive days, or 300 hours of community service,
25 shall be imposed for a violation of subsection (a-5) of
26 Section 6-303 of the Illinois Vehicle Code, as provided in

1 subsection (b-5) of that Section.

2 (4.8) A mandatory prison sentence shall be imposed for
3 a second violation of subsection (a-5) of Section 6-303 of
4 the Illinois Vehicle Code, as provided in subsection (c-5)
5 of that Section. The person's driving privileges shall be
6 revoked for a period of not less than 5 years from the date
7 of his or her release from prison.

8 (4.9) A mandatory prison sentence of not less than 4
9 and not more than 15 years shall be imposed for a third
10 violation of subsection (a-5) of Section 6-303 of the
11 Illinois Vehicle Code, as provided in subsection (d-2.5) of
12 that Section. The person's driving privileges shall be
13 revoked for the remainder of his or her life.

14 (4.10) A mandatory prison sentence for a Class 1 felony
15 shall be imposed, and the person shall be eligible for an
16 extended term sentence, for a fourth or subsequent
17 violation of subsection (a-5) of Section 6-303 of the
18 Illinois Vehicle Code, as provided in subsection (d-3.5) of
19 that Section. The person's driving privileges shall be
20 revoked for the remainder of his or her life.

21 (5) The court may sentence a corporation or
22 unincorporated association convicted of any offense to:

23 (A) a period of conditional discharge;

24 (B) a fine;

25 (C) make restitution to the victim under Section
26 5-5-6 of this Code.

1 (5.1) In addition to any other penalties imposed, and
2 except as provided in paragraph (5.2) or (5.3), a person
3 convicted of violating subsection (c) of Section 11-907 of
4 the Illinois Vehicle Code shall have his or her driver's
5 license, permit, or privileges suspended for at least 90
6 days but not more than one year, if the violation resulted
7 in damage to the property of another person.

8 (5.2) In addition to any other penalties imposed, and
9 except as provided in paragraph (5.3), a person convicted
10 of violating subsection (c) of Section 11-907 of the
11 Illinois Vehicle Code shall have his or her driver's
12 license, permit, or privileges suspended for at least 180
13 days but not more than 2 years, if the violation resulted
14 in injury to another person.

15 (5.3) In addition to any other penalties imposed, a
16 person convicted of violating subsection (c) of Section
17 11-907 of the Illinois Vehicle Code shall have his or her
18 driver's license, permit, or privileges suspended for 2
19 years, if the violation resulted in the death of another
20 person.

21 (5.4) In addition to any other penalties imposed, a
22 person convicted of violating Section 3-707 of the Illinois
23 Vehicle Code shall have his or her driver's license,
24 permit, or privileges suspended for 3 months and until he
25 or she has paid a reinstatement fee of \$100.

26 (5.5) In addition to any other penalties imposed, a

1 person convicted of violating Section 3-707 of the Illinois
2 Vehicle Code during a period in which his or her driver's
3 license, permit, or privileges were suspended for a
4 previous violation of that Section shall have his or her
5 driver's license, permit, or privileges suspended for an
6 additional 6 months after the expiration of the original
7 3-month suspension and until he or she has paid a
8 reinstatement fee of \$100.

9 (6) (Blank).

10 (7) (Blank).

11 (8) (Blank).

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

15 (10) (Blank).

16 (11) The court shall impose a minimum fine of \$1,000
17 for a first offense and \$2,000 for a second or subsequent
18 offense upon a person convicted of or placed on supervision
19 for battery when the individual harmed was a sports
20 official or coach at any level of competition and the act
21 causing harm to the sports official or coach occurred
22 within an athletic facility or within the immediate
23 vicinity of the athletic facility at which the sports
24 official or coach was an active participant of the athletic
25 contest held at the athletic facility. For the purposes of
26 this paragraph (11), "sports official" means a person at an

1 athletic contest who enforces the rules of the contest,
2 such as an umpire or referee; "athletic facility" means an
3 indoor or outdoor playing field or recreational area where
4 sports activities are conducted; and "coach" means a person
5 recognized as a coach by the sanctioning authority that
6 conducted the sporting event.

7 (12) A person may not receive a disposition of court
8 supervision for a violation of Section 5-16 of the Boat
9 Registration and Safety Act if that person has previously
10 received a disposition of court supervision for a violation
11 of that Section.

12 (13) A person convicted of or placed on court
13 supervision for an assault or aggravated assault when the
14 victim and the offender are family or household members as
15 defined in Section 103 of the Illinois Domestic Violence
16 Act of 1986 or convicted of domestic battery or aggravated
17 domestic battery may be required to attend a Partner Abuse
18 Intervention Program under protocols set forth by the
19 Illinois Department of Human Services under such terms and
20 conditions imposed by the court. The costs of such classes
21 shall be paid by the offender.

22 (d) In any case in which a sentence originally imposed is
23 vacated, the case shall be remanded to the trial court. The
24 trial court shall hold a hearing under Section 5-4-1 of the
25 Unified Code of Corrections which may include evidence of the
26 defendant's life, moral character and occupation during the

1 time since the original sentence was passed. The trial court
2 shall then impose sentence upon the defendant. The trial court
3 may impose any sentence which could have been imposed at the
4 original trial subject to Section 5-5-4 of the Unified Code of
5 Corrections. If a sentence is vacated on appeal or on
6 collateral attack due to the failure of the trier of fact at
7 trial to determine beyond a reasonable doubt the existence of a
8 fact (other than a prior conviction) necessary to increase the
9 punishment for the offense beyond the statutory maximum
10 otherwise applicable, either the defendant may be re-sentenced
11 to a term within the range otherwise provided or, if the State
12 files notice of its intention to again seek the extended
13 sentence, the defendant shall be afforded a new trial.

14 (e) In cases where prosecution for aggravated criminal
15 sexual abuse under Section 11-1.60 or 12-16 of the Criminal
16 Code of 1961 or the Criminal Code of 2012 results in conviction
17 of a defendant who was a family member of the victim at the
18 time of the commission of the offense, the court shall consider
19 the safety and welfare of the victim and may impose a sentence
20 of probation only where:

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

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

25 (B) the defendant is willing to participate in a
26 court approved plan including but not limited to the

1 defendant's:

2 (i) removal from the household;

3 (ii) restricted contact with the victim;

4 (iii) continued financial support of the
5 family;

6 (iv) restitution for harm done to the victim;

7 and

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

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

17 Probation may be revoked or modified pursuant to Section
18 5-6-4; except where the court determines at the hearing that
19 the defendant violated a condition of his or her probation
20 restricting contact with the victim or other family members or
21 commits another offense with the victim or other family
22 members, the court shall revoke the defendant's probation and
23 impose a term of imprisonment.

24 For the purposes of this Section, "family member" and
25 "victim" shall have the meanings ascribed to them in Section
26 11-0.1 of the Criminal Code of 2012.

1 (f) (Blank).

2 (g) Whenever a defendant is convicted of an offense under
3 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,
4 11-14.3, 11-14.4 except for an offense that involves keeping a
5 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,
6 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,
7 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the
8 Criminal Code of 2012, the defendant shall undergo medical
9 testing to determine whether the defendant has any sexually
10 transmissible disease, including a test for infection with
11 human immunodeficiency virus (HIV) or any other identified
12 causative agent of acquired immunodeficiency syndrome (AIDS).
13 Any such medical test shall be performed only by appropriately
14 licensed medical practitioners and may include an analysis of
15 any bodily fluids as well as an examination of the defendant's
16 person. Except as otherwise provided by law, the results of
17 such test shall be kept strictly confidential by all medical
18 personnel involved in the testing and must be personally
19 delivered in a sealed envelope to the judge of the court in
20 which the conviction was entered for the judge's inspection in
21 camera. Acting in accordance with the best interests of the
22 victim and the public, the judge shall have the discretion to
23 determine to whom, if anyone, the results of the testing may be
24 revealed. The court shall notify the defendant of the test
25 results. The court shall also notify the victim if requested by
26 the victim, and if the victim is under the age of 15 and if

1 requested by the victim's parents or legal guardian, the court
2 shall notify the victim's parents or legal guardian of the test
3 results. The court shall provide information on the
4 availability of HIV testing and counseling at Department of
5 Public Health facilities to all parties to whom the results of
6 the testing are revealed and shall direct the State's Attorney
7 to provide the information to the victim when possible. A
8 State's Attorney may petition the court to obtain the results
9 of any HIV test administered under this Section, and the court
10 shall grant the disclosure if the State's Attorney shows it is
11 relevant in order to prosecute a charge of criminal
12 transmission of HIV under Section 12-5.01 or 12-16.2 of the
13 Criminal Code of 1961 or the Criminal Code of 2012 against the
14 defendant. The court shall order that the cost of any such test
15 shall be paid by the county and may be taxed as costs against
16 the convicted defendant.

17 (g-5) When an inmate is tested for an airborne communicable
18 disease, as determined by the Illinois Department of Public
19 Health including but not limited to tuberculosis, the results
20 of the test shall be personally delivered by the warden or his
21 or her designee in a sealed envelope to the judge of the court
22 in which the inmate must appear for the judge's inspection in
23 camera if requested by the judge. Acting in accordance with the
24 best interests of those in the courtroom, the judge shall have
25 the discretion to determine what if any precautions need to be
26 taken to prevent transmission of the disease in the courtroom.

1 (h) Whenever a defendant is convicted of an offense under
2 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
3 defendant shall undergo medical testing to determine whether
4 the defendant has been exposed to human immunodeficiency virus
5 (HIV) or any other identified causative agent of acquired
6 immunodeficiency syndrome (AIDS). Except as otherwise provided
7 by law, the results of such test shall be kept strictly
8 confidential by all medical personnel involved in the testing
9 and must be personally delivered in a sealed envelope to the
10 judge of the court in which the conviction was entered for the
11 judge's inspection in camera. Acting in accordance with the
12 best interests of the public, the judge shall have the
13 discretion to determine to whom, if anyone, the results of the
14 testing may be revealed. The court shall notify the defendant
15 of a positive test showing an infection with the human
16 immunodeficiency virus (HIV). The court shall provide
17 information on the availability of HIV testing and counseling
18 at Department of Public Health facilities to all parties to
19 whom the results of the testing are revealed and shall direct
20 the State's Attorney to provide the information to the victim
21 when possible. A State's Attorney may petition the court to
22 obtain the results of any HIV test administered under this
23 Section, and the court shall grant the disclosure if the
24 State's Attorney shows it is relevant in order to prosecute a
25 charge of criminal transmission of HIV under Section 12-5.01 or
26 12-16.2 of the Criminal Code of 1961 or the Criminal Code of

1 2012 against the defendant. The court shall order that the cost
2 of any such test shall be paid by the county and may be taxed as
3 costs against the convicted defendant.

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

11 (j) In cases when prosecution for any violation of Section
12 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,
13 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,
14 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
15 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,
16 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal
17 Code of 2012, any violation of the Illinois Controlled
18 Substances Act, any violation of the Cannabis Control Act, or
19 any violation of the Methamphetamine Control and Community
20 Protection Act results in conviction, a disposition of court
21 supervision, or an order of probation granted under Section 10
22 of the Cannabis Control Act, Section 410 of the Illinois
23 Controlled Substances ~~Substance~~ Act, or Section 70 of the
24 Methamphetamine Control and Community Protection Act of a
25 defendant, the court shall determine whether the defendant is
26 employed by a facility or center as defined under the Child

1 Care Act of 1969, a public or private elementary or secondary
2 school, or otherwise works with children under 18 years of age
3 on a daily basis. When a defendant is so employed, the court
4 shall order the Clerk of the Court to send a copy of the
5 judgment of conviction or order of supervision or probation to
6 the defendant's employer by certified mail. If the employer of
7 the defendant is a school, the Clerk of the Court shall direct
8 the mailing of a copy of the judgment of conviction or order of
9 supervision or probation to the appropriate regional
10 superintendent of schools. The regional superintendent of
11 schools shall notify the State Board of Education of any
12 notification under this subsection.

13 (j-5) A defendant at least 17 years of age who is convicted
14 of a felony and who has not been previously convicted of a
15 misdemeanor or felony and who is sentenced to a term of
16 imprisonment in the Illinois Department of Corrections shall as
17 a condition of his or her sentence be required by the court to
18 attend educational courses designed to prepare the defendant
19 for a high school diploma and to work toward a high school
20 diploma or to work toward passing the high school level Test of
21 General Educational Development (GED) or to work toward
22 completing a vocational training program offered by the
23 Department of Corrections. If a defendant fails to complete the
24 educational training required by his or her sentence during the
25 term of incarceration, the Prisoner Review Board shall, as a
26 condition of mandatory supervised release, require the

1 defendant, at his or her own expense, to pursue a course of
2 study toward a high school diploma or passage of the GED test.
3 The Prisoner Review Board shall revoke the mandatory supervised
4 release of a defendant who wilfully fails to comply with this
5 subsection (j-5) upon his or her release from confinement in a
6 penal institution while serving a mandatory supervised release
7 term; however, the inability of the defendant after making a
8 good faith effort to obtain financial aid or pay for the
9 educational training shall not be deemed a wilful failure to
10 comply. The Prisoner Review Board shall recommit the defendant
11 whose mandatory supervised release term has been revoked under
12 this subsection (j-5) as provided in Section 3-3-9. This
13 subsection (j-5) does not apply to a defendant who has a high
14 school diploma or has successfully passed the GED test. This
15 subsection (j-5) does not apply to a defendant who is
16 determined by the court to be developmentally disabled or
17 otherwise mentally incapable of completing the educational or
18 vocational program.

19 (k) (Blank).

20 (l) (A) Except as provided in paragraph (C) of subsection
21 (l), whenever a defendant, who is an alien as defined by
22 the Immigration and Nationality Act, is convicted of any
23 felony or misdemeanor offense, the court after sentencing
24 the defendant may, upon motion of the State's Attorney,
25 hold sentence in abeyance and remand the defendant to the
26 custody of the Attorney General of the United States or his

1 or her designated agent to be deported when:

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

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

8 Otherwise, the defendant shall be sentenced as
9 provided in this Chapter V.

10 (B) If the defendant has already been sentenced for a
11 felony or misdemeanor offense, or has been placed on
12 probation under Section 10 of the Cannabis Control Act,
13 Section 410 of the Illinois Controlled Substances Act, or
14 Section 70 of the Methamphetamine Control and Community
15 Protection Act, the court may, upon motion of the State's
16 Attorney to suspend the sentence imposed, commit the
17 defendant to the custody of the Attorney General of the
18 United States or his or her designated agent when:

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

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

25 (C) This subsection (1) does not apply to offenders who
26 are subject to the provisions of paragraph (2) of

1 subsection (a) of Section 3-6-3.

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

12 (m) A person convicted of criminal defacement of property
13 under Section 21-1.3 of the Criminal Code of 1961 or the
14 Criminal Code of 2012, in which the property damage exceeds
15 \$300 and the property damaged is a school building, shall be
16 ordered to perform community service that may include cleanup,
17 removal, or painting over the defacement.

18 (n) The court may sentence a person convicted of a
19 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or
20 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
21 of 1961 or the Criminal Code of 2012 (i) to an impact
22 incarceration program if the person is otherwise eligible for
23 that program under Section 5-8-1.1, (ii) to community service,
24 or (iii) if the person is an addict or alcoholic, as defined in
25 the Alcoholism and Other Drug Abuse and Dependency Act, to a
26 substance or alcohol abuse program licensed under that Act.

1 (o) Whenever a person is convicted of a sex offense as
2 defined in Section 2 of the Sex Offender Registration Act, the
3 defendant's driver's license or permit shall be subject to
4 renewal on an annual basis in accordance with the provisions of
5 license renewal established by the Secretary of State.

6 (Source: P.A. 96-348, eff. 8-12-09; 96-400, eff. 8-13-09;
7 96-829, eff. 12-3-09; 96-1200, eff. 7-22-10; 96-1551, Article
8 1, Section 970, eff. 7-1-11; 96-1551, Article 2, Section 1065,
9 eff. 7-1-11; 96-1551, Article 10, Section 10-150, eff. 7-1-11;
10 97-159, eff. 7-21-11; 97-697, eff. 6-22-12; 97-917, eff.
11 8-9-12; 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1150,
12 eff. 1-25-13; revised 11-12-13.)