



# **SENATE JOURNAL**

**STATE OF ILLINOIS**

**NINETY-SIXTH GENERAL ASSEMBLY**

**118TH LEGISLATIVE DAY**

**MONDAY, MAY 3, 2010**

**12:27 O'CLOCK P.M.**

**SENATE**  
**Daily Journal Index**  
**118th Legislative Day**

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The Senate met pursuant to adjournment.  
Senator Don Harmon, Oak Park, Illinois, presiding.  
Prayer by Pastor John Smith, United Methodist Church, Springfield, Illinois.  
Senator Jacobs led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journal of Friday, April 30, 2010, be postponed, pending arrival of the printed Journal.  
The motion prevailed.

#### **REPORT RECEIVED**

The Secretary placed before the Senate the following report:

Rising to the Challenge, Metropolitan Pier and Exposition Authority's Financial Plan for Fiscal Years 2011, 2012 and 2013, submitted by the Metropolitan Pier and Exposition Authority.

The foregoing report was ordered received and placed on file in the Secretary's Office.

#### **LEGISLATIVE MEASURES FILED**

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 3 to House Bill 19  
Senate Floor Amendment No. 1 to House Bill 4647  
Senate Floor Amendment No. 3 to House Bill 5409

#### **JOINT ACTION MOTIONS FILED**

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendment 1 to Senate Bill 851  
Motion to Concur in House Amendments 1 and 2 to Senate Bill 1826  
Motion to Concur in House Amendment 1 to Senate Bill 2554  
Motion to Concur in House Amendment 1 to Senate Bill 3061  
Motion to Concur in House Amendment 1 to Senate Bill 3320  
Motion to Concur in House Amendment 1 to Senate Bill 3818

#### **MESSAGE FROM THE PRESIDENT**

#### **OFFICE OF THE SENATE PRESIDENT STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706

May 3, 2010

Ms. Jillayne Rock  
Secretary of the Senate  
Room 403 State House  
Springfield, IL 62706

[May 3, 2010]

Dear Madam Secretary:

Pursuant to the provisions of Senate Rule 2-10, I hereby establish May 7, 2010 as the Committee deadline for the following House Bills:

2465, 5057, 5407, 6202, and 6257

Sincerely,  
s/John J. Cullerton  
Senate President

cc: Senate Republican Leader Christine Radogno

**PRESENTATION OF RESOLUTIONS**

**SENATE RESOLUTION NO. 813**

Offered by Senator Dillard and all Senators:  
Mourns the death of Victor Hicken of Iowa City, Iowa.

By unanimous consent, the foregoing resolution was referred to the Resolutions Consent Calendar.

Senator Cullerton offered the following Senate Resolution, which was referred to the Committee on Assignments:

**SENATE RESOLUTION NO. 814**

WHEREAS, The members of the Illinois Senate are pleased to honor Paul Rusesabagina for his incredible courage in saving the lives of more than 1,200 people during the 1994 Rwandan genocide; and

WHEREAS, In the spring of 1994, Hutu extremists took to the streets of Rwanda, systematically massacring their minority Tutsi and moderate Hutu neighbors; after 100 days of slaughter, over 800,000 people were killed by Hutu militias; and

WHEREAS, During this nightmarish time, the Hotel des Mille Collines in Kigali, Rwanda became a home to more than 1,200 Rwandan refugees, who hid in the luxury hotel to save their lives and those of their families; and

WHEREAS, At great risk to his own life, Paul Rusesabagina, manager of the Hotel des Mille Collines, used his wits, international contacts, and negotiating skills to keep the refugees safe until the cessation of the massacre; and

WHEREAS, Paul Rusesabagina is the founder and president of the Hotel Rwanda Rusesabagina Foundation, an organization based in Chicago that helps to provide a voice to the victims of genocide and supports peace efforts in Rwanda and throughout the world; in furtherance of the organization's mission, he has spoken to large organizations of journalists, educators, students, policymakers, business leaders, and human rights activists throughout Europe and the United States about social justice, human rights activism, and the lessons learned from the Rwandan genocide; and

WHEREAS, Paul Rusesabagina is the real-life hero of the film Hotel Rwanda and served as a special consultant for the film; and

WHEREAS, Paul Rusesabagina has been the recipient of numerous awards and accolades in recognition of his incredible bravery; in 2000, he received the Immortal Chaplains Prize for Humanity; in 2005, he received the Presidential Medal of Freedom, the highest civilian award in the United States,

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from President George W. Bush; that same year, he was honored with the National Civil Rights Museum Freedom Award and the Humanitarian Award from the Conrad N. Hilton Foundation; and

WHEREAS, Paul Rusesabagina is the guest of honor at the 48th Annual Governor's Prayer Breakfast at the Crowne Plaza Hotel in Springfield on May 12, 2010; and

WHEREAS, Paul Rusesabagina's great courage and compassion make him a model for the people of the State of Illinois and the world at large; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we designate May 12, 2010 as Paul Rusesabagina Day in the State of Illinois to honor Paul Rusesabagina for his incredible courage and his many accomplishments and wish him continued success and happiness in the future; and be it further

RESOLVED, That a suitable copy of this resolution be presented to Paul Rusesabagina as a symbol of our esteem and respect.

### **READING BILL FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME**

On motion of Senator Maloney, **House Bill No. 4711** was taken up, read by title a second time and ordered to a third reading.

### **CONSIDERATION OF RESOLUTIONS ON SECRETARY'S DESK**

Senator Link moved that **Senate Resolution No. 758**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Link moved that Senate Resolution No. 758 be adopted.

The motion prevailed.

And the resolution was adopted.

Senator Hutchinson moved that **Senate Resolution No. 762**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Hutchinson moved that Senate Resolution No. 762 be adopted.

The motion prevailed.

And the resolution was adopted.

Senator Lightford moved that **Senate Joint Resolution No. 80**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Lightford moved that Senate Joint Resolution No. 80 be adopted.

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

### **READING BILLS FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME**

On motion of Senator Lightford, **House Bill No. 707** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Executive, adopted and ordered printed:

#### **AMENDMENT NO. 1 TO HOUSE BILL 707**

AMENDMENT NO. 1. Amend House Bill 707 by replacing everything after the enacting clause

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with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Section 7-601 as follows:  
(625 ILCS 5/7-601) (from Ch. 95 1/2, par. 7-601)

Sec. 7-601. Required liability insurance policy.

(a) No person shall operate, register or maintain registration of, ~~and~~ ~~and~~ no owner shall permit another person to operate, register or maintain registration of, a motor vehicle designed to be used on a public highway unless the motor vehicle is covered by a liability insurance policy.

The insurance policy shall be issued in amounts no less than the minimum amounts set for bodily injury or death and for destruction of property under Section 7-203 of this Code, and shall be issued in accordance with the requirements of Sections 143a and 143a-2 of the Illinois Insurance Code, as amended. No insurer other than an insurer authorized to do business in this State shall issue a policy pursuant to this Section for any vehicle subject to registration under this Code. Nothing herein shall deprive an insurer of any policy defense available at common law.

(b) The following vehicles are exempt from the requirements of this Section:

(1) vehicles subject to the provisions of Chapters 8 or 18a, Article III or Section 7-609 of Chapter 7, or Sections 12-606 or 12-707.01 of Chapter 12 of this Code;

(2) vehicles required to file proof of liability insurance with the Illinois Commerce Commission;

(3) vehicles covered by a certificate of self-insurance under Section 7-502 of this Code;

(4) vehicles owned by the United States, the State of Illinois, or any political subdivision, municipality or local mass transit district;

(5) implements of husbandry;

(6) other vehicles complying with laws which require them to be insured in amounts meeting or exceeding the minimum amounts required under this Section; and

(7) inoperable or stored vehicles that are not operated, as defined by rules and regulations of the Secretary.

(c) Every employee of a State agency, as that term is defined in the Illinois State Auditing Act, who is assigned a specific vehicle owned or leased by the State on an ongoing basis shall provide the certification described in this Section annually to the director or chief executive officer of his or her agency.

The certification shall affirm that the employee is duly licensed to drive the assigned vehicle and that (i) the employee has liability insurance coverage extending to the employee when the assigned vehicle is used for other than official State business, or (ii) the employee has filed a bond with the Secretary of State as proof of financial responsibility, in an amount equal to, or in excess of the requirements stated within this Section. Upon request of the agency director or chief executive officer, the employee shall present evidence to support the certification.

The certification shall be provided during the period July 1 through July 31 of each calendar year, or within 30 days of any new assignment of a vehicle on an ongoing basis, whichever is later.

The employee's authorization to use the assigned vehicle shall automatically be rescinded upon:

(1) the revocation or suspension of the license required to drive the assigned vehicle;

(2) the cancellation or termination for any reason of the automobile liability insurance coverage as required in item (c) (i); or

(3) the termination of the bond filed with the Secretary of State.

All State employees providing the required certification shall immediately notify the agency director or chief executive officer in the event any of these actions occur.

All peace officers employed by a State agency who are primarily responsible for prevention and detection of crime and the enforcement of the criminal, traffic, or highway laws of this State, and prohibited by agency rule or policy to use an assigned vehicle owned or leased by the State for regular personal or off-duty use, are exempt from the requirements of this Section.

(Source: P.A. 91-661, eff. 12-22-99)."

Senate Floor Amendment No. 2 was postponed in the Committee on Criminal Law.

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Lightford, **House Bill No. 2254** having been printed, was taken up and read by title a second time.

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The following amendment was offered in the Committee on Executive, adopted and ordered printed:

**AMENDMENT NO. 1 TO HOUSE BILL 2254**

AMENDMENT NO. 1. Amend House Bill 2254 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by adding Section 34-18.45 as follows:  
(105 ILCS 5/34-18.45 new)  
Sec. 34-18.45. Requirements for certain schools in violence-prone areas."

Senator Lightford offered the following amendment and moved its adoption:

**AMENDMENT NO. 2 TO HOUSE BILL 2254**

AMENDMENT NO. 2. Amend House Bill 2254 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Sections 13-44.2, 13-45, and 18-8.05 as follows:

(105 ILCS 5/13-44.2) (from Ch. 122, par. 13-44.2)

Sec. 13-44.2. There shall be no restriction as to the age of students in this program, and regardless of the age of its students, the district shall have all the benefits, financial and otherwise, that are accorded to other school districts, including State and Federal grants and aid, Common School Funds, and Vocational Rehabilitation Funds. In calculating such benefits, including calculation of Average Daily Attendance under subsection (C) of Section 18-8.05 of this Code, those students inmates or wards who have not completed grade or high school and those taking vocational courses and advanced courses shall be included.

(Source: P.A. 86-1028.)

(105 ILCS 5/13-45) (from Ch. 122, par. 13-45)

Sec. 13-45. Other provisions of this Code shall not apply to the Department of Juvenile Justice School District being all of the following Articles and Sections: Articles 7, 8, 9, those sections of Article 10 in conflict with any provisions of Sections 13-40 through 13-45, and Articles 11, 12, 15, 17, ~~18~~, 19, 19A, 20, 22, 24, 26, 31, 32, 33, and 34. Also Article 28 shall not apply except that this School District may use any funds available from State, Federal and other funds for the purchase of textbooks, apparatus and equipment.

(Source: P.A. 96-328, eff. 8-11-09.)

(105 ILCS 5/18-8.05)

Sec. 18-8.05. Basis for apportionment of general State financial aid and supplemental general State aid to the common schools for the 1998-1999 and subsequent school years.

(A) General Provisions.

(1) The provisions of this Section apply to the 1998-1999 and subsequent school years. The system of general State financial aid provided for in this Section is designed to assure that, through a combination of State financial aid and required local resources, the financial support provided each pupil in Average Daily Attendance equals or exceeds a prescribed per pupil Foundation Level. This formula approach imputes a level of per pupil Available Local Resources and provides for the basis to calculate a per pupil level of general State financial aid that, when added to Available Local Resources, equals or exceeds the Foundation Level. The amount of per pupil general State financial aid for school districts, in general, varies in inverse relation to Available Local Resources. Per pupil amounts are based upon each school district's Average Daily Attendance as that term is defined in this Section.

(2) In addition to general State financial aid, school districts with specified levels or concentrations of pupils from low income households are eligible to receive supplemental general State financial aid grants as provided pursuant to subsection (H). The supplemental State aid grants provided for school districts under subsection (H) shall be appropriated for distribution to school districts as part of the same line item in which the general State financial aid of school districts is appropriated under this Section.

(3) To receive financial assistance under this Section, school districts are required to file claims with the State Board of Education, subject to the following requirements:

(a) Any school district which fails for any given school year to maintain school as required by law, or to maintain a recognized school is not eligible to file for such school year any

claim upon the Common School Fund. In case of nonrecognition of one or more attendance centers in a school district otherwise operating recognized schools, the claim of the district shall be reduced in the proportion which the Average Daily Attendance in the attendance center or centers bear to the Average Daily Attendance in the school district. A "recognized school" means any public school which meets the standards as established for recognition by the State Board of Education. A school district or attendance center not having recognition status at the end of a school term is entitled to receive State aid payments due upon a legal claim which was filed while it was recognized.

(b) School district claims filed under this Section are subject to Sections 18-9 and 18-12, except as otherwise provided in this Section.

(c) If a school district operates a full year school under Section 10-19.1, the general State aid to the school district shall be determined by the State Board of Education in accordance with this Section as near as may be applicable.

(d) (Blank).

(4) Except as provided in subsections (H) and (L), the board of any district receiving any of the grants provided for in this Section may apply those funds to any fund so received for which that board is authorized to make expenditures by law.

School districts are not required to exert a minimum Operating Tax Rate in order to qualify for assistance under this Section.

(5) As used in this Section the following terms, when capitalized, shall have the meaning ascribed herein:

(a) "Average Daily Attendance": A count of pupil attendance in school, averaged as provided for in subsection (C) and utilized in deriving per pupil financial support levels.

(b) "Available Local Resources": A computation of local financial support, calculated on the basis of Average Daily Attendance and derived as provided pursuant to subsection (D).

(c) "Corporate Personal Property Replacement Taxes": Funds paid to local school districts pursuant to "An Act in relation to the abolition of ad valorem personal property tax and the replacement of revenues lost thereby, and amending and repealing certain Acts and parts of Acts in connection therewith", certified August 14, 1979, as amended (Public Act 81-1st S.S.-1).

(d) "Foundation Level": A prescribed level of per pupil financial support as provided for in subsection (B).

(e) "Operating Tax Rate": All school district property taxes extended for all purposes, except Bond and Interest, Summer School, Rent, Capital Improvement, and Vocational Education Building purposes.

#### (B) Foundation Level.

(1) The Foundation Level is a figure established by the State representing the minimum level of per pupil financial support that should be available to provide for the basic education of each pupil in Average Daily Attendance. As set forth in this Section, each school district is assumed to exert a sufficient local taxing effort such that, in combination with the aggregate of general State financial aid provided the district, an aggregate of State and local resources are available to meet the basic education needs of pupils in the district.

(2) For the 1998-1999 school year, the Foundation Level of support is \$4,225. For the 1999-2000 school year, the Foundation Level of support is \$4,325. For the 2000-2001 school year, the Foundation Level of support is \$4,425. For the 2001-2002 school year and 2002-2003 school year, the Foundation Level of support is \$4,560. For the 2003-2004 school year, the Foundation Level of support is \$4,810. For the 2004-2005 school year, the Foundation Level of support is \$4,964. For the 2005-2006 school year, the Foundation Level of support is \$5,164. For the 2006-2007 school year, the Foundation Level of support is \$5,334. For the 2007-2008 school year, the Foundation Level of support is \$5,734. For the 2008-2009 school year, the Foundation Level of support is \$5,959.

(3) For the 2009-2010 school year and each school year thereafter, the Foundation Level of support is \$6,119 or such greater amount as may be established by law by the General Assembly.

#### (C) Average Daily Attendance.

(1) For purposes of calculating general State aid pursuant to subsection (E), an Average Daily Attendance figure shall be utilized. The Average Daily Attendance figure for formula calculation purposes shall be the monthly average of the actual number of pupils in attendance of each school district, as further averaged for the best 3 months of pupil attendance for each school district. In compiling the figures for the number of pupils in attendance, school districts and the State Board of Education shall, for purposes of general State aid funding, conform attendance figures to the

requirements of subsection (F).

(2) The Average Daily Attendance figures utilized in subsection (E) shall be the requisite attendance data for the school year immediately preceding the school year for which general State aid is being calculated or the average of the attendance data for the 3 preceding school years, whichever is greater. The Average Daily Attendance figures utilized in subsection (H) shall be the requisite attendance data for the school year immediately preceding the school year for which general State aid is being calculated.

(D) Available Local Resources.

(1) For purposes of calculating general State aid pursuant to subsection (E), a representation of Available Local Resources per pupil, as that term is defined and determined in this subsection, shall be utilized. Available Local Resources per pupil shall include a calculated dollar amount representing local school district revenues from local property taxes and from Corporate Personal Property Replacement Taxes, expressed on the basis of pupils in Average Daily Attendance. Calculation of Available Local Resources shall exclude any tax amnesty funds received as a result of Public Act 93-26.

(2) In determining a school district's revenue from local property taxes, the State Board of Education shall utilize the equalized assessed valuation of all taxable property of each school district as of September 30 of the previous year. The equalized assessed valuation utilized shall be obtained and determined as provided in subsection (G).

(3) For school districts maintaining grades kindergarten through 12, local property tax revenues per pupil shall be calculated as the product of the applicable equalized assessed valuation for the district multiplied by 3.00%, and divided by the district's Average Daily Attendance figure. For school districts maintaining grades kindergarten through 8, local property tax revenues per pupil shall be calculated as the product of the applicable equalized assessed valuation for the district multiplied by 2.30%, and divided by the district's Average Daily Attendance figure. For school districts maintaining grades 9 through 12, local property tax revenues per pupil shall be the applicable equalized assessed valuation of the district multiplied by 1.05%, and divided by the district's Average Daily Attendance figure.

For partial elementary unit districts created pursuant to Article 11E of this Code, local property tax revenues per pupil shall be calculated as the product of the equalized assessed valuation for property within the partial elementary unit district for elementary purposes, as defined in Article 11E of this Code, multiplied by 2.06% and divided by the district's Average Daily Attendance figure, plus the product of the equalized assessed valuation for property within the partial elementary unit district for high school purposes, as defined in Article 11E of this Code, multiplied by 0.94% and divided by the district's Average Daily Attendance figure.

(4) The Corporate Personal Property Replacement Taxes paid to each school district during the calendar year one year before the calendar year in which a school year begins, divided by the Average Daily Attendance figure for that district, shall be added to the local property tax revenues per pupil as derived by the application of the immediately preceding paragraph (3). The sum of these per pupil figures for each school district shall constitute Available Local Resources as that term is utilized in subsection (E) in the calculation of general State aid.

(E) Computation of General State Aid.

(1) For each school year, the amount of general State aid allotted to a school district shall be computed by the State Board of Education as provided in this subsection.

(2) For any school district for which Available Local Resources per pupil is less than the product of 0.93 times the Foundation Level, general State aid for that district shall be calculated as an amount equal to the Foundation Level minus Available Local Resources, multiplied by the Average Daily Attendance of the school district.

(3) For any school district for which Available Local Resources per pupil is equal to or greater than the product of 0.93 times the Foundation Level and less than the product of 1.75 times the Foundation Level, the general State aid per pupil shall be a decimal proportion of the Foundation Level derived using a linear algorithm. Under this linear algorithm, the calculated general State aid per pupil shall decline in direct linear fashion from 0.07 times the Foundation Level for a school district with Available Local Resources equal to the product of 0.93 times the Foundation Level, to 0.05 times the Foundation Level for a school district with Available Local Resources equal to the product of 1.75 times the Foundation Level. The allocation of general State aid for school districts subject to this paragraph 3 shall be the calculated general State aid per pupil figure multiplied by the Average Daily Attendance of the school district.

(4) For any school district for which Available Local Resources per pupil equals or exceeds the

product of 1.75 times the Foundation Level, the general State aid for the school district shall be calculated as the product of \$218 multiplied by the Average Daily Attendance of the school district.

(5) The amount of general State aid allocated to a school district for the 1999-2000 school year meeting the requirements set forth in paragraph (4) of subsection (G) shall be increased by an amount equal to the general State aid that would have been received by the district for the 1998-1999 school year by utilizing the Extension Limitation Equalized Assessed Valuation as calculated in paragraph (4) of subsection (G) less the general State aid allotted for the 1998-1999 school year. This amount shall be deemed a one time increase, and shall not affect any future general State aid allocations.

(F) Compilation of Average Daily Attendance.

(1) Each school district shall, by July 1 of each year, submit to the State Board of Education, on forms prescribed by the State Board of Education, attendance figures for the school year that began in the preceding calendar year. The attendance information so transmitted shall identify the average daily attendance figures for each month of the school year. Beginning with the general State aid claim form for the 2002-2003 school year, districts shall calculate Average Daily Attendance as provided in subdivisions (a), (b), and (c) of this paragraph (1).

(a) In districts that do not hold year-round classes, days of attendance in August shall be added to the month of September and any days of attendance in June shall be added to the month of May.

(b) In districts in which all buildings hold year-round classes, days of attendance in July and August shall be added to the month of September and any days of attendance in June shall be added to the month of May.

(c) In districts in which some buildings, but not all, hold year-round classes, for the non-year-round buildings, days of attendance in August shall be added to the month of September and any days of attendance in June shall be added to the month of May. The average daily attendance for the year-round buildings shall be computed as provided in subdivision (b) of this paragraph (1). To calculate the Average Daily Attendance for the district, the average daily attendance for the year-round buildings shall be multiplied by the days in session for the non-year-round buildings for each month and added to the monthly attendance of the non-year-round buildings.

Except as otherwise provided in this Section, days of attendance by pupils shall be counted only for sessions of not less than 5 clock hours of school work per day under direct supervision of: (i) teachers, or (ii) non-teaching personnel or volunteer personnel when engaging in non-teaching duties and supervising in those instances specified in subsection (a) of Section 10-22.34 and paragraph 10 of Section 34-18, with pupils of legal school age and in kindergarten and grades 1 through 12.

Days of attendance by tuition pupils shall be accredited only to the districts that pay the tuition to a recognized school.

(2) Days of attendance by pupils of less than 5 clock hours of school shall be subject to the following provisions in the compilation of Average Daily Attendance.

(a) Pupils regularly enrolled in a public school for only a part of the school day may be counted on the basis of 1/6 day for every class hour of instruction of 40 minutes or more attended pursuant to such enrollment, unless a pupil is enrolled in a block-schedule format of 80 minutes or more of instruction, in which case the pupil may be counted on the basis of the proportion of minutes of school work completed each day to the minimum number of minutes that school work is required to be held that day.

(b) Days of attendance may be less than 5 clock hours on the opening and closing of the school term, and upon the first day of pupil attendance, if preceded by a day or days utilized as an institute or teachers' workshop.

(c) A session of 4 or more clock hours may be counted as a day of attendance upon certification by the regional superintendent, and approved by the State Superintendent of Education to the extent that the district has been forced to use daily multiple sessions.

(d) A session of 3 or more clock hours may be counted as a day of attendance (1) when the remainder of the school day or at least 2 hours in the evening of that day is utilized for an in-service training program for teachers, up to a maximum of 5 days per school year, provided a district conducts an in-service training program for teachers in accordance with Section 10-22.39 of this Code; or, in lieu of 4 such days, 2 full days may be used, in which event each such day may be counted as a day required for a legal school calendar pursuant to Section 10-19 of this Code; (1.5) when, of the 5 days allowed under item (1), a maximum of 4 days are used for parent-teacher conferences, or, in lieu of 4 such days, 2 full days are used, in which case each such day may be counted as a calendar day required under Section 10-19 of this Code, provided that the full-day,

parent-teacher conference consists of (i) a minimum of 5 clock hours of parent-teacher conferences, (ii) both a minimum of 2 clock hours of parent-teacher conferences held in the evening following a full day of student attendance, as specified in subsection (F)(1)(c), and a minimum of 3 clock hours of parent-teacher conferences held on the day immediately following evening parent-teacher conferences, or (iii) multiple parent-teacher conferences held in the evenings following full days of student attendance, as specified in subsection (F)(1)(c), in which the time used for the parent-teacher conferences is equivalent to a minimum of 5 clock hours; and (2) when days in addition to those provided in items (1) and (1.5) are scheduled by a school pursuant to its school improvement plan adopted under Article 34 or its revised or amended school improvement plan adopted under Article 2, provided that (i) such sessions of 3 or more clock hours are scheduled to occur at regular intervals, (ii) the remainder of the school days in which such sessions occur are utilized for in-service training programs or other staff development activities for teachers, and (iii) a sufficient number of minutes of school work under the direct supervision of teachers are added to the school days between such regularly scheduled sessions to accumulate not less than the number of minutes by which such sessions of 3 or more clock hours fall short of 5 clock hours. Any full days used for the purposes of this paragraph shall not be considered for computing average daily attendance. Days scheduled for in-service training programs, staff development activities, or parent-teacher conferences may be scheduled separately for different grade levels and different attendance centers of the district.

(e) A session of not less than one clock hour of teaching hospitalized or homebound pupils on-site or by telephone to the classroom may be counted as 1/2 day of attendance, however these pupils must receive 4 or more clock hours of instruction to be counted for a full day of attendance.

(f) A session of at least 4 clock hours may be counted as a day of attendance for first grade pupils, and pupils in full day kindergartens, and a session of 2 or more hours may be counted as 1/2 day of attendance by pupils in kindergartens which provide only 1/2 day of attendance.

(g) For children with disabilities who are below the age of 6 years and who cannot attend 2 or more clock hours because of their disability or immaturity, a session of not less than one clock hour may be counted as 1/2 day of attendance; however for such children whose educational needs so require a session of 4 or more clock hours may be counted as a full day of attendance.

(h) A recognized kindergarten which provides for only 1/2 day of attendance by each pupil shall not have more than 1/2 day of attendance counted in any one day. However, kindergartens may count 2 1/2 days of attendance in any 5 consecutive school days. When a pupil attends such a kindergarten for 2 half days on any one school day, the pupil shall have the following day as a day absent from school, unless the school district obtains permission in writing from the State Superintendent of Education. Attendance at kindergartens which provide for a full day of attendance by each pupil shall be counted the same as attendance by first grade pupils. Only the first year of attendance in one kindergarten shall be counted, except in case of children who entered the kindergarten in their fifth year whose educational development requires a second year of kindergarten as determined under the rules and regulations of the State Board of Education.

(i) On the days when the Prairie State Achievement Examination is administered under subsection (c) of Section 2-3.64 of this Code, the day of attendance for a pupil whose school day must be shortened to accommodate required testing procedures may be less than 5 clock hours and shall be counted towards the 176 days of actual pupil attendance required under Section 10-19 of this Code, provided that a sufficient number of minutes of school work in excess of 5 clock hours are first completed on other school days to compensate for the loss of school work on the examination days.

#### (G) Equalized Assessed Valuation Data.

(1) For purposes of the calculation of Available Local Resources required pursuant to subsection (D), the State Board of Education shall secure from the Department of Revenue the value as equalized or assessed by the Department of Revenue of all taxable property of every school district, together with (i) the applicable tax rate used in extending taxes for the funds of the district as of September 30 of the previous year and (ii) the limiting rate for all school districts subject to property tax extension limitations as imposed under the Property Tax Extension Limitation Law.

The Department of Revenue shall add to the equalized assessed value of all taxable property of each school district situated entirely or partially within a county that is or was subject to the provisions of Section 15-176 or 15-177 of the Property Tax Code (a) an amount equal to the total amount by which the homestead exemption allowed under Section 15-176 or 15-177 of the Property Tax Code for real property situated in that school district exceeds the total amount that would have been allowed in that school district if the maximum reduction under Section 15-176 was (i) \$4,500 in Cook County or \$3,500

in all other counties in tax year 2003 or (ii) \$5,000 in all counties in tax year 2004 and thereafter and (b) an amount equal to the aggregate amount for the taxable year of all additional exemptions under Section 15-175 of the Property Tax Code for owners with a household income of \$30,000 or less. The county clerk of any county that is or was subject to the provisions of Section 15-176 or 15-177 of the Property Tax Code shall annually calculate and certify to the Department of Revenue for each school district all homestead exemption amounts under Section 15-176 or 15-177 of the Property Tax Code and all amounts of additional exemptions under Section 15-175 of the Property Tax Code for owners with a household income of \$30,000 or less. It is the intent of this paragraph that if the general homestead exemption for a parcel of property is determined under Section 15-176 or 15-177 of the Property Tax Code rather than Section 15-175, then the calculation of Available Local Resources shall not be affected by the difference, if any, between the amount of the general homestead exemption allowed for that parcel of property under Section 15-176 or 15-177 of the Property Tax Code and the amount that would have been allowed had the general homestead exemption for that parcel of property been determined under Section 15-175 of the Property Tax Code. It is further the intent of this paragraph that if additional exemptions are allowed under Section 15-175 of the Property Tax Code for owners with a household income of less than \$30,000, then the calculation of Available Local Resources shall not be affected by the difference, if any, because of those additional exemptions.

This equalized assessed valuation, as adjusted further by the requirements of this subsection, shall be utilized in the calculation of Available Local Resources.

(2) The equalized assessed valuation in paragraph (1) shall be adjusted, as applicable, in the following manner:

(a) For the purposes of calculating State aid under this Section, with respect to any part of a school district within a redevelopment project area in respect to which a municipality has adopted tax increment allocation financing pursuant to the Tax Increment Allocation Redevelopment Act, Sections 11-74.4-1 through 11-74.4-11 of the Illinois Municipal Code or the Industrial Jobs Recovery Law, Sections 11-74.6-1 through 11-74.6-50 of the Illinois Municipal Code, no part of the current equalized assessed valuation of real property located in any such project area which is attributable to an increase above the total initial equalized assessed valuation of such property shall be used as part of the equalized assessed valuation of the district, until such time as all redevelopment project costs have been paid, as provided in Section 11-74.4-8 of the Tax Increment Allocation Redevelopment Act or in Section 11-74.6-35 of the Industrial Jobs Recovery Law. For the purpose of the equalized assessed valuation of the district, the total initial equalized assessed valuation or the current equalized assessed valuation, whichever is lower, shall be used until such time as all redevelopment project costs have been paid.

(b) The real property equalized assessed valuation for a school district shall be adjusted by subtracting from the real property value as equalized or assessed by the Department of Revenue for the district an amount computed by dividing the amount of any abatement of taxes under Section 18-170 of the Property Tax Code by 3.00% for a district maintaining grades kindergarten through 12, by 2.30% for a district maintaining grades kindergarten through 8, or by 1.05% for a district maintaining grades 9 through 12 and adjusted by an amount computed by dividing the amount of any abatement of taxes under subsection (a) of Section 18-165 of the Property Tax Code by the same percentage rates for district type as specified in this subparagraph (b).

(3) For the 1999-2000 school year and each school year thereafter, if a school district meets all of the criteria of this subsection (G)(3), the school district's Available Local Resources shall be calculated under subsection (D) using the district's Extension Limitation Equalized Assessed Valuation as calculated under this subsection (G)(3).

For purposes of this subsection (G)(3) the following terms shall have the following meanings:

"Budget Year": The school year for which general State aid is calculated and awarded under subsection (E).

"Base Tax Year": The property tax levy year used to calculate the Budget Year allocation of general State aid.

"Preceding Tax Year": The property tax levy year immediately preceding the Base Tax Year.

"Base Tax Year's Tax Extension": The product of the equalized assessed valuation utilized by the County Clerk in the Base Tax Year multiplied by the limiting rate as calculated by the County Clerk and defined in the Property Tax Extension Limitation Law.

"Preceding Tax Year's Tax Extension": The product of the equalized assessed valuation utilized by the County Clerk in the Preceding Tax Year multiplied by the Operating Tax Rate as defined in subsection (A).

"Extension Limitation Ratio": A numerical ratio, certified by the County Clerk, in which the numerator is the Base Tax Year's Tax Extension and the denominator is the Preceding Tax Year's Tax Extension.

"Operating Tax Rate": The operating tax rate as defined in subsection (A).

If a school district is subject to property tax extension limitations as imposed under the Property Tax Extension Limitation Law, the State Board of Education shall calculate the Extension Limitation Equalized Assessed Valuation of that district. For the 1999-2000 school year, the Extension Limitation Equalized Assessed Valuation of a school district as calculated by the State Board of Education shall be equal to the product of the district's 1996 Equalized Assessed Valuation and the district's Extension Limitation Ratio. Except as otherwise provided in this paragraph for a school district that has approved or does approve an increase in its limiting rate, for the 2000-2001 school year and each school year thereafter, the Extension Limitation Equalized Assessed Valuation of a school district as calculated by the State Board of Education shall be equal to the product of the Equalized Assessed Valuation last used in the calculation of general State aid and the district's Extension Limitation Ratio. If the Extension Limitation Equalized Assessed Valuation of a school district as calculated under this subsection (G)(3) is less than the district's equalized assessed valuation as calculated pursuant to subsections (G)(1) and (G)(2), then for purposes of calculating the district's general State aid for the Budget Year pursuant to subsection (E), that Extension Limitation Equalized Assessed Valuation shall be utilized to calculate the district's Available Local Resources under subsection (D). For the 2009-2010 school year and each school year thereafter, if a school district has approved or does approve an increase in its limiting rate, pursuant to Section 18-190 of the Property Tax Code, affecting the Base Tax Year, the Extension Limitation Equalized Assessed Valuation of the school district, as calculated by the State Board of Education, shall be equal to the product of the Equalized Assessed Valuation last used in the calculation of general State aid times an amount equal to one plus the percentage increase, if any, in the Consumer Price Index for all Urban Consumers for all items published by the United States Department of Labor for the 12-month calendar year preceding the Base Tax Year, plus the Equalized Assessed Valuation of new property, annexed property, and recovered tax increment value and minus the Equalized Assessed Valuation of disconnected property. New property and recovered tax increment value shall have the meanings set forth in the Property Tax Extension Limitation Law.

Partial elementary unit districts created in accordance with Article 11E of this Code shall not be eligible for the adjustment in this subsection (G)(3) until the fifth year following the effective date of the reorganization.

(4) For the purposes of calculating general State aid for the 1999-2000 school year only, if a school district experienced a triennial reassessment on the equalized assessed valuation used in calculating its general State financial aid apportionment for the 1998-1999 school year, the State Board of Education shall calculate the Extension Limitation Equalized Assessed Valuation that would have been used to calculate the district's 1998-1999 general State aid. This amount shall equal the product of the equalized assessed valuation used to calculate general State aid for the 1997-1998 school year and the district's Extension Limitation Ratio. If the Extension Limitation Equalized Assessed Valuation of the school district as calculated under this paragraph (4) is less than the district's equalized assessed valuation utilized in calculating the district's 1998-1999 general State aid allocation, then for purposes of calculating the district's general State aid pursuant to paragraph (5) of subsection (E), that Extension Limitation Equalized Assessed Valuation shall be utilized to calculate the district's Available Local Resources.

(5) For school districts having a majority of their equalized assessed valuation in any county except Cook, DuPage, Kane, Lake, McHenry, or Will, if the amount of general State aid allocated to the school district for the 1999-2000 school year under the provisions of subsection (E), (H), and (J) of this Section is less than the amount of general State aid allocated to the district for the 1998-1999 school year under these subsections, then the general State aid of the district for the 1999-2000 school year only shall be increased by the difference between these amounts. The total payments made under this paragraph (5) shall not exceed \$14,000,000. Claims shall be prorated if they exceed \$14,000,000.

#### (H) Supplemental General State Aid.

(1) In addition to the general State aid a school district is allotted pursuant to subsection (E), qualifying school districts shall receive a grant, paid in conjunction with a district's payments of general State aid, for supplemental general State aid based upon the concentration level of children from low-income households within the school district. Supplemental State aid grants provided for school districts under this subsection shall be appropriated for distribution to school districts as part of the same line item in which the general State financial aid of school districts is appropriated under this Section. If

the appropriation in any fiscal year for general State aid and supplemental general State aid is insufficient to pay the amounts required under the general State aid and supplemental general State aid calculations, then the State Board of Education shall ensure that each school district receives the full amount due for general State aid and the remainder of the appropriation shall be used for supplemental general State aid, which the State Board of Education shall calculate and pay to eligible districts on a prorated basis.

(1.5) This paragraph (1.5) applies only to those school years preceding the 2003-2004 school year. For purposes of this subsection (H), the term "Low-Income Concentration Level" shall be the low-income eligible pupil count from the most recently available federal census divided by the Average Daily Attendance of the school district. If, however, (i) the percentage decrease from the 2 most recent federal censuses in the low-income eligible pupil count of a high school district with fewer than 400 students exceeds by 75% or more the percentage change in the total low-income eligible pupil count of contiguous elementary school districts, whose boundaries are coterminous with the high school district, or (ii) a high school district within 2 counties and serving 5 elementary school districts, whose boundaries are coterminous with the high school district, has a percentage decrease from the 2 most recent federal censuses in the low-income eligible pupil count and there is a percentage increase in the total low-income eligible pupil count of a majority of the elementary school districts in excess of 50% from the 2 most recent federal censuses, then the high school district's low-income eligible pupil count from the earlier federal census shall be the number used as the low-income eligible pupil count for the high school district, for purposes of this subsection (H). The changes made to this paragraph (1) by Public Act 92-28 shall apply to supplemental general State aid grants for school years preceding the 2003-2004 school year that are paid in fiscal year 1999 or thereafter and to any State aid payments made in fiscal year 1994 through fiscal year 1998 pursuant to subsection 1(n) of Section 18-8 of this Code (which was repealed on July 1, 1998), and any high school district that is affected by Public Act 92-28 is entitled to a recomputation of its supplemental general State aid grant or State aid paid in any of those fiscal years. This recomputation shall not be affected by any other funding.

(1.10) This paragraph (1.10) applies to the 2003-2004 school year and each school year thereafter. For purposes of this subsection (H), the term "Low-Income Concentration Level" shall, for each fiscal year, be the low-income eligible pupil count as of July 1 of the immediately preceding fiscal year (as determined by the Department of Human Services based on the number of pupils who are eligible for at least one of the following low income programs: Medicaid, the Children's Health Insurance Program, TANF, or Food Stamps, excluding pupils who are eligible for services provided by the Department of Children and Family Services, averaged over the 2 immediately preceding fiscal years for fiscal year 2004 and over the 3 immediately preceding fiscal years for each fiscal year thereafter) divided by the Average Daily Attendance of the school district.

(2) Supplemental general State aid pursuant to this subsection (H) shall be provided as follows for the 1998-1999, 1999-2000, and 2000-2001 school years only:

(a) For any school district with a Low Income Concentration Level of at least 20% and less than 35%, the grant for any school year shall be \$800 multiplied by the low income eligible pupil count.

(b) For any school district with a Low Income Concentration Level of at least 35% and less than 50%, the grant for the 1998-1999 school year shall be \$1,100 multiplied by the low income eligible pupil count.

(c) For any school district with a Low Income Concentration Level of at least 50% and less than 60%, the grant for the 1998-99 school year shall be \$1,500 multiplied by the low income eligible pupil count.

(d) For any school district with a Low Income Concentration Level of 60% or more, the grant for the 1998-99 school year shall be \$1,900 multiplied by the low income eligible pupil count.

(e) For the 1999-2000 school year, the per pupil amount specified in subparagraphs (b), (c), and (d) immediately above shall be increased to \$1,243, \$1,600, and \$2,000, respectively.

(f) For the 2000-2001 school year, the per pupil amounts specified in subparagraphs (b), (c), and (d) immediately above shall be \$1,273, \$1,640, and \$2,050, respectively.

(2.5) Supplemental general State aid pursuant to this subsection (H) shall be provided as follows for the 2002-2003 school year:

(a) For any school district with a Low Income Concentration Level of less than 10%, the grant for each school year shall be \$355 multiplied by the low income eligible pupil count.

(b) For any school district with a Low Income Concentration Level of at least 10% and less than 20%, the grant for each school year shall be \$675 multiplied by the low income eligible pupil count.

(c) For any school district with a Low Income Concentration Level of at least 20% and less than 35%, the grant for each school year shall be \$1,330 multiplied by the low income eligible pupil count.

(d) For any school district with a Low Income Concentration Level of at least 35% and less than 50%, the grant for each school year shall be \$1,362 multiplied by the low income eligible pupil count.

(e) For any school district with a Low Income Concentration Level of at least 50% and less than 60%, the grant for each school year shall be \$1,680 multiplied by the low income eligible pupil count.

(f) For any school district with a Low Income Concentration Level of 60% or more, the grant for each school year shall be \$2,080 multiplied by the low income eligible pupil count.

(2.10) Except as otherwise provided, supplemental general State aid pursuant to this subsection (H) shall be provided as follows for the 2003-2004 school year and each school year thereafter:

(a) For any school district with a Low Income Concentration Level of 15% or less, the grant for each school year shall be \$355 multiplied by the low income eligible pupil count.

(b) For any school district with a Low Income Concentration Level greater than 15%, the grant for each school year shall be \$294.25 added to the product of \$2,700 and the square of the Low Income Concentration Level, all multiplied by the low income eligible pupil count.

For the 2003-2004 school year and each school year thereafter through the 2008-2009 school year only, the grant shall be no less than the grant for the 2002-2003 school year. For the 2009-2010 school year only, the grant shall be no less than the grant for the 2002-2003 school year multiplied by 0.66. For the 2010-2011 school year only, the grant shall be no less than the grant for the 2002-2003 school year multiplied by 0.33. Notwithstanding the provisions of this paragraph to the contrary, if for any school year supplemental general State aid grants are prorated as provided in paragraph (1) of this subsection (H), then the grants under this paragraph shall be prorated.

For the 2003-2004 school year only, the grant shall be no greater than the grant received during the 2002-2003 school year added to the product of 0.25 multiplied by the difference between the grant amount calculated under subsection (a) or (b) of this paragraph (2.10), whichever is applicable, and the grant received during the 2002-2003 school year. For the 2004-2005 school year only, the grant shall be no greater than the grant received during the 2002-2003 school year added to the product of 0.50 multiplied by the difference between the grant amount calculated under subsection (a) or (b) of this paragraph (2.10), whichever is applicable, and the grant received during the 2002-2003 school year. For the 2005-2006 school year only, the grant shall be no greater than the grant received during the 2002-2003 school year added to the product of 0.75 multiplied by the difference between the grant amount calculated under subsection (a) or (b) of this paragraph (2.10), whichever is applicable, and the grant received during the 2002-2003 school year.

(3) School districts with an Average Daily Attendance of more than 1,000 and less than 50,000 that qualify for supplemental general State aid pursuant to this subsection shall submit a plan to the State Board of Education prior to October 30 of each year for the use of the funds resulting from this grant of supplemental general State aid for the improvement of instruction in which priority is given to meeting the education needs of disadvantaged children. Such plan shall be submitted in accordance with rules and regulations promulgated by the State Board of Education.

(4) School districts with an Average Daily Attendance of 50,000 or more that qualify for supplemental general State aid pursuant to this subsection shall be required to distribute from funds available pursuant to this Section, no less than \$261,000,000 in accordance with the following requirements:

(a) The required amounts shall be distributed to the attendance centers within the district in proportion to the number of pupils enrolled at each attendance center who are eligible to receive free or reduced-price lunches or breakfasts under the federal Child Nutrition Act of 1966 and under the National School Lunch Act during the immediately preceding school year.

(b) The distribution of these portions of supplemental and general State aid among attendance centers according to these requirements shall not be compensated for or contravened by adjustments of the total of other funds appropriated to any attendance centers, and the Board of Education shall utilize funding from one or several sources in order to fully implement this provision annually prior to the opening of school.

(c) Each attendance center shall be provided by the school district a distribution of noncategorical funds and other categorical funds to which an attendance center is entitled under law in order that the general State aid and supplemental general State aid provided by application of this subsection supplements rather than supplants the noncategorical funds and other categorical funds provided by the school district to the attendance centers.

(d) Any funds made available under this subsection that by reason of the provisions of this subsection are not required to be allocated and provided to attendance centers may be used and appropriated by the board of the district for any lawful school purpose.

(e) Funds received by an attendance center pursuant to this subsection shall be used by the attendance center at the discretion of the principal and local school council for programs to improve educational opportunities at qualifying schools through the following programs and services: early childhood education, reduced class size or improved adult to student classroom ratio, enrichment programs, remedial assistance, attendance improvement, and other educationally beneficial expenditures which supplement the regular and basic programs as determined by the State Board of Education. Funds provided shall not be expended for any political or lobbying purposes as defined by board rule.

(f) Each district subject to the provisions of this subdivision (H)(4) shall submit an acceptable plan to meet the educational needs of disadvantaged children, in compliance with the requirements of this paragraph, to the State Board of Education prior to July 15 of each year. This plan shall be consistent with the decisions of local school councils concerning the school expenditure plans developed in accordance with part 4 of Section 34-2.3. The State Board shall approve or reject the plan within 60 days after its submission. If the plan is rejected, the district shall give written notice of intent to modify the plan within 15 days of the notification of rejection and then submit a modified plan within 30 days after the date of the written notice of intent to modify. Districts may amend approved plans pursuant to rules promulgated by the State Board of Education.

Upon notification by the State Board of Education that the district has not submitted a plan prior to July 15 or a modified plan within the time period specified herein, the State aid funds affected by that plan or modified plan shall be withheld by the State Board of Education until a plan or modified plan is submitted.

If the district fails to distribute State aid to attendance centers in accordance with an approved plan, the plan for the following year shall allocate funds, in addition to the funds otherwise required by this subsection, to those attendance centers which were underfunded during the previous year in amounts equal to such underfunding.

For purposes of determining compliance with this subsection in relation to the requirements of attendance center funding, each district subject to the provisions of this subsection shall submit as a separate document by December 1 of each year a report of expenditure data for the prior year in addition to any modification of its current plan. If it is determined that there has been a failure to comply with the expenditure provisions of this subsection regarding contravention or supplanting, the State Superintendent of Education shall, within 60 days of receipt of the report, notify the district and any affected local school council. The district shall within 45 days of receipt of that notification inform the State Superintendent of Education of the remedial or corrective action to be taken, whether by amendment of the current plan, if feasible, or by adjustment in the plan for the following year. Failure to provide the expenditure report or the notification of remedial or corrective action in a timely manner shall result in a withholding of the affected funds.

The State Board of Education shall promulgate rules and regulations to implement the provisions of this subsection. No funds shall be released under this subdivision (H)(4) to any district that has not submitted a plan that has been approved by the State Board of Education.

(I) (Blank).

(J) Supplementary Grants in Aid.

(1) Notwithstanding any other provisions of this Section, the amount of the aggregate general State aid in combination with supplemental general State aid under this Section for which each school district is eligible shall be no less than the amount of the aggregate general State aid entitlement that was received by the district under Section 18-8 (exclusive of amounts received under subsections 5(p) and 5(p-5) of that Section) for the 1997-98 school year, pursuant to the provisions of that Section as it was then in effect. If a school district qualifies to receive a supplementary payment made under this subsection (J), the amount of the aggregate general State aid in combination with supplemental general State aid under this Section which that district is eligible to receive for each school year shall be no less than the amount of the aggregate general State aid entitlement that was received by the district under Section 18-8 (exclusive of amounts received under subsections 5(p) and 5(p-5) of that Section) for the 1997-1998 school year, pursuant to the provisions of that Section as it was then in effect.

(2) If, as provided in paragraph (1) of this subsection (J), a school district is to receive aggregate general State aid in combination with supplemental general State aid under this Section for the 1998-99

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school year and any subsequent school year that in any such school year is less than the amount of the aggregate general State aid entitlement that the district received for the 1997-98 school year, the school district shall also receive, from a separate appropriation made for purposes of this subsection (J), a supplementary payment that is equal to the amount of the difference in the aggregate State aid figures as described in paragraph (1).

(3) (Blank).

(K) Grants to Laboratory and Alternative Schools and Department of Juvenile Justice School District.

In calculating the amount to be paid to the Department of Juvenile Justice School District, the governing board of a public university that operates a laboratory school under this Section, or to any alternative school that is operated by a regional superintendent of schools, the State Board of Education shall require by rule such reporting requirements as it deems necessary.

As used in this Section, "laboratory school" means a public school which is created and operated by a public university and approved by the State Board of Education. The governing board of a public university which receives funds from the State Board under this subsection (K) may not increase the number of students enrolled in its laboratory school from a single district, if that district is already sending 50 or more students, except under a mutual agreement between the school board of a student's district of residence and the university which operates the laboratory school. A laboratory school may not have more than 1,000 students, excluding students with disabilities in a special education program.

As used in this Section, "alternative school" means a public school which is created and operated by a Regional Superintendent of Schools and approved by the State Board of Education. Such alternative schools may offer courses of instruction for which credit is given in regular school programs, courses to prepare students for the high school equivalency testing program or vocational and occupational training. A regional superintendent of schools may contract with a school district or a public community college district to operate an alternative school. An alternative school serving more than one educational service region may be established by the regional superintendents of schools of the affected educational service regions. An alternative school serving more than one educational service region may be operated under such terms as the regional superintendents of schools of those educational service regions may agree.

For purposes of this Section, "Department of Juvenile Justice School District" means the school district established under Section 13-40 of this Code.

Each laboratory and alternative school and the Department of Juvenile Justice School District shall file, on forms provided by the State Superintendent of Education, an annual State aid claim which states the Average Daily Attendance of the school's students by month. The best 3 months' Average Daily Attendance shall be computed for each school. The general State aid entitlement shall be computed by multiplying the applicable Average Daily Attendance by the Foundation Level as determined under this Section.

(L) Payments, Additional Grants in Aid and Other Requirements.

(1) For a school district operating under the financial supervision of an Authority created under Article 34A, the general State aid otherwise payable to that district under this Section, but not the supplemental general State aid, shall be reduced by an amount equal to the budget for the operations of the Authority as certified by the Authority to the State Board of Education, and an amount equal to such reduction shall be paid to the Authority created for such district for its operating expenses in the manner provided in Section 18-11. The remainder of general State school aid for any such district shall be paid in accordance with Article 34A when that Article provides for a disposition other than that provided by this Article.

(2) (Blank).

(3) Summer school. Summer school payments shall be made as provided in Section 18-4.3.

(M) Education Funding Advisory Board.

The Education Funding Advisory Board, hereinafter in this subsection (M) referred to as the "Board", is hereby created. The Board shall consist of 5 members who are appointed by the Governor, by and with the advice and consent of the Senate. The members appointed shall include representatives of education, business, and the general public. One of the members so appointed shall be designated by the Governor at the time the appointment is made as the chairperson of the Board. The initial members of the Board may be appointed any time after the effective date of this amendatory Act of 1997. The regular term of each member of the Board shall be for 4 years from the third Monday of January of the year in which the term of the member's appointment is to commence, except that of the 5 initial members appointed to serve on the Board, the member who is appointed as the chairperson shall serve for a term that

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commences on the date of his or her appointment and expires on the third Monday of January, 2002, and the remaining 4 members, by lots drawn at the first meeting of the Board that is held after all 5 members are appointed, shall determine 2 of their number to serve for terms that commence on the date of their respective appointments and expire on the third Monday of January, 2001, and 2 of their number to serve for terms that commence on the date of their respective appointments and expire on the third Monday of January, 2000. All members appointed to serve on the Board shall serve until their respective successors are appointed and confirmed. Vacancies shall be filled in the same manner as original appointments. If a vacancy in membership occurs at a time when the Senate is not in session, the Governor shall make a temporary appointment until the next meeting of the Senate, when he or she shall appoint, by and with the advice and consent of the Senate, a person to fill that membership for the unexpired term. If the Senate is not in session when the initial appointments are made, those appointments shall be made as in the case of vacancies.

The Education Funding Advisory Board shall be deemed established, and the initial members appointed by the Governor to serve as members of the Board shall take office, on the date that the Governor makes his or her appointment of the fifth initial member of the Board, whether those initial members are then serving pursuant to appointment and confirmation or pursuant to temporary appointments that are made by the Governor as in the case of vacancies.

The State Board of Education shall provide such staff assistance to the Education Funding Advisory Board as is reasonably required for the proper performance by the Board of its responsibilities.

For school years after the 2000-2001 school year, the Education Funding Advisory Board, in consultation with the State Board of Education, shall make recommendations as provided in this subsection (M) to the General Assembly for the foundation level under subdivision (B)(3) of this Section and for the supplemental general State aid grant level under subsection (H) of this Section for districts with high concentrations of children from poverty. The recommended foundation level shall be determined based on a methodology which incorporates the basic education expenditures of low-spending schools exhibiting high academic performance. The Education Funding Advisory Board shall make such recommendations to the General Assembly on January 1 of odd numbered years, beginning January 1, 2001.

(N) (Blank).

(O) References.

(1) References in other laws to the various subdivisions of Section 18-8 as that Section existed before its repeal and replacement by this Section 18-8.05 shall be deemed to refer to the corresponding provisions of this Section 18-8.05, to the extent that those references remain applicable.

(2) References in other laws to State Chapter 1 funds shall be deemed to refer to the supplemental general State aid provided under subsection (H) of this Section.

(P) Public Act 93-838 and Public Act 93-808 make inconsistent changes to this Section. Under Section 6 of the Statute on Statutes there is an irreconcilable conflict between Public Act 93-808 and Public Act 93-838. Public Act 93-838, being the last acted upon, is controlling. The text of Public Act 93-838 is the law regardless of the text of Public Act 93-808.

(Source: P.A. 95-331, eff. 8-21-07; 95-644, eff. 10-12-07; 95-707, eff. 1-11-08; 95-744, eff. 7-18-08; 95-903, eff. 8-25-08; 96-45, eff. 7-15-09; 96-152, eff. 8-7-09; 96-300, eff. 8-11-09; 96-328, eff. 8-11-09; 96-640, eff. 8-24-09; revised 10-23-09.)

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Lightford, **House Bill No. 4667** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Lightford, **House Bill No. 5065** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on State Government and Veterans Affairs, adopted and ordered printed:

[May 3, 2010]

**AMENDMENT NO. 1 TO HOUSE BILL 5065**

AMENDMENT NO. 1. Amend House Bill 5065 on page 1, by inserting immediately below line 3 the following:

"Section 3. The Illinois Procurement Code is amended by changing Sections 15-15 and 15-25 as follows:

(30 ILCS 500/15-15)

Sec. 15-15. Publication. All volumes of the Illinois Procurement Bulletin shall be published at least once per month. Any volume, including volumes available in print format, shall be available through subscription for a minimal fee not exceeding publication and distribution costs. The Illinois Procurement Bulletin shall be distributed free to public libraries within Illinois and to minority, female, and disadvantaged organizations listed on the Department of Transportation Disadvantaged Business Enterprise Directory, the Department of Central Management Services Business Enterprise Program and Small Business Vendors Directory, and the Capital Development Board's Directory of Certified Minority and Female Business Enterprises.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/15-25)

(Text of Section before amendment by P.A. 96-795)

Sec. 15-25. Bulletin content.

(a) Invitations for bids. Notice of each and every contract that is offered, including renegotiated contracts and change orders, shall be published in the Bulletin and provided to minority, female, disadvantaged, and small business organizations, whose areas of certification are relative to the services solicited in such invitation for bids, listed on the Department of Transportation Disadvantaged Business Enterprise Directory, the Department of Central Management Services Business Enterprise Program and Small Business Vendors Directory, and the Capital Development Board's Directory of Certified Minority and Female Business Enterprises. The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least the date first offered, the date submission of offers is due, the location that offers are to be submitted to, the purchasing State agency, the responsible State purchasing officer, a brief purchase description, the method of source selection, information of how to obtain a comprehensive purchase description and any disclosure and contract forms, and encouragement to prospective vendors to hire qualified veterans, as defined by Section 45-67 of this Code, and qualified Illinois minorities, women, and residents discharged from any Illinois adult correctional center.

(b) Contracts let or awarded. Notice of each and every contract that is let or awarded, including renegotiated contracts and change orders, shall be issued to those organizations submitting responses to the solicitations, inclusive of the unsuccessful bidders, immediately upon contract let and award. Failure to give that notice shall result in tolling the time for filing a bid protest published in the next available subsequent Bulletin, and the applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least all of the information specified in subsection (a) as well as the name of the successful responsible bidder or offeror, the contract price, the number of unsuccessful responsive bidders, and any other disclosure specified in any Section of this Code. This notice must be posted in the online electronic Bulletin prior to execution of the contract.

(c) Emergency purchase disclosure. Any chief procurement officer, State purchasing officer, or designee exercising emergency purchase authority under this Code shall publish a written description and reasons and the total cost, if known, or an estimate if unknown and the name of the responsible chief procurement officer and State purchasing officer, and the business or person contracted with for all emergency purchases in the next timely, practicable Bulletin. This notice must be posted in the online electronic Bulletin within 3 business days after the execution of the contract.

(d) Other required disclosure. The applicable chief procurement officer shall provide by rule for the organized publication of all other disclosure required in other Sections of this Code in a timely manner.

(e) The Department of Central Management Services, the Capital Development Board, the Department of Transportation, and the higher education chief procurement officer shall provide the Procurement Policy Board with the information and resources necessary, and in a manner, to effectuate the purpose of this amendatory Act of the 96th General Assembly.

(Source: P.A. 94-1067, eff. 8-1-06; 95-536, eff. 1-1-08.)

(Text of Section after amendment by P.A. 96-795)

[May 3, 2010]

Sec. 15-25. Bulletin content.

(a) Invitations for bids. Notice of each and every contract that is offered, including renegotiated contracts and change orders, shall be published in the Bulletin and provided to minority, female, disadvantaged, and small business organizations, whose areas of certification are relative to the services solicited in such invitation for bids, listed on the Department of Transportation Disadvantaged Business Enterprise Directory, the Department of Central Management Services Business Enterprise Program and Small Business Vendors Directory, and the Capital Development Board's Directory of Certified Minority and Female Business Enterprises. The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least the date first offered, the date submission of offers is due, the location that offers are to be submitted to, the purchasing State agency, the responsible State purchasing officer, a brief purchase description, the method of source selection, information of how to obtain a comprehensive purchase description and any disclosure and contract forms, and encouragement to prospective vendors to hire qualified veterans, as defined by Section 45-67 of this Code, and qualified Illinois minorities, women, and residents discharged from any Illinois adult correctional center.

(b) Contracts let or awarded. Notice of each and every contract that is let or awarded, including renegotiated contracts and change orders, shall be issued to those organizations submitting responses to the solicitations, inclusive of the unsuccessful bidders, immediately upon contract let and award. Failure to give that notice shall result in tolling the time for filing a bid protest published in the next available subsequent Bulletin, and the applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least all of the information specified in subsection (a), the name of the successful responsible bidder or offeror, the contract price, the number of unsuccessful responsive bidders, the information required in subsection (g) of Section 20-10 if applicable, and any other disclosure specified in any Section of this Code. This notice must be posted in the online electronic Bulletin no later than 10 business days after the contract is awarded.

(c) Emergency purchase disclosure. Any chief procurement officer or State purchasing officer exercising emergency purchase authority under this Code shall publish a written description and reasons and the total cost, if known, or an estimate if unknown and the name of the responsible chief procurement officer and State purchasing officer, and the business or person contracted with for all emergency purchases in the next timely, practicable Bulletin. This notice must be posted in the online electronic Bulletin no later than 3 business days after the contract is awarded. Notice of a hearing to extend an emergency contract must be posted in the online electronic Procurement Bulletin no later than 5 business days prior to the hearing.

(c-5) Business Enterprise Program report. Each purchasing agency shall post in the online electronic Bulletin a copy of its annual report of utilization of businesses owned by minorities, females, and persons with disabilities as submitted to the Business Enterprise Council for Minorities, Females, and Persons with Disabilities pursuant to Section 6(c) of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act within 10 business days after its submission of its report to the Council.

(c-10) Renewals. Notice of each contract renewal shall be posted in the online electronic Bulletin within 10 business days of the determination to renew the contract and the next available subsequent Bulletin. The notice shall include at least all of the information required in subsection (b).

(c-15) Sole source procurements. Before entering into a sole source contract, a chief procurement officer exercising sole source procurement authority under this Code shall publish a written description of intent to enter into a sole source contract along with a description of the item to be procured and the intended sole source contractor. This notice must be posted in the online electronic Procurement Bulletin before a sole source contract is awarded and at least 14 days before the hearing required by Section 20-25.

(d) Other required disclosure. The applicable chief procurement officer shall provide by rule for the organized publication of all other disclosure required in other Sections of this Code in a timely manner.

(e) The changes to subsections (b), (c), (c-5), (c-10), and (c-15) of this Section made by this amendatory Act of the 96th General Assembly apply to reports submitted, offers made, and notices on contracts executed on or after its effective date.

(f) The Department of Central Management Services, the Capital Development Board, the Department of Transportation, and the higher education chief procurement officer shall provide the Procurement Policy Board with the information and resources necessary, and in a manner, to effectuate the purpose of this amendatory Act of the 96th General Assembly.

(Source: P.A. 95-536, eff. 1-1-08; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)"; and

on page 1, by inserting immediately below line 10 the following:

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

Senate Floor Amendment No. 2 was withdrawn by the sponsor.

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Lightford, **House Bill No. 5080** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

**AMENDMENT NO. 1 TO HOUSE BILL 5080**

AMENDMENT NO. 1. Amend House Bill 5080 by replacing everything after the enacting clause with the following:

"Section 5. The Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 is amended by changing Sections 5-10, 30-15, 30-25, 40-10, 40-25, 45-25, 45-30, 45-40, 45-55, 50-10, 50-15, and 50-30 and by adding Sections 10-37, 30-30, 30-35, 35-32, and 50-45 as follows:

(225 ILCS 447/5-10)

(Text of Section before amendment by P.A. 96-847)

(Section scheduled to be repealed on January 1, 2014)

Sec. 5-10. Definitions. As used in this Act:

"Address of record" means the designated address recorded by the Department in the applicant's application file or the licensee's license file, as maintained by the Department's licensure maintenance unit.

"Advertisement" means any printed material that is published in a phone book, newspaper, magazine, pamphlet, newsletter, or other similar type of publication that is intended to either attract business or merely provide contact information to the public for an agency or licensee. Advertisement shall include any material disseminated by printed or electronic means or media, but shall not include a licensee's or an agency's letterhead, business cards, or other stationery used in routine business correspondence or customary name, address, and number type listings in a telephone directory.

"Alarm system" means any system, including an electronic access control system, a surveillance video system, a security video system, a burglar alarm system, a fire alarm system, or any other electronic system, that activates an audible, visible, remote, or recorded signal that is designed for the protection or detection of intrusion, entry, theft, fire, vandalism, escape, or trespass.

"Applicant" means a person applying for licensure under this Act as a fingerprint vendor, fingerprint vendor agency, locksmith, locksmith agency, private alarm contractor, private alarm contractor agency, private detective, private detective agency, private security contractor, or private security contractor agency. Any applicant or person who holds himself or herself out as an applicant is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Armed employee" means a licensee or registered person who is employed by an agency licensed or an armed proprietary security force registered under this Act who carries a weapon while engaged in the performance of official duties within the course and scope of his or her employment during the hours and times the employee is scheduled to work or is commuting between his or her home or place of employment, provided that commuting is accomplished within one hour from departure from home or place of employment.

"Armed proprietary security force" means a security force made up of 5 or more armed individuals employed by a private, commercial, or industrial operation or one or more armed individuals employed by a financial institution as security officers for the protection of persons or property.

"Board" means the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Board.

"Branch office" means a business location removed from the place of business for which an agency license has been issued, including, but not limited to, locations where active employee records that are

[May 3, 2010]

required to be maintained under this Act are kept, where prospective new employees are processed, or where members of the public are invited in to transact business. A branch office does not include an office or other facility located on the property of an existing client that is utilized solely for the benefit of that client and is not owned or leased by the agency.

"Canine handler" means a person who uses or handles a trained dog to protect persons or property or to conduct investigations.

"Canine handler authorization card" means a card issued by the Department that authorizes the holder to use or handle a trained dog to protect persons or property or to conduct investigations during the performance of his or her duties as specified in this Act.

"Canine trainer" means a person who acts as a dog trainer for the purpose of training dogs to protect persons or property or to conduct investigations.

"Canine trainer authorization card" means a card issued by the Department that authorizes the holder to train a dog to protect persons or property or to conduct investigations during the performance of his or her duties as specified in this Act.

"Canine training facility" means a facility operated by a licensed private detective agency or private security agency wherein dogs are trained for the purposes of protecting persons or property or to conduct investigations.

"Corporation" means an artificial person or legal entity created by or under the authority of the laws of a state, including without limitation a corporation, limited liability company, or any other legal entity.

"Department" means the Department of Financial and Professional Regulation.

"Employee" means a person who works for a person or agency that has the right to control the details of the work performed and is not dependent upon whether or not federal or state payroll taxes are withheld.

"Fingerprint vendor" means a person that offers, advertises, or provides services to fingerprint individuals, through electronic or other means, for the purpose of providing fingerprint images and associated demographic data to the Department of State Police for processing fingerprint based criminal history record information inquiries.

"Fingerprint vendor agency" means a person, firm, corporation, or other legal entity that engages in the fingerprint vendor business and employs, in addition to the fingerprint vendor licensee-in-charge, at least one other person in conducting that business.

"Fingerprint vendor licensee-in-charge" means a person who has been designated by a fingerprint vendor agency to be the licensee-in-charge of an agency who is a full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act and who assumes sole responsibility for assuring the licensed agency's compliance with its responsibilities as stated in this Act. The Department shall adopt rules mandating licensee-in-charge participation in agency affairs.

"Fire alarm system" means any system that is activated by an automatic or manual device in the detection of smoke, heat, or fire that activates an audible, visible, or remote signal requiring a response.

"Firearm control card" means a card issued by the Department that authorizes the holder, who has complied with the training and other requirements of this Act, to carry a weapon during the performance of his or her duties as specified in this Act.

"Firm" means an unincorporated business entity, including but not limited to proprietorships and partnerships.

"Licensee" means a person licensed under this Act as a fingerprint vendor, fingerprint vendor agency, locksmith, locksmith agency, private alarm contractor, private alarm contractor agency, private detective, private detective agency, private security contractor, or private security contractor agency. Anyone who holds himself or herself out as a licensee or who is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Locksmith" means a person who engages in a business or holds himself out to the public as providing a service that includes, but is not limited to, the servicing, installing, originating first keys, re-coding, repairing, maintaining, manipulating, or bypassing of a mechanical or electronic locking device, access control or video surveillance system at premises, vehicles, safes, vaults, safe deposit boxes, or automatic teller machines.

"Locksmith agency" means a person, firm, corporation, or other legal entity that engages in the locksmith business and employs, in addition to the locksmith licensee-in-charge, at least one other person in conducting such business.

"Locksmith licensee-in-charge" means a person who has been designated by agency to be the licensee-in-charge of an agency, who is a full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act, and who assumes sole responsibility for

assuring the licensed agency's compliance with its responsibilities as stated in this Act. The Department shall adopt rules mandating licensee-in-charge participation in agency affairs.

"Peace officer" or "police officer" means a person who, by virtue of office or public employment, is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses. Officers, agents, or employees of the federal government commissioned by federal statute to make arrests for violations of federal laws are considered peace officers.

"Permanent employee registration card" means a card issued by the Department to an individual who has applied to the Department and meets the requirements for employment by a licensed agency under this Act.

"Person" means a natural person.

"Private alarm contractor" means a person who engages in a business that individually or through others undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to sell, install, design, monitor, maintain, alter, repair, replace, or service alarm and other security-related systems or parts thereof, including fire alarm systems, at protected premises or premises to be protected or responds to alarm systems at a protected premises on an emergency basis and not as a full-time security officer. "Private alarm contractor" does not include a person, firm, or corporation that manufactures or sells alarm systems only from its place of business and does not sell, install, monitor, maintain, alter, repair, replace, service, or respond to alarm systems at protected premises or premises to be protected.

"Private alarm contractor agency" means a person, corporation, or other entity that engages in the private alarm contracting business and employs, in addition to the private alarm contractor-in-charge, at least one other person in conducting such business.

"Private alarm contractor licensee-in-charge" means a person who has been designated by an agency to be the licensee-in-charge of an agency, who is a full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act, and who assumes sole responsibility for assuring the licensed agency's compliance with its responsibilities as stated in this Act. The Department shall adopt rules mandating licensee-in-charge participation in agency affairs.

"Private detective" means any person who by any means, including, but not limited to, manual, canine odor detection, or electronic methods, engages in the business of, accepts employment to furnish, or agrees to make or makes investigations for a fee or other consideration to obtain information relating to:

- (1) Crimes or wrongs done or threatened against the United States, any state or territory of the United States, or any local government of a state or territory.
- (2) The identity, habits, conduct, business occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movements, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person, firm, or other entity by any means, manual or electronic.
- (3) The location, disposition, or recovery of lost or stolen property.
- (4) The cause, origin, or responsibility for fires, accidents, or injuries to individuals or real or personal property.
- (5) The truth or falsity of any statement or representation.
- (6) Securing evidence to be used before any court, board, or investigating body.
- (7) The protection of individuals from bodily harm or death (bodyguard functions).
- (8) Service of process in criminal and civil proceedings without court order.

"Private detective agency" means a person, firm, corporation, or other legal entity that engages in the private detective business and employs, in addition to the licensee-in-charge, one or more persons in conducting such business.

"Private detective licensee-in-charge" means a person who has been designated by an agency to be the licensee-in-charge of an agency, who is a full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act, and who assumes sole responsibility for assuring the licensed agency's compliance with its responsibilities as stated in this Act. The Department shall adopt rules mandating licensee-in-charge participation in agency affairs.

"Private security contractor" means a person who engages in the business of providing a private security officer, watchman, patrol, guard dog, canine odor detection, or a similar service by any other title or name on a contractual basis for another person, firm, corporation, or other entity for a fee or other consideration and performing one or more of the following functions:

- (1) The prevention or detection of intrusion, entry, theft, vandalism, abuse, fire, or trespass on private or governmental property.
- (2) The prevention, observation, or detection of any unauthorized activity on private

or governmental property.

(3) The protection of persons authorized to be on the premises of the person, firm, or other entity for which the security contractor contractually provides security services.

(4) The prevention of the misappropriation or concealment of goods, money, bonds, stocks, notes, documents, or papers.

(5) The control, regulation, or direction of the movement of the public for the time specifically required for the protection of property owned or controlled by the client.

(6) The protection of individuals from bodily harm or death (bodyguard functions).

"Private security contractor agency" means a person, firm, corporation, or other legal entity that engages in the private security contractor business and that employs, in addition to the licensee-in-charge, one or more persons in conducting such business.

"Private security contractor licensee-in-charge" means a person who has been designated by an agency to be the licensee-in-charge of an agency, who is a full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act, and who assumes sole responsibility for assuring the licensed agency's compliance with its responsibilities as stated in this Act. The Department shall adopt rules mandating licensee-in-charge participation in agency affairs.

"Public member" means a person who is not a licensee or related to a licensee, or who is not an employer or employee of a licensee. The term "related to" shall be determined by the rules of the Department.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation. (Source: P.A. 95-613, eff. 9-11-07.)

(Text of Section after amendment by P.A. 96-847)

(Section scheduled to be repealed on January 1, 2014)

Sec. 5-10. Definitions. As used in this Act:

"Address of record" means the designated address recorded by the Department in the applicant's application file or the licensee's license file, as maintained by the Department's licensure maintenance unit.

"Advertisement" means any printed material that is published in a phone book, newspaper, magazine, pamphlet, newsletter, or other similar type of publication that is intended to either attract business or merely provide contact information to the public for an agency or licensee. Advertisement shall include any material disseminated by printed or electronic means or media, but shall not include a licensee's or an agency's letterhead, business cards, or other stationery used in routine business correspondence or customary name, address, and number type listings in a telephone directory.

"Alarm system" means any system, including an electronic access control system, a surveillance video system, a security video system, a burglar alarm system, a fire alarm system, an emergency communication system, mass notification system, or any other electronic system that activates an audible, visible, remote, or recorded signal that is designed for the protection or detection of intrusion, entry, theft, fire, vandalism, escape, or trespass, or other electronic systems designed for the protection of life by indicating the existence of an emergency situation.

"Applicant" means a person applying for licensure under this Act as a fingerprint vendor, fingerprint vendor agency, locksmith, locksmith agency, private alarm contractor, private alarm contractor agency, private detective, private detective agency, private security contractor, or private security contractor agency. Any applicant or person who holds himself or herself out as an applicant is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Armed employee" means a licensee or registered person who is employed by an agency licensed or an armed proprietary security force registered under this Act who carries a weapon while engaged in the performance of official duties within the course and scope of his or her employment during the hours and times the employee is scheduled to work or is commuting between his or her home or place of employment, provided that commuting is accomplished within one hour from departure from home or place of employment.

"Armed proprietary security force" means a security force made up of 5 or more armed individuals employed by a private, commercial, or industrial operation or one or more armed individuals employed by a financial institution as security officers for the protection of persons or property.

"Board" means the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Board.

"Branch office" means a business location removed from the place of business for which an agency license has been issued, including, but not limited to, locations where active employee records that are required to be maintained under this Act are kept, where prospective new employees are processed, or

where members of the public are invited in to transact business. A branch office does not include an office or other facility located on the property of an existing client that is utilized solely for the benefit of that client and is not owned or leased by the agency.

"Canine handler" means a person who uses or handles a trained dog to protect persons or property or to conduct investigations.

"Canine handler authorization card" means a card issued by the Department that authorizes the holder to use or handle a trained dog to protect persons or property or to conduct investigations during the performance of his or her duties as specified in this Act.

"Canine trainer" means a person who acts as a dog trainer for the purpose of training dogs to protect persons or property or to conduct investigations.

"Canine trainer authorization card" means a card issued by the Department that authorizes the holder to train a dog to protect persons or property or to conduct investigations during the performance of his or her duties as specified in this Act.

"Canine training facility" means a facility operated by a licensed private detective agency or private security agency wherein dogs are trained for the purposes of protecting persons or property or to conduct investigations.

"Corporation" means an artificial person or legal entity created by or under the authority of the laws of a state, including without limitation a corporation, limited liability company, or any other legal entity.

"Department" means the Department of Financial and Professional Regulation.

"Emergency communication system" means any system that communicates information about emergencies, including but not limited to fire, terrorist activities, shootings, other dangerous situations, accidents, and natural disasters.

"Employee" means a person who works for a person or agency that has the right to control the details of the work performed and is not dependent upon whether or not federal or state payroll taxes are withheld.

"Fingerprint vendor" means a person that offers, advertises, or provides services to fingerprint individuals, through electronic or other means, for the purpose of providing fingerprint images and associated demographic data to the Department of State Police for processing fingerprint based criminal history record information inquiries.

"Fingerprint vendor agency" means a person, firm, corporation, or other legal entity that engages in the fingerprint vendor business and employs, in addition to the fingerprint vendor licensee-in-charge, at least one other person in conducting that business.

"Fingerprint vendor licensee-in-charge" means a person who has been designated by a fingerprint vendor agency to be the licensee-in-charge of an agency who is a full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act and who assumes sole responsibility for assuring the licensed agency's compliance with its responsibilities as stated in this Act. The Department shall adopt rules mandating licensee-in-charge participation in agency affairs.

"Fire alarm system" means any system that is activated by an automatic or manual device in the detection of smoke, heat, or fire that activates an audible, visible, or remote signal requiring a response.

"Firearm control card" means a card issued by the Department that authorizes the holder, who has complied with the training and other requirements of this Act, to carry a weapon during the performance of his or her duties as specified in this Act.

"Firm" means an unincorporated business entity, including but not limited to proprietorships and partnerships.

"Licensee" means a person licensed under this Act as a fingerprint vendor, fingerprint vendor agency, locksmith, locksmith agency, private alarm contractor, private alarm contractor agency, private detective, private detective agency, private security contractor, or private security contractor agency. Anyone who holds himself or herself out as a licensee or who is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Locksmith" means a person who engages in a business or holds himself out to the public as providing a service that includes, but is not limited to, the servicing, installing, originating first keys, re-coding, repairing, maintaining, manipulating, or bypassing of a mechanical or electronic locking device, access control or video surveillance system at premises, vehicles, safes, vaults, safe deposit boxes, or automatic teller machines.

"Locksmith agency" means a person, firm, corporation, or other legal entity that engages in the locksmith business and employs, in addition to the locksmith licensee-in-charge, at least one other person in conducting such business.

"Locksmith licensee-in-charge" means a person who has been designated by agency to be the

licensee-in-charge of an agency, who is a full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act, and who assumes sole responsibility for assuring the licensed agency's compliance with its responsibilities as stated in this Act. The Department shall adopt rules mandating licensee-in-charge participation in agency affairs.

"Mass notification system" means any system that is used to provide information and instructions to people in a building or other space using voice communications, including visible signals, text, graphics, tactile, or other communication methods.

"Peace officer" or "police officer" means a person who, by virtue of office or public employment, is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses. Officers, agents, or employees of the federal government commissioned by federal statute to make arrests for violations of federal laws are considered peace officers.

"Permanent employee registration card" means a card issued by the Department to an individual who has applied to the Department and meets the requirements for employment by a licensed agency under this Act.

"Person" means a natural person.

"Private alarm contractor" means a person who engages in a business that individually or through others undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to sell, install, design, monitor, maintain, alter, repair, replace, or service alarm and other security-related systems or parts thereof, including fire alarm systems, at protected premises or premises to be protected or responds to alarm systems at a protected premises on an emergency basis and not as a full-time security officer. "Private alarm contractor" does not include a person, firm, or corporation that manufactures or sells alarm systems only from its place of business and does not sell, install, monitor, maintain, alter, repair, replace, service, or respond to alarm systems at protected premises or premises to be protected.

"Private alarm contractor agency" means a person, corporation, or other entity that engages in the private alarm contracting business and employs, in addition to the private alarm contractor-in-charge, at least one other person in conducting such business.

"Private alarm contractor licensee-in-charge" means a person who has been designated by an agency to be the licensee-in-charge of an agency, who is a full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act, and who assumes sole responsibility for assuring the licensed agency's compliance with its responsibilities as stated in this Act. The Department shall adopt rules mandating licensee-in-charge participation in agency affairs.

"Private detective" means any person who by any means, including, but not limited to, manual, canine odor detection, or electronic methods, engages in the business of, accepts employment to furnish, or agrees to make or makes investigations for a fee or other consideration to obtain information relating to:

(1) Crimes or wrongs done or threatened against the United States, any state or territory of the United States, or any local government of a state or territory.

(2) The identity, habits, conduct, business occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movements, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person, firm, or other entity by any means, manual or electronic.

(3) The location, disposition, or recovery of lost or stolen property.

(4) The cause, origin, or responsibility for fires, accidents, or injuries to individuals or real or personal property.

(5) The truth or falsity of any statement or representation.

(6) Securing evidence to be used before any court, board, or investigating body.

(7) The protection of individuals from bodily harm or death (bodyguard functions).

(8) Service of process in criminal and civil proceedings without court order.

"Private detective agency" means a person, firm, corporation, or other legal entity that engages in the private detective business and employs, in addition to the licensee-in-charge, one or more persons in conducting such business.

"Private detective licensee-in-charge" means a person who has been designated by an agency to be the licensee-in-charge of an agency, who is a full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act, and who assumes sole responsibility for assuring the licensed agency's compliance with its responsibilities as stated in this Act. The Department shall adopt rules mandating licensee-in-charge participation in agency affairs.

"Private security contractor" means a person who engages in the business of providing a private security officer, watchman, patrol, guard dog, canine odor detection, or a similar service by any other

title or name on a contractual basis for another person, firm, corporation, or other entity for a fee or other consideration and performing one or more of the following functions:

- (1) The prevention or detection of intrusion, entry, theft, vandalism, abuse, fire, or trespass on private or governmental property.
- (2) The prevention, observation, or detection of any unauthorized activity on private or governmental property.
- (3) The protection of persons authorized to be on the premises of the person, firm, or other entity for which the security contractor contractually provides security services.
- (4) The prevention of the misappropriation or concealment of goods, money, bonds, stocks, notes, documents, or papers.
- (5) The control, regulation, or direction of the movement of the public for the time specifically required for the protection of property owned or controlled by the client.
- (6) The protection of individuals from bodily harm or death (bodyguard functions).

"Private security contractor agency" means a person, firm, corporation, or other legal entity that engages in the private security contractor business and that employs, in addition to the licensee-in-charge, one or more persons in conducting such business.

"Private security contractor licensee-in-charge" means a person who has been designated by an agency to be the licensee-in-charge of an agency, who is a full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act, and who assumes sole responsibility for assuring the licensed agency's compliance with its responsibilities as stated in this Act. The Department shall adopt rules mandating licensee-in-charge participation in agency affairs.

"Public member" means a person who is not a licensee or related to a licensee, or who is not an employer or employee of a licensee. The term "related to" shall be determined by the rules of the Department.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

(Source: P.A. 95-613, eff. 9-11-07; 96-847, eff. 6-1-10.)

(225 ILCS 447/10-37 new)

Sec. 10-37. Address of record. It is the duty of the applicant or licensee to inform the Department of any change of address within 14 days after such change either through the Department's website or by contacting the Department's licensure maintenance unit.

(225 ILCS 447/30-15)

(Section scheduled to be repealed on January 1, 2014)

Sec. 30-15. Qualifications for licensure as a locksmith agency.

(a) Upon receipt of the required fee and proof that the applicant is an Illinois licensed locksmith who shall assume responsibility for the operation of the agency and the directed actions of the agency's employees, which is a continuing requirement for agency licensure, the Department shall issue a license as a locksmith agency to any of the following:

- (1) An individual who submits an application and is a licensed locksmith under this Act.
- (2) A firm that submits an application and all of the members of the firm are licensed locksmiths under this Act.

(3) A corporation or limited liability company doing business in Illinois that is

authorized to engage in the business of conducting a locksmith agency if at least one officer or executive employee is a licensed locksmith under this Act and all unlicensed officers and directors of the corporation or limited liability company are determined by the Department to be persons of good moral character.

(b) An individual licensed as a locksmith operating under a business name other than the licensed locksmith's own name shall not be required to obtain a locksmith agency license if that licensed locksmith does not employ any persons to engage in the practice of locksmithing and registers under the Assumed Business Name Act.

(c) No locksmith may be the locksmith licensee in-charge for more than one locksmith agency. Upon written request by a representative of the agency, within 10 days after the loss of a locksmith-in-charge of an agency because of the death of that individual or because of the termination of the employment of that individual, the Department shall issue a temporary certificate of authority allowing the continuing operation of the licensed agency. No temporary certificate of authority shall be valid for more than 90 days. An extension of an additional 90 days may be granted upon written request by the representative of the agency. Not more than 2 extensions may be granted to any agency. No temporary permit shall be issued for loss of the licensee-in-charge because of disciplinary action by the Department related to his or her conduct on behalf of the agency.

(d) The Department shall require without limitation all of the following information from each

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applicant for licensure as a locksmith agency under this Act:

(1) The name, full business address, and telephone number of the locksmith agency. The business address for the locksmith agency shall be a complete street address from which business is actually conducted, shall be located within the State, and may not be a P.O. Box. The applicant shall submit proof that the business location is or will be used to conduct the locksmith agency's business. The Department may approve of an out-of-state business location if it is not over 50 miles in distance from the borders of this State.

(2) All trade or business names used by the licensee.

(3) The type of ownership or operation, such as a partnership, corporation, or sole proprietorship.

(4) The name of the owner or operator of the locksmith agency, including:

(A) if a person, then the name and address of record of the person;

(B) if a partnership, then the name and address of record of each partner and the name of the partnership;

(C) if a corporation, then the name, address of record, and title of each corporate officer and director, the corporate names, and the name of the state of incorporation; and

(D) if a sole proprietorship, then the full name and address of record of the sole proprietor and the name of the business entity.

(5) The name and license number of the licensee-in-charge for the locksmith agency.

(6) Any additional information required by the Department by rule.

(e) A licensed locksmith agency may operate under a "doing business as" or assumed name certification without having to obtain a separate locksmith agency license if the "doing business as" or assumed name is first registered with the Department. A licensed locksmith agency may register no more than one assumed name.

(Source: P.A. 95-613, eff. 9-11-07.)

(225 ILCS 447/30-25)

(Section scheduled to be repealed on January 1, 2014)

Sec. 30-25. Customer identification; record keeping.

(a) A locksmith who bypasses, manipulates, or originates a first key by code for a device safeguarding an area where access is meant to be limited, whether or not for compensation, shall document where the work was performed and the name, address, date of birth, telephone number, and driver's license number or other identification number of the person requesting the work to be done and shall obtain the signature of that person. A copy of the work order form, invoice, or receipt shall be kept by the licensed locksmith for a period of 2 years and shall include the name and license number of the locksmith or the name and identification number of the registered employee who performed the services. Work order forms, invoices, or receipts required to be kept under this Section shall be available for inspection upon written request made 3 days in advance by a law enforcement agency.

(b) A locksmith who bypasses, manipulates, or originates a first key for a motor vehicle, whether or not for compensation, shall document the name, address, date of birth, telephone number, vehicle identification number, and driver's license number or other identification number of the person requesting entry and obtain the signature of that person. A copy of the work order form, invoice, or receipt shall be kept by the licensed locksmith for a period of 2 years and shall include the name and license number of the locksmith or the name and identification number of the registered employee who performed the services. Work order forms, invoices, or receipts required to be kept under this Section shall be available for inspection upon written request made 3 days in advance by a law enforcement agency.

(c) A locksmith or locksmith agency shall maintain all records required by this Act at the business address provided to the Department pursuant to paragraph (1) of subsection (d) of Section 30-15.

(Source: P.A. 93-438, eff. 8-5-03.)

(225 ILCS 447/30-30 new)

Sec. 30-30. Consumer protection; required information for consumers.

(a) A licensee providing any locksmith services shall document on a work order, invoice, or receipt the name, address, and telephone number of the person requesting the work to be done.

(b) The locksmith who performs the services shall include on the work order, invoice, or receipt his or her name and license number.

(c) If the locksmith who performs the services is employed by a locksmith agency, then the name, address, and license number of the locksmith agency and the name and license or registration number of the locksmith who performed the services shall be included on the work order, invoice, or receipt.

(d) A copy of the work order, invoice, or receipt shall be provided to the customer at the time of service and the original copy of the work order, invoice, or receipt shall be kept by the licensed

locksmith or locksmith agency for a period of 2 years.

(e) The name, address, and license number of the locksmith or locksmith agency, if applicable, shall be pre-printed on the work order, invoice, or receipt required under this Section.

(f) A locksmith may be disciplined by the Department pursuant to this Act for gross, willful, and continued overcharging for professional locksmith services, including filing false statements for the collection of fees for services not rendered.

(225 ILCS 447/30-35 new)

Sec. 30-35. Advertising. In addition to any requirements under Section 35-15, a licensed locksmith or locksmith agency shall include the licensee's name, the city and state of the address provided to the Department pursuant to paragraph (1) of subsection (d) of Section 30-15, and the licensee's license number on any advertisement.

(225 ILCS 447/35-32 new)

Sec. 35-32. Employment requirement. The holder of a permanent employee registration card is prohibited from performing the activities of a fingerprint vendor, locksmith, private alarm contractor, private detective, or private security contractor without being employed by an agency licensed under this Act.

(225 ILCS 447/40-10)

(Section scheduled to be repealed on January 1, 2014)

Sec. 40-10. Disciplinary sanctions.

(a) The Department may deny issuance, refuse to renew, or restore or may reprimand, place on probation, suspend, revoke, or take other disciplinary or non-disciplinary action against any license, registration, permanent employee registration card, canine handler authorization card, canine trainer authorization card, or firearm control card, and may impose a fine not to exceed \$10,000 for each violation for any of the following:

(1) Fraud or deception in obtaining or renewing of a license or registration.

(2) Professional incompetence as manifested by poor standards of service.

(3) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(4) Conviction of or entry of a plea of guilty or nolo contendere or an admission of guilt in Illinois, ~~or~~ another state, or other jurisdiction of any crime that is a felony under the laws of Illinois; a felony in a federal court; a misdemeanor, an essential element of which is dishonesty; or directly related to professional practice.

(5) Performing any services in a grossly negligent manner or permitting any of a licensee's employees to perform services in a grossly negligent manner, regardless of whether actual damage to the public is established.

(6) Continued practice, although the person has become unfit to practice due to any of the following:

(A) Physical illness, mental illness, or other impairment, including, but not limited to, deterioration through the aging process or loss of motor skills that results in the inability to serve the public with reasonable judgment, skill, or safety.

(B) Mental disability demonstrated by the entry of an order or judgment by a court that a person is in need of mental treatment or is incompetent.

(C) Addiction to or dependency on alcohol or drugs that is likely to endanger the public. If the Department has reasonable cause to believe that a person is addicted to or dependent on alcohol or drugs that may endanger the public, the Department may require the person to undergo an examination to determine the extent of the addiction or dependency.

(7) Receiving, directly or indirectly, compensation for any services not rendered.

(8) Willfully deceiving or defrauding the public on a material matter.

(9) Failing to account for or remit any moneys or documents coming into the licensee's possession that belong to another person or entity.

(10) Discipline by another United States jurisdiction or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Act.

(11) Giving differential treatment to a person that is to that person's detriment because of race, color, creed, sex, religion, or national origin.

(12) Engaging in false or misleading advertising.

(13) Aiding, assisting, or willingly permitting another person to violate this Act or rules promulgated under it.

(14) Performing and charging for services without authorization to do so from the person or entity serviced.

(15) Directly or indirectly offering or accepting any benefit to or from any employee, agent, or fiduciary without the consent of the latter's employer or principal with intent to or the understanding that this action will influence his or her conduct in relation to his or her employer's or principal's affairs.

(16) Violation of any disciplinary order imposed on a licensee by the Department.

(17) Performing any act or practice that is a violation of this Act, the rules for the administration of this Act, or any federal or State laws, rules, or regulations directly related to the practices of private detectives, private alarm contractors, private security contractors, fingerprint vendors, or locksmiths failing to comply with any provision of this Act or rule promulgated under it.

(18) Conducting an agency without a valid license.

(19) Revealing confidential information, except as required by law, including but not limited to information available under Section 2-123 of the Illinois Vehicle Code.

(20) Failing to make available to the Department, upon request, any books, records, or forms required by this Act.

(21) Failing, within 30 days, to respond to a written request for information from the Department.

(22) Failing to provide employment information or experience information required by the Department regarding an applicant for licensure.

(23) Failing to make available to the Department at the time of the request any indicia of licensure or registration issued under this Act.

(24) Purporting to be a licensee-in-charge of an agency without active participation in the agency.

(25) A finding by the Department that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.

(26) Violating subsection (f) of Section 30-30.

(b) The Department shall seek to be consistent in the application of disciplinary sanctions.

(c) The Department shall adopt rules that set forth standards of service for the following: (i) acceptable error rate in the transmission of fingerprint images and other data to the Department of State Police; (ii) acceptable error rate in the collection and documentation of information used to generate fingerprint work orders; and (iii) any other standard of service that affects fingerprinting services as determined by the Department.

(Source: P.A. 95-613, eff. 9-11-07.)

(225 ILCS 447/40-25)

(Section scheduled to be repealed on January 1, 2014)

Sec. 40-25. Submission to physical or mental examination.

(a) The Department or Board upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for the immediate suspension of his or her license until the individual submits to the examination if the Department finds that the refusal to submit to the examination was without reasonable cause as defined by rule.

(b) In instances in which the Secretary immediately suspends a person's license for his or her failure to submit to a mental or physical examination when directed, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay.

(c) In instances in which the Secretary otherwise suspends a person's license pursuant to the results of a compelled mental or physical examination, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

(d) An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license. The Department may order a licensee or a registrant to submit to a reasonable physical or mental examination if the licensee or registrant's mental or physical capacity to work safely is an issue in a disciplinary proceeding. The failure to submit to a Director's order to submit to a reasonable mental or physical exam shall constitute a violation of this Act subject to the disciplinary provisions in Section 40-10.

(Source: P.A. 93-438, eff. 8-5-03.)

(225 ILCS 447/45-25)

(Section scheduled to be repealed on January 1, 2014)

Sec. 45-25. Disposition by consent order. Disposition may be made of any charge by consent order between the Department and the licensee. The Board shall be apprised of the consent order at its next meeting. The consent order shall be final upon signature of the Secretary.

(Source: P.A. 93-438, eff. 8-5-03.)

(225 ILCS 447/45-30)

(Section scheduled to be repealed on January 1, 2014)

Sec. 45-30. Restoration of license after disciplinary proceedings. At any time after the successful completion of a term of suspension or revocation of a license, the Department may restore it to the licensee upon the written recommendation of the Board unless the Board determines after an investigation and a hearing that restoration is not in the public interest. The Department shall reinstate any license to good standing under this Act upon recommendation to the Director, after a hearing before the Board or a hearing officer authorized by the Department. The Department shall be satisfied that the applicant's renewed practice is not contrary to the public interest.

(Source: P.A. 93-438, eff. 8-5-03.)

(225 ILCS 447/45-40)

(Section scheduled to be repealed on January 1, 2014)

Sec. 45-40. Administrative review. All final administrative decisions of the Department are subject to judicial review under Article III of the Code of Civil Procedure. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. The proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides; but if the party is not a resident of Illinois, the venue shall be in Sangamon County. The Department shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial review proceeding, unless and until the Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department there is filed in the court with the complaint a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record. Costs shall be computed at the cost of preparing the record. Exhibits shall be certified without cost. Failure on the part of the applicant or licensee to file a receipt in court is grounds for dismissal of the action. During all judicial proceedings incident to a disciplinary action, the sanctions imposed upon a licensee by the Department shall remain in effect, unless the court determines justice requires a stay of the order.

(Source: P.A. 93-438, eff. 8-5-03.)

(225 ILCS 447/45-55)

(Section scheduled to be repealed on January 1, 2014)

Sec. 45-55. Subpoenas.

(a) The Department, with the approval of a member of the Board, may subpoena and bring before it any person to take the oral or written testimony or compel the production of any books, papers, records, or any other documents that the Secretary or his or her designee deems relevant or material to any such investigation or hearing conducted by the Department with the same fees and in the same manner as prescribed in civil cases in the courts of this State.

(b) Any circuit court, upon the application of the licensee, the Department, the designated hearing officer, or the Board, may order the attendance and testimony of witnesses and the production of relevant documents, files, records, books and papers in connection with any hearing or investigation before the Board in any hearing under this Act. The circuit court may compel obedience to its order by proceedings for contempt.

(c) The Secretary Director, the hearing officer, any member of the Board, or a certified shorthand court reporter may administer oaths at any hearing the Department conducts. Notwithstanding any other statute or Department rule to the contrary, all requests for testimony, production of documents or records shall be in accordance with this Act.

(Source: P.A. 95-613, eff. 9-11-07.)

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(225 ILCS 447/50-10)

(Section scheduled to be repealed on January 1, 2014)

Sec. 50-10. The Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Board.

(a) The Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Board shall consist of 13 members appointed by the Director and comprised of 2 licensed private detectives, 3 licensed private security contractors, one licensed private detective or licensed private security contractor who provides canine odor detection services, 2 licensed private alarm contractors, one licensed fingerprint vendor except for the initial appointment who shall be required to have experience in the fingerprint vendor industry that is acceptable to the Department, 2 licensed locksmiths, one public member who is not licensed or registered under this Act and who has no connection with a business licensed under this Act, and one member representing the employees registered under this Act. Each member shall be a resident of Illinois. Except for the initial appointment of a licensed fingerprint vendor after the effective date of this amendatory Act of the 95th General Assembly, each licensed member shall have at least 5 years experience as a licensee in the professional area in which the person is licensed and be in good standing and actively engaged in that profession. In making appointments, the Director shall consider the recommendations of the professionals and the professional organizations representing the licensees. The membership shall reasonably reflect the different geographic areas in Illinois.

(b) Members shall serve 4 year terms and may serve until their successors are appointed. No member shall serve for more than 2 successive terms. Appointments to fill vacancies shall be made in the same manner as the original appointments for the unexpired portion of the vacated term. Members of the Board in office on the effective date of this Act pursuant to the Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993 shall serve for the duration of their terms and may be appointed for one additional term.

(c) A member of the Board may be removed for cause. A member subject to formal disciplinary proceedings shall disqualify himself or herself from all Board business until the charge is resolved. A member also shall disqualify himself or herself from any matter on which the member cannot act objectively.

(d) Members shall receive compensation as set by law. Each member shall receive reimbursement as set by the Governor's Travel Control Board for expenses incurred in carrying out the duties as a Board member.

(e) A majority of Board members constitutes a quorum. A majority vote of the quorum is required for a decision.

(f) The Board shall elect a chairperson and vice chairperson.

(g) Board members are not liable for their acts, omissions, decisions, or other conduct in connection with their duties on the Board, except those determined to be willful, wanton, or intentional misconduct.

(h) The Board may recommend policies, procedures, and rules relevant to the administration and enforcement of this Act.

(Source: P.A. 95-613, eff. 9-11-07.)

(225 ILCS 447/50-15)

(Section scheduled to be repealed on January 1, 2014)

Sec. 50-15. Powers and duties of the Department. Subject to the provisions of this Act, the Department may exercise the following powers and duties: (a) The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois and shall exercise all other powers and duties set forth in this Act.

(1) Prescribe (b) The Director shall prescribe forms to be issued for the administration and enforcement of this Act.

(2) Authorize examinations to ascertain the qualifications and fitness of applicants for licensing as a licensed fingerprint vendor, locksmith, private alarm contractor, private detective, or private security contractor and pass upon the qualifications of applicants for licensure.

(3) Examine the records of licensees or examine any other aspect of fingerprint vending, locksmithing, private alarm contracting, private detection, or private security contracting that is relevant to the Department's investigation or hearing.

(4) Investigate any and all fingerprint vendor, locksmith, private alarm contractor, private detective, or private security contractor activity.

(5) Conduct hearings on proceedings to refuse to issue or renew licenses or to revoke, suspend, place on probation, reprimand, or otherwise discipline a license under this Act or take other non-disciplinary action.

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(6) Adopt rules required for the administration of this Act.

(7) Prescribe forms to be issued for the administration and enforcement of this Act.

(8) Maintain rosters of the names and addresses of all licensees and all persons whose licenses have been suspended, revoked, denied renewal, or otherwise disciplined within the previous calendar year. These rosters shall be available upon written request and payment of the required fee as established by rule.

(Source: P.A. 93-438, eff. 8-5-03.)

(225 ILCS 447/50-30)

(Section scheduled to be repealed on January 1, 2014)

Sec. 50-30. Fees; deposit of fees and fines. The Department shall by rule provide for fees for the administration and enforcement of this Act, and those fees are nonrefundable. Applicants for examination shall be required to pay a fee to either the Department or the designated testing service to cover the cost of providing the examination. If an applicant fails to appear for the examination on the scheduled date at the time and place specified by the Department or designated testing service, then the applicant's examination fee shall be forfeited. All of the fees and fines collected under this Act shall be deposited into the General Professions Dedicated Fund and be appropriated to the Department for the ordinary and contingent expenses of the Department in the administration and enforcement of this Act.

(Source: P.A. 93-438, eff. 8-5-03.)

(225 ILCS 447/50-45 new)

Sec. 50-45. Illinois Administrative Procedure Act; application. The Illinois Administrative Procedure Act is expressly adopted and incorporated in this Act as if all of the provisions of that Act were included in this Act, except that the provision of paragraph (d) of Section 10-65 of the Illinois Administrative Procedure Act, which provides that at hearings the registrant or licensee has the right to show compliance with all lawful requirements for retention or continuation or renewal of the license, is specifically excluded. For the purpose of this Act, the notice required under Section 10-25 of the Illinois Administrative Procedure Act is considered sufficient when mailed to the last known address of a party.

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

Section 99. Effective date. This Act takes effect upon becoming law."

Senate Committee Amendment No. 2 was held in the Committee on Assignments.

Senator Lightford offered the following amendment and moved its adoption:

#### **AMENDMENT NO. 3 TO HOUSE BILL 5080**

AMENDMENT NO. 3. Amend House Bill 5080, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 33, by replacing lines 5 through 11 with the following:

"(17) Performing any act or practice that is a violation of this Act or the rules for the administration of this Act, or having a conviction or administrative finding of guilty as a result of violating any federal or State laws, rules, or regulations that apply exclusively to the practices of private detectives, private alarm contractors, private security contractors, fingerprint vendors, or locksmiths. Failing to comply with any provision of this Act or rule promulgated under it."; and

on page 42, by replacing lines 18 through 25 with the following:

"(3) Examine the records of licensees or investigate any other aspect of fingerprint vending, locksmithing, private alarm contracting, private security contracting, or practicing as a private detective that is relevant to the Department's investigation or hearing."; and

on page 43, line 1, by replacing "(5)" with "(4)"; and

on page 43, line 5, by replacing "(6)" with "(5)"; and

on page 43, by deleting lines 7 and 8; and

on page 43, line 9, by replacing "(8)" with "(6)".

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The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Lightford, **House Bill No. 6151** having been printed, was taken up and read by title a second time.

Senator Lightford offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO HOUSE BILL 6151**

AMENDMENT NO. 1. Amend House Bill 6151 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by adding Section 16-104e as follows:  
(625 ILCS 5/16-104e new)

Sec. 16-104e. Minimum penalty for traffic offenses. Unless otherwise disposed of prior to a court appearance in the same matter under Supreme Court Rule 529, a person who, after a court appearance in the same matter, is found guilty of or pleads guilty to, including any person receiving a disposition of court supervision, a violation of this Code or a similar provision of a local ordinance shall pay a fine that may not be waived. Nothing in this Section shall prevent the court from ordering that the fine be paid within a specified period of time or in installments under Section 5-9-1 of the Unified Code of Corrections.

Section 99. Effective date. This Act takes effect January 1, 2011."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Trotter, **House Bill No. 391** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Appropriations I, adopted and ordered printed:

**AMENDMENT NO. 1 HOUSE BILL 391**

AMENDMENT NO. 1. Amend House Bill 391, AS AMENDED, by deleting everything after the enacting clause and replacing it with the following:

"Section 5. The sum of \$2, or so much as thereof may be necessary, is appropriated from the General Revenue Fund to the Illinois State Board of Education for its ordinary and contingent expenses.

Section 99. Effective date. This Act takes effect immediately."

There being no further amendments, the bill, as amended, was ordered to a third reading.

**CONSIDERATION OF RESOLUTIONS ON SECRETARY'S DESK**

Senator Wilhelmi moved that **Senate Resolution No. 779**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Wilhelmi moved that Senate Resolution No. 779 be adopted.

The motion prevailed.

And the resolution was adopted.

Senator Kotowski moved that **Senate Resolution No. 781**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

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Senator Kotowski moved that Senate Resolution No. 781 be adopted.  
The motion prevailed.  
And the resolution was adopted.

**JOINT ACTION MOTIONS FILED**

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendment 1 to Senate Bill 575  
Motion to Concur in House Amendment 1 to Senate Bill 580  
Motion to Concur in House Amendment 1 to Senate Bill 663  
Motion to Concur in House Amendments 1, 4 and 5 to Senate Bill 941  
Motion to Concur in House Amendments 1 and 2 to Senate Bill 3047  
Motion to Concur in House Amendment 1 to Senate Bill 3118  
Motion to Concur in House Amendment 1 to Senate Bill 3295  
Motion to Concur in House Amendment 1 to Senate Bill 3386  
Motion to Concur in House Amendment 1 to Senate Bill 3433  
Motion to Concur in House Amendment 1 to Senate Bill 3635  
Motion to Concur in House Amendment 1 to Senate Bill 3747

**MESSAGE FROM THE PRESIDENT**

**OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706

May 3, 2010

Ms. Jillayne Rock  
Secretary of the Senate  
Room 401 State House  
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-5(c), I hereby appoint Senator Terry Link to temporarily replace Senator Louis Viverito as a member of the Senate Committee on Assignments. This appointment is effective immediately and will automatically expire upon adjournment of the Senate Committee on Assignments Committee.

Sincerely,  
s/John J. Cullerton  
Senate President

cc: Senate Minority Leader Christine Radogno

At the hour of 12:58 o'clock p.m., the Chair announced that the Senate stand at ease.

**AT EASE**

At the hour of 1:17 o'clock p.m., the Senate resumed consideration of business.  
Senator Harmon, presiding.

[May 3, 2010]

## REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 3, 2010 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Criminal Law: **Senate Floor Amendment No. 2 to House Bill 5745.**

Education: **Senate Floor Amendment No. 1 to Senate Bill 2843.**

Executive: **Senate Floor Amendment No. 3 to House Bill 19; Senate Floor Amendment No. 2 to House Bill 1075; Senate Floor Amendment No. 1 to Senate Bill 3802; Senate Committee Amendment No. 1 to House Bill 5772.**

Human Services: **Senate Floor Amendment No. 2 to House Bill 5306.**

Judiciary: **Floor Amendment No. 1 to House Bill 4928; Floor Amendment No. 3 to House Bill 5409.**

Local Government: **Senate Floor Amendment No. 3 to House Bill 4973.**

Pensions and Investments: **Senate Floor Amendment No. 1 to House Bill 4644.**

State Government and Veterans Affairs: **Senate Committee Amendment No. 1 to Senate Resolution 802; Senate Floor Amendment No. 2 to House Bill 5191.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 3, 2010 meeting, reported the following House Bill has been assigned to the indicated Standing Committee of the Senate:

Executive: **House Bill No. 5765.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 3, 2010 meeting, reported the following Senate Resolutions have been assigned to the indicated Standing Committees of the Senate:

Executive: **Senate Resolution No. 814.**

State Government and Veterans Affairs: **Senate Resolution No. 812.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 3, 2010 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

Agriculture and Conservation: **Motion to Concur in House Amendment 1 to Senate Bill 2573**

Criminal Law: **Motion to Concur in House Amendment 1 to Senate Bill 1020  
Motion to Concur in House Amendment 1 to Senate Bill 1702  
Motion to Concur in House Amendment 1 to Senate Bill 2590  
Motion to Concur in House Amendment 1 to Senate Bill 3030  
Motion to Concur in House Amendment 1 to Senate Bill 3295  
Motion to Concur in House Amendments 1 and 2 to Senate Bill 3540**

Education: **Motion to Concur in House Amendment 1 to Senate Bill 3635**

Environment: **Motion to Concur in House Amendment 2 to Senate Bill 3070**

[May 3, 2010]

**Motion to Concur in House Amendment 1 to Senate Bill 3320**

Executive: **Motion to Concur in House Amendments 1, 4 and 5 to Senate Bill 941**  
**Motion to Concur in House Amendment 1 to Senate Bill 3118**  
**Motion to Concur in House Amendment 1 to Senate Bill 3183**

Higher Education: **Motion to Concur in House Amendment 1 to Senate Bill 3630**

Human Services: **Motion to Concur in House Amendment 1 to Senate Bill 851**

Insurance: **Motion to Concur in House Amendment 1 to Senate Bill 663**

Judiciary: **Motion to Concur in House Amendment 1 to Senate Bill 2807**  
**Motion to Concur in House Amendment 1 to Senate Bill 3386**  
**Motion to Concur in House Amendment 1 to Senate Bill 3747**

Labor: **Motion to Concur in House Amendment 1 to Senate Bill 3568**

Licensed Activities: **Motion to Concur in House Amendment 1 to Senate Bill 3061**

Local Government: **Motion to Concur in House Amendment 1 to Senate Bill 575**  
**Motion to Concur in House Amendment 1 to Senate Bill 580**  
**Motion to Concur in House Amendment 1 to Senate Bill 3282**  
**Motion to Concur in House Amendment 1 to Senate Bill 3478**

Pensions and Investments: **Motion to Concur in House Amendment 1 to Senate Bill 2554**

Public Health: **Motion to Concur in House Amendments 1 and 2 to Senate Bill 3047**  
**Motion to Concur in House Amendment 1 to Senate Bill 3815**

Revenue: **Motion to Concur in House Amendments 1 and 2 to Senate Bill 1826**  
**Motion to Concur in House Amendment 1 to Senate Bill 2065**

State Government and Veterans Affairs: **Motion to Concur in House Amendment 1 to Senate Bill 2630**

**Motion to Concur in House Amendment 1 to Senate Bill 3249**  
**Motion to Concur in House Amendment 1 to Senate Bill 3433**  
**Motion to Concur in House Amendment 1 to Senate Bill 3818**

**MESSAGES FROM THE PRESIDENT**

**OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706

May 3, 2010

Ms. Jillayne Rock  
Secretary of the Senate  
Room 401 State House  
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator John Sullivan to temporarily replace Senator Ira Silverstein; Senator Donne Trotter to temporarily replace Senator Ricky Hendon; and Senator Terry

[May 3, 2010]

Link to temporarily replace Senator James DeLeo as members of the Senate Executive Committee. In addition, I am designating Senator James Clayborne to serve as Chairman of the Senate Executive Committee. This appointment is effective immediately and will automatically expire upon adjournment of the Senate Executive Committee.

Sincerely,  
s/John J. Cullerton  
Senate President

cc: Senate Minority Leader Christine Radogno

**OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706

May 3, 2010

Ms. Jillayne Rock  
Secretary of the Senate  
Room 401 State House  
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Toi Hutchinson to temporarily replace Senator Louis Viverito as a member of the Senate Revenue Committee. This appointment is effective immediately and will automatically expire upon adjournment of the Senate Revenue Committee.

Sincerely,  
s/John J. Cullerton  
Senate President

cc: Senate Minority Leader Christine Radogno

**OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706

May 3, 2010

Ms. Jillayne Rock  
Secretary of the Senate  
Room 401 State House  
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Maggie Crotty to temporarily replace Senator Rickey Hendon as a member of the Senate Insurance Committee. This appointment is effective immediately and will automatically expire upon adjournment of the Senate Insurance Committee.

Sincerely,  
s/John J. Cullerton  
Senate President

[May 3, 2010]

cc: Senate Minority Leader Christine Radogno

**OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706

May 3, 2010

Ms. Jillayne Rock  
Secretary of the Senate  
Room 401 State House  
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Iris Martinez to temporarily replace Senator Ira Silverstein as a member of the Senate Insurance Committee. This appointment is effective immediately and will automatically expire upon adjournment of the Senate Insurance Committee.

Sincerely,  
s/John J. Cullerton  
Senate President

cc: Senate Minority Leader Christine Radogno

**OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706

May 3, 2010

Ms. Jillayne Rock  
Secretary of the Senate  
Room 401 State House  
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Heather Steans to temporarily replace Senator Louis Viverito as a member of the Senate State Government & Veterans' Affairs Committee. This appointment is effective immediately and will automatically expire upon adjournment of the Senate State Government & Veterans' Affairs Committee.

Sincerely,  
s/John J. Cullerton  
Senate President

cc: Senate Minority Leader Christine Radogno

**COMMITTEE MEETING ANNOUNCEMENTS**

The Chair announced the following committees to meet at 2:20 o'clock p.m.

Criminal Law in Room 212

[May 3, 2010]

Environment in Room 400  
Local Government in Room 409

The Chair announced the following committees to meet at 2:45 o'clock p.m.

Labor in Room 212  
Pensions & Investments in Room 409

The Chair announced the following committees to meet at 3:00 o'clock p.m.

Executive in Room 212  
Revenue in Room 400  
Licensed Activities in Room 409

The Chair announced the following committees to meet at 4:00 o'clock p.m.

Insurance in Room 400  
State Government & Veterans' Affairs in Room 409

### POSTING NOTICES WAIVED

Senator Noland moved to waive the six-day posting requirement on **Senate Resolution No. 812** so that the resolution may be heard in the Committee on State Government and Veterans Affairs that is scheduled to meet today.

The motion prevailed.

Senator Raoul moved to waive the six-day posting requirement on **Senate Resolution No. 814** so that the resolution may be heard in the Committee on Executive that is scheduled to meet today.

The motion prevailed.

Senator Forby moved to waive the six-day posting requirement on **House Bill No. 5765** so that the bill may be heard in the Committee on Executive that is scheduled to meet today.

The motion prevailed.

### JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendment 3 to Senate Bill 660  
Motion to Concur in House Amendment 1 to Senate Bill 2551  
Motion to Concur in House Amendments 1 and 2 to Senate Bill 2819  
Motion to Concur in House Amendments 1 and 2 to Senate Bill 3509  
Motion to Concur in House Amendment 1 to Senate Bill 3661

At the hour of 1:25 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

### AFTER RECESS

At the hour of 5:38 o'clock p.m., the Senate resumed consideration of business.  
Honorable John J. Cullerton, President of the Senate, presiding.

### REPORTS FROM STANDING COMMITTEES

[May 3, 2010]

Senator Koehler, Chairperson of the Committee on Local Government, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 3 to House Bill 4973

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Koehler, Chairperson of the Committee on Local Government, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 575; Motion to Concur in House Amendment 1 to Senate Bill 580; Motion to Concur in House Amendment 1 to Senate Bill 3282; Motion to Concur in House Amendment 1 to Senate Bill 3478

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Garrett, Chairperson of the Committee on Environment, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 2 to Senate Bill 3070; Motion to Concur in House Amendment 1 to Senate Bill 3320

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Noland, Chairperson of the Committee on Criminal Law, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to House Bill 5745

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Noland, Chairperson of the Committee on Criminal Law, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 1020; Motion to Concur in House Amendment 1 to Senate Bill 1702; Motion to Concur in House Amendment 1 to Senate Bill 2590; Motion to Concur in House Amendment 1 to Senate Bill 3030; Motion to Concur in House Amendment 1 to Senate Bill 3295; Motion to Concur in House Amendments 1 and 2 to Senate Bill 3540

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Raoul, Chairperson of the Committee on Pensions and Investments, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to House Bill 4644

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Raoul, Chairperson of the Committee on Pensions and Investments, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 2554

[May 3, 2010]

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Forby, Chairperson of the Committee on Labor, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 3568

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Clayborne, Chairperson of the Committee on Executive, to which was referred **House Bill No. 5765**, reported the same back with the recommendation that the bill do pass.

Under the rules, the bill was ordered to a second reading.

Senator Clayborne, Chairperson of the Committee on Executive, to which was referred **Senate Resolution No. 814**, reported the same back with the recommendation that the resolution be adopted.

Under the rules, **Senate Resolution No. 814** was placed on the Secretary's Desk.

Senator Clayborne, Chairperson of the Committee on Executive, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 3802

Senate Amendment No. 3 to House Bill 19

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Clayborne, Chairperson of the Committee on Executive, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendments 1, 4 and 5 to Senate Bill 941; Motion to Concur in House Amendment 1 to Senate Bill 3118; Motion to Concur in House Amendment 1 to Senate Bill 3183

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Schoenberg, Vice-Chairperson of the Committee on Revenue, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendments 1 and 2 to Senate Bill 1826; Motion to Concur in House Amendment 1 to Senate Bill 2065

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Martinez, Chairperson of the Committee on Licensed Activities, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 3061

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Haine, Chairperson of the Committee on Insurance, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 663

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Demuzio, Chairperson of the Committee on State Government and Veterans Affairs, to which was referred **Senate Resolution No. 812**, reported the same back with the recommendation that the resolution be adopted.

Under the rules, **Senate Resolution No. 812** was placed on the Secretary's Desk.

Senator Demuzio, Chairperson of the Committee on State Government and Veterans Affairs, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to House Bill 5191

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Demuzio, Chairperson of the Committee on State Government and Veterans Affairs, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 2630; Motion to Concur in House Amendment 1 to Senate Bill 3249; Motion to Concur in House Amendment 1 to Senate Bill 3433; Motion to Concur in House Amendment 1 to Senate Bill 3818

Under the rules, the foregoing motions are eligible for consideration by the Senate.

### MESSAGES FROM THE HOUSE

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 380

A bill for AN ACT concerning State government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 380

Passed the House, as amended, May 3, 2010.

MARK MAHONEY, Clerk of the House

### AMENDMENT NO. 1 TO SENATE BILL 380

AMENDMENT NO. 1. Amend Senate Bill 380 by replacing everything after the enacting clause with the following:

"Section 5. The Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997 is amended by changing Sections 6-1, 6-2, 6-3, 6-4, and 6-5 as follows:

(20 ILCS 687/6-1)

(Section scheduled to be repealed on December 12, 2015)

Sec. 6-1. Short title. This Article may be cited as the Renewable Energy, Reusable Energy, Energy Efficiency, and Coal Resources Development Law of 1997.

(Source: P.A. 90-561, eff. 12-16-97.)

[May 3, 2010]

(20 ILCS 687/6-2)

(Section scheduled to be repealed on December 12, 2015)

Sec. 6-2. Findings and intent. The General Assembly finds and declares that it is desirable to obtain the environmental quality, public health, and fuel diversity benefits of developing reusable energy resources, new renewable energy resources, and clean coal technologies for use in Illinois and to lower the cost of reusable energy resources, renewable energy resources, and clean coal resources provided to utility consumers. The General Assembly finds and declares that the benefits of electricity from reusable energy resources, renewable energy resources, and clean coal technologies accrue to the public at large, thus consumers and electric utilities and alternative retail electric suppliers share an interest in developing and using a significant level of these environmentally preferable resources in the State's electricity supply portfolio. The General Assembly finds and declares that encouraging energy efficiency will improve the environmental quality and public health in the State of Illinois.

(Source: P.A. 90-561, eff. 12-16-97.)

(20 ILCS 687/6-3)

(Section scheduled to be repealed on December 12, 2015)

Sec. 6-3. Renewable and reusable energy resources program.

(a) The Department of Commerce and Economic Opportunity, to be called the "Department" hereinafter in this Law, shall administer the Renewable and Reusable Energy Resources Program to provide grants, loans, and other incentives to foster investment in and the development and use of renewable energy resources or reusable energy resources, or both.

(b) The Department shall establish eligibility criteria for grants, loans, and other incentives to foster investment in and the development and use of renewable energy resources or reusable energy resources, or both. These criteria shall be reviewed annually and adjusted as necessary. The criteria should promote the goal of fostering investment in and the development and use, in Illinois, of renewable energy resources or reusable energy resources, or both.

(c) The Department shall accept applications for grants, loans, and other incentives to foster investment in and the development and use of renewable energy resources or reusable energy resources, or both.

(d) To the extent that funds are available and appropriated, the Department shall provide grants, loans, and other incentives to applicants that meet the criteria specified by the Department.

(e) The Department shall conduct an annual study on the use and availability of renewable and reusable energy resources in Illinois. Each year, the Department shall submit a report on the study to the General Assembly. This report shall include suggestions for legislation which will encourage the development and use of renewable energy resources or reusable energy resources, or both.

(f) As used in this Law: ;

"Renewable ~~renewable~~ energy resources" include ~~includes~~ energy from wind, solar thermal energy, photovoltaic cells and panels, dedicated crops grown for energy production and organic waste biomass, hydropower that does not involve new construction or significant expansion of hydropower dams, and other such alternative sources of environmentally preferable energy. "Renewable energy resources" does not include, however, energy from the incineration or burning of waste wood, tires, garbage, general household, institutional and commercial waste, industrial lunchroom or office waste, landscape waste, or construction or demolition debris.

"Reusable energy credit" means a tradable credit that represents the environmental attributes of a certain amount of energy produced from a reusable energy resource.

"Reusable energy resources" include energy and its associated reusable energy credit or reusable energy credits derived from tires containing rubber that are used for the production or generation of electricity.

(g) There is created the Energy Efficiency Investment Fund as a special fund in the State Treasury, to be administered by the Department to support the development of renewable and reusable energy resources, including, but not limited to, technologies for wind, biomass, tires, and solar power in Illinois. The Department may accept private and public funds, including federal funds, for deposit into the Fund. (Source: P.A. 94-793, eff. 5-19-06; 95-913, eff. 1-1-09.)

(20 ILCS 687/6-4)

(Section scheduled to be repealed on December 12, 2015)

Sec. 6-4. Renewable and Reusable Energy Resources Trust Fund.

(a) A fund to be called the Renewable and Reusable Energy Resources Trust Fund is hereby established in the State Treasury.

(b) The Renewable and Reusable Energy Resources Trust Fund shall be administered by the Department to provide grants, loans, and other incentives to foster investment in and the development

and use of renewable energy resources or reusable energy resources, or both, as provided in Section 6-3 of this Law or pursuant to the Illinois Renewable Fuels Development Program Act.

(c) All funds used by the Department for the Renewable and Reusable Energy Resources Program shall be subject to appropriation by the General Assembly.

(Source: P.A. 94-839, eff. 6-6-06.)

(20 ILCS 687/6-5)

(Section scheduled to be repealed on December 12, 2015)

Sec. 6-5. Renewable Energy Resources and Coal Technology Development Assistance Charge.

(a) Notwithstanding the provisions of Section 16-111 of the Public Utilities Act but subject to subsection (e) of this Section, each public utility, electric cooperative, as defined in Section 3.4 of the Electric Supplier Act, and municipal utility, as referenced in Section 3-105 of the Public Utilities Act, that is engaged in the delivery of electricity or the distribution of natural gas within the State of Illinois shall, effective January 1, 1998, assess each of its customer accounts a monthly Renewable and Reusable Energy Resources and Coal Technology Development Assistance Charge. The delivering public utility, municipal electric or gas utility, or electric or gas cooperative for a self-assessing purchaser remains subject to the collection of the fee imposed by this Section. The monthly charge shall be as follows:

(1) \$0.05 per month on each account for residential electric service as defined in

Section 13 of the Energy Assistance Act;

(2) \$0.05 per month on each account for residential gas service as defined in Section

13 of the Energy Assistance Act;

(3) \$0.50 per month on each account for nonresidential electric service, as defined in Section 13 of the Energy Assistance Act, which had less than 10 megawatts of peak demand during the previous calendar year;

(4) \$0.50 per month on each account for nonresidential gas service, as defined in Section 13 of the Energy Assistance Act, which had distributed to it less than 4,000,000 therms of gas during the previous calendar year;

(5) \$37.50 per month on each account for nonresidential electric service, as defined in Section 13 of the Energy Assistance Act, which had 10 megawatts or greater of peak demand during the previous calendar year; and

(6) \$37.50 per month on each account for nonresidential gas service, as defined in Section 13 of the Energy Assistance Act, which had 4,000,000 or more therms of gas distributed to it during the previous calendar year.

(b) The Renewable and Reusable Energy Resources and Coal Technology Development Assistance Charge assessed by electric and gas public utilities shall be considered a charge for public utility service.

(c) Fifty percent of the moneys collected pursuant to this Section shall be deposited in the Renewable and Reusable Energy Resources Trust Fund by the Department of Revenue. The remaining 50 percent of the moneys collected pursuant to this Section shall be deposited in the Coal Technology Development Assistance Fund by the Department of Revenue for the exclusive purposes of (1) capturing or sequestering carbon emissions produced by coal combustion; (2) supporting research on the capture and sequestration of carbon emissions produced by coal combustion; and (3) improving coal miner safety.

(d) By the 20th day of the month following the month in which the charges imposed by this Section were collected, each utility and alternative retail electric supplier collecting charges pursuant to this Section shall remit to the Department of Revenue for deposit into ~~in~~ the Renewable and Reusable Energy Resources Trust Fund and the Coal Technology Development Assistance Fund all moneys received as payment of the charge provided for in this Section on a return prescribed and furnished by the Department of Revenue showing such information as the Department of Revenue may reasonably require.

(e) The charges imposed by this Section shall only apply to customers of municipal electric or gas utilities and electric or gas cooperatives if the municipal electric or gas utility or electric or gas cooperative makes an affirmative decision to impose the charge. If a municipal electric or gas utility or an electric or gas cooperative makes an affirmative decision to impose the charge provided by this Section, the municipal electric or gas utility or electric or gas cooperative shall inform the Department of Revenue in writing of such decision when it begins to impose the charge. If a municipal electric or gas utility or electric or gas cooperative does not assess this charge, its customers shall not be eligible for the Renewable and Reusable Energy Resources Program.

(f) The Department of Revenue may establish such rules as it deems necessary to implement this Section.

(Source: P.A. 95-481, eff. 8-28-07.)

Section 10. The Illinois Power Agency Act is amended by changing Sections 1-10, 1-20, 1-56, 1-75, and 1-125 as follows:

(20 ILCS 3855/1-10)

Sec. 1-10. Definitions.

"Agency" means the Illinois Power Agency.

"Agency loan agreement" means any agreement pursuant to which the Illinois Finance Authority agrees to loan the proceeds of revenue bonds issued with respect to a project to the Agency upon terms providing for loan repayment installments at least sufficient to pay when due all principal of, interest and premium, if any, on those revenue bonds, and providing for maintenance, insurance, and other matters in respect of the project.

"Authority" means the Illinois Finance Authority.

"Clean coal facility" means an electric generating facility that uses primarily coal as a feedstock and that captures and sequesters carbon emissions at the following levels: at least 50% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation after 2017. The power block of the clean coal facility shall not exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the clean coal facility at the time the clean coal facility obtains an approved air permit. All coal used by a clean coal facility shall have high volatile bituminous rank and greater than 1.7 pounds of sulfur per million btu content, unless the clean coal facility does not use gasification technology and was operating as a conventional coal-fired electric generating facility on June 1, 2009 (the effective date of Public Act 95-1027).

"Clean coal SNG facility" means a facility that uses a gasification process to produce substitute natural gas, that sequesters at least 90% of the total carbon emissions that the facility would otherwise emit and that uses petroleum coke or coal as a feedstock, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per million btu content.

"Commission" means the Illinois Commerce Commission.

"Costs incurred in connection with the development and construction of a facility" means:

(1) the cost of acquisition of all real property and improvements in connection therewith and equipment and other property, rights, and easements acquired that are deemed necessary for the operation and maintenance of the facility;

(2) financing costs with respect to bonds, notes, and other evidences of indebtedness of the Agency;

(3) all origination, commitment, utilization, facility, placement, underwriting, syndication, credit enhancement, and rating agency fees;

(4) engineering, design, procurement, consulting, legal, accounting, title insurance, survey, appraisal, escrow, trustee, collateral agency, interest rate hedging, interest rate swap, capitalized interest and other financing costs, and other expenses for professional services; and

(5) the costs of plans, specifications, site study and investigation, installation, surveys, other Agency costs and estimates of costs, and other expenses necessary or incidental to determining the feasibility of any project, together with such other expenses as may be necessary or incidental to the financing, insuring, acquisition, and construction of a specific project and placing that project in operation.

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of the Illinois Power Agency.

"Demand-response" means measures that decrease peak electricity demand or shift demand from peak to off-peak periods.

"Energy efficiency" means measures that reduce the amount of electricity or natural gas required to achieve a given end use.

"Electric utility" has the same definition as found in Section 16-102 of the Public Utilities Act.

"Facility" means an electric generating unit or a co-generating unit that produces electricity along with related equipment necessary to connect the facility to an electric transmission or distribution system.

"Governmental aggregator" means one or more units of local government that individually or collectively procure electricity to serve residential retail electrical loads located within its or their jurisdiction.

"Local government" means a unit of local government as defined in Article VII of Section 1 of the

Illinois Constitution.

"Municipality" means a city, village, or incorporated town.

"Person" means any natural person, firm, partnership, corporation, either domestic or foreign, company, association, limited liability company, joint stock company, or association and includes any trustee, receiver, assignee, or personal representative thereof.

"Project" means the planning, bidding, and construction of a facility.

"Public utility" has the same definition as found in Section 3-105 of the Public Utilities Act.

"Real property" means any interest in land together with all structures, fixtures, and improvements thereon, including lands under water and riparian rights, any easements, covenants, licenses, leases, rights-of-way, uses, and other interests, together with any liens, judgments, mortgages, or other claims or security interests related to real property.

"Renewable energy credit" means a tradable credit that represents the environmental attributes of a certain amount of energy produced from a renewable energy resource.

"Renewable energy resources" ~~include~~ ~~includes~~ energy and its associated renewable energy credit or renewable energy credits from wind, solar thermal energy, photovoltaic cells and panels, biodiesel, crops and untreated and unadulterated organic waste biomass, tree waste, hydropower that does not involve new construction or significant expansion of hydropower dams, and other alternative sources of environmentally preferable energy. For purposes of this Act, landfill gas produced in the State is considered a renewable energy resource. "Renewable energy resources" does not include the incineration or burning of ~~tires~~, garbage, general household, institutional, and commercial waste, industrial lunchroom or office waste, landscape waste other than tree waste, railroad crossties, utility poles, or construction or demolition debris, other than untreated and unadulterated waste wood.

"Reusable energy credit" means a tradable credit that represents the environmental attributes of a certain amount of energy produced from a reusable energy resource.

"Reusable energy resources" include energy and its associated reusable energy credit or reusable energy credits derived from tires containing rubber that are used for the production or generation of electricity.

"Revenue bond" means any bond, note, or other evidence of indebtedness issued by the Authority, the principal and interest of which is payable solely from revenues or income derived from any project or activity of the Agency.

"Sequester" means permanent storage of carbon dioxide by injecting it into a saline aquifer, a depleted gas reservoir, or an oil reservoir, directly or through an enhanced oil recovery process that may involve intermediate storage in a salt dome.

"Servicing agreement" means (i) in the case of an electric utility, an agreement between the owner of a clean coal facility and such electric utility, which agreement shall have terms and conditions meeting the requirements of paragraph (3) of subsection (d) of Section 1-75, and (ii) in the case of an alternative retail electric supplier, an agreement between the owner of a clean coal facility and such alternative retail electric supplier, which agreement shall have terms and conditions meeting the requirements of Section 16-115(d)(5) of the Public Utilities Act.

"Substitute natural gas" or "SNG" means a gas manufactured by gasification of hydrocarbon feedstock, which is substantially interchangeable in use and distribution with conventional natural gas.

"Total resource cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the program to the net present value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided natural gas utility costs, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases.

(Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09; 95-1027, eff. 6-1-09; 96-33, eff. 7-10-09; 96-159, eff. 8-10-09; 96-784, eff. 8-28-09; revised 9-15-09.)

(20 ILCS 3855/1-20)

Sec. 1-20. General powers of the Agency.

(a) The Agency is authorized to do each of the following:

(1) Develop electricity procurement plans to ensure adequate, reliable, affordable,

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efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability, for electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois. The procurement plans shall be updated on an annual basis and shall include electricity generated from renewable energy resources or reusable energy resources, or both, sufficient to achieve the standards specified in this Act.

(2) Conduct competitive procurement processes to procure the supply resources identified in the procurement plan, pursuant to Section 16-111.5 of the Public Utilities Act.

(3) Develop electric generation and co-generation facilities that use indigenous coal, ~~or~~ renewable energy resources, reusable energy resources, or any combination of these energy sources both, financed with bonds issued by the Illinois Finance Authority.

(4) Supply electricity from the Agency's facilities at cost to one or more of the following: municipal electric systems, governmental aggregators, or rural electric cooperatives in Illinois.

(b) Except as otherwise limited by this Act, the Agency has all of the powers necessary or convenient to carry out the purposes and provisions of this Act, including without limitation, each of the following:

(1) To have a corporate seal, and to alter that seal at pleasure, and to use it by

causing it or a facsimile to be affixed or impressed or reproduced in any other manner.

(2) To use the services of the Illinois Finance Authority necessary to carry out the Agency's purposes.

(3) To negotiate and enter into loan agreements and other agreements with the Illinois Finance Authority.

(4) To obtain and employ personnel and hire consultants that are necessary to fulfill the Agency's purposes, and to make expenditures for that purpose within the appropriations for that purpose.

(5) To purchase, receive, take by grant, gift, devise, bequest, or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with, real or personal property whether tangible or intangible, or any interest therein, within the State.

(6) To acquire real or personal property, whether tangible or intangible, including without limitation property rights, interests in property, franchises, obligations, contracts, and debt and equity securities, and to do so by the exercise of the power of eminent domain in accordance with Section 1-21; except that any real property acquired by the exercise of the power of eminent domain must be located within the State.

(7) To sell, convey, lease, exchange, transfer, abandon, or otherwise dispose of, or mortgage, pledge, or create a security interest in, any of its assets, properties, or any interest therein, wherever situated.

(8) To purchase, take, receive, subscribe for, or otherwise acquire, hold, make a tender offer for, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, mortgage, pledge, or grant a security interest in, use, and otherwise deal in and with, bonds and other obligations, shares, or other securities (or interests therein) issued by others, whether engaged in a similar or different business or activity.

(9) To make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the Agency under this Act, including contracts with any person, local government, State agency, or other entity; and all State agencies and all local governments are authorized to enter into and do all things necessary to perform any such agreement, contract, or other instrument with the Agency. No such agreement, contract, or other instrument shall exceed 40 years.

(10) To lend money, invest and reinvest its funds in accordance with the Public Funds Investment Act, and take and hold real and personal property as security for the payment of funds loaned or invested.

(11) To borrow money at such rate or rates of interest as the Agency may determine, issue its notes, bonds, or other obligations to evidence that indebtedness, and secure any of its obligations by mortgage or pledge of its real or personal property, machinery, equipment, structures, fixtures, inventories, revenues, grants, and other funds as provided or any interest therein, wherever situated.

(12) To enter into agreements with the Illinois Finance Authority to issue bonds whether or not the income therefrom is exempt from federal taxation.

(13) To procure insurance against any loss in connection with its properties or operations in such amount or amounts and from such insurers, including the federal government, as it may deem necessary or desirable, and to pay any premiums therefor.

(14) To negotiate and enter into agreements with trustees or receivers appointed by United States bankruptcy courts or federal district courts or in other proceedings involving adjustment of debts and authorize proceedings involving adjustment of debts and authorize legal counsel for the Agency to appear in any such proceedings.

(15) To file a petition under Chapter 9 of Title 11 of the United States Bankruptcy Code or take other similar action for the adjustment of its debts.

(16) To enter into management agreements for the operation of any of the property or facilities owned by the Agency.

(17) To enter into an agreement to transfer and to transfer any land, facilities, fixtures, or equipment of the Agency to one or more municipal electric systems, governmental aggregators, or rural electric agencies or cooperatives, for such consideration and upon such terms as the Agency may determine to be in the best interest of the citizens of Illinois.

(18) To enter upon any lands and within any building whenever in its judgment it may be necessary for the purpose of making surveys and examinations to accomplish any purpose authorized by this Act.

(19) To maintain an office or offices at such place or places in the State as it may determine.

(20) To request information, and to make any inquiry, investigation, survey, or study that the Agency may deem necessary to enable it effectively to carry out the provisions of this Act.

(21) To accept and expend appropriations.

(22) To engage in any activity or operation that is incidental to and in furtherance of efficient operation to accomplish the Agency's purposes.

(23) To adopt, revise, amend, and repeal rules with respect to its operations, properties, and facilities as may be necessary or convenient to carry out the purposes of this Act, subject to the provisions of the Illinois Administrative Procedure Act and Sections 1-22 and 1-35 of this Act.

(24) To establish and collect charges and fees as described in this Act.

(25) To manage procurement of substitute natural gas from a facility that meets the criteria specified in subsection (a) of Section ~~1-58~~ ~~1-56~~ of this Act, on terms and conditions that may be approved by the Agency pursuant to subsection (d) of Section ~~1-58~~ ~~1-56~~ of this Act, to support the operations of State agencies and local governments that agree to such terms and conditions. This procurement process is not subject to the Procurement Code.

(Source: P.A. 95-481, eff. 8-28-07; 96-784, eff. 8-28-09; revised 10-13-09.)

(20 ILCS 3855/1-56)

Sec. 1-56. Illinois Power Agency Renewable and Reusable Energy Resources Fund.

(a) The Illinois Power Agency Renewable and Reusable Energy Resources Fund is created as a special fund in the State treasury.

(b) The Illinois Power Agency Renewable and Reusable Energy Resources Fund shall be administered by the Agency to procure renewable energy resources or reusable energy resources, or both. Prior to June 1, 2011, resources procured pursuant to this Section shall be procured from facilities located in Illinois, provided the resources are available from those facilities. If resources are not available in Illinois, then they shall be procured in states that adjoin Illinois. If resources are not available in Illinois or in states that adjoin Illinois, then they may be purchased elsewhere. Beginning June 1, 2011, resources procured pursuant to this Section shall be procured from facilities located in Illinois or states that adjoin Illinois. If resources are not available in Illinois or in states that adjoin Illinois, then they may be procured elsewhere. To the extent available, at least 75% of these renewable energy resources shall come from wind generation and, starting June 1, 2015, at least 6% of the renewable energy resources used to meet these standards shall come from solar photovoltaics.

(c) The Agency shall procure, at least once each year in conjunction with a procurement event for electric utilities required to comply with Section 1-75 of the Act, renewable energy resources or reusable energy resources, or both, ~~at least once each year in conjunction with a procurement event for electric utilities required to comply with Section 1-75 of the Act~~ and shall, whenever possible, enter into long-term contracts.

(d) The price paid to procure renewable energy credits or reusable energy credits, or both, using monies from the Illinois Power Agency Renewable and Reusable Energy Resources Fund shall not exceed the winning bid prices paid for like resources procured for electric utilities required to comply with Section 1-75 of this Act.

(e) All renewable energy credits or reusable energy credits, or both, procured using monies from the Illinois Power Agency Renewable and Reusable Energy Resources Fund shall be permanently retired.

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(f) The procurement process described in this Section is exempt from the requirements of the Illinois Procurement Code, pursuant to Section 20-10 of that Code.

(g) All disbursements from the Illinois Power Agency Renewable and Reusable Energy Resources Fund shall be made only upon warrants of the Comptroller drawn upon the Treasurer as custodian of the Fund upon vouchers signed by the Director or by the person or persons designated by the Director for that purpose. The Comptroller is authorized to draw the warrant upon vouchers so signed. The Treasurer shall accept all warrants so signed and shall be released from liability for all payments made on those warrants.

(h) The Illinois Power Agency Renewable and Reusable Energy Resources Fund shall not be subject to sweeps, administrative charges, or chargebacks, including, but not limited to, those authorized under Section 8h of the State Finance Act, that would in any way result in the transfer of any funds from this Fund to any other fund of this State or in having any such funds utilized for any purpose other than the express purposes set forth in this Section.

(Source: P.A. 96-159, eff. 8-10-09.)

(20 ILCS 3855/1-75)

Sec. 1-75. Planning and Procurement Bureau. The Planning and Procurement Bureau has the following duties and responsibilities:

(a) The Planning and Procurement Bureau shall each year, beginning in 2008, develop procurement plans and conduct competitive procurement processes in accordance with the requirements of Section 16-111.5 of the Public Utilities Act for the eligible retail customers of electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois. For the purposes of this Section, the term "eligible retail customers" has the same definition as found in Section 16-111.5(a) of the Public Utilities Act.

(1) The Agency shall each year, beginning in 2008, as needed, issue a request for qualifications for experts or expert consulting firms to develop the procurement plans in accordance with Section 16-111.5 of the Public Utilities Act. In order to qualify an expert or expert consulting firm must have:

- (A) direct previous experience assembling large-scale power supply plans or portfolios for end-use customers;
- (B) an advanced degree in economics, mathematics, engineering, risk management, or a related area of study;
- (C) 10 years of experience in the electricity sector, including managing supply risk;
- (D) expertise in wholesale electricity market rules, including those established by the Federal Energy Regulatory Commission and regional transmission organizations;
- (E) expertise in credit protocols and familiarity with contract protocols;
- (F) adequate resources to perform and fulfill the required functions and responsibilities; and
- (G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected electric utilities.

(2) The Agency shall each year, as needed, issue a request for qualifications for a procurement administrator to conduct the competitive procurement processes in accordance with Section 16-111.5 of the Public Utilities Act. In order to qualify an expert or expert consulting firm must have:

- (A) direct previous experience administering a large-scale competitive procurement process;
- (B) an advanced degree in economics, mathematics, engineering, or a related area of study;
- (C) 10 years of experience in the electricity sector, including risk management experience;
- (D) expertise in wholesale electricity market rules, including those established by the Federal Energy Regulatory Commission and regional transmission organizations;
- (E) expertise in credit and contract protocols;
- (F) adequate resources to perform and fulfill the required functions and responsibilities; and
- (G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected electric utilities.

(3) The Agency shall provide affected utilities and other interested parties with the lists of qualified experts or expert consulting firms identified through the request for

qualifications processes that are under consideration to develop the procurement plans and to serve as the procurement administrator. The Agency shall also provide each qualified expert's or expert consulting firm's response to the request for qualifications. All information provided under this subparagraph shall also be provided to the Commission. The Agency may provide by rule for fees associated with supplying the information to utilities and other interested parties. These parties shall, within 5 business days, notify the Agency in writing if they object to any experts or expert consulting firms on the lists. Objections shall be based on:

- (A) failure to satisfy qualification criteria;
- (B) identification of a conflict of interest; or
- (C) evidence of inappropriate bias for or against potential bidders or the affected utilities.

The Agency shall remove experts or expert consulting firms from the lists within 10 days if there is a reasonable basis for an objection and provide the updated lists to the affected utilities and other interested parties. If the Agency fails to remove an expert or expert consulting firm from a list, an objecting party may seek review by the Commission within 5 days thereafter by filing a petition, and the Commission shall render a ruling on the petition within 10 days. There is no right of appeal of the Commission's ruling.

(4) The Agency shall issue requests for proposals to the qualified experts or expert consulting firms to develop a procurement plan for the affected utilities and to serve as procurement administrator.

(5) The Agency shall select an expert or expert consulting firm to develop procurement plans based on the proposals submitted and shall award one-year contracts to those selected with an option for the Agency for a one-year renewal.

(6) The Agency shall select an expert or expert consulting firm, with approval of the Commission, to serve as procurement administrator based on the proposals submitted. If the Commission rejects, within 5 days, the Agency's selection, the Agency shall submit another recommendation within 3 days based on the proposals submitted. The Agency shall award a one-year contract to the expert or expert consulting firm so selected with Commission approval with an option for the Agency for a one-year renewal.

(b) The experts or expert consulting firms retained by the Agency shall, as appropriate, prepare procurement plans, and conduct a competitive procurement process as prescribed in Section 16-111.5 of the Public Utilities Act, to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability, for eligible retail customers of electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in the State of Illinois.

(c) Renewable and reusable portfolio standard.

(1) The procurement plans shall include cost-effective renewable energy resources or reusable energy resources, or both.

A minimum percentage of each utility's total supply to serve the load of eligible retail customers, as defined in Section 16-111.5(a) of the Public Utilities Act, procured for each of the following years shall be generated from cost-effective renewable energy resources or reusable energy resources, or both: at least 2% by June 1, 2008; at least 4% by June 1, 2009; at least 5% by June 1, 2010; at least 6% by June 1, 2011; at least 7% by June 1, 2012; at least 8% by June 1, 2013; at least 9% by June 1, 2014; at least 10% by June 1, 2015; and increasing by at least 1.5% each year thereafter to at least 25% by June 1, 2025. To the extent that it is available, at least 75% of the renewable energy resources used to meet these standards shall come from wind generation and, beginning on June 1, 2015, at least 6% of the renewable energy resources used to meet these standards shall come from photovoltaics. For purposes of this subsection (c), "cost-effective" means that the costs of procuring renewable energy resources or reusable energy resources, or both, do not cause the limit stated in paragraph (2) of this subsection (c) to be exceeded and do not exceed benchmarks based on market prices for renewable energy resources or reusable energy resources, or both, in the region, which shall be developed by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval.

(2) For purposes of this subsection (c), the required procurement of cost-effective renewable energy resources or reusable energy resources, or both, for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail customers in the planning year ending immediately prior to the procurement. For purposes of this subsection (c), the amount paid per kilowatthour means the total

amount paid for electric service expressed on a per kilowattour basis. For purposes of this subsection (c), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, distribution, surcharges, and add-on taxes.

Notwithstanding the requirements of this subsection (c), the total of renewable energy resources or reusable energy resources, or both, procured pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to:

(A) in 2008, no more than 0.5% of the amount paid per kilowattour by those customers during the year ending May 31, 2007;

(B) in 2009, the greater of an additional 0.5% of the amount paid per kilowattour by those customers during the year ending May 31, 2008 or 1% of the amount paid per kilowattour by those customers during the year ending May 31, 2007;

(C) in 2010, the greater of an additional 0.5% of the amount paid per kilowattour by those customers during the year ending May 31, 2009 or 1.5% of the amount paid per kilowattour by those customers during the year ending May 31, 2007;

(D) in 2011, the greater of an additional 0.5% of the amount paid per kilowattour by those customers during the year ending May 31, 2010 or 2% of the amount paid per kilowattour by those customers during the year ending May 31, 2007; and

(E) thereafter, the amount of renewable or reusable energy resources procured pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of 2.015% of the amount paid per kilowattour by those customers during the year ending May 31, 2007 or the incremental amount per kilowattour paid for these resources in 2011.

No later than June 30, 2011, the Commission shall review the limitation on the amount of renewable energy resources or reusable energy resources, or both, procured pursuant to this subsection (c) and report to the General Assembly its findings as to whether that limitation unduly constrains the procurement of cost-effective renewable energy resources or reusable energy resources, or both.

(3) Through June 1, 2011, renewable energy resources or reusable energy resources, or both, shall be counted for the

purpose of meeting the renewable and reusable energy standards set forth in paragraph (1) of this subsection (c) only if they are generated from facilities located in the State, provided that cost-effective renewable energy resources or reusable energy resources, or both, are available from those facilities. If those cost-effective resources are not available in Illinois, they shall be procured in states that adjoin Illinois and may be counted towards compliance. If those cost-effective resources are not available in Illinois or in states that adjoin Illinois, they shall be purchased elsewhere and shall be counted towards compliance. After June 1, 2011, cost-effective renewable energy resources or reusable energy resources, or both, located in Illinois and in states that adjoin Illinois may be counted towards compliance with the standards set forth in paragraph (1) of this subsection (c). If those cost-effective resources are not available in Illinois or in states that adjoin Illinois, they shall be purchased elsewhere and shall be counted towards compliance.

(4) The electric utility shall retire all renewable energy credits or reusable energy credits, or both, used to comply

with the standard.

(5) Beginning with the year commencing June 1, 2010, an electric utility subject to this subsection (c) shall apply the lesser of the maximum alternative compliance payment rate or the most recent estimated alternative compliance payment rate for its service territory for the corresponding compliance period, established pursuant to subsection (d) of Section 16-115D of the Public Utilities Act to its retail customers that take service pursuant to the electric utility's hourly pricing tariff or tariffs. The electric utility shall retain all amounts collected as a result of the application of the alternative compliance payment rate or rates to such customers, and, beginning in 2011, the utility shall include in the information provided under item (1) of subsection (d) of Section 16-111.5 of the Public Utilities Act the amounts collected under the alternative compliance payment rate or rates for the prior year ending May 31. Notwithstanding any limitation on the procurement of renewable energy resources or reusable energy resources, or both, imposed by item (2) of this subsection (c), the Agency shall increase its spending on the purchase of renewable energy resources or reusable energy resources, or both, to be procured by the electric utility for the

next plan year by an amount equal to the amounts collected by the utility under the alternative compliance payment rate or rates in the prior year ending May 31.

(d) Clean coal portfolio standard.

(1) The procurement plans shall include electricity generated using clean coal. Each utility shall enter into one or more sourcing agreements with the initial clean coal facility, as provided in paragraph (3) of this subsection (d), covering electricity generated by the initial clean coal facility representing at least 5% of each utility's total supply to serve the load of eligible retail customers in 2015 and each year thereafter, as described in paragraph (3) of this subsection (d), subject to the limits specified in paragraph (2) of this subsection (d). It is the goal of the State that by January 1, 2025, 25% of the electricity used in the State shall be generated by cost-effective clean coal facilities. For purposes of this subsection (d), "cost-effective" means that the expenditures pursuant to such sourcing agreements do not cause the limit stated in paragraph (2) of this subsection (d) to be exceeded and do not exceed cost-based benchmarks, which shall be developed to assess all expenditures pursuant to such sourcing agreements covering electricity generated by clean coal facilities, other than the initial clean coal facility, by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval.

(A) A utility party to a sourcing agreement shall immediately retire any emission credits that it receives in connection with the electricity covered by such agreement.

(B) Utilities shall maintain adequate records documenting the purchases under the sourcing agreement to comply with this subsection (d) and shall file an accounting with the load forecast that must be filed with the Agency by July 15 of each year, in accordance with subsection (d) of Section 16-111.5 of the Public Utilities Act.

(C) A utility shall be deemed to have complied with the clean coal portfolio standard specified in this subsection (d) if the utility enters into a sourcing agreement as required by this subsection (d).

(2) For purposes of this subsection (d), the required execution of sourcing agreements with the initial clean coal facility for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail customers in the planning year ending immediately prior to the agreement's execution. For purposes of this subsection (d), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (d), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, distribution, surcharges and add-on taxes.

Notwithstanding the requirements of this subsection (d), the total amount paid under sourcing agreements with clean coal facilities pursuant to the procurement plan for any given year shall be reduced by an amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to:

(A) in 2010, no more than 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(B) in 2011, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2010 or 1% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(C) in 2012, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2011 or 1.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(D) in 2013, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2012 or 2% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009; and

(E) thereafter, the total amount paid under sourcing agreements with clean coal facilities pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of (i) 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 or (ii) the incremental amount per kilowatthour paid for these resources in 2013. These requirements may be altered only as provided by statute. No later than June 30, 2015, the Commission shall review the limitation on the total amount paid under sourcing agreements, if any, with clean coal facilities pursuant to this subsection (d) and report to the General Assembly its findings as to whether that limitation unduly constrains the amount of

electricity generated by cost-effective clean coal facilities that is covered by sourcing agreements.

(3) Initial clean coal facility. In order to promote development of clean coal facilities in Illinois, each electric utility subject to this Section shall execute a sourcing agreement to source electricity from a proposed clean coal facility in Illinois (the "initial clean coal facility") that will have a nameplate capacity of at least 500 MW when commercial operation commences, that has a final Clean Air Act permit on the effective date of this amendatory Act of the 95th General Assembly, and that will meet the definition of clean coal facility in Section 1-10 of this Act when commercial operation commences. The sourcing agreements with this initial clean coal facility shall be subject to both approval of the initial clean coal facility by the General Assembly and satisfaction of the requirements of paragraph (4) of this subsection (d) and shall be executed within 90 days after any such approval by the General Assembly. The Agency and the Commission shall have authority to inspect all books and records associated with the initial clean coal facility during the term of such a sourcing agreement. A utility's sourcing agreement for electricity produced by the initial clean coal facility shall include:

(A) a formula contractual price (the "contract price") approved pursuant to paragraph (4) of this subsection (d), which shall:

(i) be determined using a cost of service methodology employing either a level or deferred capital recovery component, based on a capital structure consisting of 45% equity and 55% debt, and a return on equity as may be approved by the Federal Energy Regulatory Commission, which in any case may not exceed the lower of 11.5% or the rate of return approved by the General Assembly pursuant to paragraph (4) of this subsection (d); and

(ii) provide that all miscellaneous net revenue, including but not limited to net revenue from the sale of emission allowances, if any, substitute natural gas, if any, grants or other support provided by the State of Illinois or the United States Government, firm transmission rights, if any, by-products produced by the facility, energy or capacity derived from the facility and not covered by a sourcing agreement pursuant to paragraph (3) of this subsection (d) or item (5) of subsection (d) of Section 16-115 of the Public Utilities Act, whether generated from the synthesis gas derived from coal, from SNG, or from natural gas, shall be credited against the revenue requirement for this initial clean coal facility;

(B) power purchase provisions, which shall:

(i) provide that the utility party to such sourcing agreement shall pay the contract price for electricity delivered under such sourcing agreement;

(ii) require delivery of electricity to the regional transmission organization market of the utility that is party to such sourcing agreement;

(iii) require the utility party to such sourcing agreement to buy from the initial clean coal facility in each hour an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the State during the prior calendar month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during such prior month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this subsection (d) and paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act, provided that the amount purchased by the utility in any year will be limited by paragraph (2) of this subsection (d); and

(iv) be considered pre-existing contracts in such utility's procurement plans for eligible retail customers;

(C) contract for differences provisions, which shall:

(i) require the utility party to such sourcing agreement to contract with the initial clean coal facility in each hour with respect to an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the utility's service territory in the State during the prior calendar month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during such prior month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this subsection (d) and paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act, provided that the amount paid by the utility in any

year will be limited by paragraph (2) of this subsection (d);

(ii) provide that the utility's payment obligation in respect of the quantity of electricity determined pursuant to the preceding clause (i) shall be limited to an amount equal to (1) the difference between the contract price determined pursuant to subparagraph (A) of paragraph (3) of this subsection (d) and the day-ahead price for electricity delivered to the regional transmission organization market of the utility that is party to such sourcing agreement (or any successor delivery point at which such utility's supply obligations are financially settled on an hourly basis) (the "reference price") on the day preceding the day on which the electricity is delivered to the initial clean coal facility busbar, multiplied by (2) the quantity of electricity determined pursuant to the preceding clause (i); and

(iii) not require the utility to take physical delivery of the electricity produced by the facility;

(D) general provisions, which shall:

(i) specify a term of no more than 30 years, commencing on the commercial operation date of the facility;

(ii) provide that utilities shall maintain adequate records documenting purchases under the sourcing agreements entered into to comply with this subsection (d) and shall file an accounting with the load forecast that must be filed with the Agency by July 15 of each year, in accordance with subsection (d) of Section 16-111.5 of the Public Utilities Act.

(iii) provide that all costs associated with the initial clean coal facility will be periodically reported to the Federal Energy Regulatory Commission and to purchasers in accordance with applicable laws governing cost-based wholesale power contracts;

(iv) permit the Illinois Power Agency to assume ownership of the initial clean coal facility, without monetary consideration and otherwise on reasonable terms acceptable to the Agency, if the Agency so requests no less than 3 years prior to the end of the stated contract term;

(v) require the owner of the initial clean coal facility to provide documentation to the Commission each year, starting in the facility's first year of commercial operation, accurately reporting the quantity of carbon emissions from the facility that have been captured and sequestered and report any quantities of carbon released from the site or sites at which carbon emissions were sequestered in prior years, based on continuous monitoring of such sites. If, in any year after the first year of commercial operation, the owner of the facility fails to demonstrate that the initial clean coal facility captured and sequestered at least 50% of the total carbon emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into the atmosphere, the owner of the facility must offset excess emissions. Any such carbon offsets must be permanent, additional, verifiable, real, located within the State of Illinois, and legally and practicably enforceable. The cost of such offsets for the facility that are not recoverable shall not exceed \$15 million in any given year. No costs of any such purchases of carbon offsets may be recovered from a utility or its customers. All carbon offsets purchased for this purpose and any carbon emission credits associated with sequestration of carbon from the facility must be permanently retired. The initial clean coal facility shall not forfeit its designation as a clean coal facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased. However, the Attorney General, on behalf of the People of the State of Illinois, may specifically enforce the facility's sequestration requirement and the other terms of this contract provision. Compliance with the sequestration requirements and offset purchase requirements specified in paragraph (3) of this subsection (d) shall be reviewed annually by an independent expert retained by the owner of the initial clean coal facility, with the advance written approval of the Attorney General. The Commission may, in the course of the review specified in item (vii), reduce the allowable return on equity for the facility if the facility wilfully fails to comply with the carbon capture and sequestration requirements set forth in this item (v);

(vi) include limits on, and accordingly provide for modification of, the amount the utility is required to source under the sourcing agreement consistent with paragraph (2) of this subsection (d);

(vii) require Commission review: (1) to determine the justness, reasonableness, and prudence of the inputs to the formula referenced in subparagraphs (A)(i) through (A)(iii) of paragraph (3) of this subsection (d), prior to an adjustment in those inputs including, without limitation, the capital structure and return on equity, fuel costs, and other operations and

maintenance costs and (2) to approve the costs to be passed through to customers under the sourcing agreement by which the utility satisfies its statutory obligations. Commission review shall occur no less than every 3 years, regardless of whether any adjustments have been proposed, and shall be completed within 9 months;

(vii) limit the utility's obligation to such amount as the utility is allowed to recover through tariffs filed with the Commission, provided that neither the clean coal facility nor the utility waives any right to assert federal pre-emption or any other argument in response to a purported disallowance of recovery costs;

(ix) limit the utility's or alternative retail electric supplier's obligation to incur any liability until such time as the facility is in commercial operation and generating power and energy and such power and energy is being delivered to the facility busbar;

(x) provide that the owner or owners of the initial clean coal facility, which is the counterparty to such sourcing agreement, shall have the right from time to time to elect whether the obligations of the utility party thereto shall be governed by the power purchase provisions or the contract for differences provisions;

(xi) append documentation showing that the formula rate and contract, insofar as they relate to the power purchase provisions, have been approved by the Federal Energy Regulatory Commission pursuant to Section 205 of the Federal Power Act;

(xii) provide that any changes to the terms of the contract, insofar as such changes relate to the power purchase provisions, are subject to review under the public interest standard applied by the Federal Energy Regulatory Commission pursuant to Sections 205 and 206 of the Federal Power Act; and

(xiii) conform with customary lender requirements in power purchase agreements used as the basis for financing non-utility generators.

(4) Effective date of sourcing agreements with the initial clean coal facility. Any proposed sourcing agreement with the initial clean coal facility shall not become effective unless the following reports are prepared and submitted and authorizations and approvals obtained:

(i) Facility cost report. The owner of the initial clean coal facility shall submit to the Commission, the Agency, and the General Assembly a front-end engineering and design study, a facility cost report, method of financing (including but not limited to structure and associated costs), and an operating and maintenance cost quote for the facility (collectively "facility cost report"), which shall be prepared in accordance with the requirements of this paragraph (4) of subsection (d) of this Section, and shall provide the Commission and the Agency access to the work papers, relied upon documents, and any other backup documentation related to the facility cost report.

(ii) Commission report. Within 6 months following receipt of the facility cost report, the Commission, in consultation with the Agency, shall submit a report to the General Assembly setting forth its analysis of the facility cost report. Such report shall include, but not be limited to, a comparison of the costs associated with electricity generated by the initial clean coal facility to the costs associated with electricity generated by other types of generation facilities, an analysis of the rate impacts on residential and small business customers over the life of the sourcing agreements, and an analysis of the likelihood that the initial clean coal facility will commence commercial operation by and be delivering power to the facility's busbar by 2016. To assist in the preparation of its report, the Commission, in consultation with the Agency, may hire one or more experts or consultants, the costs of which shall be paid for by the owner of the initial clean coal facility. The Commission and Agency may begin the process of selecting such experts or consultants prior to receipt of the facility cost report.

(iii) General Assembly approval. The proposed sourcing agreements shall not take effect unless, based on the facility cost report and the Commission's report, the General Assembly enacts authorizing legislation approving (A) the projected price, stated in cents per kilowatthour, to be charged for electricity generated by the initial clean coal facility, (B) the projected impact on residential and small business customers' bills over the life of the sourcing agreements, and (C) the maximum allowable return on equity for the project; and

(iv) Commission review. If the General Assembly enacts authorizing legislation pursuant to subparagraph (iii) approving a sourcing agreement, the Commission shall, within 90 days of such enactment, complete a review of such sourcing agreement. During such time period, the Commission shall implement any directive of the General Assembly, resolve any disputes between the parties to the sourcing agreement concerning the terms of such agreement, approve the form of such agreement, and issue an order finding that the sourcing agreement is prudent

and reasonable.

The facility cost report shall be prepared as follows:

(A) The facility cost report shall be prepared by duly licensed engineering and construction firms detailing the estimated capital costs payable to one or more contractors or suppliers for the engineering, procurement and construction of the components comprising the initial clean coal facility and the estimated costs of operation and maintenance of the facility. The facility cost report shall include:

(i) an estimate of the capital cost of the core plant based on one or more front end engineering and design studies for the gasification island and related facilities. The core plant shall include all civil, structural, mechanical, electrical, control, and safety systems.

(ii) an estimate of the capital cost of the balance of the plant, including any capital costs associated with sequestration of carbon dioxide emissions and all interconnects and interfaces required to operate the facility, such as transmission of electricity, construction or backfeed power supply, pipelines to transport substitute natural gas or carbon dioxide, potable water supply, natural gas supply, water supply, water discharge, landfill, access roads, and coal delivery.

The quoted construction costs shall be expressed in nominal dollars as of the date that the quote is prepared and shall include (1) capitalized financing costs during construction, (2) taxes, insurance, and other owner's costs, and (3) an assumed escalation in materials and labor beyond the date as of which the construction cost quote is expressed.

(B) The front end engineering and design study for the gasification island and the cost study for the balance of plant shall include sufficient design work to permit quantification of major categories of materials, commodities and labor hours, and receipt of quotes from vendors of major equipment required to construct and operate the clean coal facility.

(C) The facility cost report shall also include an operating and maintenance cost quote that will provide the estimated cost of delivered fuel, personnel, maintenance contracts, chemicals, catalysts, consumables, spares, and other fixed and variable operations and maintenance costs.

(a) The delivered fuel cost estimate will be provided by a recognized third party expert or experts in the fuel and transportation industries.

(b) The balance of the operating and maintenance cost quote, excluding delivered fuel costs will be developed based on the inputs provided by duly licensed engineering and construction firms performing the construction cost quote, potential vendors under long-term service agreements and plant operating agreements, or recognized third party plant operator or operators.

The operating and maintenance cost quote (including the cost of the front end engineering and design study) shall be expressed in nominal dollars as of the date that the quote is prepared and shall include (1) taxes, insurance, and other owner's costs, and (2) an assumed escalation in materials and labor beyond the date as of which the operating and maintenance cost quote is expressed.

(D) The facility cost report shall also include (i) an analysis of the initial clean coal facility's ability to deliver power and energy into the applicable regional transmission organization markets and (ii) an analysis of the expected capacity factor for the initial clean coal facility.

(E) Amounts paid to third parties unrelated to the owner or owners of the initial clean coal facility to prepare the core plant construction cost quote, including the front end engineering and design study, and the operating and maintenance cost quote will be reimbursed through Coal Development Bonds.

(5) Re-powering and retrofitting coal-fired power plants previously owned by Illinois utilities to qualify as clean coal facilities. During the 2009 procurement planning process and thereafter, the Agency and the Commission shall consider sourcing agreements covering electricity generated by power plants that were previously owned by Illinois utilities and that have been or will be converted into clean coal facilities, as defined by Section 1-10 of this Act. Pursuant to such procurement planning process, the owners of such facilities may propose to the Agency sourcing agreements with utilities and alternative retail electric suppliers required to comply with subsection (d) of this Section and item (5) of subsection (d) of Section 16-115 of the Public Utilities Act, covering electricity generated by such facilities. In the case of sourcing agreements that are power purchase agreements, the contract price for electricity sales shall be established on a cost of service basis. In the case of sourcing agreements that are contracts for differences, the contract price from

which the reference price is subtracted shall be established on a cost of service basis. The Agency and the Commission may approve any such utility sourcing agreements that do not exceed cost-based benchmarks developed by the procurement administrator, in consultation with the Commission staff, Agency staff and the procurement monitor, subject to Commission review and approval. The Commission shall have authority to inspect all books and records associated with these clean coal facilities during the term of any such contract.

(f) Costs incurred under this subsection (d) or pursuant to a contract entered into under this subsection (d) shall be deemed prudently incurred and reasonable in amount and the electric utility shall be entitled to full cost recovery pursuant to the tariffs filed with the Commission.

(g) The draft procurement plans are subject to public comment, as required by Section 16-111.5 of the Public Utilities Act.

(h) The Agency shall submit the final procurement plan to the Commission. The Agency shall revise a procurement plan if the Commission determines that it does not meet the standards set forth in Section 16-111.5 of the Public Utilities Act.

(i) The Agency shall assess fees to each affected utility to recover the costs incurred in preparation of the annual procurement plan for the utility.

(j) The Agency shall assess fees to each bidder to recover the costs incurred in connection with a competitive procurement process.

(Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09; 96-159, eff. 8-10-09.)

(20 ILCS 3855/1-125)

Sec. 1-125. Agency annual reports. The Agency shall report annually to the Governor and the General Assembly on the operations and transactions of the Agency. The annual report shall include, but not be limited to, each of the following:

(1) The quantity, price, and term of all contracts for electricity procured under the procurement plans for electric utilities.

(2) The quantity, price, and rate impact of all renewable energy resources or reusable energy resources, or both, purchased under the electricity procurement plans for electric utilities.

(3) The quantity, price, and rate impact of all energy efficiency and demand response measures purchased for electric utilities.

(4) The amount of power and energy produced by each Agency facility.

(5) The quantity of electricity supplied by each Agency facility to municipal electric systems, governmental aggregators, or rural electric cooperatives in Illinois.

(6) The revenues as allocated by the Agency to each facility.

(7) The costs as allocated by the Agency to each facility.

(8) The accumulated depreciation for each facility.

(9) The status of any projects under development.

(10) Basic financial and operating information specifically detailed for the reporting year and including, but not limited to, income and expense statements, balance sheets, and changes in financial position, all in accordance with generally accepted accounting principles, debt structure, and a summary of funds on a cash basis.

(Source: P.A. 95-481, eff. 8-28-07.)

Section 15. The State Finance Act is amended by changing Sections 5.475 and 5.729 as follows:

(30 ILCS 105/5.475)

Sec. 5.475. The Renewable and Reusable Energy Resources Trust Fund.

(Source: P.A. 90-561, eff. 12-16-97; 90-655, eff. 7-30-98.)

(30 ILCS 105/5.729)

Sec. ~~5.729~~ ~~5.719~~. The Illinois Power Agency Renewable and Reusable Energy Resources Fund.

(Source: P.A. 96-159, eff. 8-10-09; revised 10-20-09.)

Section 20. The Illinois Procurement Code is amended by changing Section 20-10 as follows:

(30 ILCS 500/20-10)

(Text of Section from P.A. 96-159 and 96-588)

Sec. 20-10. Competitive sealed bidding; reverse auction.

(a) Conditions for use. All contracts shall be awarded by competitive sealed bidding except as otherwise provided in Section 20-5.

(b) Invitation for bids. An invitation for bids shall be issued and shall include a purchase description and the material contractual terms and conditions applicable to the procurement.

(c) Public notice. Public notice of the invitation for bids shall be published in the Illinois Procurement Bulletin at least 14 days before the date set in the invitation for the opening of bids.

(d) Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by a State purchasing officer.

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when a State purchasing officer determines it is not in the best interest of the State and by written explanation determines another bidder shall receive the award. The explanation shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(h) Multi-step sealed bidding. When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(i) Alternative procedures. Notwithstanding any other provision of this Act to the contrary, the Director of the Illinois Power Agency may create alternative bidding procedures to be used in procuring professional services under Section 1-75(a) of the Illinois Power Agency Act and Section 16-111.5(c) of the Public Utilities Act and to procure renewable energy resources or reusable energy resources, or both, under Section 1-56 of the Illinois Power Agency Act. These alternative procedures shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(j) Reverse auction. Notwithstanding any other provision of this Section and in accordance with rules adopted by the Director of Central Management Services as chief procurement officer, a State purchasing officer under that chief procurement officer's jurisdiction may procure supplies or services through a competitive electronic auction bidding process after the purchasing officer explains in writing to the chief procurement officer his or her determination that the use of such a process will be in the best interest of the State. The chief procurement officer shall publish that determination in his or her next volume of the Illinois Procurement Bulletin.

An invitation for bids shall be issued and shall include (i) a procurement description, (ii) all contractual terms, whenever practical, and (iii) conditions applicable to the procurement, including a notice that bids will be received in an electronic auction manner.

Public notice of the invitation for bids shall be given in the same manner as provided in subsection (c).

Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

After the auction period has terminated, withdrawal of bids shall be permitted as provided in subsection (f).

The contract shall be awarded within 60 days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise provided in this Code. Extensions of the date for the award may be made by mutual written consent of the State purchasing officer and the lowest responsible bidder.

This subsection does not apply to (i) procurements of professional and artistic services, including but not limited to telecommunications services, communications services, Internet services, and information services, and (ii) contracts for construction projects.

(Source: P.A. 95-481, eff. 8-28-07; 96-159, eff. 8-10-09; 96-588, eff. 8-18-09; revised 11-4-09.)

(Text of Section from P.A. 96-159 and 96-795)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 20-10. Competitive sealed bidding; reverse auction.

(a) Conditions for use. All contracts shall be awarded by competitive sealed bidding except as otherwise provided in Section 20-5.

(b) Invitation for bids. An invitation for bids shall be issued and shall include a purchase description and the material contractual terms and conditions applicable to the procurement.

(c) Public notice. Public notice of the invitation for bids shall be published in the Illinois Procurement Bulletin at least 14 days before the date set in the invitation for the opening of bids.

(d) Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by a State purchasing officer.

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when a State purchasing officer determines it is not in the best interest of the State and by written explanation determines another bidder shall receive the award. The explanation shall appear in the appropriate volume of the Illinois Procurement Bulletin. The written explanation must include:

- (1) a description of the agency's needs;
- (2) a determination that the anticipated cost will be fair and reasonable;
- (3) a listing of all responsible and responsive bidders; and
- (4) the name of the bidder selected, pricing, and the reasons for selecting that bidder.

Each chief procurement officer may adopt guidelines to implement the requirements of this subsection (g).

The written explanation shall be filed with the Legislative Audit Commission and the Procurement Policy Board and be made available for inspection by the public within 30 days after the agency's decision to award the contract.

(h) Multi-step sealed bidding. When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(i) Alternative procedures. Notwithstanding any other provision of this Act to the contrary, the Director of the Illinois Power Agency may create alternative bidding procedures to be used in procuring professional services under Section 1-75(a) of the Illinois Power Agency Act and Section 16-111.5(c) of the Public Utilities Act and to procure renewable energy resources or reusable energy resources, or both, under Section 1-56 of the Illinois Power Agency Act. These alternative procedures shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(j) Reverse auction. Notwithstanding any other provision of this Section and in accordance with rules adopted by the chief procurement officer, that chief procurement officer may procure supplies or services through a competitive electronic auction bidding process after the chief procurement officer determines that the use of such a process will be in the best interest of the State. The chief procurement officer shall publish that determination in his or her next volume of the Illinois Procurement Bulletin.

[May 3, 2010]

An invitation for bids shall be issued and shall include (i) a procurement description, (ii) all contractual terms, whenever practical, and (iii) conditions applicable to the procurement, including a notice that bids will be received in an electronic auction manner.

Public notice of the invitation for bids shall be given in the same manner as provided in subsection (c).

Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

After the auction period has terminated, withdrawal of bids shall be permitted as provided in subsection (f).

The contract shall be awarded within 60 days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise provided in this Code. Extensions of the date for the award may be made by mutual written consent of the State purchasing officer and the lowest responsible bidder.

This subsection does not apply to (i) procurements of professional and artistic services, (ii) telecommunications services, communication services, and information services, and (iii) contracts for construction projects.

(Source: P.A. 95-481, eff. 8-28-07; 96-159, eff. 8-10-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); revised 11-4-09.)

Section 25. The Public Utilities Act is amended by changing Sections 16-107.5, 16-108, 16-111, 16-111.1, 16-111.5, 16-115, 16-115D, and 16-127 as follows:

(220 ILCS 5/16-107.5)

Sec. 16-107.5. Net electricity metering.

(a) The Legislature finds and declares that a program to provide net electricity metering, as defined in this Section, for eligible customers can encourage private investment in renewable energy resources or reusable energy resources, or both, stimulate economic growth, enhance the continued diversification of Illinois' energy resource mix, and protect the Illinois environment.

(b) As used in this Section, (i) "eligible customer" means a retail customer that owns or operates a solar, wind, or other eligible renewable or reusable electrical generating facility with a rated capacity of not more than 2,000 kilowatts that is located on the customer's premises and is intended primarily to offset the customer's own electrical requirements; (ii) "electricity provider" means an electric utility or alternative retail electric supplier; (iii) "eligible renewable electrical generating facility" means a generator powered by solar electric energy, wind, dedicated crops grown for electricity generation, anaerobic digestion of livestock or food processing waste, fuel cells or microturbines powered by renewable fuels, or hydroelectric energy; (iv) "eligible reusable electrical generating facility" means a generator powered by reusable energy resources as defined under Section 1-10 of the Illinois Power Agency Act; and (v) ~~(iv)~~ "net electricity metering" (or "net metering") means the measurement, during the billing period applicable to an eligible customer, of the net amount of electricity supplied by an electricity provider to the customer's premises or provided to the electricity provider by the customer.

(c) A net metering facility shall be equipped with metering equipment that can measure the flow of electricity in both directions at the same rate. For eligible residential customers, this shall typically be accomplished through use of a single, bi-directional meter. If the eligible customer's existing electric revenue meter does not meet this requirement, the electricity provider shall arrange for the local electric utility or a meter service provider to install and maintain a new revenue meter at the electricity provider's expense. For non-residential customers, the electricity provider may arrange for the local electric utility or a meter service provider to install and maintain metering equipment capable of measuring the flow of electricity both into and out of the customer's facility at the same rate and ratio, typically through the use of a dual channel meter. For generators with a nameplate rating of 40 kilowatts and below, the costs of installing such equipment shall be paid for by the electricity provider. For generators with a nameplate rating over 40 kilowatts and up to 2,000 kilowatts capacity, the costs of installing such equipment shall be paid for by the customer. Any subsequent revenue meter change necessitated by any eligible customer shall be paid for by the customer.

(d) An electricity provider shall measure and charge or credit for the net electricity supplied to eligible customers or provided by eligible customers in the following manner:

(1) If the amount of electricity used by the customer during the billing period exceeds

the amount of electricity produced by the customer, the electricity provider shall charge the customer for the net electricity supplied to and used by the customer as provided in subsection (e) of this Section.

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(2) If the amount of electricity produced by a customer during the billing period exceeds the amount of electricity used by the customer during that billing period, the electricity provider supplying that customer shall apply a 1:1 kilowatt-hour credit to a subsequent bill for service to the customer for the net electricity supplied to the electricity provider. The electricity provider shall continue to carry over any excess kilowatt-hour credits earned and apply those credits to subsequent billing periods to offset any customer-generator consumption in those billing periods until all credits are used or until the end of the annualized period.

(3) At the end of the year or annualized over the period that service is supplied by means of net metering, or in the event that the retail customer terminates service with the electricity provider prior to the end of the year or the annualized period, any remaining credits in the customer's account shall expire.

(e) An electricity provider shall provide to net metering customers electric service at non-discriminatory rates that are identical, with respect to rate structure, retail rate components, and any monthly charges, to the rates that the customer would be charged if not a net metering customer. An electricity provider shall not charge net metering customers any fee or charge or require additional equipment, insurance, or any other requirements not specifically authorized by interconnection standards authorized by the Commission, unless the fee, charge, or other requirement would apply to other similarly situated customers who are not net metering customers. The customer will remain responsible for all taxes, fees, and utility delivery charges that would otherwise be applicable to the net amount of electricity used by the customer. Subsections (c) through (e) of this Section shall not be construed to prevent an arms-length agreement between an electricity provider and an eligible customer that sets forth different prices, terms, and conditions for the provision of net metering service, including, but not limited to, the provision of the appropriate metering equipment for non-residential customers.

(f) Notwithstanding the requirements of subsections (c) through (e) of this Section, an electricity provider must require dual-channel metering for non-residential customers operating eligible renewable electrical generating facilities with a nameplate rating over 40 kilowatts and up to 2,000 kilowatts. In such cases, electricity charges and credits shall be determined as follows:

(1) The electricity provider shall assess and the customer remains responsible for all taxes, fees, and utility delivery charges that would otherwise be applicable to the gross amount of kilowatt-hours supplied to the eligible customer by the electricity provider.

(2) Each month that service is supplied by means of dual-channel metering, the electricity provider shall compensate the eligible customer for any excess kilowatt-hour credits at the electricity provider's avoided cost of electricity supply over the monthly period or as otherwise specified by the terms of a power-purchase agreement negotiated between the customer and electricity provider.

(3) For all eligible net metering customers taking service from an electricity provider under contracts or tariffs employing time of use rates, any monthly consumption of electricity shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned to or be eligible for if the customer was not a net metering customer. When those same customer-generators are net generators during any discrete time of use period, the net kilowatt-hours produced shall be valued at the same price per kilowatt-hour as the electric service provider would charge for retail kilowatt-hour sales during that same time of use period.

(g) For purposes of federal and State laws providing renewable energy credits, reusable energy credits, or greenhouse gas credits, the eligible customer shall be treated as owning and having title to the renewable energy attributes, renewable energy credits, reusable energy credits, and greenhouse gas emission credits related to any electricity produced by the qualified generating unit. The electricity provider may not condition participation in a net metering program on the signing over of a customer's renewable or reusable energy credits; provided, however, this subsection (g) shall not be construed to prevent an arms-length agreement between an electricity provider and an eligible customer that sets forth the ownership or title of the credits.

(h) Within 120 days after the effective date of this amendatory Act of the 95th General Assembly, the Commission shall establish standards for net metering and, if the Commission has not already acted on its own initiative, standards for the interconnection of eligible renewable generating equipment to the utility system. The interconnection standards shall address any procedural barriers, delays, and administrative costs associated with the interconnection of customer-generation while ensuring the safety and reliability of the units and the electric utility system. The Commission shall consider the Institute of Electrical and Electronics Engineers (IEEE) Standard 1547 and the issues of (i) reasonable and fair fees and costs, (ii) clear timelines for major milestones in the interconnection process, (iii) nondiscriminatory terms of agreement, and (iv) any best practices for interconnection of distributed

generation.

(i) All electricity providers shall begin to offer net metering no later than April 1, 2008.

(j) An electricity provider shall provide net metering to eligible customers until the load of its net metering customers equals 1% of the total peak demand supplied by that electricity provider during the previous year. Electricity providers are authorized to offer net metering beyond the 1% level if they so choose. The number of new eligible customers with generators that have a nameplate rating of 40 kilowatts and below will be limited to 200 total new billing accounts for the utilities (Ameren Companies, ComEd, and MidAmerican) for the period of April 1, 2008 through March 31, 2009.

(k) Each electricity provider shall maintain records and report annually to the Commission the total number of net metering customers served by the provider, as well as the type, capacity, and energy sources of the generating systems used by the net metering customers. Nothing in this Section shall limit the ability of an electricity provider to request the redaction of information deemed by the Commission to be confidential business information. Each electricity provider shall notify the Commission when the total generating capacity of its net metering customers is equal to or in excess of the 1% cap specified in subsection (j) of this Section.

(l) Notwithstanding the definition of "eligible customer" in item (i) of subsection (b) of this Section, each electricity provider shall consider whether to allow meter aggregation for the purposes of net metering on:

(1) properties owned or leased by multiple customers that contribute to the operation of an eligible renewable or reusable electrical generating facility, such as a community-owned wind project or a community methane digester processing livestock waste from multiple sources; and

(2) individual units, apartments, or properties owned or leased by multiple customers and collectively served by a common eligible renewable electrical generating facility, such as an apartment building served by photovoltaic panels on the roof.

For the purposes of this subsection (l), "meter aggregation" means the combination of reading and billing on a pro rata basis for the types of eligible customers described in this Section.

(m) Nothing in this Section shall affect the right of an electricity provider to continue to provide, or the right of a retail customer to continue to receive service pursuant to a contract for electric service between the electricity provider and the retail customer in accordance with the prices, terms, and conditions provided for in that contract. Either the electricity provider or the customer may require compliance with the prices, terms, and conditions of the contract.

(Source: P.A. 95-420, eff. 8-24-07.)

(220 ILCS 5/16-108)

Sec. 16-108. Recovery of costs associated with the provision of delivery services.

(a) An electric utility shall file a delivery services tariff with the Commission at least 210 days prior to the date that it is required to begin offering such services pursuant to this Act. An electric utility shall provide the components of delivery services that are subject to the jurisdiction of the Federal Energy Regulatory Commission at the same prices, terms and conditions set forth in its applicable tariff as approved or allowed into effect by that Commission. The Commission shall otherwise have the authority pursuant to Article IX to review, approve, and modify the prices, terms and conditions of those components of delivery services not subject to the jurisdiction of the Federal Energy Regulatory Commission, including the authority to determine the extent to which such delivery services should be offered on an unbundled basis. In making any such determination the Commission shall consider, at a minimum, the effect of additional unbundling on (i) the objective of just and reasonable rates, (ii) electric utility employees, and (iii) the development of competitive markets for electric energy services in Illinois.

(b) The Commission shall enter an order approving, or approving as modified, the delivery services tariff no later than 30 days prior to the date on which the electric utility must commence offering such services. The Commission may subsequently modify such tariff pursuant to this Act.

(c) The electric utility's tariffs shall define the classes of its customers for purposes of delivery services charges. Delivery services shall be priced and made available to all retail customers electing delivery services in each such class on a nondiscriminatory basis regardless of whether the retail customer chooses the electric utility, an affiliate of the electric utility, or another entity as its supplier of electric power and energy. Charges for delivery services shall be cost based, and shall allow the electric utility to recover the costs of providing delivery services through its charges to its delivery service customers that use the facilities and services associated with such costs. Such costs shall include the costs of owning, operating and maintaining transmission and distribution facilities. The Commission shall also be authorized to consider whether, and if so to what extent, the following costs are appropriately included in the electric utility's delivery services rates: (i) the costs of that portion of

generation facilities used for the production and absorption of reactive power in order that retail customers located in the electric utility's service area can receive electric power and energy from suppliers other than the electric utility, and (ii) the costs associated with the use and redispatch of generation facilities to mitigate constraints on the transmission or distribution system in order that retail customers located in the electric utility's service area can receive electric power and energy from suppliers other than the electric utility. Nothing in this subsection shall be construed as directing the Commission to allocate any of the costs described in (i) or (ii) that are found to be appropriately included in the electric utility's delivery services rates to any particular customer group or geographic area in setting delivery services rates.

(d) The Commission shall establish charges, terms and conditions for delivery services that are just and reasonable and shall take into account customer impacts when establishing such charges. In establishing charges, terms and conditions for delivery services, the Commission shall take into account voltage level differences. A retail customer shall have the option to request to purchase electric service at any delivery service voltage reasonably and technically feasible from the electric facilities serving that customer's premises provided that there are no significant adverse impacts upon system reliability or system efficiency. A retail customer shall also have the option to request to purchase electric service at any point of delivery that is reasonably and technically feasible provided that there are no significant adverse impacts on system reliability or efficiency. Such requests shall not be unreasonably denied.

(e) Electric utilities shall recover the costs of installing, operating or maintaining facilities for the particular benefit of one or more delivery services customers, including without limitation any costs incurred in complying with a customer's request to be served at a different voltage level, directly from the retail customer or customers for whose benefit the costs were incurred, to the extent such costs are not recovered through the charges referred to in subsections (c) and (d) of this Section.

(f) An electric utility shall be entitled but not required to implement transition charges in conjunction with the offering of delivery services pursuant to Section 16-104. If an electric utility implements transition charges, it shall implement such charges for all delivery services customers and for all customers described in subsection (h), but shall not implement transition charges for power and energy that a retail customer takes from cogeneration or self-generation facilities located on that retail customer's premises, if such facilities meet the following criteria:

(i) the cogeneration or self-generation facilities serve a single retail customer and are located on that retail customer's premises (for purposes of this subparagraph and subparagraph (ii), an industrial or manufacturing retail customer and a third party contractor that is served by such industrial or manufacturing customer through such retail customer's own electrical distribution facilities under the circumstances described in subsection (vi) of the definition of "alternative retail electric supplier" set forth in Section 16-102, shall be considered a single retail customer);

(ii) the cogeneration or self-generation facilities either (A) are sized pursuant to generally accepted engineering standards for the retail customer's electrical load at that premises (taking into account standby or other reliability considerations related to that retail customer's operations at that site) or (B) if the facility is a cogeneration facility located on the retail customer's premises, the retail customer is the thermal host for that facility and the facility has been designed to meet that retail customer's thermal energy requirements resulting in electrical output beyond that retail customer's electrical demand at that premises, comply with the operating and efficiency standards applicable to "qualifying facilities" specified in title 18 Code of Federal Regulations Section 292.205 as in effect on the effective date of this amendatory Act of 1999;

(iii) the retail customer on whose premises the facilities are located either has an exclusive right to receive, and corresponding obligation to pay for, all of the electrical capacity of the facility, or in the case of a cogeneration facility that has been designed to meet the retail customer's thermal energy requirements at that premises, an identified amount of the electrical capacity of the facility, over a minimum 5-year period; and

(iv) if the cogeneration facility is sized for the retail customer's thermal load at that premises but exceeds the electrical load, any sales of excess power or energy are made only at wholesale, are subject to the jurisdiction of the Federal Energy Regulatory Commission, and are not for the purpose of circumventing the provisions of this subsection (f).

If a generation facility located at a retail customer's premises does not meet the above criteria, an electric utility implementing transition charges shall implement a transition charge until December 31, 2006 for any power and energy taken by such retail customer from such facility as if such power and energy had been delivered by the electric utility. Provided, however, that an industrial retail customer that is taking power from a generation facility that does not meet the above criteria but that is located on such customer's premises will not be subject to a transition charge for the power and energy taken by such

retail customer from such generation facility if the facility does not serve any other retail customer and either was installed on behalf of the customer and for its own use prior to January 1, 1997, or is both predominantly fueled by byproducts of such customer's manufacturing process at such premises and sells or offers an average of 300 megawatts or more of electricity produced from such generation facility into the wholesale market. Such charges shall be calculated as provided in Section 16-102, and shall be collected on each kilowatt-hour delivered under a delivery services tariff to a retail customer from the date the customer first takes delivery services until December 31, 2006 except as provided in subsection (h) of this Section. Provided, however, that an electric utility, other than an electric utility providing service to at least 1,000,000 customers in this State on January 1, 1999, shall be entitled to petition for entry of an order by the Commission authorizing the electric utility to implement transition charges for an additional period ending no later than December 31, 2008. The electric utility shall file its petition with supporting evidence no earlier than 16 months, and no later than 12 months, prior to December 31, 2006. The Commission shall hold a hearing on the electric utility's petition and shall enter its order no later than 8 months after the petition is filed. The Commission shall determine whether and to what extent the electric utility shall be authorized to implement transition charges for an additional period. The Commission may authorize the electric utility to implement transition charges for some or all of the additional period, and shall determine the mitigation factors to be used in implementing such transition charges; provided, that the Commission shall not authorize mitigation factors less than 110% of those in effect during the 12 months ended December 31, 2006. In making its determination, the Commission shall consider the following factors: the necessity to implement transition charges for an additional period in order to maintain the financial integrity of the electric utility; the prudence of the electric utility's actions in reducing its costs since the effective date of this amendatory Act of 1997; the ability of the electric utility to provide safe, adequate and reliable service to retail customers in its service area; and the impact on competition of allowing the electric utility to implement transition charges for the additional period.

(g) The electric utility shall file tariffs that establish the transition charges to be paid by each class of customers to the electric utility in conjunction with the provision of delivery services. The electric utility's tariffs shall define the classes of its customers for purposes of calculating transition charges. The electric utility's tariffs shall provide for the calculation of transition charges on a customer-specific basis for any retail customer whose average monthly maximum electrical demand on the electric utility's system during the 6 months with the customer's highest monthly maximum electrical demands equals or exceeds 3.0 megawatts for electric utilities having more than 1,000,000 customers, and for other electric utilities for any customer that has an average monthly maximum electrical demand on the electric utility's system of one megawatt or more, and (A) for which there exists data on the customer's usage during the 3 years preceding the date that the customer became eligible to take delivery services, or (B) for which there does not exist data on the customer's usage during the 3 years preceding the date that the customer became eligible to take delivery services, if in the electric utility's reasonable judgment there exists comparable usage information or a sufficient basis to develop such information, and further provided that the electric utility can require customers for which an individual calculation is made to sign contracts that set forth the transition charges to be paid by the customer to the electric utility pursuant to the tariff.

(h) An electric utility shall also be entitled to file tariffs that allow it to collect transition charges from retail customers in the electric utility's service area that do not take delivery services but that take electric power or energy from an alternative retail electric supplier or from an electric utility other than the electric utility in whose service area the customer is located. Such charges shall be calculated, in accordance with the definition of transition charges in Section 16-102, for the period of time that the customer would be obligated to pay transition charges if it were taking delivery services, except that no deduction for delivery services revenues shall be made in such calculation, and usage data from the customer's class shall be used where historical usage data is not available for the individual customer. The customer shall be obligated to pay such charges on a lump sum basis on or before the date on which the customer commences to take service from the alternative retail electric supplier or other electric utility, provided, that the electric utility in whose service area the customer is located shall offer the customer the option of signing a contract pursuant to which the customer pays such charges ratably over the period in which the charges would otherwise have applied.

(i) An electric utility shall be entitled to add to the bills of delivery services customers charges pursuant to Sections 9-221, 9-222 (except as provided in Section 9-222.1), and Section 16-114 of this Act, Section 5-5 of the Electricity Infrastructure Maintenance Fee Law, Section 6-5 of the Renewable Energy, Reusable Energy, Energy Efficiency, and Coal Resources Development Law of 1997, and Section 13 of the Energy Assistance Act.

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(j) If a retail customer that obtains electric power and energy from cogeneration or self-generation facilities installed for its own use on or before January 1, 1997, subsequently takes service from an alternative retail electric supplier or an electric utility other than the electric utility in whose service area the customer is located for any portion of the customer's electric power and energy requirements formerly obtained from those facilities (including that amount purchased from the utility in lieu of such generation and not as standby power purchases, under a cogeneration displacement tariff in effect as of the effective date of this amendatory Act of 1997), the transition charges otherwise applicable pursuant to subsections (f), (g), or (h) of this Section shall not be applicable in any year to that portion of the customer's electric power and energy requirements formerly obtained from those facilities, provided, that for purposes of this subsection (j), such portion shall not exceed the average number of kilowatt-hours per year obtained from the cogeneration or self-generation facilities during the 3 years prior to the date on which the customer became eligible for delivery services, except as provided in subsection (f) of Section 16-110.

(Source: P.A. 91-50, eff. 6-30-99; 92-690, eff. 7-18-02.)

(220 ILCS 5/16-111)

Sec. 16-111. Rates and restructuring transactions during mandatory transition period; restructuring and other transactions.

(a) During the mandatory transition period, notwithstanding any provision of Article IX of this Act, and except as provided in subsections (b) and (f) of this Section, the Commission shall not (i) initiate, authorize or order any change by way of increase (other than in connection with a request for rate increase which was filed after September 1, 1997 but prior to October 15, 1997, by an electric utility serving less than 12,500 customers in this State), (ii) initiate or, unless requested by the electric utility, authorize or order any change by way of decrease, restructuring or unbundling (except as provided in Section 16-109A), in the rates of any electric utility that were in effect on October 1, 1996, or (iii) in any order approving any application for a merger pursuant to Section 7-204 that was pending as of May 16, 1997, impose any condition requiring any filing for an increase, decrease, or change in, or other review of, an electric utility's rates or enforce any such condition of any such order; provided, however, that this subsection shall not prohibit the Commission from:

(1) approving the application of an electric utility to implement an alternative to rate of return regulation or a regulatory mechanism that rewards or penalizes the electric utility through adjustment of rates based on utility performance, pursuant to Section 9-244;

(2) authorizing an electric utility to eliminate its fuel adjustment clause and adjust its base rate tariffs in accordance with subsection (b), (d), or (f) of Section 9-220 of this Act, to fix its fuel adjustment factor in accordance with subsection (c) of Section 9-220 of this Act, or to eliminate its fuel adjustment clause in accordance with subsection (e) of Section 9-220 of this Act;

(3) ordering into effect tariffs for delivery services and transition charges in accordance with Sections 16-104 and 16-108, for real-time pricing in accordance with Section 16-107, or the options required by Section 16-110 and subsection (n) of 16-112, allowing a billing experiment in accordance with Section 16-106, or modifying delivery services tariffs in accordance with Section 16-109; or

(4) ordering or allowing into effect any tariff to recover charges pursuant to Sections 9-201.5, 9-220.1, 9-221, 9-222 (except as provided in Section 9-222.1), 16-108, and 16-114 of this Act, Section 5-5 of the Electricity Infrastructure Maintenance Fee Law, Section 6-5 of the Renewable Energy, Reusable Energy, Energy Efficiency, and Coal Resources Development Law of 1997, and Section 13 of the Energy Assistance Act.

After December 31, 2004, the provisions of this subsection (a) shall not apply to an electric utility whose average residential retail rate was less than or equal to 90% of the average residential retail rate for the "Midwest Utilities", as that term is defined in subsection (b) of this Section, based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 1995, and which served between 150,000 and 250,000 retail customers in this State on January 1, 1995 unless the electric utility or its holding company has been acquired by or merged with an affiliate of another electric utility subsequent to January 1, 2002. This exemption shall be limited to this subsection (a) and shall not extend to any other provisions of this Act.

(b) Notwithstanding the provisions of subsection (a), each Illinois electric utility serving more than 12,500 customers in Illinois shall file tariffs (i) reducing, effective August 1, 1998, each component of its base rates to residential retail customers by 15% from the base rates in effect immediately prior to January 1, 1998 and (ii) if the public utility provides electric service to (A) more than 500,000 customers but less than 1,000,000 customers in this State on January 1, 1999, reducing, effective May 1, 2002, each component of its base rates to residential retail customers by an additional 5% from the base rates in

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effect immediately prior to January 1, 1998, or (B) at least 1,000,000 customers in this State on January 1, 1999, reducing, effective October 1, 2001, each component of its base rates to residential retail customers by an additional 5% from the base rates in effect immediately prior to January 1, 1998. Provided, however, that (A) if an electric utility's average residential retail rate is less than or equal to the average residential retail rate for a group of Midwest Utilities (consisting of all investor-owned electric utilities with annual system peaks in excess of 1000 megawatts in the States of Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, and Wisconsin), based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 1995, then it shall only be required to file tariffs (i) reducing, effective August 1, 1998, each component of its base rates to residential retail customers by 5% from the base rates in effect immediately prior to January 1, 1998, (ii) reducing, effective October 1, 2000, each component of its base rates to residential retail customers by the lesser of 5% of the base rates in effect immediately prior to January 1, 1998 or the percentage by which the electric utility's average residential retail rate exceeds the average residential retail rate of the Midwest Utilities, based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 1999, and (iii) reducing, effective October 1, 2002, each component of its base rates to residential retail customers by an additional amount equal to the lesser of 5% of the base rates in effect immediately prior to January 1, 1998 or the percentage by which the electric utility's average residential retail rate exceeds the average residential retail rate of the Midwest Utilities, based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 2001; and (B) if the average residential retail rate of an electric utility serving between 150,000 and 250,000 retail customers in this State on January 1, 1995 is less than or equal to 90% of the average residential retail rate for the Midwest Utilities, based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 1995, then it shall only be required to file tariffs (i) reducing, effective August 1, 1998, each component of its base rates to residential retail customers by 2% from the base rates in effect immediately prior to January 1, 1998; (ii) reducing, effective October 1, 2000, each component of its base rates to residential retail customers by 2% from the base rate in effect immediately prior to January 1, 1998; and (iii) reducing, effective October 1, 2002, each component of its base rates to residential retail customers by 1% from the base rates in effect immediately prior to January 1, 1998. Provided, further, that any electric utility for which a decrease in base rates has been or is placed into effect between October 1, 1996 and the dates specified in the preceding sentences of this subsection, other than pursuant to the requirements of this subsection, shall be entitled to reduce the amount of any reduction or reductions in its base rates required by this subsection by the amount of such other decrease. The tariffs required under this subsection shall be filed 45 days in advance of the effective date. Notwithstanding anything to the contrary in Section 9-220 of this Act, no restatement of base rates in conjunction with the elimination of a fuel adjustment clause under that Section shall result in a lesser decrease in base rates than customers would otherwise receive under this subsection had the electric utility's fuel adjustment clause not been eliminated.

(c) Any utility reducing its base rates by 15% on August 1, 1998 pursuant to subsection (b) shall include the following statement on its bills for residential customers from August 1 through December 31, 1998: "Effective August 1, 1998, your rates have been reduced by 15% by the Electric Service Customer Choice and Rate Relief Law of 1997 passed by the Illinois General Assembly.". Any utility reducing its base rates by 5% on August 1, 1998, pursuant to subsection (b) shall include the following statement on its bills for residential customers from August 1 through December 31, 1998: "Effective August 1, 1998, your rates have been reduced by 5% by the Electric Service Customer Choice and Rate Relief Law of 1997 passed by the Illinois General Assembly.".

Any utility reducing its base rates by 2% on August 1, 1998 pursuant to subsection (b) shall include the following statement on its bills for residential customers from August 1 through December 31, 1998: "Effective August 1, 1998, your rates have been reduced by 2% by the Electric Service Customer Choice and Rate Relief Law of 1997 passed by the Illinois General Assembly.".

(d) (Blank.)

(e) (Blank.)

(f) During the mandatory transition period, an electric utility may file revised tariffs reducing the price of any tariffed service offered by the electric utility for all customers taking that tariffed service, which shall be effective 7 days after filing.

(g) Until all classes of tariffed services are declared competitive, an electric utility may, without obtaining any approval of the Commission other than that provided for in this subsection and notwithstanding any other provision of this Act or any rule or regulation of the Commission that would require such approval:

(1) implement a reorganization, other than a merger of 2 or more public utilities as defined in Section 3-105 or their holding companies;

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(2) retire generating plants from service;

(3) sell, assign, lease or otherwise transfer assets to an affiliated or unaffiliated entity and as part of such transaction enter into service agreements, power purchase agreements, or other agreements with the transferee; provided, however, that the prices, terms and conditions of any power purchase agreement must be approved or allowed into effect by the Federal Energy Regulatory Commission; or

(4) use any accelerated cost recovery method including accelerated depreciation, accelerated amortization or other capital recovery methods, or record reductions to the original cost of its assets.

In order to implement a reorganization, retire generating plants from service, or sell, assign, lease or otherwise transfer assets pursuant to this Section, the electric utility shall comply with subsections (c) and (d) of Section 16-128, if applicable, and subsection (k) of this Section, if applicable, and provide the Commission with at least 30 days notice of the proposed reorganization or transaction, which notice shall include the following information:

(i) a complete statement of the entries that the electric utility will make on its books and records of account to implement the proposed reorganization or transaction together with a certification from an independent certified public accountant that such entries are in accord with generally accepted accounting principles and, if the Commission has previously approved guidelines for cost allocations between the utility and its affiliates, a certification from the chief accounting officer of the utility that such entries are in accord with those cost allocation guidelines;

(ii) a description of how the electric utility will use proceeds of any sale, assignment, lease or transfer to retire debt or otherwise reduce or recover the costs of services provided by such electric utility;

(iii) a list of all federal approvals or approvals required from departments and agencies of this State, other than the Commission, that the electric utility has or will obtain before implementing the reorganization or transaction;

(iv) an irrevocable commitment by the electric utility that it will not, as a result of the transaction, impose any stranded cost charges that it might otherwise be allowed to charge retail customers under federal law or increase the transition charges that it is otherwise entitled to collect under this Article XVI;

(v) if the electric utility proposes to sell, assign, lease or otherwise transfer a generating plant that brings the amount of net dependable generating capacity transferred pursuant to this subsection to an amount equal to or greater than 15% of the electric utility's net dependable capacity as of the effective date of this amendatory Act of 1997, and enters into a power purchase agreement with the entity to which such generating plant is sold, assigned, leased, or otherwise transferred, the electric utility also agrees, if its fuel adjustment clause has not already been eliminated, to eliminate its fuel adjustment clause in accordance with subsection (b) of Section 9-220 for a period of time equal to the length of any such power purchase agreement or successor agreement, or until January 1, 2005, whichever is longer; if the capacity of the generating plant so transferred and related power purchase agreement does not result in the elimination of the fuel adjustment clause under this subsection, and the fuel adjustment clause has not already been eliminated, the electric utility shall agree that the costs associated with the transferred plant that are included in the calculation of the rate per kilowatt-hour to be applied pursuant to the electric utility's fuel adjustment clause during such period shall not exceed the per kilowatt-hour cost associated with such generating plant included in the electric utility's fuel adjustment clause during the full calendar year preceding the transfer, with such limit to be adjusted each year thereafter by the Gross Domestic Product Implicit Price Deflator; and

(vi) in addition, if the electric utility proposes to sell, assign, or lease, (A) either (1) an amount of generating plant that brings the amount of net dependable generating capacity transferred pursuant to this subsection to an amount equal to or greater than 15% of its net dependable capacity on the effective date of this amendatory Act of 1997, or (2) one or more generating plants with a total net dependable capacity of 1100 megawatts, or (B) transmission and distribution facilities that either (1) bring the amount of transmission and distribution facilities transferred pursuant to this subsection to an amount equal to or greater than 15% of the electric utility's total depreciated original cost investment in such facilities, or (2) represent an investment of \$25,000,000 in terms of total depreciated original cost, the electric utility shall provide, in addition to the information listed in subparagraphs (i) through (v), the following information: (A) a description of how the electric utility will meet its service obligations under this Act in a safe and reliable manner and (B) the electric utility's projected earned rate of return on common equity for each year from the date of the notice

through December 31, 2006 both with and without the proposed transaction. If the Commission has not issued an order initiating a hearing on the proposed transaction within 30 days after the date the electric utility's notice is filed, the transaction shall be deemed approved. The Commission may, after notice and hearing, prohibit the proposed transaction if it makes either or both of the following findings: (1) that the proposed transaction will render the electric utility unable to provide its tariffed services in a safe and reliable manner, or (2) that there is a strong likelihood that consummation of the proposed transaction will result in the electric utility being entitled to request an increase in its base rates. Any hearing initiated by the Commission into the proposed transaction shall be completed, and the Commission's final order approving or prohibiting the proposed transaction shall be entered, within 90 days after the date the electric utility's notice was filed. Provided, however, that a sale, assignment, or lease of transmission facilities to an independent system operator that meets the requirements of Section 16-126 shall not be subject to Commission approval under this Section.

In any proceeding conducted by the Commission pursuant to this subparagraph (vi), intervention shall be limited to parties with a direct interest in the transaction which is the subject of the hearing and any statutory consumer protection agency as defined in subsection (d) of Section 9-102.1. Notwithstanding the provisions of Section 10-113 of this Act, any application seeking rehearing of an order issued under this subparagraph (vi), whether filed by the electric utility or by an intervening party, shall be filed within 10 days after service of the order.

The Commission shall not in any subsequent proceeding or otherwise, review such a reorganization or other transaction authorized by this Section, but shall retain the authority to allocate costs as stated in Section 16-111(i). An entity to which an electric utility sells, assigns, leases or transfers assets pursuant to this subsection (g) shall not, as a result of the transactions specified in this subsection (g), be deemed a public utility as defined in Section 3-105. Nothing in this subsection (g) shall change any requirement under the jurisdiction of the Illinois Department of Nuclear Safety including, but not limited to, the payment of fees. Nothing in this subsection (g) shall exempt a utility from obtaining a certificate pursuant to Section 8-406 of this Act for the construction of a new electric generating facility. Nothing in this subsection (g) is intended to exempt the transactions hereunder from the operation of the federal or State antitrust laws. Nothing in this subsection (g) shall require an electric utility to use the procedures specified in this subsection for any of the transactions specified herein. Any other procedure available under this Act may, at the electric utility's election, be used for any such transaction.

(h) During the mandatory transition period, the Commission shall not establish or use any rates of depreciation, which for purposes of this subsection shall include amortization, for any electric utility other than those established pursuant to subsection (c) of Section 5-104 of this Act or utilized pursuant to subsection (g) of this Section. Provided, however, that in any proceeding to review an electric utility's rates for tariffed services pursuant to Section 9-201, 9-202, 9-250 or 16-111(d) of this Act, the Commission may establish new rates of depreciation for the electric utility in the same manner provided in subsection (d) of Section 5-104 of this Act. An electric utility implementing an accelerated cost recovery method including accelerated depreciation, accelerated amortization or other capital recovery methods, or recording reductions to the original cost of its assets, pursuant to subsection (g) of this Section, shall file a statement with the Commission describing the accelerated cost recovery method to be implemented or the reduction in the original cost of its assets to be recorded. Upon the filing of such statement, the accelerated cost recovery method or the reduction in the original cost of assets shall be deemed to be approved by the Commission as though an order had been entered by the Commission.

(i) Subsequent to the mandatory transition period, the Commission, in any proceeding to establish rates and charges for tariffed services offered by an electric utility, shall consider only (1) the then current or projected revenues, costs, investments and cost of capital directly or indirectly associated with the provision of such tariffed services; (2) collection of transition charges in accordance with Sections 16-102 and 16-108 of this Act; (3) recovery of any employee transition costs as described in Section 16-128 which the electric utility is continuing to incur, including recovery of any unamortized portion of such costs previously incurred or committed, with such costs to be equitably allocated among bundled services, delivery services, and contracts with alternative retail electric suppliers; and (4) recovery of the costs associated with the electric utility's compliance with decommissioning funding requirements; and shall not consider any other revenues, costs, investments or cost of capital of either the electric utility or of any affiliate of the electric utility that are not associated with the provision of tariffed services. In setting rates for tariffed services, the Commission shall equitably allocate joint and common costs and investments between the electric utility's competitive and tariffed services. In determining the justness and reasonableness of the electric power and energy component of an electric utility's rates for tariffed services subsequent to the mandatory transition period and prior to the time that the provision of such electric power and energy is declared competitive, the Commission shall consider the extent to which the

electric utility's tariffed rates for such component for each customer class exceed the market value determined pursuant to Section 16-112, and, if the electric power and energy component of such tariffed rate exceeds the market value by more than 10% for any customer class, may establish such electric power and energy component at a rate equal to the market value plus 10%.

(j) During the mandatory transition period, an electric utility may elect to transfer to a non-operating income account under the Commission's Uniform System of Accounts either or both of (i) an amount of unamortized investment tax credit that is in addition to the ratable amount which is credited to the electric utility's operating income account for the year in accordance with Section 46(f)(2) of the federal Internal Revenue Code of 1986, as in effect prior to P.L. 101-508, or (ii) "excess tax reserves", as that term is defined in Section 203(e)(2)(A) of the federal Tax Reform Act of 1986, provided that (A) the amount transferred may not exceed the amount of the electric utility's assets that were created pursuant to Statement of Financial Accounting Standards No. 71 which the electric utility has written off during the mandatory transition period, and (B) the transfer shall not be effective until approved by the Internal Revenue Service. An electric utility electing to make such a transfer shall file a statement with the Commission stating the amount and timing of the transfer for which it intends to request approval of the Internal Revenue Service, along with a copy of its proposed request to the Internal Revenue Service for a ruling. The Commission shall issue an order within 14 days after the electric utility's filing approving, subject to receipt of approval from the Internal Revenue Service, the proposed transfer.

(k) If an electric utility is selling or transferring to a single buyer 5 or more generating plants located in this State with a total net dependable capacity of 5000 megawatts or more pursuant to subsection (g) of this Section and has obtained a sale price or consideration that exceeds 200% of the book value of such plants, the electric utility must provide to the Governor, the President of the Illinois Senate, the Minority Leader of the Illinois Senate, the Speaker of the Illinois House of Representatives, and the Minority Leader of the Illinois House of Representatives no later than 15 days after filing its notice under subsection (g) of this Section or 5 days after the date on which this subsection (k) becomes law, whichever is later, a written commitment in which such electric utility agrees to expend \$2 billion outside the corporate limits of any municipality with 1,000,000 or more inhabitants within such electric utility's service area, over a 6-year period beginning with the calendar year in which the notice is filed, on projects, programs, and improvements within its service area relating to transmission and distribution including, without limitation, infrastructure expansion, repair and replacement, capital investments, operations and maintenance, and vegetation management.

(l) Notwithstanding any other provision of this Act or any rule, regulation, or prior order of the Commission, a public utility providing electric and gas service may do any one or more of the following: transfer assets to, reorganize with, or merge with one or more public utilities under common holding company ownership or control in the manner prescribed in subsection (g) of this Section. No merger transaction costs, such as fees paid to attorneys, investment bankers, and other consultants, incurred in connection with a merger pursuant to this subsection (l) shall be recoverable in any subsequent rate proceeding. Approval of a merger pursuant to this subsection (l) shall not constitute approval of, or otherwise require, rate recovery of other costs incurred in connection with, or to implement the merger, such as the cost of restructuring, combining, or integrating debt, assets, or systems. Such other costs may be recovered only to the extent that the surviving utility can demonstrate that the cost savings produced by such restructuring, combination, or integration exceed the associated costs. Nothing in this subsection (l) shall impair the terms or conditions of employment or the collective bargaining rights of any employees of the utilities that are transferring assets, reorganizing, or merging.

(m) If an electric utility that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois transfers assets, reorganizes, or merges under this Section, then the same provisions apply that applied during the mandatory transition period under Section 16-128.

(Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07; 95-876, eff. 8-21-08.)

(220 ILCS 5/16-111.1)

Sec. 16-111.1. Illinois Clean Energy Community Trust.

(a) An electric utility which has sold or transferred generating facilities in a transaction to which subsection (k) of Section 16-111 applies is authorized to establish an Illinois clean energy community trust or foundation for the purposes of providing financial support and assistance to entities, public or private, within the State of Illinois including, but not limited to, units of State and local government, educational institutions, corporations, and charitable, educational, environmental and community organizations, for programs and projects that benefit the public by improving energy efficiency, developing renewable or reusable energy resources, supporting other energy related projects that improve the State's environmental quality, and supporting projects and programs intended to preserve or enhance the natural habitats and wildlife areas of the State. Provided, however, that the trust or

foundation funds shall not be used for the remediation of environmentally impaired property. The trust or foundation may also assist in identifying other energy and environmental grant opportunities.

(b) Such trust or foundation shall be governed by a declaration of trust or articles of incorporation and bylaws which shall, at a minimum, provide that:

(1) There shall be 6 voting trustees of the trust or foundation, one of whom shall be appointed by the Governor, one of whom shall be appointed by the President of the Illinois Senate, one of whom shall be appointed by the Minority Leader of the Illinois Senate, one of whom shall be appointed by the Speaker of the Illinois House of Representatives, one of whom shall be appointed by the Minority Leader of the Illinois House of Representatives, and one of whom shall be appointed by the electric utility establishing the trust or foundation, provided that the voting trustee appointed by the utility shall be a representative of a recognized environmental action group selected by the utility. The Governor shall designate one of the 6 voting trustees to serve as chairman of the trust or foundation, who shall serve as chairman of the trust or foundation at the pleasure of the Governor. In addition, there shall be 4 non-voting trustees, one of whom shall be appointed by the Director of Commerce and Economic Opportunity, one of whom shall be appointed by the Director of the Illinois Environmental Protection Agency, one of whom shall be appointed by the Director of Natural Resources, and one of whom shall be appointed by the electric utility establishing the trust or foundation, provided that the non-voting trustee appointed by the utility shall bring financial expertise to the trust or foundation and shall have appropriate credentials therefor.

(2) All voting trustees and the non-voting trustee with financial expertise shall be entitled to compensation for their services as trustees, provided, however, that no member of the General Assembly and no employee of the electric utility establishing the trust or foundation serving as a voting trustee shall receive any compensation for his or her services as a trustee, and provided further that the compensation to the chairman of the trust shall not exceed \$25,000 annually and the compensation to any other trustee shall not exceed \$20,000 annually. All trustees shall be entitled to reimbursement for reasonable expenses incurred on behalf of the trust in the performance of their duties as trustees. All such compensation and reimbursements shall be paid out of the trust.

(3) Trustees shall be appointed within 30 days after the creation of the trust or foundation and shall serve for a term of 5 years commencing upon the date of their respective appointments, until their respective successors are appointed and qualified.

(4) A vacancy in the office of trustee shall be filled by the person holding the office responsible for appointing the trustee whose death or resignation creates the vacancy, and a trustee appointed to fill a vacancy shall serve the remainder of the term of the trustee whose resignation or death created the vacancy.

(5) The trust or foundation shall have an indefinite term, and shall terminate at such time as no trust assets remain.

(6) The trust or foundation shall be funded in the minimum amount of \$250,000,000, with the allocation and disbursement of funds for the various purposes for which the trust or foundation is established to be determined by the trustees in accordance with the declaration of trust or the articles of incorporation and bylaws; provided, however, that this amount may be reduced by up to \$25,000,000 if, at the time the trust or foundation is funded, a corresponding amount is contributed by the electric utility establishing the trust or foundation to the Board of Trustees of Southern Illinois University for the purpose of funding programs or projects related to clean coal and provided further that \$25,000,000 of the amount contributed to the trust or foundation shall be available to fund programs or projects related to clean coal.

(7) The trust or foundation shall be authorized to employ an executive director and other employees, to enter into leases, contracts and other obligations on behalf of the trust or foundation, and to incur expenses that the trustees deem necessary or appropriate for the fulfillment of the purposes for which the trust or foundation is established, provided, however, that salaries and administrative expenses incurred on behalf of the trust or foundation shall not exceed \$500,000 in the first fiscal year after the trust or foundation is established and shall not exceed \$1,000,000 in each subsequent fiscal year.

(8) The trustees may create and appoint advisory boards or committees to assist them with the administration of the trust or foundation, and to advise and make recommendations to them regarding the contribution and disbursement of the trust or foundation funds.

(c)(1) In addition to the allocation and disbursement of funds for the purposes set forth in subsection (a) of this Section, the trustees of the trust or foundation shall annually contribute funds in amounts set forth in subparagraph (2) of this subsection to the Citizens Utility Board created by the Citizens Utility Board Act; provided, however, that any such funds shall be used solely for the

representation of the interests of utility consumers before the Illinois Commerce Commission, the Federal Energy Regulatory Commission, and the Federal Communications Commission and for the provision of consumer education on utility service and prices and on benefits and methods of energy conservation. Provided, however, that no part of such funds shall be used to support (i) any lobbying activity, (ii) activities related to fundraising, (iii) advertising or other marketing efforts regarding a particular utility, or (iv) solicitation of support for, or advocacy of, a particular position regarding any specific utility or a utility's docketed proceeding.

(2) In the calendar year in which the trust or foundation is first funded, the trustees shall contribute \$1,000,000 to the Citizens Utility Board within 60 days after such trust or foundation is established; provided, however, that such contribution shall be made after December 31, 1999. In each of the 6 calendar years subsequent to the first contribution, if the trust or foundation is in existence, the trustees shall contribute to the Citizens Utility Board an amount equal to the total expenditures by such organization in the prior calendar year, as set forth in the report filed by the Citizens Utility Board with the chairman of such trust or foundation as required by subparagraph (3) of this subsection. Such subsequent contributions shall be made within 30 days of submission by the Citizens Utility Board of such report to the Chairman of the trust or foundation, but in no event shall any annual contribution by the trustees to the Citizens Utility Board exceed \$1,000,000. Following such 7-year period, an Illinois statutory consumer protection agency may petition the trust or foundation for contributions to fund expenditures of the type identified in paragraph (1), but in no event shall annual contributions by the trust or foundation for such expenditures exceed \$1,000,000.

(3) The Citizens Utility Board shall file a report with the chairman of such trust or foundation for each year in which it expends any funds received from the trust or foundation setting forth the amount of any expenditures (regardless of the source of funds for such expenditures) for: (i) the representation of the interests of utility consumers before the Illinois Commerce Commission, the Federal Energy Regulatory Commission, and the Federal Communications Commission, and (ii) the provision of consumer education on utility service and prices and on benefits and methods of energy conservation. Such report shall separately state the total amount of expenditures for the purposes or activities identified by items (i) and (ii) of this paragraph, the name and address of the external recipient of any such expenditure, if applicable, and the specific purposes or activities (including internal purposes or activities) for which each expenditure was made. Any report required by this subsection shall be filed with the chairman of such trust or foundation no later than March 31 of the year immediately following the year for which the report is required.

(d) In addition to any other allocation and disbursement of funds in this Section, the trustees of the trust or foundation shall contribute an amount up to \$125,000,000 (1) for deposit into the General Obligation Bond Retirement and Interest Fund held in the State treasury to assist in the repayment on general obligation bonds issued under subsection (d) of Section 7 of the General Obligation Bond Act, and (2) for deposit into funds administered by agencies with responsibility for environmental activities to assist in payment for environmental programs. The amount required to be contributed shall be provided to the trustees in a certification letter from the Director of the Bureau of the Budget that shall be provided no later than August 1, 2003. The payment from the trustees shall be paid to the State no later than December 31st following the receipt of the letter.

(Source: P.A. 93-32, eff. 6-20-03; 94-793, eff. 5-19-06.)

(220 ILCS 5/16-111.5)

Sec. 16-111.5. Provisions relating to procurement.

(a) An electric utility that on December 31, 2005 served at least 100,000 customers in Illinois shall procure power and energy for its eligible retail customers in accordance with the applicable provisions set forth in Section 1-75 of the Illinois Power Agency Act and this Section. "Eligible retail customers" for the purposes of this Section means those retail customers that purchase power and energy from the electric utility under fixed-price bundled service tariffs, other than those retail customers whose service is declared or deemed competitive under Section 16-113 and those other customer groups specified in this Section, including self-generating customers, customers electing hourly pricing, or those customers who are otherwise ineligible for fixed-price bundled tariff service. Those customers that are excluded from the definition of "eligible retail customers" shall not be included in the procurement plan load requirements, and the utility shall procure any supply requirements, including capacity, ancillary services, and hourly priced energy, in the applicable markets as needed to serve those customers, provided that the utility may include in its procurement plan load requirements for the load that is associated with those retail customers whose service has been declared or deemed competitive pursuant to Section 16-113 of this Act to the extent that those customers are purchasing power and energy during one of the transition periods identified in subsection (b) of Section 16-113 of this Act.

(b) A procurement plan shall be prepared for each electric utility consistent with the applicable requirements of the Illinois Power Agency Act and this Section. For purposes of this Section, Illinois electric utilities that are affiliated by virtue of a common parent company are considered to be a single electric utility. Each procurement plan shall analyze the projected balance of supply and demand for eligible retail customers over a 5-year period with the first planning year beginning on June 1 of the year following the year in which the plan is filed. The plan shall specifically identify the wholesale products to be procured following plan approval, and shall follow all the requirements set forth in the Public Utilities Act and all applicable State and federal laws, statutes, rules, or regulations, as well as Commission orders. Nothing in this Section precludes consideration of contracts longer than 5 years and related forecast data. Unless specified otherwise in this Section, in the procurement plan or in the implementing tariff, any procurement occurring in accordance with this plan shall be competitively bid through a request for proposals process. Approval and implementation of the procurement plan shall be subject to review and approval by the Commission according to the provisions set forth in this Section. A procurement plan shall include each of the following components:

- (1) Hourly load analysis. This analysis shall include:
  - (i) multi-year historical analysis of hourly loads;
  - (ii) switching trends and competitive retail market analysis;
  - (iii) known or projected changes to future loads; and
  - (iv) growth forecasts by customer class.
- (2) Analysis of the impact of any demand side and renewable or reusable energy initiatives. This analysis shall include:
  - (i) the impact of demand response programs, both current and projected;
  - (ii) supply side needs that are projected to be offset by purchases of renewable energy resources or reusable energy resources, or both, if any; and
  - (iii) the impact of energy efficiency programs, both current and projected.
- (3) A plan for meeting the expected load requirements that will not be met through preexisting contracts. This plan shall include:
  - (i) definitions of the different retail customer classes for which supply is being purchased;
  - (ii) the proposed mix of demand-response products for which contracts will be executed during the next year. The cost-effective demand-response measures shall be procured whenever the cost is lower than procuring comparable capacity products, provided that such products shall:
    - (A) be procured by a demand-response provider from eligible retail customers;
    - (B) at least satisfy the demand-response requirements of the regional transmission organization market in which the utility's service territory is located, including, but not limited to, any applicable capacity or dispatch requirements;
    - (C) provide for customers' participation in the stream of benefits produced by the demand-response products;
    - (D) provide for reimbursement by the demand-response provider of the utility for any costs incurred as a result of the failure of the supplier of such products to perform its obligations thereunder; and
    - (E) meet the same credit requirements as apply to suppliers of capacity, in the applicable regional transmission organization market;
  - (iii) monthly forecasted system supply requirements, including expected minimum, maximum, and average values for the planning period;
  - (iv) the proposed mix and selection of standard wholesale products for which contracts will be executed during the next year, separately or in combination, to meet that portion of its load requirements not met through pre-existing contracts, including but not limited to monthly 5 x 16 peak period block energy, monthly off-peak wrap energy, monthly 7 x 24 energy, annual 5 x 16 energy, annual off-peak wrap energy, annual 7 x 24 energy, monthly capacity, annual capacity, peak load capacity obligations, capacity purchase plan, and ancillary services;
  - (v) proposed term structures for each wholesale product type included in the proposed procurement plan portfolio of products; and
  - (vi) an assessment of the price risk, load uncertainty, and other factors that are associated with the proposed procurement plan; this assessment, to the extent possible, shall include an analysis of the following factors: contract terms, time frames for securing products or services, fuel costs, weather patterns, transmission costs, market conditions, and the governmental regulatory environment; the proposed procurement plan shall also identify alternatives for those portfolio

measures that are identified as having significant price risk.

(4) Proposed procedures for balancing loads. The procurement plan shall include, for load requirements included in the procurement plan, the process for (i) hourly balancing of supply and demand and (ii) the criteria for portfolio re-balancing in the event of significant shifts in load.

(c) The procurement process set forth in Section 1-75 of the Illinois Power Agency Act and subsection (e) of this Section shall be administered by a procurement administrator and monitored by a procurement monitor.

(1) The procurement administrator shall:

(i) design the final procurement process in accordance with Section 1-75 of the Illinois Power Agency Act and subsection (e) of this Section following Commission approval of the procurement plan;

(ii) develop benchmarks in accordance with subsection (e)(3) to be used to evaluate bids; these benchmarks shall be submitted to the Commission for review and approval on a confidential basis prior to the procurement event;

(iii) serve as the interface between the electric utility and suppliers;

(iv) manage the bidder pre-qualification and registration process;

(v) obtain the electric utilities' agreement to the final form of all supply contracts and credit collateral agreements;

(vi) administer the request for proposals process;

(vii) have the discretion to negotiate to determine whether bidders are willing to lower the price of bids that meet the benchmarks approved by the Commission; any post-bid negotiations with bidders shall be limited to price only and shall be completed within 24 hours after opening the sealed bids and shall be conducted in a fair and unbiased manner; in conducting the negotiations, there shall be no disclosure of any information derived from proposals submitted by competing bidders; if information is disclosed to any bidder, it shall be provided to all competing bidders;

(viii) maintain confidentiality of supplier and bidding information in a manner consistent with all applicable laws, rules, regulations, and tariffs;

(ix) submit a confidential report to the Commission recommending acceptance or rejection of bids;

(x) notify the utility of contract counterparties and contract specifics; and

(xi) administer related contingency procurement events.

(2) The procurement monitor, who shall be retained by the Commission, shall:

(i) monitor interactions among the procurement administrator, suppliers, and utility;

(ii) monitor and report to the Commission on the progress of the procurement process;

(iii) provide an independent confidential report to the Commission regarding the results of the procurement event;

(iv) assess compliance with the procurement plans approved by the Commission for each utility that on December 31, 2005 provided electric service to a least 100,000 customers in Illinois;

(v) preserve the confidentiality of supplier and bidding information in a manner consistent with all applicable laws, rules, regulations, and tariffs;

(vi) provide expert advice to the Commission and consult with the procurement administrator regarding issues related to procurement process design, rules, protocols, and policy-related matters; and

(vii) consult with the procurement administrator regarding the development and use of benchmark criteria, standard form contracts, credit policies, and bid documents.

(d) Except as provided in subsection (j), the planning process shall be conducted as follows:

(1) Beginning in 2008, each Illinois utility procuring power pursuant to this Section shall annually provide a range of load forecasts to the Illinois Power Agency by July 15 of each year, or such other date as may be required by the Commission or Agency. The load forecasts shall cover the 5-year procurement planning period for the next procurement plan and shall include hourly data representing a high-load, low-load and expected-load scenario for the load of the eligible retail customers. The utility shall provide supporting data and assumptions for each of the scenarios.

(2) Beginning in 2008, the Illinois Power Agency shall prepare a procurement plan by August 15th of each year, or such other date as may be required by the Commission. The procurement plan shall identify the portfolio of demand-response and power and energy products to be procured. Cost-effective demand-response measures shall be procured as set forth in item (iii) of subsection (b) of this Section. Copies of the procurement plan shall be posted and made publicly available on the

Agency's and Commission's websites, and copies shall also be provided to each affected electric utility. An affected utility shall have 30 days following the date of posting to provide comment to the Agency on the procurement plan. Other interested entities also may comment on the procurement plan. All comments submitted to the Agency shall be specific, supported by data or other detailed analyses, and, if objecting to all or a portion of the procurement plan, accompanied by specific alternative wording or proposals. All comments shall be posted on the Agency's and Commission's websites. During this 30-day comment period, the Agency shall hold at least one public hearing within each utility's service area for the purpose of receiving public comment on the procurement plan. Within 14 days following the end of the 30-day review period, the Agency shall revise the procurement plan as necessary based on the comments received and file the procurement plan with the Commission and post the procurement plan on the websites.

(3) Within 5 days after the filing of the procurement plan, any person objecting to the procurement plan shall file an objection with the Commission. Within 10 days after the filing, the Commission shall determine whether a hearing is necessary. The Commission shall enter its order confirming or modifying the procurement plan within 90 days after the filing of the procurement plan by the Illinois Power Agency.

(4) The Commission shall approve the procurement plan, including expressly the forecast used in the procurement plan, if the Commission determines that it will ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability.

(e) The procurement process shall include each of the following components:

(1) Solicitation, pre-qualification, and registration of bidders. The procurement administrator shall disseminate information to potential bidders to promote a procurement event, notify potential bidders that the procurement administrator may enter into a post-bid price negotiation with bidders that meet the applicable benchmarks, provide supply requirements, and otherwise explain the competitive procurement process. In addition to such other publication as the procurement administrator determines is appropriate, this information shall be posted on the Illinois Power Agency's and the Commission's websites. The procurement administrator shall also administer the prequalification process, including evaluation of credit worthiness, compliance with procurement rules, and agreement to the standard form contract developed pursuant to paragraph (2) of this subsection (e). The procurement administrator shall then identify and register bidders to participate in the procurement event.

(2) Standard contract forms and credit terms and instruments. The procurement administrator, in consultation with the utilities, the Commission, and other interested parties and subject to Commission oversight, shall develop and provide standard contract forms for the supplier contracts that meet generally accepted industry practices. Standard credit terms and instruments that meet generally accepted industry practices shall be similarly developed. The procurement administrator shall make available to the Commission all written comments it receives on the contract forms, credit terms, or instruments. If the procurement administrator cannot reach agreement with the applicable electric utility as to the contract terms and conditions, the procurement administrator must notify the Commission of any disputed terms and the Commission shall resolve the dispute. The terms of the contracts shall not be subject to negotiation by winning bidders, and the bidders must agree to the terms of the contract in advance so that winning bids are selected solely on the basis of price.

(3) Establishment of a market-based price benchmark. As part of the development of the procurement process, the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor, shall establish benchmarks for evaluating the final prices in the contracts for each of the products that will be procured through the procurement process. The benchmarks shall be based on price data for similar products for the same delivery period and same delivery hub, or other delivery hubs after adjusting for that difference. The price benchmarks may also be adjusted to take into account differences between the information reflected in the underlying data sources and the specific products and procurement process being used to procure power for the Illinois utilities. The benchmarks shall be confidential but shall be provided to, and will be subject to Commission review and approval, prior to a procurement event.

(4) Request for proposals competitive procurement process. The procurement administrator shall design and issue a request for proposals to supply electricity in accordance with each utility's procurement plan, as approved by the Commission. The request for proposals shall set forth a procedure for sealed, binding commitment bidding with pay-as-bid settlement, and provision for selection of bids on the basis of price.

(5) A plan for implementing contingencies in the event of supplier default or failure of

the procurement process to fully meet the expected load requirement due to insufficient supplier participation, Commission rejection of results, or any other cause.

(i) Event of supplier default: In the event of supplier default, the utility shall

review the contract of the defaulting supplier to determine if the amount of supply is 200 megawatts or greater, and if there are more than 60 days remaining of the contract term. If both of these conditions are met, and the default results in termination of the contract, the utility shall immediately notify the Illinois Power Agency that a request for proposals must be issued to procure replacement power, and the procurement administrator shall run an additional procurement event. If the contracted supply of the defaulting supplier is less than 200 megawatts or there are less than 60 days remaining of the contract term, the utility shall procure power and energy from the applicable regional transmission organization market, including ancillary services, capacity, and day-ahead or real time energy, or both, for the duration of the contract term to replace the contracted supply; provided, however, that if a needed product is not available through the regional transmission organization market it shall be purchased from the wholesale market.

(ii) Failure of the procurement process to fully meet the expected load requirement:

If the procurement process fails to fully meet the expected load requirement due to insufficient supplier participation or due to a Commission rejection of the procurement results, the procurement administrator, the procurement monitor, and the Commission staff shall meet within 10 days to analyze potential causes of low supplier interest or causes for the Commission decision. If changes are identified that would likely result in increased supplier participation, or that would address concerns causing the Commission to reject the results of the prior procurement event, the procurement administrator may implement those changes and rerun the request for proposals process according to a schedule determined by those parties and consistent with Section 1-75 of the Illinois Power Agency Act and this subsection. In any event, a new request for proposals process shall be implemented by the procurement administrator within 90 days after the determination that the procurement process has failed to fully meet the expected load requirement.

(iii) In all cases where there is insufficient supply provided under contracts

awarded through the procurement process to fully meet the electric utility's load requirement, the utility shall meet the load requirement by procuring power and energy from the applicable regional transmission organization market, including ancillary services, capacity, and day-ahead or real time energy or both; provided, however, that if a needed product is not available through the regional transmission organization market it shall be purchased from the wholesale market.

(6) The procurement process described in this subsection is exempt from the requirements of the Illinois Procurement Code, pursuant to Section 20-10 of that Code.

(f) Within 2 business days after opening the sealed bids, the procurement administrator shall submit a confidential report to the Commission. The report shall contain the results of the bidding for each of the products along with the procurement administrator's recommendation for the acceptance and rejection of bids based on the price benchmark criteria and other factors observed in the process. The procurement monitor also shall submit a confidential report to the Commission within 2 business days after opening the sealed bids. The report shall contain the procurement monitor's assessment of bidder behavior in the process as well as an assessment of the procurement administrator's compliance with the procurement process and rules. The Commission shall review the confidential reports submitted by the procurement administrator and procurement monitor, and shall accept or reject the recommendations of the procurement administrator within 2 business days after receipt of the reports.

(g) Within 3 business days after the Commission decision approving the results of a procurement event, the utility shall enter into binding contractual arrangements with the winning suppliers using the standard form contracts; except that the utility shall not be required either directly or indirectly to execute the contracts if a tariff that is consistent with subsection (l) of this Section has not been approved and placed into effect for that utility.

(h) The names of the successful bidders and the load weighted average of the winning bid prices for each contract type and for each contract term shall be made available to the public at the time of Commission approval of a procurement event. The Commission, the procurement monitor, the procurement administrator, the Illinois Power Agency, and all participants in the procurement process shall maintain the confidentiality of all other supplier and bidding information in a manner consistent with all applicable laws, rules, regulations, and tariffs. Confidential information, including the confidential reports submitted by the procurement administrator and procurement monitor pursuant to subsection (f) of this Section, shall not be made publicly available and shall not be discoverable by any party in any proceeding, absent a compelling demonstration of need, nor shall those reports be admissible in any proceeding other than one for law enforcement purposes.

[May 3, 2010]

(i) Within 2 business days after a Commission decision approving the results of a procurement event or such other date as may be required by the Commission from time to time, the utility shall file for informational purposes with the Commission its actual or estimated retail supply charges, as applicable, by customer supply group reflecting the costs associated with the procurement and computed in accordance with the tariffs filed pursuant to subsection (l) of this Section and approved by the Commission.

(j) Within 60 days following the effective date of this amendatory Act, each electric utility that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois shall prepare and file with the Commission an initial procurement plan, which shall conform in all material respects to the requirements of the procurement plan set forth in subsection (b); provided, however, that the Illinois Power Agency Act shall not apply to the initial procurement plan prepared pursuant to this subsection. The initial procurement plan shall identify the portfolio of power and energy products to be procured and delivered for the period June 2008 through May 2009, and shall identify the proposed procurement administrator, who shall have the same experience and expertise as is required of a procurement administrator hired pursuant to Section 1-75 of the Illinois Power Agency Act. Copies of the procurement plan shall be posted and made publicly available on the Commission's website. The initial procurement plan may include contracts for renewable resources that extend beyond May 2009.

(i) Within 14 days following filing of the initial procurement plan, any person may file a detailed objection with the Commission contesting the procurement plan submitted by the electric utility. All objections to the electric utility's plan shall be specific, supported by data or other detailed analyses. The electric utility may file a response to any objections to its procurement plan within 7 days after the date objections are due to be filed. Within 7 days after the date the utility's response is due, the Commission shall determine whether a hearing is necessary. If it determines that a hearing is necessary, it shall require the hearing to be completed and issue an order on the procurement plan within 60 days after the filing of the procurement plan by the electric utility.

(ii) The order shall approve or modify the procurement plan, approve an independent procurement administrator, and approve or modify the electric utility's tariffs that are proposed with the initial procurement plan. The Commission shall approve the procurement plan if the Commission determines that it will ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability.

(k) In order to promote price stability for residential and small commercial customers during the transition to competition in Illinois, and notwithstanding any other provision of this Act, each electric utility subject to this Section shall enter into one or more multi-year financial swap contracts that become effective on the effective date of this amendatory Act. These contracts may be executed with generators and power marketers, including affiliated interests of the electric utility. These contracts shall be for a term of no more than 5 years and shall, for each respective utility or for any Illinois electric utilities that are affiliated by virtue of a common parent company and that are thereby considered a single electric utility for purposes of this subsection (k), not exceed in the aggregate 3,000 megawatts for any hour of the year. The contracts shall be financial contracts and not energy sales contracts. The contracts shall be executed as transactions under a negotiated master agreement based on the form of master agreement for financial swap contracts sponsored by the International Swaps and Derivatives Association, Inc. and shall be considered pre-existing contracts in the utilities' procurement plans for residential and small commercial customers. Costs incurred pursuant to a contract authorized by this subsection (k) shall be deemed prudently incurred and reasonable in amount and the electric utility shall be entitled to full cost recovery pursuant to the tariffs filed with the Commission.

(l) An electric utility shall recover its costs incurred under this Section, including, but not limited to, the costs of procuring power and energy demand-response resources under this Section. The utility shall file with the initial procurement plan its proposed tariffs through which its costs of procuring power that are incurred pursuant to a Commission-approved procurement plan and those other costs identified in this subsection (l), will be recovered. The tariffs shall include a formula rate or charge designed to pass through both the costs incurred by the utility in procuring a supply of electric power and energy for the applicable customer classes with no mark-up or return on the price paid by the utility for that supply, plus any just and reasonable costs that the utility incurs in arranging and providing for the supply of electric power and energy. The formula rate or charge shall also contain provisions that ensure that its application does not result in over or under recovery due to changes in customer usage and demand patterns, and that provide for the correction, on at least an annual basis, of any accounting errors that may occur. A utility shall recover through the tariff all reasonable costs incurred to implement or comply with any procurement plan that is developed and put into effect pursuant to Section 1-75 of the Illinois Power Agency Act and this Section, including any fees assessed by the Illinois Power Agency, costs

associated with load balancing, and contingency plan costs. The electric utility shall also recover its full costs of procuring electric supply for which it contracted before the effective date of this Section in conjunction with the provision of full requirements service under fixed-price bundled service tariffs subsequent to December 31, 2006. All such costs shall be deemed to have been prudently incurred. The pass-through tariffs that are filed and approved pursuant to this Section shall not be subject to review under, or in any way limited by, Section 16-111(i) of this Act.

(m) The Commission has the authority to adopt rules to carry out the provisions of this Section. For the public interest, safety, and welfare, the Commission also has authority to adopt rules to carry out the provisions of this Section on an emergency basis immediately following the effective date of this amendatory Act.

(n) Notwithstanding any other provision of this Act, any affiliated electric utilities that submit a single procurement plan covering their combined needs may procure for those combined needs in conjunction with that plan, and may enter jointly into power supply contracts, purchases, and other procurement arrangements, and allocate capacity and energy and cost responsibility therefor among themselves in proportion to their requirements.

(o) On or before June 1 of each year, the Commission shall hold an informal hearing for the purpose of receiving comments on the prior year's procurement process and any recommendations for change.

(p) An electric utility subject to this Section may propose to invest, lease, own, or operate an electric generation facility as part of its procurement plan, provided the utility demonstrates that such facility is the least-cost option to provide electric service to eligible retail customers. If the facility is shown to be the least-cost option and is included in a procurement plan prepared in accordance with Section 1-75 of the Illinois Power Agency Act and this Section, then the electric utility shall make a filing pursuant to Section 8-406 of the Act, and may request of the Commission any statutory relief required thereunder. If the Commission grants all of the necessary approvals for the proposed facility, such supply shall thereafter be considered as a pre-existing contract under subsection (b) of this Section. The Commission shall in any order approving a proposal under this subsection specify how the utility will recover the prudently incurred costs of investing in, leasing, owning, or operating such generation facility through just and reasonable rates charged to eligible retail customers. Cost recovery for facilities included in the utility's procurement plan pursuant to this subsection shall not be subject to review under or in any way limited by the provisions of Section 16-111(j) of this Act. Nothing in this Section is intended to prohibit a utility from filing for a fuel adjustment clause as is otherwise permitted under Section 9-220 of this Act.

(Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09.)

(220 ILCS 5/16-115)

Sec. 16-115. Certification of alternative retail electric suppliers.

(a) Any alternative retail electric supplier must obtain a certificate of service authority from the Commission in accordance with this Section before serving any retail customer or other user located in this State. An alternative retail electric supplier may request, and the Commission may grant, a certificate of service authority for the entire State or for a specified geographic area of the State.

(b) An alternative retail electric supplier seeking a certificate of service authority shall file with the Commission a verified application containing information showing that the applicant meets the requirements of this Section. The alternative retail electric supplier shall publish notice of its application in the official State newspaper within 10 days following the date of its filing. No later than 45 days after the application is properly filed with the Commission, and such notice is published, the Commission shall issue its order granting or denying the application.

(c) An application for a certificate of service authority shall identify the area or areas in which the applicant intends to offer service and the types of services it intends to offer. Applicants that seek to serve residential or small commercial retail customers within a geographic area that is smaller than an electric utility's service area shall submit evidence demonstrating that the designation of this smaller area does not violate Section 16-115A. An applicant that seeks to serve residential or small commercial retail customers may state in its application for certification any limitations that will be imposed on the number of customers or maximum load to be served.

(d) The Commission shall grant the application for a certificate of service authority if it makes the findings set forth in this subsection based on the verified application and such other information as the applicant may submit:

(1) That the applicant possesses sufficient technical, financial and managerial resources and abilities to provide the service for which it seeks a certificate of service authority. In determining the level of technical, financial and managerial resources and abilities which the applicant must demonstrate, the Commission shall consider (i) the characteristics, including the size and

financial sophistication, of the customers that the applicant seeks to serve, and (ii) whether the applicant seeks to provide electric power and energy using property, plant and equipment which it owns, controls or operates;

(2) That the applicant will comply with all applicable federal, State, regional and industry rules, policies, practices and procedures for the use, operation, and maintenance of the safety, integrity and reliability, of the interconnected electric transmission system;

(3) That the applicant will only provide service to retail customers in an electric utility's service area that are eligible to take delivery services under this Act;

(4) That the applicant will comply with such informational or reporting requirements as the Commission may by rule establish and provide the information required by Section 16-112. Any data related to contracts for the purchase and sale of electric power and energy shall be made available for review by the Staff of the Commission on a confidential and proprietary basis and only to the extent and for the purposes which the Commission determines are reasonably necessary in order to carry out the purposes of this Act;

(5) That the applicant will procure renewable energy resources or reusable energy resources, or both, in accordance with

Section 16-115D of this Act, and will source electricity from clean coal facilities, as defined in Section 1-10 of the Illinois Power Agency Act, in amounts at least equal to the percentages set forth in subsections (c) and (d) of Section 1-75 of the Illinois Power Agency Act. For purposes of this Section:

(i) (Blank);

(ii) (Blank);

(iii) the required sourcing of electricity generated by clean coal facilities, other than the initial clean coal facility, shall be limited to the amount of electricity that can be procured or sourced at a price at or below the benchmarks approved by the Commission each year in accordance with item (1) of subsection (c) and items (1) and (5) of subsection (d) of Section 1-75 of the Illinois Power Agency Act;

(iv) all alternative retail electric suppliers shall execute a sourcing agreement to source electricity from the initial clean coal facility, on the terms set forth in paragraphs (3) and (4) of subsection (d) of Section 1-75 of the Illinois Power Agency Act, except that in lieu of the requirements in subparagraphs (A)(v), (B)(i), (C)(v), and (C)(vi) of paragraph (3) of that subsection (d), the applicant shall execute one or more of the following:

(1) if the sourcing agreement is a power purchase agreement, a contract with the initial clean coal facility to purchase in each hour an amount of electricity equal to all clean coal energy made available from the initial clean coal facility during such hour, which the utilities are not required to procure under the terms of subsection (d) of Section 1-75 of the Illinois Power Agency Act, multiplied by a fraction, the numerator of which is the alternative retail electric supplier's retail market sales of electricity (expressed in kilowatthours sold) in the State during the prior calendar month and the denominator of which is the total sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this paragraph (5) of subsection (d) of this Section and subsection (d) of Section 1-75 of the Illinois Power Agency Act plus the total sales of electricity (expressed in kilowatthours sold) by utilities outside of their service areas during such prior month, pursuant to subsection (c) of Section 16-116 of this Act; or

(2) if the sourcing agreement is a contract for differences, a contract with the initial clean coal facility in each hour with respect to an amount of electricity equal to all clean coal energy made available from the initial clean coal facility during such hour, which the utilities are not required to procure under the terms of subsection (d) of Section 1-75 of the Illinois Power Agency Act, multiplied by a fraction, the numerator of which is the alternative retail electric supplier's retail market sales of electricity (expressed in kilowatthours sold) in the State during the prior calendar month and the denominator of which is the total sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this paragraph (5) of subsection (d) of this Section and subsection (d) of Section 1-75 of the Illinois Power Agency Act plus the total sales of electricity (expressed in kilowatthours sold) by utilities outside of their service areas during such prior month, pursuant to subsection (c) of Section 16-116 of this Act;

(v) if, in any year after the first year of commercial operation, the owner of the clean coal facility fails to demonstrate to the Commission that the initial clean coal facility captured and sequestered at least 50% of the total carbon emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon into the

atmosphere, the owner of the facility must offset excess emissions. Any such carbon offsets must be permanent, additional, verifiable, real, located within the State of Illinois, and legally and practicably enforceable. The costs of any such offsets that are not recoverable shall not exceed \$15 million in any given year. No costs of any such purchases of carbon offsets may be recovered from an alternative retail electric supplier or its customers. All carbon offsets purchased for this purpose and any carbon emission credits associated with sequestration of carbon from the facility must be permanently retired. The initial clean coal facility shall not forfeit its designation as a clean coal facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased. However, the Attorney General, on behalf of the People of the State of Illinois, may specifically enforce the facility's sequestration requirement and the other terms of this contract provision. Compliance with the sequestration requirements and offset purchase requirements that apply to the initial clean coal facility shall be reviewed annually by an independent expert retained by the owner of the initial clean coal facility, with the advance written approval of the Attorney General;

(vi) The Commission shall, after notice and hearing, revoke the certification of any alternative retail electric supplier that fails to execute a sourcing agreement with the initial clean coal facility as required by item (5) of subsection (d) of this Section. The sourcing agreements with this initial clean coal facility shall be subject to both approval of the initial clean coal facility by the General Assembly and satisfaction of the requirements of item (4) of subsection (d) of Section 1-75 of the Illinois Power Agency Act, and shall be executed within 90 days after any such approval by the General Assembly. The Commission shall not accept an application for certification from an alternative retail electric supplier that has lost certification under this subsection (d), or any corporate affiliate thereof, for at least one year from the date of revocation;

(6) With respect to an applicant that seeks to serve residential or small commercial retail customers, that the area to be served by the applicant and any limitations it proposes on the number of customers or maximum amount of load to be served meet the provisions of Section 16-115A, provided, that the Commission can extend the time for considering such a certificate request by up to 90 days, and can schedule hearings on such a request;

(7) That the applicant meets the requirements of subsection (a) of Section 16-128; and

(8) That the applicant will comply with all other applicable laws and regulations.

(d-5) (Blank).

(e) A retail customer that owns a cogeneration or self-generation facility and that seeks certification only to provide electric power and energy from such facility to retail customers at separate locations which customers are both (i) owned by, or a subsidiary or other corporate affiliate of, such applicant and (ii) eligible for delivery services, shall be granted a certificate of service authority upon filing an application and notifying the Commission that it has entered into an agreement with the relevant electric utilities pursuant to Section 16-118. Provided, however, that if the retail customer owning such cogeneration or self-generation facility would not be charged a transition charge due to the exemption provided under subsection (f) of Section 16-108 prior to the certification, and the retail customers at separate locations are taking delivery services in conjunction with purchasing power and energy from the facility, the retail customer on whose premises the facility is located shall not thereafter be required to pay transition charges on the power and energy that such retail customer takes from the facility.

(f) The Commission shall have the authority to promulgate rules and regulations to carry out the provisions of this Section. On or before May 1, 1999, the Commission shall adopt a rule or rules applicable to the certification of those alternative retail electric suppliers that seek to serve only nonresidential retail customers with maximum electrical demands of one megawatt or more which shall provide for (i) expedited and streamlined procedures for certification of such alternative retail electric suppliers and (ii) specific criteria which, if met by any such alternative retail electric supplier, shall constitute the demonstration of technical, financial and managerial resources and abilities to provide service required by subsection (d) (1) of this Section, such as a requirement to post a bond or letter of credit, from a responsible surety or financial institution, of sufficient size for the nature and scope of the services to be provided; demonstration of adequate insurance for the scope and nature of the services to be provided; and experience in providing similar services in other jurisdictions.

(Source: P.A. 95-130, eff. 1-1-08; 95-1027, eff. 6-1-09; 96-159, eff. 8-10-09.)

(220 ILCS 5/16-115D)

Sec. 16-115D. Renewable and reusable portfolio standard for alternative retail electric suppliers and electric utilities operating outside their service territories.

(a) An alternative retail electric supplier shall be responsible for procuring cost-effective renewable energy resources or reusable energy resources, or both, as required under item (5) of subsection (d) of

Section 16-115 of this Act as outlined herein:

(1) The definition of renewable energy resources contained in Section 1-10 of the Illinois Power Agency Act applies to all renewable energy resources required to be procured by alternative retail electric suppliers. The definition of reusable energy resources contained in Section 1-10 of the Illinois Power Agency Act applies to all reusable energy resources required to be procured by alternative retail electric suppliers.

(2) The quantity of renewable energy resources or reusable energy resources, or both, shall be measured as a percentage of the actual amount of metered electricity (megawatt-hours) delivered by the alternative retail electric supplier to Illinois retail customers during the 12-month period June 1 through May 31, commencing June 1, 2009, and the comparable 12-month period in each year thereafter except as provided in item (6) of this subsection (a).

(3) The quantity of renewable energy resources or reusable energy resources, or both, shall be in amounts at least equal to

the annual percentages set forth in item (1) of subsection (c) of Section 1-75 of the Illinois Power Agency Act. At least 60% of the renewable energy resources procured pursuant to items (1) through (3) of subsection (b) of this Section shall come from wind generation and, starting June 1, 2015, at least 6% of the renewable energy resources procured pursuant to items (1) through (3) of subsection (b) of this Section shall come from solar photovoltaics. If, in any given year, an alternative retail electric supplier does not purchase at least these levels of renewable energy resources or reusable energy resources, or both, then the alternative retail electric supplier shall make alternative compliance payments, as described in subsection (d) of this Section.

(4) The quantity and source of renewable energy resources or reusable energy resources, or both, shall be independently

verified through the PJM Environmental Information System Generation Attribute Tracking System (PJM-GATS) or the Midwest Renewable Energy Tracking System (M-RETS), which shall document the location of generation, resource type, month, and year of generation for all qualifying renewable energy resources or reusable energy resources, or both, that an alternative retail electric supplier uses to comply with this Section. No later than June 1, 2009, the Illinois Power Agency shall provide PJM-GATS, M-RETS, and alternative retail electric suppliers with all information necessary to identify resources located in Illinois, within states that adjoin Illinois or within portions of the PJM and MISO footprint in the United States that qualify under the definition of renewable energy resources or reusable energy resources in Section 1-10 of the Illinois Power Agency Act for compliance with this Section 16-115D. Alternative retail electric suppliers shall not be subject to the requirements in item (3) of subsection (c) of Section 1-75 of the Illinois Power Agency Act.

(5) All renewable energy credits or reusable energy credits, or both, used to comply with this Section shall be permanently

retired.

(6) The required procurement of renewable energy resources or reusable energy resources, or both, by an alternative retail

electric supplier shall apply to all metered electricity delivered to Illinois retail customers by the alternative retail electric supplier pursuant to contracts executed or extended after March 15, 2009.

(b) An alternative retail electric supplier shall comply with the renewable energy portfolio standards by making an alternative compliance payment, as described in subsection (d) of this Section, to cover at least one-half of the alternative retail electric supplier's compliance obligation and any one or combination of the following means to cover the remainder of the alternative retail electric supplier's compliance obligation:

(1) Generating electricity using renewable energy resources or reusable energy resources, or both, identified pursuant to item

(4) of subsection (a) of this Section.

(2) Purchasing electricity generated using renewable energy resources or reusable energy resources, or both, identified

pursuant to item (4) of subsection (a) of this Section through an energy contract.

(3) Purchasing renewable energy credits or reusable energy credits, or both, from renewable energy resources or reusable energy resources, or both, identified

pursuant to item (4) of subsection (a) of this Section.

(4) Making an alternative compliance payment as described in subsection (d) of this Section.

(c) Use of renewable or reusable energy credits.

[May 3, 2010]

(1) Renewable energy credits or reusable energy credits, or both, that are not used by an alternative retail electric

supplier to comply with a renewable and reusable portfolio standard in a compliance year may be banked and carried forward up to 2 12-month compliance periods after the compliance period in which the credit was generated for the purpose of complying with a renewable and reusable portfolio standard in those 2 subsequent compliance periods. For the 2009-2010 and 2010-2011 compliance periods, an alternative retail electric supplier may use renewable credits generated after December 31, 2008 and before June 1, 2009 to comply with this Section.

(2) An alternative retail electric supplier is responsible for demonstrating that a renewable energy credit or reusable energy credit, or both, used to comply with a renewable and reusable portfolio standard is derived from a renewable energy resource or reusable energy resources, or both, and that the alternative retail electric supplier has not used, traded, sold, or otherwise transferred the credit.

(3) The same renewable or reusable energy credit may be used by an alternative retail electric supplier to comply with a federal renewable portfolio standard and a renewable and reusable portfolio standard established under this Act. An alternative retail electric supplier that uses a renewable energy credit or reusable energy credit, or both, to comply with a renewable portfolio standard imposed by any other state may not use the same credit to comply with a renewable and reusable portfolio standard established under this Act.

(d) Alternative compliance payments.

(1) The Commission shall establish and post on its website, within 5 business days after entering an order approving a procurement plan pursuant to Section 1-75 of the Illinois Power Agency Act, maximum alternative compliance payment rates, expressed on a per kilowatt-hour basis, that will be applicable in the first compliance period following the plan approval. A separate maximum alternative compliance payment rate shall be established for the service territory of each electric utility that is subject to subsection (c) of Section 1-75 of the Illinois Power Agency Act. Each maximum alternative compliance payment rate shall be equal to the maximum allowable annual estimated average net increase due to the costs of the utility's purchase of renewable energy resources or reusable energy resources, or both, included in the amounts paid by eligible retail customers in connection with electric service, as described in item (2) of subsection (c) of Section 1-75 of the Illinois Power Agency Act for the compliance period, and as established in the approved procurement plan. Following each procurement event through which renewable energy resources or reusable energy resources, or both, are purchased for one or more of these utilities for the compliance period, the Commission shall establish and post on its website estimates of the alternative compliance payment rates, expressed on a per kilowatt-hour basis, that shall apply for that compliance period. Posting of the estimates shall occur no later than 10 business days following the procurement event, however, the Commission shall not be required to establish and post such estimates more often than once per calendar month. By July 1 of each year, the Commission shall establish and post on its website the actual alternative compliance payment rates for the preceding compliance year. Each alternative compliance payment rate shall be equal to the total amount of dollars for which the utility contracted to spend on renewable energy resources or reusable energy resources, or both, for the compliance period divided by the forecasted load of eligible retail customers, at the customers' meters, as previously established in the Commission-approved procurement plan for that compliance year. The actual alternative compliance payment rates may not exceed the maximum alternative compliance payment rates established for the compliance period. For purposes of this subsection (d), the term "eligible retail customers" has the same meaning as found in Section 16-111.5 of this Act.

(2) In any given compliance year, an alternative retail electric supplier may elect to use alternative compliance payments to comply with all or a part of the applicable renewable and reusable portfolio standard. In the event that an alternative retail electric supplier elects to make alternative compliance payments to comply with all or a part of the applicable renewable and reusable portfolio standard, such payments shall be made by September 1, 2010 for the period of June 1, 2009 to May 1, 2010 and by September 1 of each year thereafter for the subsequent compliance period, in the manner and form as determined by the Commission. Any election by an alternative retail electric supplier to use alternative compliance payments is subject to review by the Commission under subsection (e) of this Section.

(3) An alternative retail electric supplier's alternative compliance payments shall be computed separately for each electric utility's service territory within which the alternative retail electric supplier provided retail service during the compliance period, provided that the electric utility was subject to subsection (c) of Section 1-75 of the Illinois Power Agency Act. For each service

territory, the alternative retail electric supplier's alternative compliance payment shall be equal to (i) the actual alternative compliance payment rate established in item (1) of this subsection (d), multiplied by (ii) the actual amount of metered electricity delivered by the alternative retail electric supplier to retail customers within the service territory during the compliance period, multiplied by (iii) the result of one minus the ratios of the quantity of renewable energy resources or reusable energy resources, or both, used by the alternative retail electric supplier to comply with the requirements of this Section within the service territory to the product of the percentage of renewable energy resources or reusable energy resources, or both, required under item (3) of subsection (a) of this Section and the actual amount of metered electricity delivered by the alternative retail electric supplier to retail customers within the service territory during the compliance period.

(4) All alternative compliance payments by alternative retail electric suppliers shall be deposited in the Illinois Power Agency Renewable and Reusable Energy Resources Fund and used to purchase renewable energy credits or reusable energy credits, or both, in accordance with Section 1-56 of the Illinois Power Agency Act.

(5) The Commission, in consultation with the Illinois Power Agency, shall establish a process or proceeding to consider the impact of a federal renewable portfolio standard, if enacted, on the operation of the alternative compliance mechanism, which shall include, but not be limited to, developing, to the extent permitted by the applicable federal statute, an appropriate methodology to apportion renewable energy credits or reusable energy credits, or both, retired as a result of alternative compliance payments made in accordance with this Section. The Commission shall commence any such process or proceeding within 35 days after enactment of a federal renewable portfolio standard.

(e) Each alternative retail electric supplier shall, by September 1, 2010 and by September 1 of each year thereafter, prepare and submit to the Commission a report, in a format to be specified by the Commission on or before December 31, 2009, that provides information certifying compliance by the alternative retail electric supplier with this Section, including copies of all PJM-GATS and M-RETS reports, and documentation relating to banking, retiring renewable energy credits, and any other information that the Commission determines necessary to ensure compliance with this Section. An alternative retail electric supplier may file commercially or financially sensitive information or trade secrets with the Commission as provided under the rules of the Commission. To be filed confidentially, the information shall be accompanied by an affidavit that sets forth both the reasons for the confidentiality and a public synopsis of the information.

(f) The Commission may initiate a contested case to review allegations that the alternative retail electric supplier has violated this Section, including an order issued or rule promulgated under this Section. In any such proceeding, the alternative retail electric supplier shall have the burden of proof. If the Commission finds, after notice and hearing, that an alternative retail electric supplier has violated this Section, then the Commission shall issue an order requiring the alternative retail electric supplier to:

(1) immediately comply with this Section; and

(2) if the violation involves a failure to procure the requisite quantity of renewable energy resources or reusable energy resources, or both, or pay the applicable alternative compliance payment by the annual deadline, the Commission shall require the alternative retail electric supplier to double the applicable alternative compliance payment that would otherwise be required to bring the alternative retail electric supplier into compliance with this Section.

If an alternative retail electric supplier fails to comply with the renewable and reusable energy resource portfolio requirement in this Section more than once in a 5-year period, then the Commission shall revoke the alternative electric supplier's certificate of service authority. The Commission shall not accept an application for a certificate of service authority from an alternative retail electric supplier that has lost certification under this subsection (f), or any corporate affiliate thereof, for at least one year after the date of revocation.

(g) All of the provisions of this Section apply to electric utilities operating outside their service area except under item (2) of subsection (a) of this Section the quantity of renewable energy resources or reusable energy resources, or both, shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied in the State outside of the utility's service territory during the 12-month period June 1 through May 31, commencing June 1, 2009, and the comparable 12-month period in each year thereafter except as provided in item (6) of subsection (a) of this Section.

If any such utility fails to procure the requisite quantity of renewable energy resources or reusable energy resources, or both, by the annual deadline, then the Commission shall require the utility to double the alternative compliance payment that would otherwise be required to bring the utility into compliance with this Section.

If any such utility fails to comply with the renewable and reusable energy resource portfolio requirement in this Section more than once in a 5-year period, then the Commission shall order the utility to cease all sales outside of the utility's service territory for a period of at least one year.

(h) The provisions of this Section and the provisions of subsection (d) of Section 16-115 of this Act relating to procurement of renewable energy resources or reusable energy resources, or both, shall not apply to an alternative retail electric supplier that operates a combined heat and power system in this State or that has a corporate affiliate that operates such a combined heat and power system in this State that supplies electricity primarily to or for the benefit of: (i) facilities owned by the supplier, its subsidiary, or other corporate affiliate; (ii) facilities electrically integrated with the electrical system of facilities owned by the supplier, its subsidiary, or other corporate affiliate; or (iii) facilities that are adjacent to the site on which the combined heat and power system is located.

(Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09.)

(220 ILCS 5/16-127)

Sec. 16-127. Environmental disclosure.

(a) Effective January 1, 1999, every electric utility and alternative retail electric supplier shall provide the following information, to the maximum extent practicable, with its bills to its customers on a quarterly basis:

(i) the known sources of electricity supplied, broken-out by percentages, of biomass power, coal-fired power, hydro power, natural gas-fired power, nuclear power, oil-fired power, solar power, wind power and other resources, respectively;

(ii) a pie-chart that graphically depicts the percentages of the sources of the electricity supplied as set forth in subparagraph (i) of this subsection; and

(iii) a pie-chart that graphically depicts the quantity of renewable energy resources or reusable energy resources, or both,

procured pursuant to Section 1-75 of the Illinois Power Agency Act as a percentage of electricity supplied to serve eligible retail customers as defined in Section 16-111.5(a) of this Act.

(b) In addition, every electric utility and alternative retail electric supplier shall provide, to the maximum extent practicable, with its bills to its customers on a quarterly basis, a standardized chart in a format to be determined by the Commission in a rule following notice and hearings which provides the amounts of carbon dioxide, nitrogen oxides and sulfur dioxide emissions and nuclear waste attributable to the known sources of electricity supplied as set forth in subparagraph (i) of subsection (a) of this Section.

(c) The electric utilities and alternative retail electric suppliers may provide their customers with such other information as they believe relevant to the information required in subsections (a) and (b) of this Section.

(d) For the purposes of subsection (a) of this Section, "biomass" means dedicated crops grown for energy production and organic wastes.

(e) All of the information provided in subsections (a) and (b) of this Section shall be presented to the Commission for inclusion in its World Wide Web Site.

(Source: P.A. 95-481, eff. 8-28-07.)

Section 99. Effective date. This Act takes effect upon becoming law."

Under the rules, the foregoing **Senate Bill No. 380**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2556

A bill for AN ACT concerning floodplains.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2556

House Amendment No. 2 to SENATE BILL NO. 2556

Passed the House, as amended, May 3, 2010.

MARK MAHONEY, Clerk of the House

[May 3, 2010]

**AMENDMENT NO. 1 TO SENATE BILL 2556**

AMENDMENT NO. 1. Amend Senate Bill 2556 as follows:

on page 2, by replacing lines 1 through 9 with the following:

"Prevention District Act; provided, however, that an area that lies within a flood prevention district established in accordance with the Flood Prevention District Act shall be deemed by operation of law to be within the 100-year floodplain if, according to the currently adopted federal flood insurance rate map, the area is subject to inundation by a 100-year flood from bodies of water other than the Mississippi River."; and

on page 3, by replacing lines 3 through 10 with the following:

"Act; provided, however, that an area that lies within a flood prevention district established in accordance with the Flood Prevention District Act shall be deemed by operation of law to be within the 100-year floodplain if, according to the currently adopted federal flood insurance rate map, the area is subject to inundation by a 100-year flood from bodies of water other than the Mississippi River."; and

on page 3, line 12, by replacing "Section 18h" with "Sections 18h, 18i, and 18j"; and

on page 5, by replacing lines 17 through 24, with the following:

"District Act; provided, however, that an area that lies within a flood prevention district established in accordance with the Flood Prevention District Act shall be deemed by operation of law to be within the 100-year floodplain if, according to the currently adopted federal flood insurance rate map, the area is subject to inundation by a 100-year flood from bodies of water other than the Mississippi River."; and

on page 9, immediately below line 16, by inserting the following:

"(615 ILCS 5/18i new)

Sec. 18i. Maintenance of eligibility to participate in the National Flood Insurance Program. Nothing in this amendatory Act of the 96th General Assembly shall be construed to diminish or conflict with the authority and the obligation of local governments to adopt and enforce local ordinances and regulations necessary to maintain eligibility to participate fully in the National Flood Insurance Program and for property owners to purchase federal flood insurance. A local government located in an area that is (i) protected by a federal levee and (ii) located in a flood prevention district established in accordance with the Flood Prevention District Act must adopt and maintain ordinances and floodplain management regulations that meet the requirements of 44 C.F.R. 60.3, 60.4, and 60.5, and it must submit copies of those documents to the Federal Emergency Management Agency as required by federal law.

(615 ILCS 5/18j new)

Sec. 18j. ESDA critical facility evacuation plans. Any critical facility that gives shelter to a person who would be unable to evacuate without assistance during a flooding event, and that is located in an area deemed by operation of law not to be within the 100-year floodplain because the area in which the critical facility is located lies within an area protected by a federal levee and is located in a flood prevention district established in accordance with the Flood Prevention District Act shall develop an evacuation plan and certify to the Emergency Services and Disaster Agency (ESDA), as defined by Section 4 of the Illinois Emergency Management Act, on a form provided by the ESDA, that it has developed an evacuation plan which the critical facility has or will implement prior to or concurrent with occupancy of the facility to evacuate persons who need assistance evacuating the facility and the flooded area."

**AMENDMENT NO. 2 TO SENATE BILL 2556**

AMENDMENT NO. 2. Amend Senate Bill 2556, AS AMENDED, by deleting all of Section 10; and

in Section 15, in Sec. 18i, by replacing all of the final sentence with the following:

"If a local government located in an area that (i) is protected by a federal levee and (ii) located in a flood prevention district established in accordance with the Flood Prevention District Act chooses to participate in the National Flood Insurance Program, it must adopt and maintain ordinances and floodplain management regulations that meet the requirements of 44 C.F.R. 60.3, 60.4, and 60.5, and it must submit copies of those documents to the Federal Emergency Management Agency as required by federal law."

[May 3, 2010]

Under the rules, the foregoing **Senate Bill No. 2556**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2602

A bill for AN ACT concerning regulation.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2602

Passed the House, as amended, May 3, 2010.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 2602**

AMENDMENT NO. 1. Amend Senate Bill 2602 on page 1, line 22, after "any", by inserting "structural"; and

on page 5, line 9, by deleting "contiguous"; and

on page 5, line 13, by deleting "contiguous"; and

on page 5, line 16, by deleting "contiguous"; and

on page 17, by replacing lines 16 through 18 with "or agency thereof. However, the State or agency thereof or any unit of local government shall not be required to pay any fees, nor".

Under the rules, the foregoing **Senate Bill No. 2602**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2996

A bill for AN ACT concerning financial regulation.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2996

House Amendment No. 2 to SENATE BILL NO. 2996

Passed the House, as amended, May 3, 2010.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 2996**

AMENDMENT NO. 1. Amend Senate Bill 2996 as follows:

on page 5, immediately below line 21, by inserting the following:

"Section 7. The Illinois Bank Examiners' Education Foundation Act is amended by changing Sections 3.01, 4, and 5 as follows:

(20 ILCS 3210/3.01) (from Ch. 17, par. 403.1)

Sec. 3.01. "Board" means the State Banking Board of Illinois as established under the provisions of the Illinois Banking Act ~~Board of Trustees of the Illinois Bank Examiners' Education Foundation created by this Act.~~

(Source: P.A. 84-1127.)

[May 3, 2010]

(20 ILCS 3210/4) (from Ch. 17, par. 404)

Sec. 4. The Foundation shall establish an endowment fund with the monies in the Illinois Bank Examiners' Education Fund. The income from such Fund shall be used to pay for continuing education and professional training activity for the examination employees of the Commissioner's office authorized by the Board of the Illinois Bank Examiners' Education Program and to pay for reasonable expenses incurred by the Board in the course of administering its official duties under this Act. The continuing education and professional training activity to be funded by the Foundation shall be a supplement to the education and training expenditures regularly being made from the Bank & Trust Company Fund for such purposes.

(Source: P.A. 84-1127.)

(20 ILCS 3210/5) (from Ch. 17, par. 405)

Sec. 5. The Foundation shall be governed by ~~the~~ a Board of Trustees. ~~The Board shall consist of the following trustees: the Commissioner, who shall be its chairman; one Class A member and three Class B members from the State Banking Board of Illinois, appointed by the Governor.~~

~~For carrying out their official duties under this Act, the Board members~~ The terms of the trustees of the Foundation who are members of the State Banking Board of Illinois are to be coextensive with their term on the State Banking Board of Illinois. An appointment to fill a vacancy shall be for the unexpired term of the trustee whose term is being filled. Trustees shall receive no compensation for service on the Board, but shall be reimbursed for all reasonable and necessary expenditures incurred in the performance of ~~said their official~~ duties.

(Source: P.A. 84-1127.); and

by replacing line 3 on page 11 through line 3 on page 15 with the following:

"(205 ILCS 5/32) (from Ch. 17, par. 339)

Sec. 32. Basic loaning limits. The liabilities outstanding at one time to a state bank of a person for money borrowed, including the liabilities of a partnership or joint venture in the liabilities of the several members thereof, shall not exceed 25% of the amount of the unimpaired capital and unimpaired surplus of the bank.

The liabilities to any state bank of a person may exceed 25% of the unimpaired capital and unimpaired surplus of the bank, provided that (i) the excess amount from time to time outstanding is fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available quotations, at least equal to the excess amount outstanding; and (ii) the total liabilities shall not exceed 30% of the unimpaired capital and unimpaired surplus of the bank.

The following shall not be considered as money borrowed within the meaning of this Section:

- (1) The purchase or discount of bills of exchange drawn in good faith against actually existing values.
- (2) The purchase or discount of commercial or business paper actually owned by the person negotiating the same.
- (3) The purchase of or loaning money in exchange for evidences of indebtedness which shall be secured by mortgage or trust deed upon productive real estate the value of which, as ascertained by the oath of 2 qualified appraisers, neither of whom shall be an officer, director, or employee of the bank or of any subsidiary or affiliate of the bank, is double the amount of the principal debt secured at the time of the original purchase of evidence of indebtedness or loan of money and which is still double the amount of the principal debt secured at the time of any renewal of the indebtedness or loan, and which mortgage or trust deed is shown, either by a guaranty policy of a title guaranty company approved by the Commissioner or by a registrar's certificate of title in any county having adopted the provisions of the Registered Titles (Torrens) Act, or by the opinion of an attorney-at-law, to be a first lien upon the real estate therein described, and real estate shall not be deemed to be encumbered within the meaning of this subsection (3) by reason of the existence of instruments reserving rights-of-way, sewer rights and rights in wells, building restrictions or other restrictive covenants, nor by reason of the fact it is subject to lease under which rents or profits are reserved by the owners.
- (4) The purchase of marketable investment securities.

(5) The liability to a state bank of a person who is an accommodation party to, or guarantor of payment for, any evidence of indebtedness of another person who obtains a loan from or discounts paper with or sells paper to the state bank; but the total liability to a state bank of a person as an accommodation party or guarantor of payment in respect of such evidences of indebtedness shall not exceed 25% of the amount of the unimpaired capital and unimpaired surplus of the bank; provided however that the liability of an accommodation party to paper excepted under subsection 2 of this

Section shall not be included in the computation of this limitation.

(6) The liability to a state bank of a person, who as a guarantor, guarantees collection of the obligation or indebtedness of another person.

The total liabilities of any one person, for money borrowed, or otherwise, shall not exceed 25% of the deposits of the bank, and those total liabilities shall at no time exceed 50% of the amount of the unimpaired capital and unimpaired surplus of the bank. Absent an actual unremedied breach, the obligation or responsibility for breach of warranties or representations, express or implied, of a person transferring negotiable or non-negotiable paper to a bank without recourse and without guaranty of payment, shall not be included in determining the amount of liabilities of the person to the bank for borrowed money or otherwise; and in the event of and to the extent of an unremedied breach, the amount remaining unpaid for principal and interest on the paper in respect of which the unremedied breach exists shall thereafter for the purpose of determining whether subsequent transactions giving rise to additional liability of the person to the state bank for borrowed money or otherwise are within the limitations of Sections 32 through 34 of this Act, be included in computing the amount of liabilities of the person for borrowed money or otherwise.

The liability of a person to a state bank on account of acceptances made or issued by the state bank on behalf of the person shall be included in the computation of the total liabilities of the person for money borrowed except to the extent the acceptances grow out of transactions of the character described in subsection (6) of Section 34 of this Act and are otherwise within the limitations of that subsection; provided nevertheless that any such excepted acceptances acquired by the state bank which accepted the same shall be included in the computation of the liabilities of the person to the state bank for money borrowed.

The Secretary may adopt rules to address the funding by banks of any loan commitment, when such funding would involve additional extensions of credit to be made after the unimpaired capital and unimpaired surplus of the bank have decreased and the Secretary determines that such decrease in unimpaired capital and unimpaired surplus would cause the additional extensions of credit to result in an unsafe and unsound condition.

(Source: P.A. 92-336, eff. 8-10-01; 92-573, eff. 6-26-02.); and

on page 33, by replacing lines 11 and 12 with the following:  
"this Act, any order of the Commissioner, or any other action"; and

on page 47, line 25, by replacing "and 10-1" with "10-1, and 11-1"; and

on page 81, immediately below line 18, by inserting the following:

"(205 ILCS 105/11-1) (from Ch. 17, par. 3311-1)

Sec. 11-1. Offenses and penalties. Any person who violates the provisions of Sections 3-9, 3-10, 5-11 or 5-12 (b) of this Act is guilty of a Business Offense.

The Commissioner, in addition to any other powers granted in this Act, shall have the power and authority to impose civil penalties of up to \$100,000 against any person for each violation of any provision of this Act, any rule promulgated in accordance with this Act, any order of the Commissioner, or any other action that in the Commissioner's discretion is an unsafe or unsound banking practice.

(Source: P.A. 86-137.); and

on page 81, line 20, by replacing "and 9004," with "9004, and 11006,"; and

on page 82, line 3, by replacing "of Banks and Real Estate" with "~~of Banks and Real Estate~~"; and

on page 97, line 2, by replacing "the hearing" with "a hearing"; and

on page 109, line 24, by replacing "the savings" with "such savings"; and

on page 113, immediately below line 8, by inserting the following:

"(205 ILCS 205/11006) (from Ch. 17, par. 7311-6)

Sec. 11006. Civil penalties. The Commissioner, in addition to any other powers granted in this Act, shall have the power and authority to:

(1) Impose civil penalties of up to ~~\$100,000~~ ~~\$10,000~~ against any person for each violation of any provision of this Act, any rule promulgated in accordance with this Act, any order of the Commissioner, or any other action that in the Commissioner's discretion, is an unsafe or unsound

banking practice.

(2) Impose civil penalties of up to \$100 against any person for the first failure to comply with reporting requirements set forth in the report of examination of the bank and up to \$200 for the second and subsequent failures to comply with those reporting requirements. (Source: P.A. 86-1213.); and

on page 114, immediately below line 2, by inserting the following:

"(2.5) To order restitution to consumers suffering damages resulting from violations of this Act, rules promulgated in accordance with this Act, or other laws or regulations related to the operation of a pawnshop."; and

on page 116, by replacing lines 20 and 21 with the following:

"officer, director, employee, or agent of the pawnshop who engages in or has engaged in unlawful activities that relate to the operation of a pawnshop."; and

on page 116, line 24, by replacing "establish" with "established"; and

by replacing line 13 on page 120 through line 4 on page 122 with the following:

"(205 ILCS 510/5.5 new)

Sec. 5.5. Replacement of articles or property; insurance. In the event that any articles or property pledged are lost or rendered inoperable the pawnbroker shall replace the articles or property with identical articles or property, except that if the pawnbroker cannot reasonably obtain identical articles or property, the pawnbroker shall replace the articles or property with like articles or property.

No pawnbroker shall conduct business in this State, unless the pawnbroker maintains insurance coverage covering all hazards equal to at least 2 times the aggregate value of the outstanding loans for items held in pawn. Such insurance shall be obtained from an insurance company authorized to do business in Illinois

The pawnbroker shall file a copy of proof of insurance coverage with the Secretary. A pawnbroker or an insurance company shall not cancel the insurance coverage except upon notice to the Secretary by certified mail, return receipt requested. The cancellation is not effective prior to 30 days after the Secretary receives the notice."

#### **AMENDMENT NO. 2 TO SENATE BILL 2996**

AMENDMENT NO. 2. Amend Senate Bill 2996 as follows:

on page 113, line 10, by replacing "Section 5.5" with "Sections 5.5 and 12"; and

on page 122, immediately above line 5, by inserting the following:

"(205 ILCS 510/12 new)

Sec. 12. Hold order.

(a) For the purposes of this Section "hold order" means a written legal instrument issued to a pawnbroker by a law enforcement officer commissioned by the law enforcement agency of the municipality or county that licenses and regulates the pawnbroker, ordering the pawnbroker to retain physical possession of pledged goods in the possession of the pawnbroker or property purchased by and in the possession of the pawnbroker and not to return, sell, or otherwise dispose of such property as such property is believed to be misappropriated goods.

(b) Upon written notice from a law enforcement officer indicating that property in the possession of a pawnbroker and subject to a hold order is needed for the purpose of furthering a criminal investigation and prosecution, the pawnbroker shall release the property subject to the hold order to the custody of the law enforcement officer for such purpose and the officer shall provide a written acknowledgment that the property has been released to the officer. The release of the property to the custody of the law enforcement officer shall not be considered a waiver or release of the pawnbroker's property rights or interest in the property. Upon completion of the criminal investigation, the property shall be returned to the pawnbroker who consented to its release; except that, if the law enforcement officer has not completed the criminal investigation within 120 days after its release, the officer shall immediately return the property to the pawnbroker or obtain and furnish to the pawnbroker a warrant for the continued custody of the property.

The pawnbroker shall not release or dispose of the property except pursuant to a court order or the expiration of the holding period of the hold order, including all extensions.

[May 3, 2010]

In cases where criminal charges have been filed and the property may be needed as evidence, the prosecuting attorney shall notify the pawnbroker in writing. The notice shall contain the case number, the style of the case, and a description of the property. The pawnbroker shall hold such property until receiving notice of the disposition of the case from the prosecuting attorney. The prosecuting attorney shall notify the pawnbroker and claimant in writing within 15 days after the disposition of the case."

Under the rules, the foregoing **Senate Bill No. 2996**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 3616

A bill for AN ACT concerning transportation.

SENATE BILL NO. 3732

A bill for AN ACT concerning transportation.

Passed the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4580

A bill for AN ACT concerning transportation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 4580

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4860

A bill for AN ACT concerning transportation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 4860

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4974

A bill for AN ACT concerning professional regulation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 4974

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

[May 3, 2010]

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:  
HOUSE BILL 5040

A bill for AN ACT concerning safety.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5040

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 5053

A bill for AN ACT concerning education.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5053

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 5161

A bill for AN ACT concerning civil law.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5161

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 5206

A bill for AN ACT concerning elections.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5206

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 5219

A bill for AN ACT concerning public aid.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5219

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

[May 3, 2010]

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 5223

A bill for AN ACT concerning aging.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5223

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 5357

A bill for AN ACT concerning State government.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5357

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 5448

A bill for AN ACT concerning child support.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5448

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 5527

A bill for AN ACT concerning insurance.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5527

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 5863

A bill for AN ACT concerning education.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5863

Concurred in by the House, May 3, 2010.

[May 3, 2010]

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 5998

A bill for AN ACT concerning regulation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5998

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 6022

A bill for AN ACT concerning revenue.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 6022

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 6030

A bill for AN ACT concerning finance.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 6030

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 6065

A bill for AN ACT concerning education.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 6065

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 6079

A bill for AN ACT concerning education.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 6079

Concurred in by the House, May 3, 2010.

[May 3, 2010]

MARK MAHONEY, Clerk of the House

A message from the House by  
Mr. Mahoney, Clerk:  
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 6208

A bill for AN ACT concerning utilities.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 6208

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by  
Mr. Mahoney, Clerk:  
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 6271

A bill for AN ACT concerning State government.

Which amendment is as follows:

Senate Amendment No. 2 to HOUSE BILL NO. 6271

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by  
Mr. Mahoney, Clerk:  
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 6415

A bill for AN ACT concerning regulation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 6415

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

A message from the House by  
Mr. Mahoney, Clerk:  
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 6464

A bill for AN ACT concerning criminal law.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 6464

Concurred in by the House, May 3, 2010.

MARK MAHONEY, Clerk of the House

### LEGISLATIVE MEASURES FILED

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 2 to House Bill 4815

Senate Floor Amendment No. 1 to House Bill 5677

[May 3, 2010]

### JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendment 1 to Senate Bill 380  
 Motion to Concur in House Amendments 1 and 2 to Senate Bill 2556  
 Motion to Concur in House Amendment 1 to Senate Bill 2602  
 Motion to Concur in House Amendments 1 and 2 to Senate Bill 2996  
 Motion to Concur in House Amendment 1 to Senate Bill 3094  
 Motion to Concur in House Amendment 1 to Senate Bill 3628

### HOUSE BILL RECALLED

On motion of Senator Dillard, **House Bill No. 5640** was recalled from the order of third reading to the order of second reading.

Senator Dillard offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2 TO HOUSE BILL 5640

AMENDMENT NO. 2. Amend House Bill 5640, AS AMENDED, by replacing everything after the enacting clause with the following:

"Article 1.

Section 5. The Criminal Code of 1961 is amended by adding headings for Subdivisions 1, 5, 10, 15, 20, and 25 of Article 12, by adding Section 12-0.1, by changing Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-3.3, 12-4.5, 12-5, 12-5.1, 12-5.2, 12-5.5, 12-6, 12-6.2, 12-6.4, 12-7, 12-7.1, 12-7.3, 12-7.4, 12-7.5, 12-7.6, 12-9, 12-10.2, 12-20, 12-20.5, 12-32, 12-33, 12-34, and 12-35, and by changing and renumbering Sections 12-2.5, 12-2.6, 12-4, 12-5.15, 12-6.1, 12-6.3, 12-16.2, 12-30, 12-31, 45-1, and 45-2 as follows:

(720 ILCS 5/Art. 12, Subdiv. 1 heading new)

#### SUBDIVISION 1. DEFINITIONS

(720 ILCS 5/12-0.1 new)

Sec. 12-0.1. Definitions. In this Article, unless the context clearly requires otherwise:

"Bona fide labor dispute" means any controversy concerning wages, salaries, hours, working conditions, or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the making or maintaining of collective bargaining agreements, and the terms to be included in those agreements.

"Coach" means a person recognized as a coach by the sanctioning authority that conducts an athletic contest.

"Correctional institution employee" means a person employed by a penal institution.

"Emergency medical technician" includes a paramedic, ambulance driver, first aid worker, hospital worker, or other medical assistance worker.

"Family or household members" include spouses, former spouses, parents, children, stepchildren, and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, persons with disabilities and their personal assistants, and caregivers as defined in Section 12-4.4a of this Code. For purposes of this Article, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship.

"In the presence of a child" means in the physical presence of a child or knowing or having reason to know that a child is present and may see or hear an act constituting an offense.

"Park district employee" means a supervisor, director, instructor, or other person employed by a park

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district.

"Physically handicapped person" means a person who suffers from a permanent and disabling physical characteristic, resulting from disease, injury, functional disorder, or congenital condition.

"Private security officer" means a registered employee of a private security contractor agency under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.

"Sports official" means a person at an athletic contest who enforces the rules of the contest, such as an umpire or referee.

"Sports venue" means a publicly or privately owned sports or entertainment arena, stadium, community or convention hall, special event center, or amusement facility, or a special event center in a public park, during the 12 hours before or after the sanctioned sporting event.

"Streetgang", "streetgang member", and "criminal street gang" have the meanings ascribed to those terms in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

"Transit employee" means a driver, operator, or employee of any transportation facility or system engaged in the business of transporting the public for hire.

"Transit passenger" means a passenger of any transportation facility or system engaged in the business of transporting the public for hire, including a passenger using any area designated by a transportation facility or system as a vehicle boarding, departure, or transfer location.

"Utility worker" means any of the following:

(1) A person employed by a public utility as defined in Section 3-105 of the Public Utilities Act.

(2) An employee of a municipally owned utility.

(3) An employee of a cable television company.

(4) An employee of an electric cooperative as defined in Section 3-119 of the Public Utilities Act.

(5) An independent contractor or an employee of an independent contractor working on behalf of a cable television company, public utility, municipally owned utility, or electric cooperative.

(6) An employee of a telecommunications carrier as defined in Section 13-202 of the Public Utilities Act, or an independent contractor or an employee of an independent contractor working on behalf of a telecommunications carrier.

(7) An employee of a telephone or telecommunications cooperative as defined in Section 13-212 of the Public Utilities Act, or an independent contractor or an employee of an independent contractor working on behalf of a telephone or telecommunications cooperative.

(720 ILCS 5/Art. 12, Subdiv. 5 heading new)

#### SUBDIVISION 5. ASSAULT AND BATTERY

(720 ILCS 5/12-1) (from Ch. 38, par. 12-1)

Sec. 12-1. Assault.

(a) A person commits an assault when, without lawful authority, he or she knowingly engages in conduct which places another in reasonable apprehension of receiving a battery.

(b) Sentence. Assault is a Class C misdemeanor.

(c) In addition to any other sentence that may be imposed, a court shall order any person convicted of assault to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. In addition, whenever any person is placed on supervision for an alleged offense under this Section, the supervision shall be conditioned upon the performance of the community service.

This subsection does not apply when the court imposes a sentence of incarceration.

(Source: P.A. 88-558, eff. 1-1-95; 89-8, eff. 3-21-95.)

(720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

Sec. 12-2. Aggravated assault.

(a) Offense based on location of conduct. A person commits aggravated assault when he or she commits an assault against an individual who is on or about a public way, public property, a public place of accommodation or amusement, or a sports venue.

(b) Offense based on status of victim. A person commits aggravated assault when, in committing an assault, he or she knows the individual assaulted to be any of the following:

(1) A physically handicapped person or a person 60 years of age or older and the assault is without legal justification.

(2) A teacher or school employee upon school grounds or grounds adjacent to a school or in any part of a building used for school purposes.

(3) A park district employee upon park grounds or grounds adjacent to a park or in any part of a building used for park purposes.

(4) A peace officer, community policing volunteer, fireman, private security officer, emergency management worker, emergency medical technician, or utility worker:

- (i) performing his or her official duties;
- (ii) assaulted to prevent performance of his or her official duties; or
- (iii) assaulted in retaliation for performing his or her official duties.

(5) A correctional officer:

- (i) performing his or her official duties;
- (ii) assaulted to prevent performance of his or her official duties; or
- (iii) assaulted in retaliation for performing his or her official duties.

(6) A correctional institution employee or Department of Human Services employee supervising or controlling sexually dangerous persons or sexually violent persons:

- (i) performing his or her official duties;
- (ii) assaulted to prevent performance of his or her official duties; or
- (iii) assaulted in retaliation for performing his or her official duties.

(7) An employee of the State of Illinois, a municipal corporation therein, or a political subdivision thereof, performing his or her official duties.

(8) A transit employee performing his or her official duties, or a transit passenger.

(9) A sports official or coach actively participating in any level of athletic competition within a sports venue, on an indoor playing field or outdoor playing field, or within the immediate vicinity of such a facility or field.

(c) Offense based on use of firearm or device. A person commits aggravated assault when, in committing an assault, he or she does any of the following:

(1) Uses a deadly weapon or any device manufactured and designed to be substantially similar in appearance to a firearm, other than by discharging a firearm.

(2) Discharges a firearm, other than from a motor vehicle.

(3) Discharges a firearm from a motor vehicle.

(4) Wears a hood, robe, or mask to conceal his or her identity.

(5) Knowingly and without lawful justification shines or flashes a laser gun sight or other laser device attached to a firearm, or used in concert with a firearm, so that the laser beam strikes near or in the immediate vicinity of any person.

(6) Uses a firearm, other than by discharging the firearm, against a peace officer, community policing volunteer, fireman, private security officer, emergency management worker, emergency medical technician, employee of a police department, employee of a sheriff's department, or traffic control municipal employee:

(i) performing his or her official duties;

(ii) assaulted to prevent performance of his or her official duties; or

(iii) assaulted in retaliation for performing his or her official duties.

(d) Sentence. Aggravated assault as defined in subdivision (a), (b)(1), (b)(2), (b)(3), (b)(4), (b)(7), (b)(8), (b)(9), (c)(1), or (c)(4) is a Class A misdemeanor. Aggravated assault as defined in subdivision (b)(5), (b)(6), (c)(2), (c)(5), or (c)(6) is a Class 4 felony. Aggravated assault as defined in subdivision (c)(3) is a Class 3 felony.

(a) A person commits an aggravated assault, when, in committing an assault, he:

(1) Uses a deadly weapon, an air rifle as defined in the Air Rifle Act, or any device manufactured and designed to be substantially similar in appearance to a firearm, other than by discharging a firearm in the direction of another person, a peace officer, a person summoned or directed by a peace officer, a correctional officer, a private security officer, or a fireman or in the direction of a vehicle occupied by another person, a peace officer, a person summoned or directed by a peace officer, a correctional officer, a private security officer, or a fireman while the officer or fireman is engaged in the execution of any of his official duties, or to prevent the officer or fireman from performing his official duties, or in retaliation for the officer or fireman performing his official duties;

(2) Is hooded, robed or masked in such manner as to conceal his identity or any device manufactured and designed to be substantially similar in appearance to a firearm;

(3) Knows the individual assaulted to be a teacher or other person employed in any school and such teacher or other employee is upon the grounds of a school or grounds adjacent thereto, or is in any part of a building used for school purposes;

(4) Knows the individual assaulted to be a supervisor, director, instructor or other person employed in any park district and such supervisor, director, instructor or other employee is upon the grounds of the park or grounds adjacent thereto, or is in any part of a building used for park purposes;

(5) Knows the individual assaulted to be a caseworker, investigator, or other person employed by

the Department of Healthcare and Family Services (formerly State Department of Public Aid), a County Department of Public Aid, or the Department of Human Services (acting as successor to the Illinois Department of Public Aid under the Department of Human Services Act) and such caseworker, investigator, or other person is upon the grounds of a public aid office or grounds adjacent thereto, or is in any part of a building used for public aid purposes, or upon the grounds of a home of a public aid applicant, recipient or any other person being interviewed or investigated in the employee's discharge of his duties, or on grounds adjacent thereto, or is in any part of a building in which the applicant, recipient, or other such person resides or is located;

(6) Knows the individual assaulted to be a peace officer, a community policing volunteer, a private security officer, or a fireman while the officer or fireman is engaged in the execution of any of his official duties, or to prevent the officer, community policing volunteer, or fireman from performing his official duties, or in retaliation for the officer, community policing volunteer, or fireman performing his official duties, and the assault is committed other than by the discharge of a firearm in the direction of the officer or fireman or in the direction of a vehicle occupied by the officer or fireman;

(7) Knows the individual assaulted to be an emergency medical technician—ambulance, emergency medical technician—intermediate, emergency medical technician—paramedic, ambulance driver or other medical assistance or first aid personnel engaged in the execution of any of his official duties, or to prevent the emergency medical technician—ambulance, emergency medical technician—intermediate, emergency medical technician—paramedic, ambulance driver, or other medical assistance or first aid personnel from performing his official duties, or in retaliation for the emergency medical technician—ambulance, emergency medical technician—intermediate, emergency medical technician—paramedic, ambulance driver, or other medical assistance or first aid personnel performing his official duties;

(8) Knows the individual assaulted to be the driver, operator, employee or passenger of any transportation facility or system engaged in the business of transportation of the public for hire and the individual assaulted is then performing in such capacity or then using such public transportation as a passenger or using any area of any description designated by the transportation facility or system as a vehicle boarding, departure, or transfer location;

(9) Or the individual assaulted is on or about a public way, public property, or public place of accommodation or amusement;

(9.5) Is, or the individual assaulted is, in or about a publicly or privately owned sports or entertainment arena, stadium, community or convention hall, special event center, amusement facility, or a special event center in a public park during any 24 hour period when a professional sporting event, National Collegiate Athletic Association (NCAA) sanctioned sporting event, United States Olympic Committee sanctioned sporting event, or International Olympic Committee sanctioned sporting event is taking place in this venue;

(10) Knows the individual assaulted to be an employee of the State of Illinois, a municipal corporation therein or a political subdivision thereof, engaged in the performance of his authorized duties as such employee;

(11) Knowingly and without legal justification, commits an assault on a physically handicapped person;

(12) Knowingly and without legal justification, commits an assault on a person 60 years of age or older;

(13) Discharges a firearm, other than from a motor vehicle;

(13.5) Discharges a firearm from a motor vehicle;

(14) Knows the individual assaulted to be a correctional officer, while the officer is engaged in the execution of any of his or her official duties, or to prevent the officer from performing his or her official duties, or in retaliation for the officer performing his or her official duties;

(15) Knows the individual assaulted to be a correctional employee or an employee of the Department of Human Services supervising or controlling sexually dangerous persons or sexually violent persons, while the employee is engaged in the execution of any of his or her official duties, or to prevent the employee from performing his or her official duties, or in retaliation for the employee performing his or her official duties, and the assault is committed other than by the discharge of a firearm in the direction of the employee or in the direction of a vehicle occupied by the employee;

(16) Knows the individual assaulted to be an employee of a police or sheriff's department, or a person who is employed by a municipality and whose duties include traffic control, engaged in the performance of his or her official duties as such employee;

(17) Knows the individual assaulted to be a sports official or coach at any level of competition and the act causing the assault to the sports official or coach occurred within an athletic facility or an indoor or outdoor playing field or within the immediate vicinity of the athletic facility or an indoor or outdoor

playing field at which the sports official or coach was an active participant in the athletic contest held at the athletic facility. For the purposes of this paragraph (17), "sports official" means a person at an athletic contest who enforces the rules of the contest, such as an umpire or referee; and "coach" means a person recognized as a coach by the sanctioning authority that conducted the athletic contest;

(18) Knows the individual assaulted to be an emergency management worker, while the emergency management worker is engaged in the execution of any of his or her official duties, or to prevent the emergency management worker from performing his or her official duties, or in retaliation for the emergency management worker performing his or her official duties, and the assault is committed other than by the discharge of a firearm in the direction of the emergency management worker or in the direction of a vehicle occupied by the emergency management worker; or

(19) Knows the individual assaulted to be a utility worker, while the utility worker is engaged in the execution of his or her duties, or to prevent the utility worker from performing his or her duties, or in retaliation for the utility worker performing his or her duties. In this paragraph (19), "utility worker" means a person employed by a public utility as defined in Section 3-105 of the Public Utilities Act and also includes an employee of a municipally owned utility, an employee of a cable television company, an employee of an electric cooperative as defined in Section 3-119 of the Public Utilities Act, an independent contractor or an employee of an independent contractor working on behalf of a cable television company, public utility, municipally owned utility, or an electric cooperative, or an employee of a telecommunications carrier as defined in Section 13-202 of the Public Utilities Act, an independent contractor or an employee of an independent contractor working on behalf of a telecommunications carrier, or an employee of a telephone or telecommunications cooperative as defined in Section 13-212 of the Public Utilities Act, or an independent contractor or an employee of an independent contractor working on behalf of a telephone or telecommunications cooperative.

(a 5) A person commits an aggravated assault when he or she knowingly and without lawful justification shines or flashes a laser gunsight or other laser device that is attached or affixed to a firearm, or used in concert with a firearm, so that the laser beam strikes near or in the immediate vicinity of any person.

(b) Sentence.

Aggravated assault as defined in paragraphs (1) through (5) and (8) through (12) and (17) and (19) of subsection (a) of this Section is a Class A misdemeanor. Aggravated assault as defined in paragraphs (13), (14), and (15) of subsection (a) of this Section and as defined in subsection (a 5) of this Section is a Class 4 felony. Aggravated assault as defined in paragraphs (6), (7), (16), and (18) of subsection (a) of this Section is a Class A misdemeanor if a firearm is not used in the commission of the assault. Aggravated assault as defined in paragraphs (6), (7), (16), and (18) of subsection (a) of this Section is a Class 4 felony if a firearm is used in the commission of the assault. Aggravated assault as defined in paragraph (13.5) of subsection (a) is a Class 3 felony.

(c) For the purposes of paragraphs (1) and (6) of subsection (a), "private security officer" means a registered employee of a private security contractor agency under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.

(Source: P.A. 95-236, eff. 1-1-08; 95-292, eff. 8-20-07; 95-331, eff. 8-21-07; 95-429, eff. 1-1-08; 95-591, eff. 9-10-07; 95-876, eff. 8-21-08; 96-201, eff. 8-10-09; revised 11-4-09.)

(720 ILCS 5/12-3) (from Ch. 38, par. 12-3)

Sec. 12-3. Battery.

(a) A person commits battery if he or she intentionally or knowingly without legal justification and by any means, (1) causes bodily harm to an individual or (2) makes physical contact of an insulting or provoking nature with an individual.

(b) Sentence.

Battery is a Class A misdemeanor.

(Source: P.A. 77-2638.)

(720 ILCS 5/12-3.05) (was 720 ILCS 5/12-4)

Sec. 12-3.05 12-4. Aggravated battery ~~Battery~~.

(a) Offense based on injury. A person commits aggravated battery when, in committing a battery, other than by the discharge of a firearm, he or she knowingly does any of the following:

(1) Causes great bodily harm or permanent disability or disfigurement.

(2) Causes severe and permanent disability, great bodily harm, or disfigurement by means of a caustic or flammable substance, a poisonous gas, a deadly biological or chemical contaminant or agent, a radioactive substance, or a bomb or explosive compound.

(3) Causes great bodily harm or permanent disability or disfigurement to an individual whom the person knows to be a peace officer, community policing volunteer, fireman, private security officer,

correctional institution employee, or Department of Human Services employee supervising or controlling sexually dangerous persons or sexually violent persons:

- (i) performing his or her official duties;
- (ii) battered to prevent performance of his or her official duties; or
- (iii) battered in retaliation for performing his or her official duties.

(4) Causes great bodily harm or permanent disability or disfigurement to an individual 60 years of age or older.

(b) Offense based on injury to a child or mentally retarded person. A person who is at least 18 years of age commits aggravated battery when, in committing a battery, he or she knowingly and without legal justification by any means:

(1) causes great bodily harm or permanent disability or disfigurement to any child under the age of 13 years, or to any severely or profoundly mentally retarded person; or

(2) causes bodily harm or disability or disfigurement to any child under the age of 13 years or to any severely or profoundly mentally retarded person.

(c) Offense based on location of conduct. A person commits aggravated battery when, in committing a battery, other than by the discharge of a firearm, he or she is or the person battered is on or about a public way, public property, a public place of accommodation or amusement, a sports venue, or a domestic violence shelter.

(d) Offense based on status of victim. A person commits aggravated battery when, in committing a battery, other than by discharge of a firearm, he or she knows the individual battered to be any of the following:

(1) A person 60 years of age or older.

(2) A person who is pregnant or physically handicapped.

(3) A teacher or school employee upon school grounds or grounds adjacent to a school or in any part of a building used for school purposes.

(4) A peace officer, community policing volunteer, fireman, private security officer, correctional institution employee, or Department of Human Services employee supervising or controlling sexually dangerous persons or sexually violent persons:

- (i) performing his or her official duties;
- (ii) battered to prevent performance of his or her official duties; or
- (iii) battered in retaliation for performing his or her official duties.

(5) A judge, emergency management worker, emergency medical technician, or utility worker:

- (i) performing his or her official duties;
- (ii) battered to prevent performance of his or her official duties; or
- (iii) battered in retaliation for performing his or her official duties.

(6) An officer or employee of the State of Illinois, a unit of local government, or a school district, while performing his or her official duties.

(7) A transit employee performing his or her official duties, or a transit passenger.

(8) A taxi driver on duty.

(9) A merchant who detains the person for an alleged commission of retail theft under Section 16A-5 of this Code and the person without legal justification by any means causes bodily harm to the merchant.

(e) Offense based on use of a firearm. A person commits aggravated battery when, in committing a battery, he or she knowingly does any of the following:

(1) Discharges a firearm, other than a machine gun or a firearm equipped with a silencer, and causes any injury to another person.

(2) Discharges a firearm, other than a machine gun or a firearm equipped with a silencer, and causes any injury to a person he or she knows to be a peace officer, community policing volunteer, person summoned by a police officer, fireman, private security officer, correctional institution employee, or emergency management worker:

- (i) performing his or her official duties;
- (ii) battered to prevent performance of his or her official duties; or
- (iii) battered in retaliation for performing his or her official duties.

(3) Discharges a firearm, other than a machine gun or a firearm equipped with a silencer, and causes any injury to a person he or she knows to be an emergency medical technician employed by a municipality or other governmental unit:

- (i) performing his or her official duties;
- (ii) battered to prevent performance of his or her official duties; or
- (iii) battered in retaliation for performing his or her official duties.

(4) Discharges a firearm and causes any injury to a person he or she knows to be a teacher or school employee upon school grounds or grounds adjacent to a school or in any part of a building used for school purposes.

(5) Discharges a machine gun or a firearm equipped with a silencer, and causes any injury to another person.

(6) Discharges a machine gun or a firearm equipped with a silencer, and causes any injury to a person he or she knows to be a peace officer, community policing volunteer, person summoned by a police officer, fireman, private security officer, correctional institution employee or emergency management worker:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(7) Discharges a machine gun or a firearm equipped with a silencer, and causes any injury to a person he or she knows to be an emergency medical technician employed by a municipality or other governmental unit:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(8) Discharges a machine gun or a firearm equipped with a silencer, and causes any injury to a person he or she knows to be a teacher or school employee upon school grounds or grounds adjacent to a school or in any part of a building used for school purposes.

(f) Offense based on use of a weapon or device. A person commits aggravated battery when, in committing a battery, he or she does any of the following:

(1) Uses a deadly weapon other than by discharge of a firearm.

(2) Wears a hood, robe, or mask to conceal his or her identity.

(3) Knowingly and without lawful justification shines or flashes a laser gunsight or other laser device attached to a firearm, or used in concert with a firearm, so that the laser beam strikes upon or against the person of another.

(g) Offense based on certain conduct. A person commits aggravated battery when, other than by discharge of a firearm, he or she does any of the following:

(1) Violates Section 401 of the Illinois Controlled Substances Act by unlawfully delivering a controlled substance to another and any user experiences great bodily harm or permanent disability as a result of the injection, inhalation, or ingestion of any amount of the controlled substance.

(2) Knowingly administers to an individual or causes him or her to take, without his or her consent or by threat or deception, and for other than medical purposes, any intoxicating, poisonous, stupefying, narcotic, anesthetic, or controlled substance, or gives to another person any food containing any substance or object intended to cause physical injury if eaten.

(3) Knowingly causes or attempts to cause a correctional institution employee or Department of Human Services employee to come into contact with blood, seminal fluid, urine, or feces by throwing, tossing, or expelling the fluid or material, and the person is an inmate of a penal institution or is a sexually dangerous person or sexually violent person in the custody of the Department of Human Services.

(h) Sentence. Unless otherwise provided, aggravated battery is a Class 3 felony.

Aggravated battery as defined in subdivision (a)(4), (d)(4), or (g)(3) is a Class 2 felony.

Aggravated battery as defined in subdivision (a)(3) or (g)(1) is a Class 1 felony.

Aggravated battery as defined in subdivision (e)(1) is a Class X felony.

Aggravated battery as defined in subdivision (a)(2) is a Class X felony for which a person shall be sentenced to a term of imprisonment of a minimum of 6 years and a maximum of 45 years.

Aggravated battery as defined in subdivision (e)(5) is a Class X felony for which a person shall be sentenced to a term of imprisonment of a minimum of 12 years and a maximum of 45 years.

Aggravated battery as defined in subdivision (e)(2), (e)(3), or (e)(4) is a Class X felony for which a person shall be sentenced to a term of imprisonment of a minimum of 15 years and a maximum of 60 years.

Aggravated battery as defined in subdivision (e)(6), (e)(7), or (e)(8) is a Class X felony for which a person shall be sentenced to a term of imprisonment of a minimum of 20 years and a maximum of 60 years.

Aggravated battery as defined in subdivision (b)(1) is a Class X felony, except that:

(1) if the person committed the offense while armed with a firearm, 15 years shall be added to the term of imprisonment imposed by the court;

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(2) if, during the commission of the offense, the person personally discharged a firearm, 20 years shall be added to the term of imprisonment imposed by the court;

(3) if, during the commission of the offense, the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person, 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.

(i) Definitions. For the purposes of this Section:

"Building or other structure used to provide shelter" has the meaning ascribed to "shelter" in Section 1 of the Domestic Violence Shelters Act.

"Domestic violence shelter" means any building or other structure used to provide shelter or other services to victims or to the dependent children of victims of domestic violence pursuant to the Illinois Domestic Violence Act of 1986 or the Domestic Violence Shelters Act, or any place within 500 feet of such a building or other structure in the case of a person who is going to or from such a building or other structure.

"Domestic violence" has the meaning ascribed to it in Section 103 of the Illinois Domestic Violence Act of 1986.

"Machine gun" has the meaning ascribed to it in Section 24-1 of this Code.

"Merchant" has the meaning ascribed to it in Section 16A-2.4 of this Code.

(a) A person who, in committing a battery, intentionally or knowingly causes great bodily harm, or permanent disability or disfigurement commits aggravated battery.

(b) In committing a battery, a person commits aggravated battery if he or she:

(1) Uses a deadly weapon other than by the discharge of a firearm;

(2) Is hooded, robed or masked, in such manner as to conceal his identity;

(3) Knows the individual harmed to be a teacher or other person employed in any school and such teacher or other employee is upon the grounds of a school or grounds adjacent thereto, or is in any part of a building used for school purposes;

(4) (Blank);

(5) (Blank);

(6) Knows the individual harmed to be a community policing volunteer while such volunteer is engaged in the execution of any official duties, or to prevent the volunteer from performing official duties, or in retaliation for the volunteer performing official duties, and the battery is committed other than by the discharge of a firearm;

(7) Knows the individual harmed to be an emergency medical technician—ambulance, emergency medical technician—intermediate, emergency medical technician—paramedic, ambulance driver, other medical assistance, first aid personnel, or hospital personnel engaged in the performance of any of his or her official duties, or to prevent the emergency medical technician—ambulance, emergency medical technician—intermediate, emergency medical technician—paramedic, ambulance driver, other medical assistance, first aid personnel, or hospital personnel from performing official duties, or in retaliation for performing official duties;

(8) Is, or the person battered is, on or about a public way, public property or public place of accommodation or amusement;

(8.5) Is, or the person battered is, on a publicly or privately owned sports or entertainment arena, stadium, community or convention hall, special event center, amusement facility, or a special event center in a public park during any 24-hour period when a professional sporting event, National Collegiate Athletic Association (NCAA) sanctioned sporting event, United States Olympic Committee sanctioned sporting event, or International Olympic Committee sanctioned sporting event is taking place in this venue;

(9) Knows the individual harmed to be the driver, operator, employee or passenger of any transportation facility or system engaged in the business of transportation of the public for hire and the individual assaulted is then performing in such capacity or then using such public transportation as a passenger or using any area of any description designated by the transportation facility or system as a vehicle boarding, departure, or transfer location;

(10) Knows the individual harmed to be an individual of 60 years of age or older;

(11) Knows the individual harmed is pregnant;

(12) Knows the individual harmed to be a judge whom the person intended to harm as a result of the judge's performance of his or her official duties as a judge;

(13) (Blank);

(14) Knows the individual harmed to be a person who is physically handicapped;

(15) Knowingly and without legal justification and by any means causes bodily harm to a merchant

who detains the person for an alleged commission of retail theft under Section 16A-5 of this Code. In this item (15), "merchant" has the meaning ascribed to it in Section 16A-2.4 of this Code;

(16) Is, or the person battered is, in any building or other structure used to provide shelter or other services to victims or to the dependent children of victims of domestic violence pursuant to the Illinois Domestic Violence Act of 1986 or the Domestic Violence Shelters Act, or the person battered is within 500 feet of such a building or other structure while going to or from such a building or other structure. "Domestic violence" has the meaning ascribed to it in Section 103 of the Illinois Domestic Violence Act of 1986. "Building or other structure used to provide shelter" has the meaning ascribed to "shelter" in Section 1 of the Domestic Violence Shelters Act;

(17) (Blank);

(18) Knows the individual harmed to be an officer or employee of the State of Illinois, a unit of local government, or school district engaged in the performance of his or her authorized duties as such officer or employee;

(19) Knows the individual harmed to be an emergency management worker engaged in the performance of any of his or her official duties, or to prevent the emergency management worker from performing official duties, or in retaliation for the emergency management worker performing official duties;

(20) Knows the individual harmed to be a private security officer engaged in the performance of any of his or her official duties, or to prevent the private security officer from performing official duties, or in retaliation for the private security officer performing official duties; or

(21) Knows the individual harmed to be a taxi driver and the battery is committed while the taxi driver is on duty; or

(22) Knows the individual harmed to be a utility worker, while the utility worker is engaged in the execution of his or her duties, or to prevent the utility worker from performing his or her duties, or in retaliation for the utility worker performing his or her duties. In this paragraph (22), "utility worker" means a person employed by a public utility as defined in Section 3-105 of the Public Utilities Act and also includes an employee of a municipally owned utility, an employee of a cable television company, an employee of an electric cooperative as defined in Section 3-119 of the Public Utilities Act, an independent contractor or an employee of an independent contractor working on behalf of a cable television company, public utility, municipally owned utility, or an electric cooperative, or an employee of a telecommunications carrier as defined in Section 13-202 of the Public Utilities Act, an independent contractor or an employee of an independent contractor working on behalf of a telecommunications carrier, or an employee of a telephone or telecommunications cooperative as defined in Section 13-212 of the Public Utilities Act, or an independent contractor or an employee of an independent contractor working on behalf of a telephone or telecommunications cooperative.

For the purpose of paragraph (14) of subsection (b) of this Section, a physically handicapped person is a person who suffers from a permanent and disabling physical characteristic, resulting from disease, injury, functional disorder or congenital condition.

For the purpose of paragraph (20) of subsection (b) and subsection (e) of this Section, "private security officer" means a registered employee of a private security contractor agency under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.

(c) A person who administers to an individual or causes him to take, without his consent or by threat or deception, and for other than medical purposes, any intoxicating, poisonous, stupefying, narcotic, anesthetic, or controlled substance commits aggravated battery.

(d) A person who knowingly gives to another person any food that contains any substance or object that is intended to cause physical injury if eaten, commits aggravated battery.

(d-3) A person commits aggravated battery when he or she knowingly and without lawful justification shines or flashes a laser gunsight or other laser device that is attached or affixed to a firearm, or used in concert with a firearm, so that the laser beam strikes upon or against the person of another.

(d-5) An inmate of a penal institution or a sexually dangerous person or a sexually violent person in the custody of the Department of Human Services who causes or attempts to cause a correctional employee of the penal institution or an employee of the Department of Human Services to come into contact with blood, seminal fluid, urine, or feces, by throwing, tossing, or expelling that fluid or material commits aggravated battery. For purposes of this subsection (d-5), "correctional employee" means a person who is employed by a penal institution.

(e) Sentence.

(1) Except as otherwise provided in paragraphs (2), (3), and (4) aggravated battery is a Class 3 felony.

(2) Aggravated battery that does not cause great bodily harm or permanent disability or

disfigurement is a Class 2 felony when the person knows the individual harmed to be a peace officer, a community policing volunteer, a private security officer, a correctional institution employee, an employee of the Department of Human Services supervising or controlling sexually dangerous persons or sexually violent persons, or a fireman while such officer, volunteer, employee, or fireman is engaged in the execution of any official duties including arrest or attempted arrest, or to prevent the officer, volunteer, employee, or fireman from performing official duties, or in retaliation for the officer, volunteer, employee, or fireman performing official duties, and the battery is committed other than by the discharge of a firearm.

(3) Aggravated battery that causes great bodily harm or permanent disability or disfigurement in violation of subsection (a) is a Class 1 felony when the person knows the individual harmed to be a peace officer, a community policing volunteer, a private security officer, a correctional institution employee, an employee of the Department of Human Services supervising or controlling sexually dangerous persons or sexually violent persons, or a fireman while such officer, volunteer, employee, or fireman is engaged in the execution of any official duties including arrest or attempted arrest, or to prevent the officer, volunteer, employee, or fireman from performing official duties, or in retaliation for the officer, volunteer, employee, or fireman performing official duties, and the battery is committed other than by the discharge of a firearm.

(4) Aggravated battery under subsection (d-5) is a Class 2 felony.

(Source: P.A. 94-243, eff. 1-1-06; 94-327, eff. 1-1-06; 94-333, eff. 7-26-05; 94-363, eff. 7-29-05; 94-482, eff. 1-1-06; 95-236, eff. 1-1-08; 95-256, eff. 1-1-08; 95-331, eff. 8-21-07; 95-429, eff. 1-1-08; 95-748, eff. 1-1-09; 95-876, eff. 8-21-08.)

(720 ILCS 5/12-3.1) (from Ch. 38, par. 12-3.1)

Sec. 12-3.1. Battery of an unborn child; aggravated battery of an unborn child ~~Unborn Child~~.

(a) A person commits battery of an unborn child if he or she intentionally or knowingly without legal justification and by any means causes bodily harm to an unborn child.

(a-5) A person commits aggravated battery of an unborn child when, in committing a battery of an unborn child, he or she knowingly causes great bodily harm or permanent disability or disfigurement to an unborn child.

(b) For purposes of this Section, (1) "unborn child" shall mean any individual of the human species from fertilization until birth, and (2) "person" shall not include the pregnant woman whose unborn child is harmed.

(c) Sentence. Battery of an unborn child is a Class A misdemeanor. Aggravated battery of an unborn child is a Class 2 felony.

(d) This Section shall not apply to acts which cause bodily harm to an unborn child if those acts were committed during any abortion, as defined in Section 2 of the Illinois Abortion Law of 1975, as amended, to which the pregnant woman has consented. This Section shall not apply to acts which were committed pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment.

(Source: P.A. 84-1414.)

(720 ILCS 5/12-3.2) (from Ch. 38, par. 12-3.2)

Sec. 12-3.2. Domestic battery ~~Battery~~.

(a) A person commits domestic battery if he or she intentionally or knowingly without legal justification by any means:

(1) Causes bodily harm to any family or household member ~~as defined in subsection (3) of Section 112A-3 of the Code of Criminal Procedure of 1963, as amended;~~

(2) Makes physical contact of an insulting or provoking nature with any family or household member ~~as defined in subsection (3) of Section 112A-3 of the Code of Criminal Procedure of 1963, as amended.~~

(b) Sentence. Domestic battery is a Class A misdemeanor. Domestic battery is a Class 4 felony if the defendant has any prior conviction under this Code for domestic battery (Section 12-3.2) or violation of an order of protection (Section 12-3.4 or 12-30), or any prior conviction under the law of another jurisdiction for an offense which is substantially similar. Domestic battery is a Class 4 felony if the defendant has any prior conviction under this Code for first degree murder (Section 9-1), attempt to commit first degree murder (Section 8-4), aggravated domestic battery (Section 12-3.3), aggravated battery (Section 12-3.05 or 12-4), heinous battery (Section 12-4.1), aggravated battery with a firearm (Section 12-4.2), aggravated battery with a machine gun or a firearm equipped with a silencer (Section 12-4.2-5), aggravated battery of a child (Section 12-4.3), aggravated battery of an unborn child (subsection (a-5) of Section 12-3.1, or Section 12-4.4), aggravated battery of a senior citizen (Section 12-4.6), stalking (Section 12-7.3), aggravated stalking (Section 12-7.4), criminal sexual assault (Section

12-13), aggravated criminal sexual assault (12-14), kidnapping (Section 10-1), aggravated kidnapping (Section 10-2), predatory criminal sexual assault of a child (Section 12-14.1), aggravated criminal sexual abuse (Section 12-16), unlawful restraint (Section 10-3), aggravated unlawful restraint (Section 10-3.1), aggravated arson (Section 20-1.1), or aggravated discharge of a firearm (Section 24-1.2), or any prior conviction under the law of another jurisdiction for any offense that is substantially similar to the offenses listed in this Section, when any of these offenses have been committed against a family or household member as defined in Section 112A-3 of the Code of Criminal Procedure of 1963. In addition to any other sentencing alternatives, for any second or subsequent conviction of violating this Section, the offender shall be mandatorily sentenced to a minimum of 72 consecutive hours of imprisonment. The imprisonment shall not be subject to suspension, nor shall the person be eligible for probation in order to reduce the sentence.

(c) Domestic battery committed in the presence of a child. In addition to any other sentencing alternatives, a defendant who commits, in the presence of a child, a felony domestic battery (enhanced under subsection (b)), aggravated domestic battery (Section 12-3.3), aggravated battery (Section 12-3.05 or 12-4), unlawful restraint (Section 10-3), or aggravated unlawful restraint (Section 10-3.1) against a family or household member ~~as defined in Section 112A-3 of the Code of Criminal Procedure of 1963,~~ shall be required to serve a mandatory minimum imprisonment of 10 days or perform 300 hours of community service, or both. The defendant shall further be liable for the cost of any counseling required for the child at the discretion of the court in accordance with subsection (b) of Section 5-5-6 of the Unified Code of Corrections. For purposes of this Section, "child" means a person under 18 years of age who is the defendant's or victim's child or step-child or who is a minor child residing within or visiting the household of the defendant or victim. ~~For purposes of this Section, "in the presence of a child" means in the physical presence of a child or knowing or having reason to know that a child is present and may see or hear an act constituting one of the offenses listed in this subsection.~~

(d) Upon conviction of domestic battery, the court shall advise the defendant orally or in writing, substantially as follows: "An individual convicted of domestic battery may be subject to federal criminal penalties for possessing, transporting, shipping, or receiving any firearm or ammunition in violation of the federal Gun Control Act of 1968 (18 U.S.C. 922(g)(8) and (9))." A notation shall be made in the court file that the admonition was given.

(Source: P.A. 96-287, eff. 8-11-09.)

(720 ILCS 5/12-3.3)

Sec. 12-3.3. Aggravated domestic battery.

(a) A person who, in committing a domestic battery, ~~intentionally or~~ knowingly causes great bodily harm, or permanent disability or disfigurement commits aggravated domestic battery.

(a-5) A person who, in committing a domestic battery, strangles another individual commits aggravated domestic battery. For the purposes of this subsection (a-5), "strangle" means intentionally impeding the normal breathing or circulation of the blood of an individual by applying pressure on the throat or neck of that individual or by blocking the nose or mouth of that individual.

(b) Sentence. Aggravated domestic battery is a Class 2 felony. Any order of probation or conditional discharge entered following a conviction for an offense under this Section must include, in addition to any other condition of probation or conditional discharge, a condition that the offender serve a mandatory term of imprisonment of not less than 60 consecutive days. A person convicted of a second or subsequent violation of this Section must be sentenced to a mandatory term of imprisonment of not less than 3 years and not more than 7 years or an extended term of imprisonment of not less than 7 years and not more than 14 years.

(c) Upon conviction of aggravated domestic battery, the court shall advise the defendant orally or in writing, substantially as follows: "An individual convicted of aggravated domestic battery may be subject to federal criminal penalties for possessing, transporting, shipping, or receiving any firearm or ammunition in violation of the federal Gun Control Act of 1968 (18 U.S.C. 922(g)(8) and (9))." A notation shall be made in the court file that the admonition was given.

(Source: P.A. 96-287, eff. 8-11-09; 96-363, eff. 8-13-09; revised 9-4-09.)

(720 ILCS 5/12-3.4) (was 720 ILCS 5/12-30)

Sec. ~~12-3.4~~ ~~42-30~~. Violation of an order of protection.

(a) A person commits violation of an order of protection if:

(1) He or she knowingly commits an act which was prohibited by a court or fails to commit an act which was ordered by a court in violation of:

(i) a remedy in a valid order of protection authorized under paragraphs (1), (2),

(3), (14), or (14.5) of subsection (b) of Section 214 of the Illinois Domestic Violence Act of 1986,

(ii) a remedy, which is substantially similar to the remedies authorized under

paragraphs (1), (2), (3), (14) or (14.5) of subsection (b) of Section 214 of the Illinois Domestic Violence Act of 1986, in a valid order of protection, which is authorized under the laws of another state, tribe or United States territory,

(iii) any other remedy when the act constitutes a crime against the protected parties as the term protected parties is defined in Section 112A-4 of the Code of Criminal Procedure of 1963; and

(2) Such violation occurs after the offender has been served notice of the contents of the order, pursuant to the Illinois Domestic Violence Act of 1986 or any substantially similar statute of another state, tribe or United States territory, or otherwise has acquired actual knowledge of the contents of the order.

An order of protection issued by a state, tribal or territorial court related to domestic or family violence shall be deemed valid if the issuing court had jurisdiction over the parties and matter under the law of the state, tribe or territory. There shall be a presumption of validity where an order is certified and appears authentic on its face. For purposes of this Section, an "order of protection" may have been issued in a criminal or civil proceeding.

(a-5) Failure to provide reasonable notice and opportunity to be heard shall be an affirmative defense to any charge or process filed seeking enforcement of a foreign order of protection.

~~(b) Nothing in this Section shall be construed to diminish the inherent authority of the courts to enforce their lawful orders through civil or criminal contempt proceedings. For purposes of this Section, an "order of protection" may have been issued in a criminal or civil proceeding.~~

~~(c) The limitations placed on law enforcement liability by Section 305 of the Illinois Domestic Violence Act of 1986 apply to actions taken under this Section. Nothing in this Section shall be construed to diminish the inherent authority of the courts to enforce their lawful orders through civil or criminal contempt proceedings.~~

~~(d) Violation of an order of protection under subsection (a) of this Section is a Class A misdemeanor. Violation of an order of protection under subsection (a) of this Section is a Class 4 felony if the defendant has any prior conviction under this Code for domestic battery (Section 12-3.2) or violation of an order of protection (Section 12-3.4 or 12-30). Violation of an order of protection is a Class 4 felony if the defendant has any prior conviction under this Code for first degree murder (Section 9-1), attempt to commit first degree murder (Section 8-4), aggravated domestic battery (Section 12-3.3), aggravated battery (Section 12-3.05 or 12-4), heinous battery (Section 12-4.1), aggravated battery with a firearm (Section 12-4.2), aggravated battery with a machine gun or a firearm equipped with a silencer (Section 12-4.2.5) aggravated battery of a child (Section 12-4.3), aggravated battery of an unborn child (subsection (a-5) of Section 12-3.1, or Section 12-4.4), aggravated battery of a senior citizen (Section 12-4.6), stalking (Section 12-7.3), aggravated stalking (Section 12-7.4), criminal sexual assault (Section 12-13), aggravated criminal sexual assault (12-14), kidnapping (Section 10-1), aggravated kidnapping (Section 10-2), predatory criminal sexual assault of a child (Section 12-14.1), aggravated criminal sexual abuse (Section 12-16), unlawful restraint (Section 10-3), aggravated unlawful restraint (Section 10-3.1), aggravated arson (Section 20-1.1), or aggravated discharge of a firearm (Section 24-1.2), or a violation of any former law of this State that is substantially similar to any listed offense, when any of these offenses have been committed against a family or household member as defined in Section 112A-3 of the Code of Criminal Procedure of 1963. The court shall impose a minimum penalty of 24 hours imprisonment for defendant's second or subsequent violation of any order of protection; unless the court explicitly finds that an increased penalty or such period of imprisonment would be manifestly unjust. In addition to any other penalties, the court may order the defendant to pay a fine as authorized under Section 5-9-1 of the Unified Code of Corrections or to make restitution to the victim under Section 5-5-6 of the Unified Code of Corrections. In addition to any other penalties, including those imposed by Section 5-9-1.5 of the Unified Code of Corrections, the court shall impose an additional fine of \$20 as authorized by Section 5-9-1.11 of the Unified Code of Corrections upon any person convicted of or placed on supervision for a violation of this Section. The additional fine shall be imposed for each violation of this Section.~~

~~(e) (Blank). The limitations placed on law enforcement liability by Section 305 of the Illinois Domestic Violence Act of 1986 apply to actions taken under this Section:~~

~~(Source: P.A. 91-112, eff. 10-1-99; 91-357, eff. 7-29-99; 92-827, eff. 8-22-02.)~~

~~(720 ILCS 5/12-3.5) (was 720 ILCS 5/12-6.3)~~

~~Sec. 12-3.5 12-6.3. Interfering with the reporting of domestic violence.~~

~~(a) A person commits the offense of interfering with the reporting of domestic violence when, after having committed an act of domestic violence, he or she knowingly prevents or attempts to prevent the victim of or a witness to the act of domestic violence from calling a 9-1-1 emergency telephone system,~~

obtaining medical assistance, or making a report to any law enforcement official.

(b) For the purposes of this Section, ~~the following terms shall have the indicated meanings:~~

(4) "Domestic violence" shall have the meaning ascribed to it in Section 112A-3 of the Code of Criminal Procedure of 1963.

~~(2) "Family or household members" shall have the meaning ascribed to it in Section 112A-3 of the Code of Criminal Procedure of 1963.~~

(c) Sentence. Interfering with the reporting of domestic violence is a Class A misdemeanor.

(Source: P.A. 90-118, eff. 1-1-98.)

(720 ILCS 5/12-3.6) (was 720 ILCS 5/45-1 and 5/45-2)

Sec. ~~12-3.6 45-1~~. Disclosing location of domestic violence victim Definitions.

(a) As used in this Section ~~Article~~:

~~(4)~~ "Domestic violence" means attempting to cause or causing abuse of a family or household member or high-risk adult with disabilities, or attempting to cause or causing neglect or exploitation of a high-risk adult with disabilities which threatens the adult's health and safety.

~~(5)~~ "Family or household member" means a spouse, person living as a spouse, parent, or other adult person related by consanguinity or affinity, who is residing or has resided with the person committing domestic violence. "Family or household member" includes a high-risk adult with disabilities who resides with or receives care from any person who has the responsibility for a high-risk adult as a result of a family relationship or who has assumed responsibility for all or a portion of the care of an adult with disabilities voluntarily, by express or implied contract, or by court order.

~~(6)~~ "High-risk adult with disabilities" means a person aged 18 or over whose physical or mental disability impairs his or her ability to seek or obtain protection from abuse, neglect, or exploitation.

~~(7)~~ "Abuse", "exploitation", and "neglect" have the meanings ascribed to those terms in Section 103 of the Illinois Domestic Violence Act of 1986.

~~(b) A Sec. 45-2. Disclosure of location of domestic violence victim. Any person commits disclosure of location of domestic violence victim when he or she who publishes, disseminates or otherwise discloses the location of any domestic violence victim, without that person's the authorization of that domestic violence victim, knowing the that such disclosure will result in, or has the substantial likelihood of resulting in, the threat of bodily harm, is guilty of a Class A misdemeanor.~~

(c) Nothing in this Section shall apply to confidential communications between an attorney and his or her client.

(d) Sentence. Disclosure of location of domestic violence victim is a Class A misdemeanor.

(Source: P.A. 87-441; 88-45.)

(720 ILCS 5/Art. 12, Subdiv. 10 heading new)

#### SUBDIVISION 10. ENDANGERMENT

(720 ILCS 5/12-4.4a new)

Sec. 12-4.4a. Abuse or criminal neglect of a long term care facility resident; criminal abuse or neglect of an elderly person or person with a disability.

(a) Abuse or criminal neglect of a long term care facility resident.

(1) A person or an owner or licensee commits abuse of a long term care facility resident when he or she knowingly causes any physical or mental injury to, or commits any sexual offense in this Code against a resident.

(2) A person or an owner or licensee commits criminal neglect of a long term care facility resident when he or she recklessly:

(A) performs acts that cause a resident's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate;

(B) fails to perform acts that he or she knows or reasonably should know are necessary to maintain or preserve the life or health of a resident, and that failure causes the resident's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate; or

(C) abandons a resident.

(3) A person or an owner or licensee commits neglect of a long term care facility resident when he or she negligently fails to provide adequate medical care, personal care, or maintenance to the resident which results in physical or mental injury or deterioration of the resident's physical or mental condition. An owner or licensee is guilty under this subdivision (a)(3), however, only if the owner or licensee failed to exercise reasonable care in the hiring, training, supervising, or providing of staff or other related routine administrative responsibilities.

(b) Criminal abuse or neglect of an elderly person or person with a disability.

(1) A caregiver commits criminal abuse or neglect of an elderly person or person with a disability

when he or she knowingly does any of the following:

(A) performs acts that cause the person's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate;

(B) fails to perform acts that he or she knows or reasonably should know are necessary to maintain or preserve the life or health of the person, and that failure causes the person's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate;

(C) abandons the person;

(D) physically abuses, harasses, intimidates, or interferes with the personal liberty of the person;

or

(E) exposes the person to willful deprivation.

(2) It is not a defense to criminal abuse or neglect of an elderly person or person with a disability that the caregiver reasonably believed that the victim was not an elderly person or person with a disability.

(c) Offense not applicable.

(1) Nothing in this Section applies to a physician licensed to practice medicine in all its branches or a duly licensed nurse providing care within the scope of his or her professional judgment and within the accepted standards of care within the community.

(2) Nothing in this Section imposes criminal liability on a caregiver who made a good faith effort to provide for the health and personal care of an elderly person or person with a disability, but through no fault of his or her own was unable to provide such care.

(3) Nothing in this Section applies to the medical supervision, regulation, or control of the remedial care or treatment of residents in a long term care facility conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination as described in Section 3-803 of the Nursing Home Care Act.

(4) Nothing in this Section prohibits a caregiver from providing treatment to an elderly person or person with a disability by spiritual means through prayer alone and care consistent therewith in lieu of medical care and treatment in accordance with the tenets and practices of any church or religious denomination of which the elderly person or person with a disability is a member.

(5) Nothing in this Section limits the remedies available to the victim under the Illinois Domestic Violence Act of 1986.

(d) Sentence.

(1) Long term care facility. Abuse of a long term care facility resident is a Class 3 felony. Criminal neglect of a long term care facility resident is a Class 4 felony, unless it results in the resident's death in which case it is a Class 3 felony. Neglect of a long term care facility resident is a petty offense.

(2) Caregiver. Criminal abuse or neglect of an elderly person or person with a disability is a Class 3 felony, unless it results in the person's death in which case it is a Class 2 felony, and if imprisonment is imposed it shall be for a minimum term of 3 years and a maximum term of 14 years.

(e) Definitions. For the purposes of this Section:

"Abandon" means to desert or knowingly forsake a resident or an elderly person or person with a disability under circumstances in which a reasonable person would continue to provide care and custody.

"Caregiver" means a person who has a duty to provide for an elderly person or person with a disability's health and personal care, at the elderly person or person with a disability's place of residence, including, but not limited to, food and nutrition, shelter, hygiene, prescribed medication, and medical care and treatment, and includes any of the following:

(1) A parent, spouse, adult child, or other relative by blood or marriage who resides with or resides in the same building with or regularly visits the elderly person or person with a disability, knows or reasonably should know of such person's physical or mental impairment, and knows or reasonably should know that such person is unable to adequately provide for his or her own health and personal care.

(2) A person who is employed by the elderly person or person with a disability or by another to reside with or regularly visit the elderly person or person with a disability and provide for such person's health and personal care.

(3) A person who has agreed for consideration to reside with or regularly visit the elderly person or person with a disability and provide for such person's health and personal care.

(4) A person who has been appointed by a private or public agency or by a court of competent jurisdiction to provide for the elderly person or person with a disability's health and personal care.

"Caregiver" does not include a long-term care facility licensed or certified under the Nursing Home Care Act or any administrative, medical, or other personnel of such a facility, or a health care provider who is licensed under the Medical Practice Act of 1987 and renders care in the ordinary course of his or

her profession.

"Elderly person" means a person 60 years of age or older who is incapable of adequately providing for his or her own health and personal care.

"Licensee" means the individual or entity licensed to operate a facility under the Nursing Home Care Act or the Assisted Living and Shared Housing Act.

"Long term care facility" means a private home, institution, building, residence, or other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code, or any similar institution operated by the State of Illinois or a political subdivision thereof, which provides, through its ownership or management, personal care, sheltered care, or nursing for 3 or more persons not related to the owner by blood or marriage. The term also includes skilled nursing facilities and intermediate care facilities as defined in Titles XVIII and XIX of the federal Social Security Act and assisted living establishments and shared housing establishments licensed under the Assisted Living and Shared Housing Act.

"Owner" means the owner a long term care facility as provided in the Nursing Home Care Act or the owner of an assisted living or shared housing establishment as provided in the Assisted Living and Shared Housing Act.

"Person with a disability" means a person who suffers from a permanent physical or mental impairment, resulting from disease, injury, functional disorder, or congenital condition, which renders the person incapable of adequately providing for his or her own health and personal care.

"Resident" means a person residing in a long term care facility.

"Willful deprivation" has the meaning ascribed to it in paragraph (15) of Section 103 of the Illinois Domestic Violence Act of 1986.

(720 ILCS 5/12-4.5) (from Ch. 38, par. 12-4.5)

Sec. 12-4.5. Tampering with food, drugs or cosmetics.

(a) ~~A~~ Any person who knowingly puts any substance capable of causing death or great bodily harm to a human being into any food, drug or cosmetic offered for sale or consumption commits ~~the offense of~~ tampering with food, drugs or cosmetics.

(b) Sentence. Tampering with food, drugs or cosmetics is a Class 2 felony.

(Source: P.A. 84-1428; 84-1438.)

(720 ILCS 5/12-5) (from Ch. 38, par. 12-5)

Sec. 12-5. Reckless conduct.

(a) A person commits reckless conduct when he or she, by any means lawful or unlawful, recklessly performs an act or acts that:

(1) cause who causes bodily harm to or endanger ~~endangers~~ the bodily safety of another person; or an individual by any means, commits reckless conduct if he or she performs recklessly the acts that cause the harm or endanger safety, whether they otherwise are lawful or unlawful.

(2) cause ~~(a-5) A person who causes~~ great bodily harm or permanent disability or disfigurement to another person by any means, commits reckless conduct if he or she performs recklessly the acts that cause the harm, whether they otherwise are lawful or unlawful.

(b) Sentence.

Reckless conduct under subdivision (a)(1) subsection (a) is a Class A misdemeanor. Reckless conduct under subdivision (a)(2) subsection (a-5) is a Class 4 felony.

(Source: P.A. 93-710, eff. 1-1-05.)

(720 ILCS 5/12-5.01) (was 720 ILCS 5/12-16.2)

Sec. ~~12-5.01~~ ~~12-16.2~~. Criminal transmission ~~Transmission~~ of HIV.

(a) A person commits criminal transmission of HIV when he or she, knowing that he or she is infected with HIV:

(1) engages in intimate contact with another;

(2) transfers, donates, or provides his or her blood, tissue, semen, organs, or other potentially infectious body fluids for transfusion, transplantation, insemination, or other administration to another; or

(3) dispenses, delivers, exchanges, sells, or in any other way transfers to another any nonsterile intravenous or intramuscular drug paraphernalia.

(b) For purposes of this Section:

"HIV" means the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome.

"Intimate contact with another" means the exposure of the body of one person to a bodily fluid of another person in a manner that could result in the transmission of HIV.

"Intravenous or intramuscular drug paraphernalia" means any equipment, product, or material of any

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kind which is peculiar to and marketed for use in injecting a substance into the human body.

(c) Nothing in this Section shall be construed to require that an infection with HIV has occurred in order for a person to have committed criminal transmission of HIV.

(d) It shall be an affirmative defense that the person exposed knew that the infected person was infected with HIV, knew that the action could result in infection with HIV, and consented to the action with that knowledge.

(e) A person who commits criminal transmission of HIV commits a Class 2 felony.  
(Source: P.A. 86-897.)

(720 ILCS 5/12-5.02) (was 720 ILCS 5/12-2.5)

Sec. ~~12-5.02~~ ~~12-2.5~~. Vehicular ~~endangerment~~ ~~Endangerment~~.

(a) ~~A person commits vehicular endangerment when he or she strikes~~ ~~Any person who with the intent to strike a motor vehicle causes by causing any means~~ an object to fall from an overpass in the direction of a moving motor vehicle ~~with the intent to strike a motor vehicle while it is traveling upon a~~ ~~any~~ highway in this State, ~~if that object strikes a motor vehicle, is guilty of vehicular endangerment.~~

(b) Sentence. Vehicular endangerment is a Class 2 felony, ~~unless except when death results, in which case~~ ~~If death results,~~ vehicular endangerment is a Class 1 felony.

(c) Definitions. For purposes of this Section:

"Object" means any object or substance that by its size, weight, or consistency is likely to cause great bodily harm to any occupant of a motor vehicle.

"Overpass" means any structure that passes over a highway.

"Motor vehicle" and "highway" have the meanings as defined in the Illinois Vehicle Code.

(Source: P.A. 88-467.)

(720 ILCS 5/12-5.1) (from Ch. 38, par. 12-5.1)

Sec. 12-5.1. Criminal housing management.

(a) A person commits ~~the offense of~~ criminal housing management when, having personal management or control of residential real estate, whether as a legal or equitable owner or as a managing agent or otherwise, he ~~or she~~ recklessly permits the physical condition or facilities of the residential real estate to become or remain in any condition which endangers the health or safety of a ~~any~~ person ~~other than the defendant~~.

(b) Sentence.

Criminal housing management is a Class A misdemeanor, ~~and a~~ ~~—A~~ subsequent conviction ~~for a violation of subsection (a)~~ is a Class 4 felony.

(Source: P.A. 85-341.)

(720 ILCS 5/12-5.1a) (was 720 ILCS 5/12-5.15)

Sec. ~~12-5.1a~~ ~~12-5.15~~. Aggravated criminal housing management.

(a) A person commits ~~the offense of~~ aggravated criminal housing management when he or she commits ~~the offense of~~ criminal housing management; and:

(1) the condition endangering the health or safety of a person ~~other than the defendant~~ is determined to be a

contributing factor in the death of that person; and

(2) the person ~~recklessly also~~ conceals or attempts to conceal the condition that endangered the health or safety of the person ~~other than the defendant~~ that is found to be a contributing factor in that death.

(b) Sentence. Aggravated criminal housing management is a Class 4 felony.

(Source: P.A. 93-852, eff. 8-2-04.)

(720 ILCS 5/12-5.2) (from Ch. 38, par. 12-5.2)

Sec. 12-5.2. Injunction in connection with criminal housing management or aggravated criminal housing management.

(a) In addition to any other remedies, the State's Attorney of the county where the residential property which endangers the health or safety of any person exists is authorized to file a complaint and apply to the circuit court for a temporary restraining order, and such circuit court shall upon hearing grant a temporary restraining order or a preliminary or permanent injunction, without bond, restraining any person who owns, manages, or has any equitable interest in the property, from collecting, receiving or benefiting from any rents or other monies available from the property, so long as the property remains in a condition which endangers the health or safety of any person.

(b) The court may order any rents or other monies owed to be paid into an escrow account. The funds are to be paid out of the escrow account only to satisfy the reasonable cost of necessary repairs of the property which had been incurred or will be incurred in ameliorating the condition of the property as described in subsection (a), payment of delinquent real estate taxes on the property or payment of other

legal debts relating to the property. The court may order that funds remain in escrow for a reasonable time after the completion of all necessary repairs to assure continued upkeep of the property and satisfaction of other outstanding legal debts of the property.

(c) The owner shall be responsible for contracting to have necessary repairs completed and shall be required to submit all bills, together with certificates of completion, to the manager of the escrow account within 30 days after their receipt by the owner.

(d) In contracting for any repairs required pursuant to this Section the owner of the property shall enter into a contract only after receiving bids from at least 3 independent contractors capable of making the necessary repairs. If the owner does not contract for the repairs with the lowest bidder, he shall file an affidavit with the court explaining why the lowest bid was not acceptable. At no time, under the provisions of this Section ~~Act~~, shall the owner contract with anyone who is not a licensed contractor, except that a contractor need not be licensed if neither the State nor the county, township, or municipality where the residential real estate is located requires that the contractor be licensed. The court may order release of those funds in the escrow account that are in excess of the monies that the court determines to its satisfaction are needed to correct the condition of the property as described in subsection (a).

For the purposes of this Section, "licensed contractor" means: (i) a contractor licensed by the State, if the State requires the licensure of the contractor; or (ii) a contractor licensed by the county, township, or municipality where the residential real estate is located, if that jurisdiction requires the licensure of the contractor.

(e) The Clerk of the Circuit Court shall maintain a separate trust account entitled "Property Improvement Trust Account", which shall serve as the depository for the escrowed funds prescribed by this Section. The Clerk of the Court shall be responsible for the receipt, disbursement, monitoring and maintenance of all funds entrusted to this account, and shall provide to the court a quarterly accounting of the activities for any property, with funds in such account, unless the court orders accountings on a more frequent basis.

The Clerk of the Circuit Court shall promulgate rules and procedures to administer the provisions of this Act.

(f) Nothing in this Section shall in any way be construed to limit or alter any existing liability incurred, or to be incurred, by the owner or manager except as expressly provided in this Act. Nor shall anything in this Section be construed to create any liability on behalf of the Clerk of the Court, the State's Attorney's office or any other governmental agency involved in this action.

Nor shall anything in this Section be construed to authorize tenants to refrain from paying rent.

(g) Costs. As part of the costs of an action under this Section, the court shall assess a reasonable fee against the defendant to be paid to the Clerk of the Circuit Court. This amount is to be used solely for the maintenance of the Property Improvement Trust Account. No money obtained directly or indirectly from the property subject to the case may be used to satisfy this cost.

(h) The municipal building department or other entity responsible for inspection of property and the enforcement of such local requirements shall, within 5 business days of a request by the State's Attorney, provide all documents requested, which shall include, but not be limited to, all records of inspections, permits and other information relating to any property.

(Source: P.A. 88-240.)

(720 ILCS 5/12-5.3) (was 720 ILCS 5/12-2.6)

Sec. ~~12-5.3~~ ~~12-2.6~~. Use of a dangerous place for the commission of a controlled substance or cannabis offense.

(a) A person commits ~~the offense of~~ use of a dangerous place for the commission of a controlled substance or cannabis offense when that person knowingly exercises control over any place with the intent to use that place to manufacture, produce, deliver, or possess with intent to deliver a controlled or counterfeit substance or controlled substance analog in violation of Section 401 of the Illinois Controlled Substances Act or to manufacture, produce, deliver, or possess with intent to deliver cannabis in violation of Section 5, 5.1, 5.2, 7, or 8 of the Cannabis Control Act and:

(1) the place, by virtue of the presence of the substance or substances used or intended to be used to manufacture a controlled or counterfeit substance, controlled substance analog, or cannabis, presents a substantial risk of injury to any person from fire, explosion, or exposure to toxic or noxious chemicals or gas; or

(2) the place used or intended to be used to manufacture, produce, deliver, or possess with intent to deliver a controlled or counterfeit substance, controlled substance analog, or cannabis has located within it or surrounding it devices, weapons, chemicals, or explosives designed, hidden, or arranged in a manner that would cause a person to be exposed to a substantial risk of great bodily

harm.

(b) It may be inferred that a place was intended to be used to manufacture a controlled or counterfeit substance or controlled substance analog if a substance containing a controlled or counterfeit substance or controlled substance analog or a substance containing a chemical important to the manufacture of a controlled or counterfeit substance or controlled substance analog is found at the place of the alleged illegal controlled substance manufacturing in close proximity to equipment or a chemical used for facilitating the manufacture of the controlled or counterfeit substance or controlled substance analog that is alleged to have been intended to be manufactured.

(c) As used in this Section, "place" means a premises, conveyance, or location that offers seclusion, shelter, means, or facilitation for manufacturing, producing, possessing, or possessing with intent to deliver a controlled or counterfeit substance, controlled substance analog, or cannabis.

(d) Use of a dangerous place for the commission of a controlled substance or cannabis offense is a Class 1 felony.

(Source: P.A. 93-516, eff. 1-1-04; 94-743, eff. 5-8-06.)

(720 ILCS 5/12-5.5)

Sec. 12-5.5. Common ~~carrier recklessness carriers; gross neglect.~~

(a) A person commits common carrier recklessness when he or she, ~~Whoever,~~ having personal management or control of or over a ~~steamboat or other~~ public conveyance used for the common carriage of persons, ~~recklessly endangers the safety of others.~~

~~(b) Sentence. Common carrier recklessness is guilty of gross carelessness or neglect in, or in relation to, the conduct, management, or control of the steamboat or other public conveyance, while being so used for the common carriage of persons, in which the safety of any person is endangered is guilty of a Class 4 felony.~~

(Source: P.A. 89-234, eff. 1-1-96.)

(720 ILCS 5/Art.12, Subdiv. 15 heading new)

#### SUBDIVISION 15. INTIMIDATION

(720 ILCS 5/12-6) (from Ch. 38, par. 12-6)

Sec. 12-6. Intimidation.

(a) A person commits intimidation when, with intent to cause another to perform or to omit the performance of any act, he or she communicates to another, ~~directly or indirectly by any means whether in person, by telephone or by mail,~~ a threat to perform without lawful authority any of the following acts:

- (1) Inflict physical harm on the person threatened or any other person or on property;
- or
- (2) Subject any person to physical confinement or restraint; or
- (3) Commit a felony or Class A misdemeanor ~~any criminal offense;~~ or
- (4) Accuse any person of an offense; or
- (5) Expose any person to hatred, contempt or ridicule; or
- (6) Take action as a public official against anyone or anything, or withhold official action, or cause such action or withholding; or
- (7) Bring about or continue a strike, boycott or other collective action.

(b) Sentence.

Intimidation is a Class 3 felony for which an offender may be sentenced to a term of imprisonment of not less than 2 years and not more than 10 years.

(Source: P.A. 91-696, eff. 4-13-00.)

(720 ILCS 5/12-6.2)

Sec. 12-6.2. Aggravated intimidation.

(a) A person commits ~~the offense of~~ aggravated intimidation when he or she commits ~~the offense of~~ intimidation and:

- (1) the person committed the offense in furtherance of the activities of an organized gang or ~~because of~~ ~~by~~ the person's membership in or allegiance to an organized gang; or
- (2) the offense is committed with the intent to prevent any person from becoming a community policing volunteer; or
- (3) the following conditions are met:
  - (A) the person knew that the victim was ~~(i)~~ a peace officer, ~~(ii)~~ a correctional institution employee, ~~(iii)~~ a fireman ~~;~~ or ~~(iv)~~ a community policing volunteer; and
  - (B) the offense was committed:
    - (i) while the victim was engaged in the execution of his or her official duties;

or

- (ii) to prevent the victim from performing his or her official duties;
- (iii) in retaliation for the victim's performance of his or her official duties;

or

- (iv) by reason of any person's activity as a community policing volunteer.

(b) Sentence. Aggravated intimidation as defined in paragraph (a)(1) is a Class 1 felony. Aggravated intimidation as defined in paragraph (a)(2) or (a)(3) is a Class 2 felony for which the offender may be sentenced to a term of imprisonment of not less than 3 years nor more than 14 years.

(c) ~~(Blank). For the purposes of this Section, "streetgang", "streetgang member", and "organized gang" have the meanings ascribed to them in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.~~

(Source: P.A. 89-631, eff. 1-1-97; 90-651, eff. 1-1-99; 90-655, eff. 7-30-98.)

(720 ILCS 5/12-6.4)

Sec. 12-6.4. Criminal street gang recruitment on school grounds or public property adjacent to school grounds and criminal street gang recruitment of a minor.

(a) A person commits ~~the offense of~~ criminal street gang recruitment on school grounds or public property adjacent to school grounds when on school grounds or public property adjacent to school grounds, he or she knowingly threatens the use of physical force to coerce, solicit, recruit, or induce another person to join or remain a member of a criminal street gang, or conspires to do so.

(a-5) A person commits the offense of criminal street gang recruitment of a minor when he or she threatens the use of physical force to coerce, solicit, recruit, or induce another person to join or remain a member of a criminal street gang, or conspires to do so, whether or not such threat is communicated in person, by means of the Internet, or by means of a telecommunications device.

(b) Sentence. Criminal street gang recruitment on school grounds or public property adjacent to school grounds is a Class 1 felony and criminal street gang recruitment of a minor is a Class 1 felony.

(c) In this Section:

~~"Criminal street gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.~~

"School grounds" means the building or buildings or real property comprising a public or private elementary or secondary school, community college, college, or university and includes a school yard, school playing field, or school playground.

"Minor" means any person under 18 years of age.

"Internet" means an interactive computer service or system or an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, and includes, but is not limited to, an information service, system, or access software provider that provides access to a network system commonly known as the Internet, or any comparable system or service and also includes, but is not limited to, a World Wide Web page, newsgroup, message board, mailing list, or chat area on any interactive computer service or system or other online service.

"Telecommunications device" means a device that is capable of receiving or transmitting speech, data, signals, text, images, sounds, codes, or other information including, but not limited to, paging devices, telephones, and cellular and mobile telephones.

(Source: P.A. 96-199, eff. 1-1-10.)

(720 ILCS 5/12-6.5) (was 720 ILCS 5/12-6.1)

Sec. ~~12-6.5~~ ~~12-6.1~~. Compelling organization membership of persons. A person who knowingly, expressly or impliedly, threatens to do bodily harm or does bodily harm to an individual or to that individual's family or uses any other criminally unlawful means to solicit or cause any person to join, or deter any person from leaving, any organization or association regardless of the nature of such organization or association, is guilty of a Class 2 felony.

Any person of the age of 18 years or older who knowingly, expressly or impliedly, threatens to do bodily harm or does bodily harm to a person under 18 years of age or uses any other criminally unlawful means to solicit or cause any person under 18 years of age to join, or deter any person under 18 years of age from leaving, any organization or association regardless of the nature of such organization or association is guilty of a Class 1 felony.

A person convicted of an offense under this Section shall not be eligible to receive a sentence of probation, conditional discharge, or periodic imprisonment.

(Source: P.A. 91-696, eff. 4-13-00.)

(720 ILCS 5/12-7) (from Ch. 38, par. 12-7)

Sec. 12-7. Compelling confession or information by force or threat.

(a) A person who, with intent to obtain a confession, statement or information regarding any offense,

knowingly inflicts or threatens imminent bodily harm upon the person threatened or upon any other person commits ~~the offense of~~ compelling a confession or information by force or threat.

(b) Sentence.

Compelling a confession or information is a: (1) Class 4 felony if the defendant threatens imminent bodily harm to obtain a confession, statement, or information but does not inflict bodily harm on the victim, (2) Class 3 felony if the defendant inflicts bodily harm on the victim to obtain a confession, statement, or information, and (3) Class 2 felony if the defendant inflicts great bodily harm to obtain a confession, statement, or information.

(Source: P.A. 94-1113, eff. 1-1-08.)

(720 ILCS 5/12-7.1) (from Ch. 38, par. 12-7.1)

Sec. 12-7.1. Hate crime.

(a) A person commits hate crime when, by reason of the actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin of another individual or group of individuals, regardless of the existence of any other motivating factor or factors, he commits assault, battery, aggravated assault, misdemeanor theft, criminal trespass to residence, misdemeanor criminal damage to property, criminal trespass to vehicle, criminal trespass to real property, mob action or disorderly conduct as these crimes are defined in Sections 12-1, 12-2, ~~12-3(a)~~ ~~12-3~~, 16-1, 19-4, 21-1, 21-2, 21-3, 25-1, and 26-1 of this Code, respectively, or harassment by telephone as defined in Section 1-1 of the Harassing and Obscene Communications Act, or harassment through electronic communications as defined in clauses (a)(2) and (a)(4) of Section 1-2 of the Harassing and Obscene Communications Act.

(b) Except as provided in subsection (b-5), hate crime is a Class 4 felony for a first offense and a Class 2 felony for a second or subsequent offense.

(b-5) Hate crime is a Class 3 felony for a first offense and a Class 2 felony for a second or subsequent offense if committed:

- (1) in a church, synagogue, mosque, or other building, structure, or place used for religious worship or other religious purpose;
- (2) in a cemetery, mortuary, or other facility used for the purpose of burial or memorializing the dead;
- (3) in a school or other educational facility, including an administrative facility or public or private dormitory facility of or associated with the school or other educational facility;
- (4) in a public park or an ethnic or religious community center;
- (5) on the real property comprising any location specified in clauses (1) through (4) of this subsection (b-5); or
- (6) on a public way within 1,000 feet of the real property comprising any location specified in clauses (1) through (4) of this subsection (b-5).

(b-10) Upon imposition of any sentence, the trial court shall also either order restitution paid to the victim or impose a fine up to \$1,000. In addition, any order of probation or conditional discharge entered following a conviction or an adjudication of delinquency shall include a condition that the offender perform public or community service of no less than 200 hours if that service is established in the county where the offender was convicted of hate crime. The court may also impose any other condition of probation or conditional discharge under this Section.

(c) Independent of any criminal prosecution or the result thereof, any person suffering injury to his person or damage to his property as a result of hate crime may bring a civil action for damages, injunction or other appropriate relief. The court may award actual damages, including damages for emotional distress, or punitive damages. A judgment may include attorney's fees and costs. The parents or legal guardians, other than guardians appointed pursuant to the Juvenile Court Act or the Juvenile Court Act of 1987, of an unemancipated minor shall be liable for the amount of any judgment for actual damages rendered against such minor under this subsection (c) in any amount not exceeding the amount provided under Section 5 of the Parental Responsibility Law.

(d) "Sexual orientation" means heterosexuality, homosexuality, or bisexuality.

(Source: P.A. 93-463, eff. 8-8-03; 93-765, eff. 7-19-04; 94-80, eff. 6-27-05.)

(720 ILCS 5/12-7.3) (from Ch. 38, par. 12-7.3)

Sec. 12-7.3. Stalking.

(a) A person commits stalking when he or she knowingly engages in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to:

- (1) fear for his or her safety or the safety of a third person; or
- (2) suffer other emotional distress.

(a-3) A person commits stalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions follows another person or places the person under surveillance or any combination thereof and:

(1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that person or a family member of that person; or

(2) places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint ~~to or of that person or a family member of that person.~~ ~~or~~

~~(3) places that person in reasonable apprehension that a family member will receive immediate or future bodily harm, sexual assault, confinement, or restraint.~~

(a-5) A person commits stalking when he or she has previously been convicted of stalking another person and knowingly and without lawful justification on one occasion:

(1) follows that same person or places that same person under surveillance; and

(2) transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint ~~to that person or a family member of that person.~~ ~~and~~

~~(3) the threat is directed towards that person or a family member of that person.~~

(b) Sentence. Stalking is a Class 4 felony; ~~a~~ ~~—~~ A second or subsequent conviction ~~for stalking~~ is a Class 3 felony.

(c) Definitions. For purposes of this Section:

(1) "Course of conduct" means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person's property or pet. A course of conduct may include contact via electronic communications.

(2) "Electronic communication" means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.

(3) "Emotional distress" means significant mental suffering, anxiety or alarm.

(4) "Family member" means a parent, grandparent, brother, sister, or child, whether by whole blood, half-blood, or adoption and includes a step-grandparent, step-parent, step-brother, step-sister or step-child. "Family member" also means any other person who regularly resides in the household, or who, within the prior 6 months, regularly resided in the household.

(5) "Follows another person" means (i) to move in relative proximity to a person as that person moves from place to place or (ii) to remain in relative proximity to a person who is stationary or whose movements are confined to a small area. "Follows another person" does not include a following within the residence of the defendant.

(6) "Non-consensual contact" means any contact with the victim that is initiated or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

(7) "Places a person under surveillance" means: (1) remaining present outside the person's school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the defendant; or (2) placing an electronic tracking device on the person or the person's property.

(8) "Reasonable person" means a person in the victim's situation.

(9) "Transmits a threat" means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements or conduct.

(d) Exemptions.

(1) This Section does not apply to any individual or organization (i) monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements, or (ii) picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the making or maintaining of collective bargaining agreements, and the terms to be included in those agreements.

(2) This Section does not apply to an exercise of the right to free speech or assembly

that is otherwise lawful.

(3) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(d-5) The incarceration of a person in a penal institution who commits the course of conduct or transmits a threat is not a bar to prosecution under this Section.

(Source: P.A. 95-33, eff. 1-1-08; 96-686, eff. 1-1-10.)

(720 ILCS 5/12-7.4) (from Ch. 38, par. 12-7.4)

Sec. 12-7.4. Aggravated stalking.

(a) A person commits aggravated stalking when he or she commits, ~~in conjunction with committing the offense of stalking and -also does any of the following:~~

(1) causes bodily harm to the victim;

(2) confines or restrains the victim; or

(3) violates a temporary restraining order, an order of protection, a stalking no contact order, a civil no contact order, or an injunction prohibiting the behavior described in subsection (b)(1) of Section 214 of the Illinois Domestic Violence Act of 1986.

(b) Sentence. Aggravated stalking is a Class 3 felony; a ~~→A~~ second or subsequent conviction ~~for aggravated stalking~~ is a Class 2 felony.

(c) Exemptions.

(1) This Section does not apply to any individual or organization (i) monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements, or (ii) picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the managing or maintenance of collective bargaining agreements, and the terms to be included in those agreements.

(2) This Section does not apply to an exercise of the right of free speech or assembly that is otherwise lawful.

(3) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(Source: P.A. 96-686, eff. 1-1-10.)

(720 ILCS 5/12-7.5)

Sec. 12-7.5. Cyberstalking.

(a) A person commits cyberstalking when he or she engages in a course of conduct using electronic communication directed at a specific person, and he or she knows or should know that would cause a reasonable person to:

(1) fear for his or her safety or the safety of a third person; or

(2) suffer other emotional distress.

(a-3) A person commits cyberstalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions, harasses another person through the use of electronic communication and:

(1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement, or restraint and the threat is directed towards that person or a family member of that person; or

(2) places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint; or

(3) at any time knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

(a-5) A person commits cyberstalking when he or she, knowingly and without lawful justification, creates and maintains an Internet website or webpage which is accessible to one or more third parties for a period of at least 24 hours, and which contains statements harassing another person and:

(1) which communicates a threat of immediate or future bodily harm, sexual assault,

confinement, or restraint, where the threat is directed towards that person or a family member of that person, or

(2) which places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint, or

(3) which knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

(b) Sentence. Cyberstalking is a Class 4 felony; ~~a~~ ~~—~~ ~~A~~ second or subsequent conviction ~~for cyberstalking~~ is a Class 3 felony.

(c) For purposes of this Section:

(1) "Course of conduct" means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person's property or pet. The incarceration in a penal institution of a person who commits the course of conduct is not a bar to prosecution under this Section.

(2) "Electronic communication" means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.

(3) "Emotional distress" means significant mental suffering, anxiety or alarm.

(4) "Harass" means to engage in a knowing and willful course of conduct directed at a specific person that alarms, torments, or terrorizes that person.

(5) "Non-consensual contact" means any contact with the victim that is initiated or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

(6) "Reasonable person" means a person in the victim's circumstances, with the victim's knowledge of the defendant and the defendant's prior acts.

(7) "Third party" means any person other than the person violating these provisions and the person or persons towards whom the violator's actions are directed.

(d) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(Source: P.A. 95-849, eff. 1-1-09; 96-328, eff. 8-11-09; 96-686, eff. 1-1-10; revised 10-20-09.)

(720 ILCS 5/12-7.6)

Sec. 12-7.6. Cross burning.

(a) A person commits ~~the offense of~~ cross burning ~~when he or she who~~, with the intent to intimidate any other person or group of persons, burns or causes to be burned a cross.

(b) Sentence. Cross burning is a Class A misdemeanor for a first offense and a Class 4 felony for a second or subsequent offense.

(c) For the purposes of this Section, a person acts with the "intent to intimidate" when he or she intentionally places or attempts to place another person in fear of physical injury or fear of damage to that other person's property.

(Source: P.A. 93-764, eff. 1-1-05.)

(720 ILCS 5/12-9) (from Ch. 38, par. 12-9)

Sec. 12-9. Threatening public officials.

(a) A person commits ~~the offense of~~ threatening a public official when:

(1) that person knowingly ~~and willfully~~ delivers or conveys, directly or indirectly, to a public official by any means a communication:

(i) containing a threat that would place the public official or a member of his or her immediate family in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint; or

(ii) containing a threat that would place the public official or a member of his or her immediate family in reasonable apprehension that damage will occur to property in the custody,

care, or control of the public official or his or her immediate family; and

(2) the threat was conveyed because of the performance or nonperformance of some public duty, because of hostility of the person making the threat toward the status or position of the public official, or because of any other factor related to the official's public existence.

(a-5) For purposes of a threat to a sworn law enforcement officer, the threat must contain specific facts indicative of a unique threat to the person, family or property of the officer and not a generalized threat of harm.

(b) For purposes of this Section:

(1) "Public official" means a person who is elected to office in accordance with a statute or who is appointed to an office which is established, and the qualifications and duties of which are prescribed, by statute, to discharge a public duty for the State or any of its political subdivisions or in the case of an elective office any person who has filed the required documents for nomination or election to such office. "Public official" includes a duly appointed assistant State's Attorney, assistant Attorney General, or Appellate Prosecutor, and a sworn law enforcement or peace officer.

(2) "Immediate family" means a public official's spouse or child or children.

(c) Threatening a public official is a Class 3 felony for a first offense and a Class 2 felony for a second or subsequent offense.

(Source: P.A. 95-466, eff. 6-1-08.)

(720 ILCS 5/Art.12, Subdiv. 20 heading new)

#### SUBDIVISION 20. MUTILATION

(720 ILCS 5/12-10.2)

Sec. 12-10.2. Tongue splitting.

(a) In this Section, "tongue splitting" means the cutting of a human tongue into 2 or more parts.

(b) A person may not knowingly perform tongue splitting on another person unless the person performing the tongue splitting is licensed to practice medicine in all its branches under the Medical Practice Act of 1987 or licensed under the Illinois Dental Practice Act.

(c) Sentence. Tongue splitting performed in violation of this Section is a Class A misdemeanor for a first offense and a Class 4 felony for a second or subsequent offense.

(Source: P.A. 93-449, eff. 1-1-04.)

(720 ILCS 5/12-20) (from Ch. 38, par. 12-20)

Sec. 12-20. Sale of body parts.

(a) Except as provided in subsection (b), any person who knowingly buys or sells, or offers to buy or sell, a human body or any part of a human body, is guilty of a Class A misdemeanor for the first conviction and a Class 4 felony for subsequent convictions.

(b) This Section does not prohibit:

(1) An anatomical gift made in accordance with the Illinois Anatomical Gift Act.

(2) ~~(Blank). The removal and use of a human cornea in accordance with the Illinois Anatomical Gift Act.~~

(3) Reimbursement of actual expenses incurred by a living person in donating an organ, tissue or other body part or fluid for transplantation, implantation, infusion, injection, or other medical or scientific purpose, including medical costs, loss of income, and travel expenses.

(4) Payments provided under a plan of insurance or other health care coverage.

(5) Reimbursement of reasonable costs associated with the removal, storage or transportation of a human body or part thereof donated for medical or scientific purposes.

(6) Purchase or sale of blood, plasma, blood products or derivatives, other body fluids, or human hair.

(7) Purchase or sale of drugs, reagents or other substances made from human bodies or body parts, for use in medical or scientific research, treatment or diagnosis.

(Source: P.A. 93-794, eff. 7-22-04.)

(720 ILCS 5/12-20.5)

Sec. 12-20.5. Dismembering a human body.

(a) A person commits ~~the offense of~~ dismembering a human body when he or she knowingly dismembers, severs, separates, dissects, or mutilates any body part of a deceased's body.

(b) This Section does not apply to:

(1) an anatomical gift made in accordance with the Illinois Anatomical Gift Act;

(2) ~~(blank); the removal and use of a human cornea in accordance with the Illinois Anatomical Gift Act;~~

(3) the purchase or sale of drugs, reagents, or other substances made from human body

parts, for the use in medical or scientific research, treatment, or diagnosis;

(4) persons employed by a county medical examiner's office or coroner's office acting within the scope of their employment while performing an autopsy;

(5) the acts of a licensed funeral director or embalmer while performing acts authorized by the Funeral Directors and Embalmers Licensing Code;

(6) the acts of emergency medical personnel or physicians performed in good faith and according to the usual and customary standards of medical practice in an attempt to resuscitate a life; or

(7) physicians licensed to practice medicine in all of its branches or holding a visiting professor, physician, or resident permit under the Medical Practice Act of 1987, performing acts in accordance with usual and customary standards of medical practice, or a currently enrolled student in an accredited medical school in furtherance of his or her education at the accredited medical school.

(c) It is not a defense to a violation of this Section that the decedent died due to natural, accidental, or suicidal causes.

(d) Sentence. Dismembering a human body is a Class X felony.

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

(720 ILCS 5/12-32) (from Ch. 38, par. 12-32)

Sec. 12-32. Ritual ~~mutilation~~ Mutilation.

(a) A person commits ~~the offense of~~ ritual mutilation, when he or she knowingly mutilates, dismembers or tortures another person as part of a ceremony, rite, initiation, observance, performance or practice, and the victim did not consent or under such circumstances that the defendant knew or should have known that the victim was unable to render effective consent.

~~(b) Ritual mutilation does not include the practice of male circumcision or a ceremony, rite, initiation, observance, or performance related thereto. Sentence. Ritual mutilation is a Class 2 felony.~~

~~(c) Sentence. Ritual mutilation is a Class 2 felony. The offense ritual mutilation does not include the practice of male circumcision or a ceremony, rite, initiation, observance, or performance related thereto.~~  
(Source: P.A. 90-88, eff. 1-1-98.)

(720 ILCS 5/12-33) (from Ch. 38, par. 12-33)

Sec. 12-33. Ritualized abuse of a child.

(a) A person ~~commits is guilty of~~ ritualized abuse of a child when he or she knowingly commits any of the following acts with, upon, or in the presence of a child as part of a ceremony, rite or any similar observance:

(1) actually or in simulation, tortures, mutilates, or sacrifices any warm-blooded animal or human being;

(2) forces ingestion, injection or other application of any narcotic, drug, hallucinogen or anaesthetic for the purpose of dulling sensitivity, cognition, recollection of, or resistance to any criminal activity;

(3) forces ingestion, or external application, of human or animal urine, feces, flesh, blood, bones, body secretions, nonprescribed drugs or chemical compounds;

(4) involves the child in a mock, unauthorized or unlawful marriage ceremony with another person or representation of any force or deity, followed by sexual contact with the child;

(5) places a living child into a coffin or open grave containing a human corpse or remains;

(6) threatens death or serious harm to a child, his or her parents, family, pets, or friends that instills a well-founded fear in the child that the threat will be carried out; or

(7) unlawfully dissects, mutilates, or incinerates a human corpse.

(b) The provisions of this Section shall not be construed to apply to:

(1) lawful agricultural, animal husbandry, food preparation, or wild game hunting and fishing practices and specifically the branding or identification of livestock;

(2) the lawful medical practice of male circumcision or any ceremony related to male circumcision;

(3) any state or federally approved, licensed, or funded research project; or

(4) the ingestion of animal flesh or blood in the performance of a religious service or ceremony.

(b-5) For the purposes of this Section, "child" means any person under 18 years of age.

(c) Ritualized abuse of a child is a Class I felony for a first offense. A second or subsequent conviction for ritualized abuse of a child is a Class X felony for which the offender may be sentenced to a term of natural life imprisonment.

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(d) ~~(Blank).~~ For the purposes of this Section, "child" means any person under 18 years of age.  
(Source: P.A. 90-88, eff. 1-1-98.)

(720 ILCS 5/12-34)

Sec. 12-34. Female genital mutilation.

(a) Except as otherwise permitted in subsection (b), whoever knowingly circumcises, excises, or infibulates, in whole or in part, the labia majora, labia minora, or clitoris of another commits ~~the offense of~~ female genital mutilation. Consent to the procedure by a minor on whom it is performed or by the minor's parent or guardian is not a defense to a violation of this Section.

(b) A surgical procedure is not a violation of subsection (a) if the procedure is performed by a physician licensed to practice medicine in all its branches and:

(1) is necessary to the health of the person on whom it is performed ~~and is performed by a physician licensed to practice medicine in all of its branches;~~ or

(2) is performed on a person who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth ~~by a physician licensed to practice medicine in all of its branches.~~

(c) Sentence. Female genital mutilation is a Class X felony.

(Source: P.A. 90-88, eff. 1-1-98.)

(720 ILCS 5/Art. 12, Subdiv. 25 heading new)

#### SUBDIVISION 25. OTHER HARM OFFENSES

(720 ILCS 5/12-34.5) (was 720 ILCS 5/12-31)

Sec. 12-34.5 ~~12-34.~~ Inducement to commit suicide ~~Commit Suicide.~~

(a) A person commits ~~the offense of~~ inducement to commit suicide when he or she does either of the following:

(1) Knowingly coerces ~~Coerces~~ another to commit suicide and the other person commits or attempts to commit

suicide as a direct result of the coercion, and he or she exercises substantial control over the other person through (i) control of the other person's physical location or circumstances; (ii) use of psychological pressure; or (iii) use of actual or ostensible religious, political, social, philosophical or other principles.

(2) With knowledge that another person intends to commit or attempt to commit suicide, intentionally (i) offers and provides the physical means by which another person commits or attempts to commit suicide, or (ii) participates in a physical act by which another person commits or attempts to commit suicide.

For the purposes of this Section, "attempts to commit suicide" means any act done with the intent to commit suicide and which constitutes a substantial step toward commission of suicide.

(b) Sentence. Inducement to commit suicide under paragraph (a)(1) when the other person commits suicide as a direct result of the coercion is a Class 2 felony. Inducement to commit suicide under paragraph (a)(2) when the other person commits suicide as a direct result of the assistance provided is a Class 4 felony. Inducement to commit suicide under paragraph (a)(1) when the other person attempts to commit suicide as a direct result of the coercion is a Class 3 felony. Inducement to commit suicide under paragraph (a)(2) when the other person attempts to commit suicide as a direct result of the assistance provided is a Class A misdemeanor.

(c) The lawful compliance or a good-faith attempt at lawful compliance with the Illinois Living Will Act, the Health Care Surrogate Act, or the Powers of Attorney for Health Care Law is not inducement to commit suicide under paragraph (a)(2) of this Section.

(Source: P.A. 87-1167; 88-392.)

(720 ILCS 5/12-35)

Sec. 12-35. Sexual conduct or sexual contact with an animal.

(a) A person may not knowingly engage in any sexual conduct or sexual contact with an animal.

~~(b) (Blank). A person may not knowingly cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal.~~

~~(c) (Blank). A person may not knowingly permit any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control.~~

~~(d) (Blank). A person may not knowingly engage in, promote, aid, or abet any activity involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.~~

(e) Sentence. A person who violates this Section is guilty of a Class 4 felony. A person who violates this Section in the presence of a person under 18 years of age or causes the animal serious physical injury or death is guilty of a Class 3 felony.

(f) In addition to the penalty imposed in subsection (e), the court may order that the defendant do any of the following:

(1) Not harbor animals or reside in any household where animals are present for a reasonable period of time or permanently, if necessary.

(2) Relinquish and permanently forfeit all animals residing in the household to a recognized or duly organized animal shelter or humane society.

(3) Undergo a psychological evaluation and counseling at defendant's expense.

(4) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of the animal involved in the sexual conduct or sexual contact in addition to any animals relinquished to the animal shelter or humane society.

(g) Nothing in this Section shall be construed to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(h) If the court has reasonable grounds to believe that a violation of this Section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation of this Section.

(i) In this Section:

"Animal" means every creature, either alive or dead, other than a human being.

"Sexual conduct" means any knowing touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

"Sexual contact" means any contact, however slight, between the sex organ or anus of a person and the sex organ, mouth, or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, for the purpose of sexual gratification or arousal of the person. Evidence of emission of semen is not required to prove sexual contact.

(Source: P.A. 92-721, eff. 1-1-03.)

(720 ILCS 5/12-4.1 rep.) (720 ILCS 5/12-4.2 rep.) (720 ILCS 5/12-4.2-5 rep.) (720 ILCS 5/12-4.3 rep.) (720 ILCS 5/12-4.4 rep.) (720 ILCS 5/12-4.6 rep.) (720 ILCS 5/12-4.7 rep.)

(720 ILCS 5/12-4.8 rep.) (720 ILCS 5/12-19 rep.) (720 ILCS 5/12-21 rep.) (720 ILCS 5/Art. 45 heading rep.)

Section 10. The Criminal Code of 1961 is amended by repealing Sections 12-4.1, 12-4.2, 12-4.2-5, 12-4.3, 12-4.4, 12-4.6, 12-4.7, 12-4.8, 12-19, and 12-21 and the heading of Article 45.

Section 900. The Children and Family Services Act is amended by changing Section 7 as follows:

(20 ILCS 505/7) (from Ch. 23, par. 5007)

Sec. 7. Placement of children; considerations.

(a) In placing any child under this Act, the Department shall place such child, as far as possible, in the care and custody of some individual holding the same religious belief as the parents of the child, or with some child care facility which is operated by persons of like religious faith as the parents of such child.

(b) In placing a child under this Act, the Department may place a child with a relative if the Department determines that the relative will be able to adequately provide for the child's safety and welfare based on the factors set forth in the Department's rules governing relative placements, and that the placement is consistent with the child's best interests, taking into consideration the factors set out in subsection (4.05) of Section 1-3 of the Juvenile Court Act of 1987.

When the Department first assumes custody of a child, in placing that child under this Act, the Department shall make reasonable efforts to identify and locate a relative who is ready, willing, and able to care for the child. At a minimum, these efforts shall be renewed each time the child requires a placement change and it is appropriate for the child to be cared for in a home environment. The Department must document its efforts to identify and locate such a relative placement and maintain the documentation in the child's case file.

If the Department determines that a placement with any identified relative is not in the child's best interests or that the relative does not meet the requirements to be a relative caregiver, as set forth in Department rules or by statute, the Department must document the basis for that decision and maintain the documentation in the child's case file.

If, pursuant to the Department's rules, any person files an administrative appeal of the Department's decision not to place a child with a relative, it is the Department's burden to prove that the decision is consistent with the child's best interests.

When the Department determines that the child requires placement in an environment, other than a home environment, the Department shall continue to make reasonable efforts to identify and locate relatives to serve as visitation resources for the child and potential future placement resources, except

when the Department determines that those efforts would be futile or inconsistent with the child's best interests.

If the Department determines that efforts to identify and locate relatives would be futile or inconsistent with the child's best interests, the Department shall document the basis of its determination and maintain the documentation in the child's case file.

If the Department determines that an individual or a group of relatives are inappropriate to serve as visitation resources or possible placement resources, the Department shall document the basis of its determination and maintain the documentation in the child's case file.

When the Department determines that an individual or a group of relatives are appropriate to serve as visitation resources or possible future placement resources, the Department shall document the basis of its determination, maintain the documentation in the child's case file, create a visitation or transition plan, or both, and incorporate the visitation or transition plan, or both, into the child's case plan. For the purpose of this subsection, any determination as to the child's best interests shall include consideration of the factors set out in subsection (4.05) of Section 1-3 of the Juvenile Court Act of 1987.

The Department may not place a child with a relative, with the exception of certain circumstances which may be waived as defined by the Department in rules, if the results of a check of the Law Enforcement Agencies Data System (LEADS) identifies a prior criminal conviction of the relative or any adult member of the relative's household for any of the following offenses under the Criminal Code of 1961:

- (1) murder;
  - (1.1) solicitation of murder;
  - (1.2) solicitation of murder for hire;
  - (1.3) intentional homicide of an unborn child;
  - (1.4) voluntary manslaughter of an unborn child;
  - (1.5) involuntary manslaughter;
  - (1.6) reckless homicide;
  - (1.7) concealment of a homicidal death;
  - (1.8) involuntary manslaughter of an unborn child;
  - (1.9) reckless homicide of an unborn child;
  - (1.10) drug-induced homicide;
- (2) a sex offense under Article 11, except offenses described in Sections 11-7, 11-8, 11-12, and 11-13;
- (3) kidnapping;
  - (3.1) aggravated unlawful restraint;
  - (3.2) forcible detention;
  - (3.3) aiding and abetting child abduction;
- (4) aggravated kidnapping;
- (5) child abduction;
- (6) aggravated battery of a child as described in Section 12-4.3 or subdivision (b)(1) of Section 12-3.05;
- (7) criminal sexual assault;
- (8) aggravated criminal sexual assault;
- (8.1) predatory criminal sexual assault of a child;
- (9) criminal sexual abuse;
- (10) aggravated sexual abuse;
- (11) heinous battery as described in Section 12-4.1 or subdivision (a)(2) of Section 12-3.05;
- (12) aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05;
- (13) tampering with food, drugs, or cosmetics;
- (14) drug-induced infliction of great bodily harm as described in Section 12-4.7 or subdivision (g)(1) of Section 12-3.05;
- (15) aggravated stalking;
- (16) home invasion;
- (17) vehicular invasion;
- (18) criminal transmission of HIV;
- (19) criminal abuse or neglect of an elderly or disabled person as described in Section 12-21 or subsection (b) of Section 12-4.4a;
- (20) child abandonment;
- (21) endangering the life or health of a child;

- (22) ritual mutilation;
- (23) ritualized abuse of a child;
- (24) an offense in any other state the elements of which are similar and bear a substantial relationship to any of the foregoing offenses.

For the purpose of this subsection, "relative" shall include any person, 21 years of age or over, other than the parent, who (i) is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, second cousin, godparent, great-uncle, or great-aunt; or (ii) is the spouse of such a relative; or (iii) is the child's step-father, step-mother, or adult step-brother or step-sister; "relative" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this paragraph prior to the adoption, but only if the Department determines, and documents, that it would be in the child's best interests to consider this person a relative, based upon the factors for determining best interests set forth in subsection (4.05) of Section 1-3 of the Juvenile Court Act of 1987. A relative with whom a child is placed pursuant to this subsection may, but is not required to, apply for licensure as a foster family home pursuant to the Child Care Act of 1969; provided, however, that as of July 1, 1995, foster care payments shall be made only to licensed foster family homes pursuant to the terms of Section 5 of this Act.

(c) In placing a child under this Act, the Department shall ensure that the child's health, safety, and best interests are met. In rejecting placement of a child with an identified relative, the Department shall ensure that the child's health, safety, and best interests are met. In evaluating the best interests of the child, the Department shall take into consideration the factors set forth in subsection (4.05) of Section 1-3 of the Juvenile Court Act of 1987.

The Department shall consider the individual needs of the child and the capacity of the prospective foster or adoptive parents to meet the needs of the child. When a child must be placed outside his or her home and cannot be immediately returned to his or her parents or guardian, a comprehensive, individualized assessment shall be performed of that child at which time the needs of the child shall be determined. Only if race, color, or national origin is identified as a legitimate factor in advancing the child's best interests shall it be considered. Race, color, or national origin shall not be routinely considered in making a placement decision. The Department shall make special efforts for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of the children for whom foster and adoptive homes are needed. "Special efforts" shall include contacting and working with community organizations and religious organizations and may include contracting with those organizations, utilizing local media and other local resources, and conducting outreach activities.

(c-1) At the time of placement, the Department shall consider concurrent planning, as described in subsection (1-1) of Section 5, so that permanency may occur at the earliest opportunity. Consideration should be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child.

(d) The Department may accept gifts, grants, offers of services, and other contributions to use in making special recruitment efforts.

(e) The Department in placing children in adoptive or foster care homes may not, in any policy or practice relating to the placement of children for adoption or foster care, discriminate against any child or prospective adoptive or foster parent on the basis of race.

(Source: P.A. 94-880, eff. 8-1-06.)

Section 905. The Criminal Identification Act is amended by changing Sections 2.1 and 5.2 as follows:  
(20 ILCS 2630/2.1) (from Ch. 38, par. 206-2.1)

Sec. 2.1. For the purpose of maintaining complete and accurate criminal records of the Department of State Police, it is necessary for all policing bodies of this State, the clerk of the circuit court, the Illinois Department of Corrections, the sheriff of each county, and State's Attorney of each county to submit certain criminal arrest, charge, and disposition information to the Department for filing at the earliest time possible. Unless otherwise noted herein, it shall be the duty of all policing bodies of this State, the clerk of the circuit court, the Illinois Department of Corrections, the sheriff of each county, and the State's Attorney of each county to report such information as provided in this Section, both in the form and manner required by the Department and within 30 days of the criminal history event. Specifically:

(a) Arrest Information. All agencies making arrests for offenses which are required by statute to be

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collected, maintained or disseminated by the Department of State Police shall be responsible for furnishing daily to the Department fingerprints, charges and descriptions of all persons who are arrested for such offenses. All such agencies shall also notify the Department of all decisions by the arresting agency not to refer such arrests for prosecution. With approval of the Department, an agency making such arrests may enter into arrangements with other agencies for the purpose of furnishing daily such fingerprints, charges and descriptions to the Department upon its behalf.

(b) Charge Information. The State's Attorney of each county shall notify the Department of all charges filed and all petitions filed alleging that a minor is delinquent, including all those added subsequent to the filing of a case, and whether charges were not filed in cases for which the Department has received information required to be reported pursuant to paragraph (a) of this Section. With approval of the Department, the State's Attorney may enter into arrangements with other agencies for the purpose of furnishing the information required by this subsection (b) to the Department upon the State's Attorney's behalf.

(c) Disposition Information. The clerk of the circuit court of each county shall furnish the Department, in the form and manner required by the Supreme Court, with all final dispositions of cases for which the Department has received information required to be reported pursuant to paragraph (a) or (d) of this Section. Such information shall include, for each charge, all (1) judgments of not guilty, judgments of guilty including the sentence pronounced by the court, findings that a minor is delinquent and any sentence made based on those findings, discharges and dismissals in the court; (2) reviewing court orders filed with the clerk of the circuit court which reverse or remand a reported conviction or findings that a minor is delinquent or that vacate or modify a sentence or sentence made following a trial that a minor is delinquent; (3) continuances to a date certain in furtherance of an order of supervision granted under Section 5-6-1 of the Unified Code of Corrections or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, Section 10 of the Steroid Control Act, or Section 5-615 of the Juvenile Court Act of 1987; and (4) judgments or court orders terminating or revoking a sentence to or juvenile disposition of probation, supervision or conditional discharge and any resentencing or new court orders entered by a juvenile court relating to the disposition of a minor's case involving delinquency after such revocation.

(d) Fingerprints After Sentencing.

(1) After the court pronounces sentence, sentences a minor following a trial in which a minor was found to be delinquent or issues an order of supervision or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, Section 10 of the Steroid Control Act, or Section 5-615 of the Juvenile Court Act of 1987 for any offense which is required by statute to be collected, maintained, or disseminated by the Department of State Police, the State's Attorney of each county shall ask the court to order a law enforcement agency to fingerprint immediately all persons appearing before the court who have not previously been fingerprinted for the same case. The court shall so order the requested fingerprinting, if it determines that any such person has not previously been fingerprinted for the same case. The law enforcement agency shall submit such fingerprints to the Department daily.

(2) After the court pronounces sentence or makes a disposition of a case following a finding of delinquency for any offense which is not required by statute to be collected, maintained, or disseminated by the Department of State Police, the prosecuting attorney may ask the court to order a law enforcement agency to fingerprint immediately all persons appearing before the court who have not previously been fingerprinted for the same case. The court may so order the requested fingerprinting, if it determines that any so sentenced person has not previously been fingerprinted for the same case. The law enforcement agency may retain such fingerprints in its files.

(e) Corrections Information. The Illinois Department of Corrections and the sheriff of each county shall furnish the Department with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency or discharge of an individual who has been sentenced or committed to the agency's custody for any offenses which are mandated by statute to be collected, maintained or disseminated by the Department of State Police. For an individual who has been charged with any such offense and who escapes from custody or dies while in custody, all information concerning the receipt and escape or death, whichever is appropriate, shall

also be so furnished to the Department.

(Source: P.A. 94-556, eff. 9-11-05.)

(20 ILCS 2630/5.2)

Sec. 5.2. Expungement and sealing.

(a) General Provisions.

(1) Definitions. In this Act, words and phrases have the meanings set forth in this subsection, except when a particular context clearly requires a different meaning.

(A) The following terms shall have the meanings ascribed to them in the Unified Code of Corrections, 730 ILCS 5/5-1-2 through 5/5-1-22:

- (i) Business Offense (730 ILCS 5/5-1-2),
- (ii) Charge (730 ILCS 5/5-1-3),
- (iii) Court (730 ILCS 5/5-1-6),
- (iv) Defendant (730 ILCS 5/5-1-7),
- (v) Felony (730 ILCS 5/5-1-9),
- (vi) Imprisonment (730 ILCS 5/5-1-10),
- (vii) Judgment (730 ILCS 5/5-1-12),
- (viii) Misdemeanor (730 ILCS 5/5-1-14),
- (ix) Offense (730 ILCS 5/5-1-15),
- (x) Parole (730 ILCS 5/5-1-16),
- (xi) Petty Offense (730 ILCS 5/5-1-17),
- (xii) Probation (730 ILCS 5/5-1-18),
- (xiii) Sentence (730 ILCS 5/5-1-19),
- (xiv) Supervision (730 ILCS 5/5-1-21), and
- (xv) Victim (730 ILCS 5/5-1-22).

(B) As used in this Section, "charge not initiated by arrest" means a charge (as defined by 730 ILCS 5/5-1-3) brought against a defendant where the defendant is not arrested prior to or as a direct result of the charge.

(C) "Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. An order of supervision successfully completed by the petitioner is not a conviction. An order of qualified probation (as defined in subsection (a)(1)(J)) successfully completed by the petitioner is not a conviction. An order of supervision or an order of qualified probation that is terminated unsatisfactorily is a conviction, unless the unsatisfactory termination is reversed, vacated, or modified and the judgment of conviction, if any, is reversed or vacated.

(D) "Criminal offense" means a petty offense, business offense, misdemeanor, felony, or municipal ordinance violation (as defined in subsection (a)(1)(H)). As used in this Section, a minor traffic offense (as defined in subsection (a)(1)(G)) shall not be considered a criminal offense.

(E) "Expunge" means to physically destroy the records or return them to the petitioner and to obliterate the petitioner's name from any official index or public record, or both. Nothing in this Act shall require the physical destruction of the circuit court file, but such records relating to arrests or charges, or both, ordered expunged shall be impounded as required by subsections (d)(9)(A)(ii) and (d)(9)(B)(ii).

(F) As used in this Section, "last sentence" means the sentence, order of supervision, or order of qualified probation (as defined by subsection (a)(1)(J)), for a criminal offense (as defined by subsection (a)(1)(D)) that terminates last in time in any jurisdiction, regardless of whether the petitioner has included the criminal offense for which the sentence or order of supervision or qualified probation was imposed in his or her petition. If multiple sentences, orders of supervision, or orders of qualified probation terminate on the same day and are last in time, they shall be collectively considered the "last sentence" regardless of whether they were ordered to run concurrently.

(G) "Minor traffic offense" means a petty offense, business offense, or Class C misdemeanor under the Illinois Vehicle Code or a similar provision of a municipal or local ordinance.

(H) "Municipal ordinance violation" means an offense defined by a municipal or local ordinance that is criminal in nature and with which the petitioner was charged or for which the petitioner was arrested and released without charging.

(I) "Petitioner" means an adult or a minor prosecuted as an adult who has applied for relief under this Section.

(J) "Qualified probation" means an order of probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3(b)(1) and (2) of the Criminal Code of 1961 (as those provisions existed before their deletion by Public Act 89-313), Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act. For the purpose of this Section, "successful completion" of an order of qualified probation under Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act and Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act means that the probation was terminated satisfactorily and the judgment of conviction was vacated.

(K) "Seal" means to physically and electronically maintain the records, unless the records would otherwise be destroyed due to age, but to make the records unavailable without a court order, subject to the exceptions in Sections 12 and 13 of this Act. The petitioner's name shall also be obliterated from the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but any index issued by the circuit court clerk before the entry of the order to seal shall not be affected.

(L) "Sexual offense committed against a minor" includes but is not limited to the offenses of indecent solicitation of a child or criminal sexual abuse when the victim of such offense is under 18 years of age.

(M) "Terminate" as it relates to a sentence or order of supervision or qualified probation includes either satisfactory or unsatisfactory termination of the sentence, unless otherwise specified in this Section.

(2) Minor Traffic Offenses. Orders of supervision or convictions for minor traffic offenses shall not affect a petitioner's eligibility to expunge or seal records pursuant to this Section.

(3) Exclusions. Except as otherwise provided in subsections (b)(5), (b)(6), and (e) of this Section, the court shall not order:

(A) the sealing or expungement of the records of arrests or charges not initiated by arrest that result in an order of supervision for or conviction of: (i) any sexual offense committed against a minor; (ii) Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance; or (iii) Section 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance.

(B) the sealing or expungement of records of minor traffic offenses (as defined in subsection (a)(1)(G)), unless the petitioner was arrested and released without charging.

(C) the sealing of the records of arrests or charges not initiated by arrest which result in an order of supervision, an order of qualified probation (as defined in subsection (a)(1)(J)), or a conviction for the following offenses:

(i) offenses included in Article 11 of the Criminal Code of 1961 or a similar provision of a local ordinance, except Section 11-14 of the Criminal Code of 1961 or a similar provision of a local ordinance;

(ii) Section 12-3.4, 12-15, 12-30, or 26-5 of the Criminal Code of 1961 or a similar provision of a local ordinance;

(iii) offenses defined as "crimes of violence" in Section 2 of the Crime Victims Compensation Act or a similar provision of a local ordinance;

(iv) offenses which are Class A misdemeanors under the Humane Care for Animals Act; or

(v) any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act.

(D) the sealing of the records of an arrest which results in the petitioner being charged with a felony offense or records of a charge not initiated by arrest for a felony offense, regardless of the disposition, unless:

(i) the charge is amended to a misdemeanor and is otherwise eligible to be sealed pursuant to subsection (c);

(ii) the charge results in first offender probation as set forth in subsection (c)(2)(E); or

(iii) the charge is for a Class 4 felony offense listed in subsection (c)(2)(F) or the charge is amended to a Class 4 felony offense listed in subsection (c)(2)(F). Records of arrests which result in the petitioner being charged with a Class 4 felony offense listed in subsection (c)(2)(F), records of charges not initiated by arrest for Class 4 felony offenses listed in subsection (c)(2)(F), and records of charges amended to a Class 4 felony offense listed in

(c)(2)(F) may be sealed, regardless of the disposition, subject to any waiting periods set forth in subsection (c)(3).

(b) Expungement.

(1) A petitioner may petition the circuit court to expunge the records of his or her arrests and charges not initiated by arrest when:

(A) He or she has never been convicted of a criminal offense; and

(B) Each arrest or charge not initiated by arrest sought to be expunged resulted in: (i) acquittal, dismissal, or the petitioner's release without charging, unless excluded by subsection (a)(3)(B); (ii) a conviction which was vacated or reversed, unless excluded by subsection (a)(3)(B); (iii) an order of supervision and such supervision was successfully completed by the petitioner, unless excluded by subsection (a)(3)(A) or (a)(3)(B); or (iv) an order of qualified probation (as defined in subsection (a)(1)(J)) and such probation was successfully completed by the petitioner.

(2) Time frame for filing a petition to expunge.

(A) When the arrest or charge not initiated by arrest sought to be expunged resulted in an acquittal, dismissal, the petitioner's release without charging, or the reversal or vacation of a conviction, there is no waiting period to petition for the expungement of such records.

(B) When the arrest or charge not initiated by arrest sought to be expunged resulted in an order of supervision, successfully completed by the petitioner, the following time frames will apply:

(i) Those arrests or charges that resulted in orders of supervision under Section 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar provision of a local ordinance, or under Section 12-3.2, 12-15 or 16A-3 of the Criminal Code of 1961, shall not be eligible for expungement until 5 years have passed following the satisfactory termination of the supervision.

(ii) Those arrests or charges that resulted in orders of supervision for any other offenses shall not be eligible for expungement until 2 years have passed following the satisfactory termination of the supervision.

(C) When the arrest or charge not initiated by arrest sought to be expunged resulted in an order of qualified probation, successfully completed by the petitioner, such records shall not be eligible for expungement until 5 years have passed following the satisfactory termination of the probation.

(3) Those records maintained by the Department for persons arrested prior to their 17th birthday shall be expunged as provided in Section 5-915 of the Juvenile Court Act of 1987.

(4) Whenever a person has been arrested for or convicted of any offense, in the name of a person whose identity he or she has stolen or otherwise come into possession of, the aggrieved person from whom the identity was stolen or otherwise obtained without authorization, upon learning of the person having been arrested using his or her identity, may, upon verified petition to the chief judge of the circuit wherein the arrest was made, have a court order entered nunc pro tunc by the Chief Judge to correct the arrest record, conviction record, if any, and all official records of the arresting authority, the Department, other criminal justice agencies, the prosecutor, and the trial court concerning such arrest, if any, by removing his or her name from all such records in connection with the arrest and conviction, if any, and by inserting in the records the name of the offender, if known or ascertainable, in lieu of the aggrieved's name. The records of the circuit court clerk shall be sealed until further order of the court upon good cause shown and the name of the aggrieved person obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order. Nothing in this Section shall limit the Department of State Police or other criminal justice agencies or prosecutors from listing under an offender's name the false names he or she has used.

(5) Whenever a person has been convicted of criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, or aggravated criminal sexual abuse, the victim of that offense may request that the State's Attorney of the county in which the conviction occurred file a verified petition with the presiding trial judge at the petitioner's trial to have a court order entered to seal the records of the circuit court clerk in connection with the proceedings of the trial court concerning that offense. However, the records of the arresting authority and the Department of State Police concerning the offense shall not be sealed. The court, upon good cause shown, shall make the records of the circuit court clerk in connection with the proceedings of the trial court concerning the offense available for public inspection.

(6) If a conviction has been set aside on direct review or on collateral attack and the court determines by clear and convincing evidence that the petitioner was factually innocent of the charge, the court shall enter an expungement order as provided in subsection (b) of Section 5-5-4 of the Unified Code of Corrections.

(7) Nothing in this Section shall prevent the Department of State Police from maintaining all records of any person who is admitted to probation upon terms and conditions and who fulfills those terms and conditions pursuant to Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act.

(c) Sealing.

(1) Applicability. Notwithstanding any other provision of this Act to the contrary, and cumulative with any rights to expungement of criminal records, this subsection authorizes the sealing of criminal records of adults and of minors prosecuted as adults.

(2) Eligible Records. The following records may be sealed:

(A) All arrests resulting in release without charging;

(B) Arrests or charges not initiated by arrest resulting in acquittal, dismissal, or conviction when the conviction was reversed or vacated, except as excluded by subsection (a)(3)(B) or (a)(3)(D);

(C) Arrests or charges not initiated by arrest resulting in orders of supervision successfully completed by the petitioner, unless excluded by subsection (a)(3);

(D) Arrests or charges not initiated by arrest resulting in convictions unless excluded by subsection (a)(3);

(E) Arrests or charges not initiated by arrest resulting in orders of first offender probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act; and

(F) Arrests or charges not initiated by arrest resulting in Class 4 felony convictions for the following offenses:

(i) Section 11-14 of the Criminal Code of 1961;

(ii) Section 4 of the Cannabis Control Act;

(iii) Section 402 of the Illinois Controlled Substances Act;

(iv) the Methamphetamine Precursor Control Act; and

(v) the Steroid Control Act.

(3) When Records Are Eligible to Be Sealed. Records identified as eligible under subsection (c)(2) may be sealed as follows:

(A) Records identified as eligible under subsection (c)(2)(A) and (c)(2)(B) may be sealed at any time.

(B) Records identified as eligible under subsection (c)(2)(C) may be sealed (i) 3 years after the termination of petitioner's last sentence (as defined in subsection (a)(1)(F)) if the petitioner has never been convicted of a criminal offense (as defined in subsection (a)(1)(D)); or (ii) 4 years after the termination of the petitioner's last sentence (as defined in subsection (a)(1)(F)) if the petitioner has ever been convicted of a criminal offense (as defined in subsection (a)(1)(D)).

(C) Records identified as eligible under subsections (c)(2)(D), (c)(2)(E), and (c)(2)(F) may be sealed 4 years after the termination of the petitioner's last sentence (as defined in subsection (a)(1)(F)).

(4) Subsequent felony convictions. A person may not have subsequent felony conviction records sealed as provided in this subsection (c) if he or she is convicted of any felony offense after the date of the sealing of prior felony convictions as provided in this subsection (c). The court may, upon conviction for a subsequent felony offense, order the unsealing of prior felony conviction records previously ordered sealed by the court.

(5) Notice of eligibility for sealing. Upon entry of a disposition for an eligible record under this subsection (c), the petitioner shall be informed by the court of the right to have the records sealed and the procedures for the sealing of the records.

(d) Procedure. The following procedures apply to expungement under subsections (b) and (c), and sealing under subsection (c):

(1) Filing the petition. Upon becoming eligible to petition for the expungement or

sealing of records under this Section, the petitioner shall file a petition requesting the expungement or sealing of records with the clerk of the court where the arrests occurred or the charges were brought, or both. If arrests occurred or charges were brought in multiple jurisdictions, a petition must be filed in each such jurisdiction. The petitioner shall pay the applicable fee, if not waived.

(2) Contents of petition. The petition shall be verified and shall contain the petitioner's name, date of birth, current address and, for each arrest or charge not initiated by arrest sought to be sealed or expunged, the case number, the date of arrest (if any), the identity of the arresting authority, and such other information as the court may require. During the pendency of the proceeding, the petitioner shall promptly notify the circuit court clerk of any change of his or her address.

(3) Drug test. The petitioner must attach to the petition proof that the petitioner has passed a test taken within 30 days before the filing of the petition showing the absence within his or her body of all illegal substances as defined by the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, and the Cannabis Control Act if he or she is petitioning to seal felony records pursuant to clause (c)(2)(E) or (c)(2)(F)(ii)-(v) or if he or she is petitioning to expunge felony records of a qualified probation pursuant to clause (b)(1)(B)(iv).

(4) Service of petition. The circuit court clerk shall promptly serve a copy of the petition on the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government effecting the arrest.

(5) Objections.

(A) Any party entitled to notice of the petition may file an objection to the petition. All objections shall be in writing, shall be filed with the circuit court clerk, and shall state with specificity the basis of the objection.

(B) Objections to a petition to expunge or seal must be filed within 60 days of the date of service of the petition.

(6) Entry of order.

(A) The Chief Judge of the circuit wherein the charge was brought, any judge of that circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the petitioner's trial, if any, shall rule on the petition to expunge or seal as set forth in this subsection (d)(6).

(B) Unless the State's Attorney or prosecutor, the Department of State Police, the arresting agency, or the chief legal officer files an objection to the petition to expunge or seal within 60 days from the date of service of the petition, the court shall enter an order granting or denying the petition.

(7) Hearings. If an objection is filed, the court shall set a date for a hearing and notify the petitioner and all parties entitled to notice of the petition of the hearing date at least 30 days prior to the hearing, and shall hear evidence on whether the petition should or should not be granted, and shall grant or deny the petition to expunge or seal the records based on the evidence presented at the hearing.

(8) Service of order. After entering an order to expunge or seal records, the court must provide copies of the order to the Department, in a form and manner prescribed by the Department, to the petitioner, to the State's Attorney or prosecutor charged with the duty of prosecuting the offense, to the arresting agency, to the chief legal officer of the unit of local government effecting the arrest, and to such other criminal justice agencies as may be ordered by the court.

(9) Effect of order.

(A) Upon entry of an order to expunge records pursuant to (b)(2)(A) or (b)(2)(B)(ii), or both:

(i) the records shall be expunged (as defined in subsection (a)(1)(E)) by the arresting agency, the Department, and any other agency as ordered by the court, within 60 days of the date of service of the order, unless a motion to vacate, modify, or reconsider the order is filed pursuant to paragraph (12) of subsection (d) of this Section;

(ii) the records of the circuit court clerk shall be impounded until further order of the court upon good cause shown and the name of the petitioner obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order; and

(iii) in response to an inquiry for expunged records, the court, the Department, or the agency receiving such inquiry, shall reply as it does in response to inquiries when no

records ever existed.

(B) Upon entry of an order to expunge records pursuant to (b)(2)(B)(i) or (b)(2)(C), or both:

(i) the records shall be expunged (as defined in subsection (a)(1)(E)) by the arresting agency and any other agency as ordered by the court, within 60 days of the date of service of the order, unless a motion to vacate, modify, or reconsider the order is filed pursuant to paragraph (12) of subsection (d) of this Section;

(ii) the records of the circuit court clerk shall be impounded until further order of the court upon good cause shown and the name of the petitioner obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order;

(iii) the records shall be impounded by the Department within 60 days of the date of service of the order as ordered by the court, unless a motion to vacate, modify, or reconsider the order is filed pursuant to paragraph (12) of subsection (d) of this Section;

(iv) records impounded by the Department may be disseminated by the Department only to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or a similar offense or for the purpose of sentencing for any subsequent felony, and to the Department of Corrections upon conviction for any offense; and

(v) in response to an inquiry for such records from anyone not authorized by law to access such records the court, the Department, or the agency receiving such inquiry shall reply as it does in response to inquiries when no records ever existed.

(C) Upon entry of an order to seal records under subsection (c), the arresting agency, any other agency as ordered by the court, the Department, and the court shall seal the records (as defined in subsection (a)(1)(K)). In response to an inquiry for such records from anyone not authorized by law to access such records the court, the Department, or the agency receiving such inquiry shall reply as it does in response to inquiries when no records ever existed.

(10) Fees. The Department may charge the petitioner a fee equivalent to the cost of processing any order to expunge or seal records. Notwithstanding any provision of the Clerks of Courts Act to the contrary, the circuit court clerk may charge a fee equivalent to the cost associated with the sealing or expungement of records by the circuit court clerk. From the total filing fee collected for the petition to seal or expunge, the circuit court clerk shall deposit \$10 into the Circuit Court Clerk Operation and Administrative Fund, to be used to offset the costs incurred by the circuit court clerk in performing the additional duties required to serve the petition to seal or expunge on all parties. The circuit court clerk shall collect and forward the Department of State Police portion of the fee to the Department and it shall be deposited in the State Police Services Fund.

(11) Final Order. No court order issued under the expungement or sealing provisions of this Section shall become final for purposes of appeal until 30 days after service of the order on the petitioner and all parties entitled to notice of the petition.

(12) Motion to Vacate, Modify, or Reconsider. The petitioner or any party entitled to notice may file a motion to vacate, modify, or reconsider the order granting or denying the petition to expunge or seal within 60 days of service of the order.

(e) Whenever a person who has been convicted of an offense is granted a pardon by the Governor which specifically authorizes expungement, he or she may, upon verified petition to the Chief Judge of the circuit where the person had been convicted, any judge of the circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the defendant's trial, have a court order entered expunging the record of arrest from the official records of the arresting authority and order that the records of the circuit court clerk and the Department be sealed until further order of the court upon good cause shown or as otherwise provided herein, and the name of the defendant obliterated from the official index requested to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act in connection with the arrest and conviction for the offense for which he or she had been pardoned but the order shall not affect any index issued by the circuit court clerk before the entry of the order. All records sealed by the Department may be disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction for any subsequent offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual. Upon entry of the order of expungement, the circuit court clerk shall promptly mail a copy of the order to the person who was pardoned.

(f) Subject to available funding, the Illinois Department of Corrections shall conduct a study of the impact of sealing, especially on employment and recidivism rates, utilizing a random sample of those who apply for the sealing of their criminal records under Public Act 93-211. At the request of the Illinois Department of Corrections, records of the Illinois Department of Employment Security shall be utilized as appropriate to assist in the study. The study shall not disclose any data in a manner that would allow the identification of any particular individual or employing unit. The study shall be made available to the General Assembly no later than September 1, 2010.  
(Source: P.A. 96-409, eff. 1-1-10.)

Section 910. The Illinois Uniform Conviction Information Act is amended by changing Section 3 as follows:

(20 ILCS 2635/3) (from Ch. 38, par. 1603)

Sec. 3. Definitions. Whenever used in this Act, and for the purposes of this Act, unless the context clearly indicates otherwise:

(A) "Accurate" means factually correct, containing no mistake or error of a material nature.

(B) The phrase "administer the criminal laws" includes any of the following activities: intelligence gathering, surveillance, criminal investigation, crime detection and prevention (including research), apprehension, detention, pretrial or post-trial release, prosecution, the correctional supervision or rehabilitation of accused persons or criminal offenders, criminal identification activities, or the collection, maintenance or dissemination of criminal history record information.

(C) "The Authority" means the Illinois Criminal Justice Information Authority.

(D) "Automated" means the utilization of computers, telecommunication lines, or other automatic data processing equipment for data collection or storage, analysis, processing, preservation, maintenance, dissemination, or display and is distinguished from a system in which such activities are performed manually.

(E) "Complete" means accurately reflecting all the criminal history record information about an individual that is required to be reported to the Department pursuant to Section 2.1 of the Criminal Identification Act.

(F) "Conviction information" means data reflecting a judgment of guilt or nolo contendere. The term includes all prior and subsequent criminal history events directly relating to such judgments, such as, but not limited to: (1) the notation of arrest; (2) the notation of charges filed; (3) the sentence imposed; (4) the fine imposed; and (5) all related probation, parole, and release information. Information ceases to be "conviction information" when a judgment of guilt is reversed or vacated.

For purposes of this Act, continuances to a date certain in furtherance of an order of supervision granted under Section 5-6-1 of the Unified Code of Corrections or an order of probation granted under either Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act shall not be deemed "conviction information".

(G) "Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pretrial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation and release. The term does not apply to statistical records and reports in which individual are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

(H) "Criminal justice agency" means (1) a government agency or any subunit thereof which is authorized to administer the criminal laws and which allocates a substantial part of its annual budget for that purpose, or (2) an agency supported by public funds which is authorized as its principal function to administer the criminal laws and which is officially designated by the Department as a criminal justice agency for purposes of this Act.

(I) "The Department" means the Illinois Department of State Police.

(J) "Director" means the Director of the Illinois Department of State Police.

(K) "Disseminate" means to disclose or transmit conviction information in any form, oral, written, or otherwise.

(L) "Exigency" means pending danger or the threat of pending danger to an individual or property.

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(M) "Non-criminal justice agency" means a State agency, Federal agency, or unit of local government that is not a criminal justice agency. The term does not refer to private individuals, corporations, or non-governmental agencies or organizations.

(M-5) "Request" means the submission to the Department, in the form and manner required, the necessary data elements or fingerprints, or both, to allow the Department to initiate a search of its criminal history record information files.

(N) "Requester" means any private individual, corporation, organization, employer, employment agency, labor organization, or non-criminal justice agency that has made a request pursuant to this Act to obtain conviction information maintained in the files of the Department of State Police regarding a particular individual.

(O) "Statistical information" means data from which the identity of an individual cannot be ascertained, reconstructed, or verified and to which the identity of an individual cannot be linked by the recipient of the information.

(Source: P.A. 94-556, eff. 9-11-05.)

Section 915. The Counties Code is amended by changing Section 5-1103 as follows:

(55 ILCS 5/5-1103) (from Ch. 34, par. 5-1103)

Sec. 5-1103. Court services fee. A county board may enact by ordinance or resolution a court services fee dedicated to defraying court security expenses incurred by the sheriff in providing court services or for any other court services deemed necessary by the sheriff to provide for court security, including without limitation court services provided pursuant to Section 3-6023, as now or hereafter amended. Such fee shall be paid in civil cases by each party at the time of filing the first pleading, paper or other appearance; provided that no additional fee shall be required if more than one party is represented in a single pleading, paper or other appearance. In criminal, local ordinance, county ordinance, traffic and conservation cases, such fee shall be assessed against the defendant upon a plea of guilty, stipulation of facts or findings of guilty, resulting in a judgment of conviction, or order of supervision, or sentence of probation without entry of judgment pursuant to Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act. In setting such fee, the county board may impose, with the concurrence of the Chief Judge of the judicial circuit in which the county is located by administrative order entered by the Chief Judge, differential rates for the various types or categories of criminal and civil cases, but the maximum rate shall not exceed \$25. All proceeds from this fee must be used to defray court security expenses incurred by the sheriff in providing court services. No fee shall be imposed or collected, however, in traffic, conservation, and ordinance cases in which fines are paid without a court appearance. The fees shall be collected in the manner in which all other court fees or costs are collected and shall be deposited into the county general fund for payment solely of costs incurred by the sheriff in providing court security or for any other court services deemed necessary by the sheriff to provide for court security.

(Source: P.A. 93-558, eff. 12-1-03; 94-556, eff. 9-11-05.)

Section 920. The Metropolitan Transit Authority Act is amended by changing Section 28b as follows:

(70 ILCS 3605/28b) (from Ch. 111 2/3, par. 328b)

Sec. 28b. Any person applying for a position as a driver of a vehicle owned by a private carrier company which provides public transportation pursuant to an agreement with the Authority shall be required to authorize an investigation by the private carrier company to determine if the applicant has been convicted of any of the following offenses: (i) those offenses defined in Sections 9-1, 9-1.2, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-6, 10-7, 11-6, 11-9, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 11-22, 12-4.3, 12-4.4, 12-4.5, 12-6, 12-7.1, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.1, 18-1, 18-2, 20-1, 20-1.1, 31A-1, 31A-1.1, and 33A-2, and in subsection (a) and subsection (b), clause (1), of Section 12-4, in subdivisions (a)(1), (b)(1), and (f)(1) of Section 12-3.05, and in subsection (a-5) of Section 12-3.1 of the Criminal Code of 1961; (ii) those offenses defined in the Cannabis Control Act except those offenses defined in subsections (a) and (b) of Section 4, and subsection (a) of Section 5 of the Cannabis Control Act (iii) those offenses defined in the Illinois Controlled Substances Act; (iv) those offenses defined in the Methamphetamine Control and Community Protection Act; and (v) any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State would be punishable as one or more of the foregoing offenses. Upon receipt of this authorization, the private carrier company shall

submit the applicant's name, sex, race, date of birth, fingerprints and social security number to the Department of State Police on forms prescribed by the Department. The Department of State Police shall conduct an investigation to ascertain if the applicant has been convicted of any of the above enumerated offenses. The Department shall charge the private carrier company a fee for conducting the investigation, which fee shall be deposited in the State Police Services Fund and shall not exceed the cost of the inquiry; and the applicant shall not be charged a fee for such investigation by the private carrier company. The Department of State Police shall furnish, pursuant to positive identification, records of convictions, until expunged, to the private carrier company which requested the investigation. A copy of the record of convictions obtained from the Department shall be provided to the applicant. Any record of conviction received by the private carrier company shall be confidential. Any person who releases any confidential information concerning any criminal convictions of an applicant shall be guilty of a Class A misdemeanor, unless authorized by this Section.  
(Source: P.A. 94-556, eff. 9-11-05.)

Section 925. The Child Care Act of 1969 is amended by changing Section 4.2 as follows:  
(225 ILCS 10/4.2) (from Ch. 23, par. 2214.2)

Sec. 4.2. (a) No applicant may receive a license from the Department and no person may be employed by a licensed child care facility who refuses to authorize an investigation as required by Section 4.1.

(b) In addition to the other provisions of this Section, no applicant may receive a license from the Department and no person may be employed by a child care facility licensed by the Department who has been declared a sexually dangerous person under "An Act in relation to sexually dangerous persons, and providing for their commitment, detention and supervision", approved July 6, 1938, as amended, or convicted of committing or attempting to commit any of the following offenses stipulated under the Criminal Code of 1961:

- (1) murder;
- (1.1) solicitation of murder;
- (1.2) solicitation of murder for hire;
- (1.3) intentional homicide of an unborn child;
- (1.4) voluntary manslaughter of an unborn child;
- (1.5) involuntary manslaughter;
- (1.6) reckless homicide;
- (1.7) concealment of a homicidal death;
- (1.8) involuntary manslaughter of an unborn child;
- (1.9) reckless homicide of an unborn child;
- (1.10) drug-induced homicide;
- (2) a sex offense under Article 11, except offenses described in Sections 11-7, 11-8, 11-12, and 11-13;
- (3) kidnapping;
- (3.1) aggravated unlawful restraint;
- (3.2) forcible detention;
- (3.3) harboring a runaway;
- (3.4) aiding and abetting child abduction;
- (4) aggravated kidnapping;
- (5) child abduction;
- (6) aggravated battery of a child as described in Section 12-4.3 or subdivision (b)(1) of Section 12-3.05;
- (7) criminal sexual assault;
- (8) aggravated criminal sexual assault;
- (8.1) predatory criminal sexual assault of a child;
- (9) criminal sexual abuse;
- (10) aggravated sexual abuse;
- (11) heinous battery as described in Section 12-4.1 or subdivision (a)(2) of Section 12-3.05;
- (12) aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05;
- (13) tampering with food, drugs, or cosmetics;
- (14) drug induced infliction of great bodily harm as described in Section 12-4.7 or subdivision (g)(1) of Section 12-3.05;
- (15) hate crime;
- (16) stalking;

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- (17) aggravated stalking;
- (18) threatening public officials;
- (19) home invasion;
- (20) vehicular invasion;
- (21) criminal transmission of HIV;
- (22) criminal abuse or neglect of an elderly or disabled person as described in Section 12-21 or subsection (b) of Section 12-4.4a;
- (23) child abandonment;
- (24) endangering the life or health of a child;
- (25) ritual mutilation;
- (26) ritualized abuse of a child;
- (27) an offense in any other jurisdiction the elements of which are similar and bear a substantial relationship to any of the foregoing offenses.

(b-1) In addition to the other provisions of this Section, beginning January 1, 2004, no new applicant and, on the date of licensure renewal, no current licensee may operate or receive a license from the Department to operate, no person may be employed by, and no adult person may reside in a child care facility licensed by the Department who has been convicted of committing or attempting to commit any of the following offenses or an offense in any other jurisdiction the elements of which are similar and bear a substantial relationship to any of the following offenses:

#### (I) BODILY HARM

- (1) Felony aggravated assault.
- (2) Vehicular endangerment.
- (3) Felony domestic battery.
- (4) Aggravated battery.
- (5) Heinous battery.
- (6) Aggravated battery with a firearm.
- (7) Aggravated battery of an unborn child.
- (8) Aggravated battery of a senior citizen.
- (9) Intimidation.
- (10) Compelling organization membership of persons.
- (11) Abuse and criminal ~~gross~~ neglect of a long term care facility resident.
- (12) Felony violation of an order of protection.

#### (II) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- (1) Felony unlawful use of weapons.
- (2) Aggravated discharge of a firearm.
- (3) Reckless discharge of a firearm.
- (4) Unlawful use of metal piercing bullets.
- (5) Unlawful sale or delivery of firearms on the premises of any school.
- (6) Disarming a police officer.
- (7) Obstructing justice.
- (8) Concealing or aiding a fugitive.
- (9) Armed violence.
- (10) Felony contributing to the criminal delinquency of a juvenile.

#### (III) DRUG OFFENSES

- (1) Possession of more than 30 grams of cannabis.
- (2) Manufacture of more than 10 grams of cannabis.
- (3) Cannabis trafficking.
- (4) Delivery of cannabis on school grounds.
- (5) Unauthorized production of more than 5 cannabis sativa plants.
- (6) Calculated criminal cannabis conspiracy.
- (7) Unauthorized manufacture or delivery of controlled substances.
- (8) Controlled substance trafficking.
- (9) Manufacture, distribution, or advertisement of look-alike substances.
- (10) Calculated criminal drug conspiracy.
- (11) Street gang criminal drug conspiracy.
- (12) Permitting unlawful use of a building.

(13) Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property.

(14) Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances.

(15) Delivery of controlled substances.

(16) Sale or delivery of drug paraphernalia.

(17) Felony possession, sale, or exchange of instruments adapted for use of a controlled substance, methamphetamine, or cannabis by subcutaneous injection.

(18) Felony possession of a controlled substance.

(19) Any violation of the Methamphetamine Control and Community Protection Act.

(b-2) For child care facilities other than foster family homes, the Department may issue a new child care facility license to or renew the existing child care facility license of an applicant, a person employed by a child care facility, or an applicant who has an adult residing in a home child care facility who was convicted of an offense described in subsection (b-1), provided that all of the following requirements are met:

(1) The relevant criminal offense occurred more than 5 years prior to the date of application or renewal, except for drug offenses. The relevant drug offense must have occurred more than 10 years prior to the date of application or renewal, unless the applicant passed a drug test, arranged and paid for by the child care facility, no less than 5 years after the offense.

(2) The Department must conduct a background check and assess all convictions and recommendations of the child care facility to determine if waiver shall apply in accordance with Department administrative rules and procedures.

(3) The applicant meets all other requirements and qualifications to be licensed as the pertinent type of child care facility under this Act and the Department's administrative rules.

(c) In addition to the other provisions of this Section, no applicant may receive a license from the Department to operate a foster family home, and no adult person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the following offenses stipulated under the Criminal Code of 1961, the Cannabis Control Act, the Methamphetamine Control and Community Protection Act, and the Illinois Controlled Substances Act:

#### (I) OFFENSES DIRECTED AGAINST THE PERSON

##### (A) KIDNAPPING AND RELATED OFFENSES

(1) Unlawful restraint.

##### (B) BODILY HARM

(2) Felony aggravated assault.

(3) Vehicular endangerment.

(4) Felony domestic battery.

(5) Aggravated battery.

(6) Heinous battery.

(7) Aggravated battery with a firearm.

(8) Aggravated battery of an unborn child.

(9) Aggravated battery of a senior citizen.

(10) Intimidation.

(11) Compelling organization membership of persons.

(12) Abuse and ~~criminal gross~~ neglect of a long term care facility resident.

(13) Felony violation of an order of protection.

#### (II) OFFENSES DIRECTED AGAINST PROPERTY

(14) Felony theft.

(15) Robbery.

(16) Armed robbery.

(17) Aggravated robbery.

(18) Vehicular hijacking.

(19) Aggravated vehicular hijacking.

(20) Burglary.

(21) Possession of burglary tools.

(22) Residential burglary.

(23) Criminal fortification of a residence or building.

- (24) Arson.
- (25) Aggravated arson.
- (26) Possession of explosive or explosive incendiary devices.

(III) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- (27) Felony unlawful use of weapons.
- (28) Aggravated discharge of a firearm.
- (29) Reckless discharge of a firearm.
- (30) Unlawful use of metal piercing bullets.
- (31) Unlawful sale or delivery of firearms on the premises of any school.
- (32) Disarming a police officer.
- (33) Obstructing justice.
- (34) Concealing or aiding a fugitive.
- (35) Armed violence.
- (36) Felony contributing to the criminal delinquency of a juvenile.

(IV) DRUG OFFENSES

- (37) Possession of more than 30 grams of cannabis.
  - (38) Manufacture of more than 10 grams of cannabis.
  - (39) Cannabis trafficking.
  - (40) Delivery of cannabis on school grounds.
  - (41) Unauthorized production of more than 5 cannabis sativa plants.
  - (42) Calculated criminal cannabis conspiracy.
  - (43) Unauthorized manufacture or delivery of controlled substances.
  - (44) Controlled substance trafficking.
  - (45) Manufacture, distribution, or advertisement of look-alike substances.
  - (46) Calculated criminal drug conspiracy.
  - (46.5) Streetgang criminal drug conspiracy.
  - (47) Permitting unlawful use of a building.
  - (48) Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property.
  - (49) Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances.
  - (50) Delivery of controlled substances.
  - (51) Sale or delivery of drug paraphernalia.
  - (52) Felony possession, sale, or exchange of instruments adapted for use of a controlled substance, methamphetamine, or cannabis by subcutaneous injection.
  - (53) Any violation of the Methamphetamine Control and Community Protection Act.
  - (d) Notwithstanding subsection (c), the Department may issue a new foster family home license or may renew an existing foster family home license of an applicant who was convicted of an offense described in subsection (c), provided all of the following requirements are met:
    - (1) The relevant criminal offense or offenses occurred more than 10 years prior to the date of application or renewal.
    - (2) The applicant had previously disclosed the conviction or convictions to the Department for purposes of a background check.
    - (3) After the disclosure, the Department either placed a child in the home or the foster family home license was issued.
    - (4) During the background check, the Department had assessed and waived the conviction in compliance with the existing statutes and rules in effect at the time of the waiver.
    - (5) The applicant meets all other requirements and qualifications to be licensed as a foster family home under this Act and the Department's administrative rules.
    - (6) The applicant has a history of providing a safe, stable home environment and appears able to continue to provide a safe, stable home environment.
- (Source: P.A. 93-151, eff. 7-10-03; 94-556, eff. 9-11-05.)

Section 930. The Health Care Worker Background Check Act is amended by changing Section 25 as follows:

(225 ILCS 46/25)

Sec. 25. Persons ineligible to be hired by health care employers and long-term care facilities.

[May 3, 2010]

(a) In the discretion of the Director of Public Health, as soon after January 1, 1996, January 1, 1997, January 1, 2006, or October 1, 2007, as applicable, and as is reasonably practical, no health care employer shall knowingly hire, employ, or retain any individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility shall knowingly hire, employ, or retain any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has been convicted of committing or attempting to commit one or more of the following offenses: those defined in Sections 8-1(b), 8-1.1, 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1, 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-6, 11-9.1, 11-9.5, 11-19.2, 11-20.1, 12-1, 12-2, ~~12-3.05, 12-3~~, 12-3.1, 12-3.2, ~~12-3.3~~, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-19, 12-21, 12-21.6, 12-32, 12-33, 16-1, 16-1.3, 16A-3, 17-3, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3, 19-4, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, or 33A-2, or in subsection (a) of Section 12-3 or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961; those provided in Section 4 of the Wrongs to Children Act; those provided in Section 53 of the Criminal Jurisprudence Act; those defined in Section 5, 5.1, 5.2, 7, or 9 of the Cannabis Control Act; those defined in the Methamphetamine Control and Community Protection Act; or those defined in Sections 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois Controlled Substances Act, unless the applicant or employee obtains a waiver pursuant to Section 40.

(a-1) In the discretion of the Director of Public Health, as soon after January 1, 2004 or October 1, 2007, as applicable, and as is reasonably practical, no health care employer shall knowingly hire any individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility shall knowingly hire any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has (i) been convicted of committing or attempting to commit one or more of the offenses defined in Section 12-3.3, 12-4.2-5, 16-2, 16G-15, 16G-20, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6, 24-3.2, or 24-3.3 of the Criminal Code of 1961; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card and Debit Card Act; or Section 5.1 of the Wrongs to Children Act; or (ii) violated Section 50-50 of the Nurse Practice Act, unless the applicant or employee obtains a waiver pursuant to Section 40 of this Act.

A health care employer is not required to retain an individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility is required to retain an individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has been convicted of committing or attempting to commit one or more of the offenses enumerated in this subsection.

(b) A health care employer shall not hire, employ, or retain any individual in a position with duties involving direct care of clients, patients, or residents, and no long-term care facility shall knowingly hire, employ, or retain any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, if the health care employer becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsection (a) or (a-1), as verified by court records, records from a state agency, or an FBI criminal history record check, unless the applicant or employee obtains a waiver pursuant to Section 40 of this Act. This shall not be construed to mean that a health care employer has an obligation to conduct a criminal history records check in other states in which an employee has resided.

(Source: P.A. 95-120, eff. 8-13-07; 95-639, eff. 10-5-07; 95-876, eff. 8-21-08; 96-710, eff. 1-1-10.)

Section 935. The Nursing Home Administrators Licensing and Disciplinary Act is amended by changing Section 17 as follows:

(225 ILCS 70/17) (from Ch. 111, par. 3667)

(Text of Section before amendment by P.A. 96-339)

(Section scheduled to be repealed on January 1, 2018)

Sec. 17. Grounds for disciplinary action.

(a) The Department may impose fines not to exceed \$10,000 or may refuse to issue or to renew, or may revoke, suspend, place on probation, censure, reprimand or take other disciplinary or non-disciplinary action with regard to the license of any person, for any one or combination of the following causes:

(1) Intentional material misstatement in furnishing information to the Department.

(2) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is

a felony under the laws of the United States or any state or territory thereof or a misdemeanor of

which an essential element is dishonesty or that is directly related to the practice of the profession of nursing home administration.

- (3) Making any misrepresentation for the purpose of obtaining a license, or violating any provision of this Act.
- (4) Immoral conduct in the commission of any act, such as sexual abuse or sexual misconduct, related to the licensee's practice.
- (5) Failing to respond within 30 days, to a written request made by the Department for information.
- (6) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public.
- (7) Habitual use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug which results in the inability to practice with reasonable judgment, skill or safety.
- (8) Discipline by another U.S. jurisdiction if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth herein.
- (9) A finding by the Department that the licensee, after having his or her license placed on probationary status has violated the terms of probation.
- (10) Willfully making or filing false records or reports in his or her practice, including but not limited to false records filed with State agencies or departments.
- (11) Physical illness, mental illness, or other impairment or disability, including, but not limited to, deterioration through the aging process, or loss of motor skill that results in the inability to practice the profession with reasonable judgment, skill or safety.
- (12) Disregard or violation of this Act or of any rule issued pursuant to this Act.
- (13) Aiding or abetting another in the violation of this Act or any rule or regulation issued pursuant to this Act.
- (14) Allowing one's license to be used by an unlicensed person.
- (15) (Blank).
- (16) Professional incompetence in the practice of nursing home administration.
- (17) Conviction of a violation of Section 12-19 of the Criminal Code of 1961 for the abuse and gross neglect of a long term care facility resident.
- (18) Violation of the Nursing Home Care Act or of any rule issued under the Nursing Home Care Act.

All proceedings to suspend, revoke, place on probationary status, or take any other disciplinary action as the Department may deem proper, with regard to a license on any of the foregoing grounds, must be commenced within 5 years next after receipt by the Department of (i) a complaint alleging the commission of or notice of the conviction order for any of the acts described herein or (ii) a referral for investigation under Section 3-108 of the Nursing Home Care Act.

The entry of an order or judgment by any circuit court establishing that any person holding a license under this Act is a person in need of mental treatment operates as a suspension of that license. That person may resume their practice only upon the entry of a Department order based upon a finding by the Board that they have been determined to be recovered from mental illness by the court and upon the Board's recommendation that they be permitted to resume their practice.

The Department, upon the recommendation of the Board, may adopt rules which set forth standards to be used in determining what constitutes:

- (i) when a person will be deemed sufficiently rehabilitated to warrant the public trust;
- (ii) dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud, or harm the public;
- (iii) immoral conduct in the commission of any act related to the licensee's practice; and
- (iv) professional incompetence in the practice of nursing home administration.

However, no such rule shall be admissible into evidence in any civil action except for review of a licensing or other disciplinary action under this Act.

In enforcing this Section, the Department or Board, upon a showing of a possible violation, may compel any individual licensed to practice under this Act, or who has applied for licensure pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physician or physicians shall be those specifically designated by the Department or Board. The Department or Board may order the examining physician to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the

licensee or applicant and the examining physician. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to mental or physical examination, when directed, shall be grounds for suspension of his or her license until such time as the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board shall require such individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. Any individual whose license was granted pursuant to this Act or continued, reinstated, renewed, disciplined or supervised, subject to such terms, conditions or restrictions who shall fail to comply with such terms, conditions or restrictions shall be referred to the Secretary for a determination as to whether the licensee shall have his or her license suspended immediately, pending a hearing by the Department. In instances in which the Secretary immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Board within 30 days after such suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject administrator's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act, affected under this Section, shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

(b) Any individual or organization acting in good faith, and not in a wilful and wanton manner, in complying with this Act by providing any report or other information to the Department, or assisting in the investigation or preparation of such information, or by participating in proceedings of the Department, or by serving as a member of the Board, shall not, as a result of such actions, be subject to criminal prosecution or civil damages.

(c) Members of the Board, and persons retained under contract to assist and advise in an investigation, shall be indemnified by the State for any actions occurring within the scope of services on or for the Board, done in good faith and not wilful and wanton in nature. The Attorney General shall defend all such actions unless he or she determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were wilful and wanton.

Should the Attorney General decline representation, a person entitled to indemnification under this Section shall have the right to employ counsel of his or her choice, whose fees shall be provided by the State, after approval by the Attorney General, unless there is a determination by a court that the member's actions were not in good faith or were wilful and wanton.

A person entitled to indemnification under this Section must notify the Attorney General within 7 days of receipt of notice of the initiation of any action involving services of the Board. Failure to so notify the Attorney General shall constitute an absolute waiver of the right to a defense and indemnification.

The Attorney General shall determine within 7 days after receiving such notice, whether he or she will undertake to represent a person entitled to indemnification under this Section.

(d) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code, as amended, operates as an automatic suspension. Such suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient; and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume his or her practice.

(e) The Department may refuse to issue or may suspend the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(f) The Department of Public Health shall transmit to the Department a list of those facilities which receive an "A" violation as defined in Section 1-129 of the Nursing Home Care Act.

(Source: P.A. 95-703, eff. 12-31-07.)

(Text of Section after amendment by P.A. 96-339)

[May 3, 2010]

(Section scheduled to be repealed on January 1, 2018)

Sec. 17. Grounds for disciplinary action.

(a) The Department may impose fines not to exceed \$10,000 or may refuse to issue or to renew, or may revoke, suspend, place on probation, censure, reprimand or take other disciplinary or non-disciplinary action with regard to the license of any person, for any one or combination of the following causes:

(1) Intentional material misstatement in furnishing information to the Department.

(2) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or a misdemeanor of which an essential element is dishonesty or that is directly related to the practice of the profession of nursing home administration.

(3) Making any misrepresentation for the purpose of obtaining a license, or violating any provision of this Act.

(4) Immoral conduct in the commission of any act, such as sexual abuse or sexual misconduct, related to the licensee's practice.

(5) Failing to respond within 30 days, to a written request made by the Department for information.

(6) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public.

(7) Habitual use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug which results in the inability to practice with reasonable judgment, skill or safety.

(8) Discipline by another U.S. jurisdiction if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth herein.

(9) A finding by the Department that the licensee, after having his or her license placed on probationary status has violated the terms of probation.

(10) Willfully making or filing false records or reports in his or her practice, including but not limited to false records filed with State agencies or departments.

(11) Physical illness, mental illness, or other impairment or disability, including, but not limited to, deterioration through the aging process, or loss of motor skill that results in the inability to practice the profession with reasonable judgment, skill or safety.

(12) Disregard or violation of this Act or of any rule issued pursuant to this Act.

(13) Aiding or abetting another in the violation of this Act or any rule or regulation issued pursuant to this Act.

(14) Allowing one's license to be used by an unlicensed person.

(15) (Blank).

(16) Professional incompetence in the practice of nursing home administration.

(17) Conviction of a violation of Section 12-19 or subsection (a) of Section 12-4.4a of the Criminal Code of 1961 for the

abuse and ~~criminal gross~~ neglect of a long term care facility resident.

(18) Violation of the Nursing Home Care Act or the MR/DD Community Care Act or of any rule issued under the Nursing Home Care Act or the MR/DD Community Care Act.

All proceedings to suspend, revoke, place on probationary status, or take any other disciplinary action as the Department may deem proper, with regard to a license on any of the foregoing grounds, must be commenced within 5 years next after receipt by the Department of (i) a complaint alleging the commission of or notice of the conviction order for any of the acts described herein or (ii) a referral for investigation under Section 3-108 of the Nursing Home Care Act.

The entry of an order or judgment by any circuit court establishing that any person holding a license under this Act is a person in need of mental treatment operates as a suspension of that license. That person may resume their practice only upon the entry of a Department order based upon a finding by the Board that they have been determined to be recovered from mental illness by the court and upon the Board's recommendation that they be permitted to resume their practice.

The Department, upon the recommendation of the Board, may adopt rules which set forth standards to be used in determining what constitutes:

(i) when a person will be deemed sufficiently rehabilitated to warrant the public trust;

(ii) dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud, or harm the public;

(iii) immoral conduct in the commission of any act related to the licensee's practice;  
and

(iv) professional incompetence in the practice of nursing home administration.

However, no such rule shall be admissible into evidence in any civil action except for review of a licensing or other disciplinary action under this Act.

In enforcing this Section, the Department or Board, upon a showing of a possible violation, may compel any individual licensed to practice under this Act, or who has applied for licensure pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physician or physicians shall be those specifically designated by the Department or Board. The Department or Board may order the examining physician to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to mental or physical examination, when directed, shall be grounds for suspension of his or her license until such time as the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board shall require such individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. Any individual whose license was granted pursuant to this Act or continued, reinstated, renewed, disciplined or supervised, subject to such terms, conditions or restrictions who shall fail to comply with such terms, conditions or restrictions shall be referred to the Secretary for a determination as to whether the licensee shall have his or her license suspended immediately, pending a hearing by the Department. In instances in which the Secretary immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Board within 30 days after such suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject administrator's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act, affected under this Section, shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

(b) Any individual or organization acting in good faith, and not in a wilful and wanton manner, in complying with this Act by providing any report or other information to the Department, or assisting in the investigation or preparation of such information, or by participating in proceedings of the Department, or by serving as a member of the Board, shall not, as a result of such actions, be subject to criminal prosecution or civil damages.

(c) Members of the Board, and persons retained under contract to assist and advise in an investigation, shall be indemnified by the State for any actions occurring within the scope of services on or for the Board, done in good faith and not wilful and wanton in nature. The Attorney General shall defend all such actions unless he or she determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were wilful and wanton.

Should the Attorney General decline representation, a person entitled to indemnification under this Section shall have the right to employ counsel of his or her choice, whose fees shall be provided by the State, after approval by the Attorney General, unless there is a determination by a court that the member's actions were not in good faith or were wilful and wanton.

A person entitled to indemnification under this Section must notify the Attorney General within 7 days of receipt of notice of the initiation of any action involving services of the Board. Failure to so notify the Attorney General shall constitute an absolute waiver of the right to a defense and indemnification.

The Attorney General shall determine within 7 days after receiving such notice, whether he or she will undertake to represent a person entitled to indemnification under this Section.

(d) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code, as amended, operates as an automatic suspension. Such suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient; and upon the recommendation of the Board to the Secretary that the licensee be

allowed to resume his or her practice.

(e) The Department may refuse to issue or may suspend the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(f) The Department of Public Health shall transmit to the Department a list of those facilities which receive an "A" violation as defined in Section 1-129 of the Nursing Home Care Act. (Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10.)

Section 945. The Illinois Sexually Transmissible Disease Control Act is amended by changing Section 5.5 as follows:

(410 ILCS 325/5.5) (from Ch. 111 1/2, par. 7405.5)

Sec. 5.5. Risk assessment.

(a) Whenever the Department receives a report of HIV infection or AIDS pursuant to this Act and the Department determines that the subject of the report may present or may have presented a possible risk of HIV transmission, the Department shall, when medically appropriate, investigate the subject of the report and that person's contacts as defined in subsection (c), to assess the potential risks of transmission. Any investigation and action shall be conducted in a timely fashion. All contacts other than those defined in subsection (c) shall be investigated in accordance with Section 5 of this Act.

(b) If the Department determines that there is or may have been potential risks of HIV transmission from the subject of the report to other persons, the Department shall afford the subject the opportunity to submit any information and comment on proposed actions the Department intends to take with respect to the subject's contacts who are at potential risk of transmission of HIV prior to notification of the subject's contacts. The Department shall also afford the subject of the report the opportunity to notify the subject's contacts in a timely fashion who are at potential risk of transmission of HIV prior to the Department taking any steps to notify such contacts. If the subject declines to notify such contacts or if the Department determines the notices to be inadequate or incomplete, the Department shall endeavor to notify such other persons of the potential risk, and offer testing and counseling services to these individuals. When the contacts are notified, they shall be informed of the disclosure provisions of the AIDS Confidentiality Act and the penalties therein and this Section.

(c) Contacts investigated under this Section shall in the case of HIV infection include (i) individuals who have undergone invasive procedures performed by an HIV infected health care provider and (ii) health care providers who have performed invasive procedures for persons infected with HIV, provided the Department has determined that there is or may have been potential risk of HIV transmission from the health care provider to those individuals or from infected persons to health care providers. The Department shall have access to the subject's records to review for the identity of contacts. The subject's records shall not be copied or seized by the Department.

For purposes of this subsection, the term "invasive procedures" means those procedures termed invasive by the Centers for Disease Control in current guidelines or recommendations for the prevention of HIV transmission in health care settings, and the term "health care provider" means any physician, dentist, podiatrist, advanced practice nurse, physician assistant, nurse, or other person providing health care services of any kind.

(d) All information and records held by the Department and local health authorities pertaining to activities conducted pursuant to this Section shall be strictly confidential and exempt from copying and inspection under the Freedom of Information Act. Such information and records shall not be released or made public by the Department or local health authorities, and shall not be admissible as evidence, nor discoverable in any action of any kind in any court or before any tribunal, board, agency or person and shall be treated in the same manner as the information and those records subject to the provisions of Part 21 of the Code of Civil Procedure except under the following circumstances:

(1) When made with the written consent of all persons to whom this information pertains;

(2) When authorized under Section 8 to be released under court order or subpoena pursuant to Section 12-5.01 or 12-16.2 of the Criminal Code of 1961; or

(3) When made by the Department for the purpose of seeking a warrant authorized by Sections 6 and 7 of this Act. Such disclosure shall conform to the requirements of subsection (a) of Section 8 of this Act.

(e) Any person who knowingly or maliciously disseminates any information or report concerning the existence of any disease under this Section is guilty of a Class A misdemeanor.

(Source: P.A. 93-962, eff. 8-20-04.)

Section 950. The Illinois Vehicle Code is amended by changing Sections 6-106.1 and 6-508 as follows:

(625 ILCS 5/6-106.1) (from Ch. 95 1/2, par. 6-106.1)

Sec. 6-106.1. School bus driver permit.

(a) The Secretary of State shall issue a school bus driver permit to those applicants who have met all the requirements of the application and screening process under this Section to insure the welfare and safety of children who are transported on school buses throughout the State of Illinois. Applicants shall obtain the proper application required by the Secretary of State from their prospective or current employer and submit the completed application to the prospective or current employer along with the necessary fingerprint submission as required by the Department of State Police to conduct fingerprint based criminal background checks on current and future information available in the state system and current information available through the Federal Bureau of Investigation's system. Applicants who have completed the fingerprinting requirements shall not be subjected to the fingerprinting process when applying for subsequent permits or submitting proof of successful completion of the annual refresher course. Individuals who on the effective date of this Act possess a valid school bus driver permit that has been previously issued by the appropriate Regional School Superintendent are not subject to the fingerprinting provisions of this Section as long as the permit remains valid and does not lapse. The applicant shall be required to pay all related application and fingerprinting fees as established by rule including, but not limited to, the amounts established by the Department of State Police and the Federal Bureau of Investigation to process fingerprint based criminal background investigations. All fees paid for fingerprint processing services under this Section shall be deposited into the State Police Services Fund for the cost incurred in processing the fingerprint based criminal background investigations. All other fees paid under this Section shall be deposited into the Road Fund for the purpose of defraying the costs of the Secretary of State in administering this Section. All applicants must:

1. be 21 years of age or older;
2. possess a valid and properly classified driver's license issued by the Secretary of State;
3. possess a valid driver's license, which has not been revoked, suspended, or canceled for 3 years immediately prior to the date of application, or have not had his or her commercial motor vehicle driving privileges disqualified within the 3 years immediately prior to the date of application;
4. successfully pass a written test, administered by the Secretary of State, on school bus operation, school bus safety, and special traffic laws relating to school buses and submit to a review of the applicant's driving habits by the Secretary of State at the time the written test is given;
5. demonstrate ability to exercise reasonable care in the operation of school buses in accordance with rules promulgated by the Secretary of State;
6. demonstrate physical fitness to operate school buses by submitting the results of a medical examination, including tests for drug use for each applicant not subject to such testing pursuant to federal law, conducted by a licensed physician, an advanced practice nurse who has a written collaborative agreement with a collaborating physician which authorizes him or her to perform medical examinations, or a physician assistant who has been delegated the performance of medical examinations by his or her supervising physician within 90 days of the date of application according to standards promulgated by the Secretary of State;
7. affirm under penalties of perjury that he or she has not made a false statement or knowingly concealed a material fact in any application for permit;
8. have completed an initial classroom course, including first aid procedures, in school bus driver safety as promulgated by the Secretary of State; and after satisfactory completion of said initial course an annual refresher course; such courses and the agency or organization conducting such courses shall be approved by the Secretary of State; failure to complete the annual refresher course, shall result in cancellation of the permit until such course is completed;
9. not have been convicted of 2 or more serious traffic offenses, as defined by rule, within one year prior to the date of application that may endanger the life or safety of any of the driver's passengers within the duration of the permit period;
10. not have been convicted of reckless driving, driving while intoxicated, or reckless homicide resulting from the operation of a motor vehicle within 3 years of the date of application;
11. not have been convicted of committing or attempting to commit any one or more of the following offenses: (i) those offenses defined in Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-6, 10-7, 11-6, 11-9, 11-9.1, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 11-22, 12-3.1, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-5.01, 12-6, 12-6.2, 12-7.1, 12-7.3, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.2,

12-21.5, 12-21.6, 12-33, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1, 20-1.1, 20-2, 24-1, 24-1.1, 24-1.2, 24-3.3, 31A-1, 31A-1.1, and 33A-2, and in subsection (a) and subsection (b), clause (1), of Section 12-4 and subdivisions (a)(1), (a)(2), (b)(1), (e)(1), (e)(2), (e)(3), (e)(4), and (f)(1) of Section 12-3.05, of the Criminal Code of 1961; (ii) those offenses defined in the Cannabis Control Act except those offenses defined in subsections (a) and (b) of Section 4, and subsection (a) of Section 5 of the Cannabis Control Act; (iii) those offenses defined in the Illinois Controlled Substances Act; (iv) those offenses defined in the Methamphetamine Control and Community Protection Act; (v) any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State would be punishable as one or more of the foregoing offenses; (vi) the offenses defined in Section 4.1 and 5.1 of the Wrongs to Children Act and (vii) those offenses defined in Section 6-16 of the Liquor Control Act of 1934;

12. not have been repeatedly involved as a driver in motor vehicle collisions or been repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic, to a degree which indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway;

13. not have, through the unlawful operation of a motor vehicle, caused an accident resulting in the death of any person; and

14. not have, within the last 5 years, been adjudged to be afflicted with or suffering from any mental disability or disease.

(b) A school bus driver permit shall be valid for a period specified by the Secretary of State as set forth by rule. It shall be renewable upon compliance with subsection (a) of this Section.

(c) A school bus driver permit shall contain the holder's driver's license number, legal name, residence address, zip code, social security number and date of birth, a brief description of the holder and a space for signature. The Secretary of State may require a suitable photograph of the holder.

(d) The employer shall be responsible for conducting a pre-employment interview with prospective school bus driver candidates, distributing school bus driver applications and medical forms to be completed by the applicant, and submitting the applicant's fingerprint cards to the Department of State Police that are required for the criminal background investigations. The employer shall certify in writing to the Secretary of State that all pre-employment conditions have been successfully completed including the successful completion of an Illinois specific criminal background investigation through the Department of State Police and the submission of necessary fingerprints to the Federal Bureau of Investigation for criminal history information available through the Federal Bureau of Investigation system. The applicant shall present the certification to the Secretary of State at the time of submitting the school bus driver permit application.

(e) Permits shall initially be provisional upon receiving certification from the employer that all pre-employment conditions have been successfully completed, and upon successful completion of all training and examination requirements for the classification of the vehicle to be operated, the Secretary of State shall provisionally issue a School Bus Driver Permit. The permit shall remain in a provisional status pending the completion of the Federal Bureau of Investigation's criminal background investigation based upon fingerprinting specimens submitted to the Federal Bureau of Investigation by the Department of State Police. The Federal Bureau of Investigation shall report the findings directly to the Secretary of State. The Secretary of State shall remove the bus driver permit from provisional status upon the applicant's successful completion of the Federal Bureau of Investigation's criminal background investigation.

(f) A school bus driver permit holder shall notify the employer and the Secretary of State if he or she is convicted in another state of an offense that would make him or her ineligible for a permit under subsection (a) of this Section. The written notification shall be made within 5 days of the entry of the conviction. Failure of the permit holder to provide the notification is punishable as a petty offense for a first violation and a Class B misdemeanor for a second or subsequent violation.

(g) Cancellation; suspension; notice and procedure.

(1) The Secretary of State shall cancel a school bus driver permit of an applicant whose criminal background investigation discloses that he or she is not in compliance with the provisions of subsection (a) of this Section.

(2) The Secretary of State shall cancel a school bus driver permit when he or she receives notice that the permit holder fails to comply with any provision of this Section or any rule promulgated for the administration of this Section.

(3) The Secretary of State shall cancel a school bus driver permit if the permit holder's restricted commercial or commercial driving privileges are withdrawn or otherwise invalidated.

(4) The Secretary of State may not issue a school bus driver permit for a period of 3 years to an applicant who fails to obtain a negative result on a drug test as required in item 6 of subsection (a) of this Section or under federal law.

(5) The Secretary of State shall forthwith suspend a school bus driver permit for a period of 3 years upon receiving notice that the holder has failed to obtain a negative result on a drug test as required in item 6 of subsection (a) of this Section or under federal law.

(6) The Secretary of State shall suspend a school bus driver permit for a period of 3 years upon receiving notice from the employer that the holder failed to perform the inspection procedure set forth in subsection (a) or (b) of Section 12-816 of this Code.

The Secretary of State shall notify the State Superintendent of Education and the permit holder's prospective or current employer that the applicant has (1) failed a criminal background investigation or (2) is no longer eligible for a school bus driver permit; and of the related cancellation of the applicant's provisional school bus driver permit. The cancellation shall remain in effect pending the outcome of a hearing pursuant to Section 2-118 of this Code. The scope of the hearing shall be limited to the issuance criteria contained in subsection (a) of this Section. A petition requesting a hearing shall be submitted to the Secretary of State and shall contain the reason the individual feels he or she is entitled to a school bus driver permit. The permit holder's employer shall notify in writing to the Secretary of State that the employer has certified the removal of the offending school bus driver from service prior to the start of that school bus driver's next workshift. An employing school board that fails to remove the offending school bus driver from service is subject to the penalties defined in Section 3-14.23 of the School Code. A school bus contractor who violates a provision of this Section is subject to the penalties defined in Section 6-106.11.

All valid school bus driver permits issued under this Section prior to January 1, 1995, shall remain effective until their expiration date unless otherwise invalidated.

(h) When a school bus driver permit holder who is a service member is called to active duty, the employer of the permit holder shall notify the Secretary of State, within 30 days of notification from the permit holder, that the permit holder has been called to active duty. Upon notification pursuant to this subsection, (i) the Secretary of State shall characterize the permit as inactive until a permit holder renews the permit as provided in subsection (i) of this Section, and (ii) if a permit holder fails to comply with the requirements of this Section while called to active duty, the Secretary of State shall not characterize the permit as invalid.

(i) A school bus driver permit holder who is a service member returning from active duty must, within 90 days, renew a permit characterized as inactive pursuant to subsection (h) of this Section by complying with the renewal requirements of subsection (b) of this Section.

(j) For purposes of subsections (h) and (i) of this Section:

"Active duty" means active duty pursuant to an executive order of the President of the United States, an act of the Congress of the United States, or an order of the Governor.

"Service member" means a member of the Armed Services or reserve forces of the United States or a member of the Illinois National Guard.

(Source: P.A. 96-89, eff. 7-27-09; 96-818, eff. 11-17-09; revised 12-1-09.)

(625 ILCS 5/6-508) (from Ch. 95 1/2, par. 6-508)

Sec. 6-508. Commercial Driver's License (CDL) - qualification standards.

(a) Testing.

(1) General. No person shall be issued an original or renewal CDL unless that person is domiciled in this State. The Secretary shall cause to be administered such tests as the Secretary deems necessary to meet the requirements of 49 C.F.R. Part 383, subparts F, G, H, and J.

(2) Third party testing. The Secretary of state may authorize a "third party tester", pursuant to 49 C.F.R. Part 383.75, to administer the skills test or tests specified by Federal Motor Carrier Safety Administration pursuant to the Commercial Motor Vehicle Safety Act of 1986 and any appropriate federal rule.

(b) Waiver of Skills Test. The Secretary of State may waive the skills test specified in this Section for a driver applicant for a commercial driver license who meets the requirements of 49 C.F.R. Part 383.77 and Part 383.123.

(c) Limitations on issuance of a CDL. A CDL, or a commercial driver instruction permit, shall not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or unless otherwise permitted by this Code, while the person's driver's license is suspended, revoked or cancelled in any state, or any territory or province of Canada; nor may a CDL be issued to a person who has a CDL issued by any other state, or foreign jurisdiction, unless the person first surrenders all such licenses. No CDL shall be issued to or renewed for a person who does not meet the

requirement of 49 CFR 391.41(b)(11). The requirement may be met with the aid of a hearing aid.

(c-1) The Secretary may issue a CDL with a school bus driver endorsement to allow a person to drive the type of bus described in subsection (d-5) of Section 6-104 of this Code. The CDL with a school bus driver endorsement may be issued only to a person meeting the following requirements:

(1) the person has submitted his or her fingerprints to the Department of State Police in the form and manner prescribed by the Department of State Police. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Department of State Police and Federal Bureau of Investigation criminal history records databases;

(2) the person has passed a written test, administered by the Secretary of State, on charter bus operation, charter bus safety, and certain special traffic laws relating to school buses determined by the Secretary of State to be relevant to charter buses, and submitted to a review of the driver applicant's driving habits by the Secretary of State at the time the written test is given;

(3) the person has demonstrated physical fitness to operate school buses by submitting the results of a medical examination, including tests for drug use; and

(4) the person has not been convicted of committing or attempting to commit any one or more of the following offenses: (i) those offenses defined in Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-6, 10-7, 11-6, 11-9, 11-9.1, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 11-22, 12-3.1, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-5.01, 12-6, 12-6.2, 12-7.1, 12-7.3, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.2, 12-21.5, 12-21.6, 12-33, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1, 20-1.1, 20-2, 24-1, 24-1.1, 24-1.2, 24-3.3, 31A-1, 31A-1.1, and 33A-2, and in subsection (a) and subsection (b), clause (1), of Section 12-4 and subdivisions (a)(1), (a)(2), (b)(1), (e)(1), (e)(2), (e)(3), (e)(4), and (f)(1) of Section 12-3.05, of the Criminal Code of 1961; (ii) those offenses defined in the Cannabis Control Act except those offenses defined in subsections (a) and (b) of Section 4, and subsection (a) of Section 5 of the Cannabis Control Act; (iii) those offenses defined in the Illinois Controlled Substances Act; (iv) those offenses defined in the Methamphetamine Control and Community Protection Act; (v) any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State would be punishable as one or more of the foregoing offenses; (vi) the offenses defined in Sections 4.1 and 5.1 of the Wrongs to Children Act; and (vii) those offenses defined in Section 6-16 of the Liquor Control Act of 1934.

The Department of State Police shall charge a fee for conducting the criminal history records check, which shall be deposited into the State Police Services Fund and may not exceed the actual cost of the records check.

(c-2) The Secretary shall issue a CDL with a school bus endorsement to allow a person to drive a school bus as defined in this Section. The CDL shall be issued according to the requirements outlined in 49 C.F.R. 383. A person may not operate a school bus as defined in this Section without a school bus endorsement. The Secretary of State may adopt rules consistent with Federal guidelines to implement this subsection (c-2).

(d) Commercial driver instruction permit. A commercial driver instruction permit may be issued to any person holding a valid Illinois driver's license if such person successfully passes such tests as the Secretary determines to be necessary. A commercial driver instruction permit shall not be issued to a person who does not meet the requirements of 49 CFR 391.41 (b)(11), except for the renewal of a commercial driver instruction permit for a person who possesses a commercial instruction permit prior to the effective date of this amendatory Act of 1999.

(Source: P.A. 94-307, eff. 9-30-05; 94-556, eff. 9-11-05; 95-331, eff. 8-21-07; 95-382, eff. 8-23-07.)

Section 955. The Juvenile Court Act of 1987 is amended by changing Sections 2-25, 3-26, 4-23, 5-130, 5-410, and 5-730 as follows:

(705 ILCS 405/2-25) (from Ch. 37, par. 802-25)

Sec. 2-25. Order of protection.

(1) The court may make an order of protection in assistance of or as a condition of any other order authorized by this Act. The order of protection shall be based on the health, safety and best interests of the minor and may set forth reasonable conditions of behavior to be observed for a specified period. Such an order may require a person:

- (a) to stay away from the home or the minor;
- (b) to permit a parent to visit the minor at stated periods;
- (c) to abstain from offensive conduct against the minor, his parent or any person to whom custody of the minor is awarded;
- (d) to give proper attention to the care of the home;

- (e) to cooperate in good faith with an agency to which custody of a minor is entrusted by the court or with an agency or association to which the minor is referred by the court;
- (f) to prohibit and prevent any contact whatsoever with the respondent minor by a specified individual or individuals who are alleged in either a criminal or juvenile proceeding to have caused injury to a respondent minor or a sibling of a respondent minor;
- (g) to refrain from acts of commission or omission that tend to make the home not a proper place for the minor;
- (h) to refrain from contacting the minor and the foster parents in any manner that is not specified in writing in the case plan.

(2) The court shall enter an order of protection to prohibit and prevent any contact between a respondent minor or a sibling of a respondent minor and any person named in a petition seeking an order of protection who has been convicted of heinous battery under Section 12-4.1 or aggravated battery under subdivision (a)(2) of Section 12-3.05, aggravated battery of a child under Section 12-4.3 or aggravated battery under subdivision (b)(1) of Section 12-3.05, criminal sexual assault under Section 12-13, aggravated criminal sexual assault under Section 12-14, predatory criminal sexual assault of a child under Section 12-14.1, criminal sexual abuse under Section 12-15, or aggravated criminal sexual abuse under Section 12-16 of the Criminal Code of 1961, or has been convicted of an offense that resulted in the death of a child, or has violated a previous order of protection under this Section.

(3) When the court issues an order of protection against any person as provided by this Section, the court shall direct a copy of such order to the Sheriff of that county. The Sheriff shall furnish a copy of the order of protection to the Department of State Police within 24 hours of receipt, in the form and manner required by the Department. The Department of State Police shall maintain a complete record and index of such orders of protection and make this data available to all local law enforcement agencies.

(4) After notice and opportunity for hearing afforded to a person subject to an order of protection, the order may be modified or extended for a further specified period or both or may be terminated if the court finds that the health, safety, and best interests of the minor and the public will be served thereby.

(5) An order of protection may be sought at any time during the course of any proceeding conducted pursuant to this Act if such an order is consistent with the health, safety, and best interests of the minor. Any person against whom an order of protection is sought may retain counsel to represent him at a hearing, and has rights to be present at the hearing, to be informed prior to the hearing in writing of the contents of the petition seeking a protective order and of the date, place and time of such hearing, and to cross examine witnesses called by the petitioner and to present witnesses and argument in opposition to the relief sought in the petition.

(6) Diligent efforts shall be made by the petitioner to serve any person or persons against whom any order of protection is sought with written notice of the contents of the petition seeking a protective order and of the date, place and time at which the hearing on the petition is to be held. When a protective order is being sought in conjunction with a temporary custody hearing, if the court finds that the person against whom the protective order is being sought has been notified of the hearing or that diligent efforts have been made to notify such person, the court may conduct a hearing. If a protective order is sought at any time other than in conjunction with a temporary custody hearing, the court may not conduct a hearing on the petition in the absence of the person against whom the order is sought unless the petitioner has notified such person by personal service at least 3 days before the hearing or has sent written notice by first class mail to such person's last known address at least 5 days before the hearing.

(7) A person against whom an order of protection is being sought who is neither a parent, guardian, legal custodian or responsible relative as described in Section 1-5 is not a party or respondent as defined in that Section and shall not be entitled to the rights provided therein. Such person does not have a right to appointed counsel or to be present at any hearing other than the hearing in which the order of protection is being sought or a hearing directly pertaining to that order. Unless the court orders otherwise, such person does not have a right to inspect the court file.

(8) All protective orders entered under this Section shall be in writing. Unless the person against whom the order was obtained was present in court when the order was issued, the sheriff, other law enforcement official or special process server shall promptly serve that order upon that person and file proof of such service, in the manner provided for service of process in civil proceedings. The person against whom the protective order was obtained may seek a modification of the order by filing a written motion to modify the order within 7 days after actual receipt by the person of a copy of the order. Any modification of the order granted by the court must be determined to be consistent with the best interests of the minor.

(9) If a petition is filed charging a violation of a condition contained in the protective order and if the

court determines that this violation is of a critical service necessary to the safety and welfare of the minor, the court may proceed to findings and an order for temporary custody.

(Source: P.A. 95-405, eff. 6-1-08.)

(705 ILCS 405/3-26) (from Ch. 37, par. 803-26)

Sec. 3-26. Order of protection.

(1) The court may make an order of protection in assistance of or as a condition of any other order authorized by this Act. The order of protection may set forth reasonable conditions of behavior to be observed for a specified period. Such an order may require a person:

- (a) To stay away from the home or the minor;
- (b) To permit a parent to visit the minor at stated periods;
- (c) To abstain from offensive conduct against the minor, his parent or any person to whom custody of the minor is awarded;
- (d) To give proper attention to the care of the home;
- (e) To cooperate in good faith with an agency to which custody of a minor is entrusted by the court or with an agency or association to which the minor is referred by the court;
- (f) To prohibit and prevent any contact whatsoever with the respondent minor by a specified individual or individuals who are alleged in either a criminal or juvenile proceeding to have caused injury to a respondent minor or a sibling of a respondent minor;
- (g) To refrain from acts of commission or omission that tend to make the home not a proper place for the minor.

(2) The court shall enter an order of protection to prohibit and prevent any contact between a respondent minor or a sibling of a respondent minor and any person named in a petition seeking an order of protection who has been convicted of heinous battery under Section 12-4.1 or aggravated battery under subdivision (a)(2) of Section 12-3.05, aggravated battery of a child under Section 12-4.3 or aggravated battery under subdivision (b)(1) of Section 12-3.05, criminal sexual assault under Section 12-13, aggravated criminal sexual assault under Section 12-14, predatory criminal sexual assault of a child under Section 12-14.1, criminal sexual abuse under Section 12-15, or aggravated criminal sexual abuse under Section 12-16 of the Criminal Code of 1961, or has been convicted of an offense that resulted in the death of a child, or has violated a previous order of protection under this Section.

(3) When the court issues an order of protection against any person as provided by this Section, the court shall direct a copy of such order to the Sheriff of that county. The Sheriff shall furnish a copy of the order of protection to the Department of State Police within 24 hours of receipt, in the form and manner required by the Department. The Department of State Police shall maintain a complete record and index of such orders of protection and make this data available to all local law enforcement agencies.

(4) After notice and opportunity for hearing afforded to a person subject to an order of protection, the order may be modified or extended for a further specified period or both or may be terminated if the court finds that the best interests of the minor and the public will be served thereby.

(5) An order of protection may be sought at any time during the course of any proceeding conducted pursuant to this Act. Any person against whom an order of protection is sought may retain counsel to represent him at a hearing, and has rights to be present at the hearing, to be informed prior to the hearing in writing of the contents of the petition seeking a protective order and of the date, place and time of such hearing, and to cross examine witnesses called by the petitioner and to present witnesses and argument in opposition to the relief sought in the petition.

(6) Diligent efforts shall be made by the petitioner to serve any person or persons against whom any order of protection is sought with written notice of the contents of the petition seeking a protective order and of the date, place and time at which the hearing on the petition is to be held. When a protective order is being sought in conjunction with a shelter care hearing, if the court finds that the person against whom the protective order is being sought has been notified of the hearing or that diligent efforts have been made to notify such person, the court may conduct a hearing. If a protective order is sought at any time other than in conjunction with a shelter care hearing, the court may not conduct a hearing on the petition in the absence of the person against whom the order is sought unless the petitioner has notified such person by personal service at least 3 days before the hearing or has sent written notice by first class mail to such person's last known address at least 5 days before the hearing.

(7) A person against whom an order of protection is being sought who is neither a parent, guardian, legal custodian or responsible relative as described in Section 1-5 is not a party or respondent as defined in that Section and shall not be entitled to the rights provided therein. Such person does not have a right to appointed counsel or to be present at any hearing other than the hearing in which the order of protection is being sought or a hearing directly pertaining to that order. Unless the court orders

otherwise, such person does not have a right to inspect the court file.

(8) All protective orders entered under this Section shall be in writing. Unless the person against whom the order was obtained was present in court when the order was issued, the sheriff, other law enforcement official or special process server shall promptly serve that order upon that person and file proof of such service, in the manner provided for service of process in civil proceedings. The person against whom the protective order was obtained may seek a modification of the order by filing a written motion to modify the order within 7 days after actual receipt by the person of a copy of the order.

(Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96; 90-655, eff. 7-30-98.)

(705 ILCS 405/4-23) (from Ch. 37, par. 804-23)

Sec. 4-23. Order of protection.

(1) The court may make an order of protection in assistance of or as a condition of any other order authorized by this Act. The order of protection may set forth reasonable conditions of behavior to be observed for a specified period. Such an order may require a person:

- (a) To stay away from the home or the minor;
- (b) To permit a parent to visit the minor at stated periods;
- (c) To abstain from offensive conduct against the minor, his parent or any person to whom custody of the minor is awarded;
- (d) To give proper attention to the care of the home;
- (e) To cooperate in good faith with an agency to which custody of a minor is entrusted by the court or with an agency or association to which the minor is referred by the court;
- (f) To prohibit and prevent any contact whatsoever with the respondent minor by a specified individual or individuals who are alleged in either a criminal or juvenile proceeding to have caused injury to a respondent minor or a sibling of a respondent minor;
- (g) To refrain from acts of commission or omission that tend to make the home not a proper place for the minor.

(2) The court shall enter an order of protection to prohibit and prevent any contact between a respondent minor or a sibling of a respondent minor and any person named in a petition seeking an order of protection who has been convicted of heinous battery under Section 12-4.1 or aggravated battery under subdivision (a)(2) of Section 12-3.05, aggravated battery of a child under Section 12-4.3 or aggravated battery under subdivision (b)(1) of Section 12-3.05, criminal sexual assault under Section 12-13, aggravated criminal sexual assault under Section 12-14, predatory criminal sexual assault of a child under Section 12-14.1, criminal sexual abuse under Section 12-15, or aggravated criminal sexual abuse under Section 12-16 of the Criminal Code of 1961, or has been convicted of an offense that resulted in the death of a child, or has violated a previous order of protection under this Section.

(3) When the court issues an order of protection against any person as provided by this Section, the court shall direct a copy of such order to the Sheriff of that county. The Sheriff shall furnish a copy of the order of protection to the Department of State Police within 24 hours of receipt, in the form and manner required by the Department. The Department of State Police shall maintain a complete record and index of such orders of protection and make this data available to all local law enforcement agencies.

(4) After notice and opportunity for hearing afforded to a person subject to an order of protection, the order may be modified or extended for a further specified period or both or may be terminated if the court finds that the best interests of the minor and the public will be served thereby.

(5) An order of protection may be sought at any time during the course of any proceeding conducted pursuant to this Act. Any person against whom an order of protection is sought may retain counsel to represent him at a hearing, and has rights to be present at the hearing, to be informed prior to the hearing in writing of the contents of the petition seeking a protective order and of the date, place and time of such hearing, and to cross examine witnesses called by the petitioner and to present witnesses and argument in opposition to the relief sought in the petition.

(6) Diligent efforts shall be made by the petitioner to serve any person or persons against whom any order of protection is sought with written notice of the contents of the petition seeking a protective order and of the date, place and time at which the hearing on the petition is to be held. When a protective order is being sought in conjunction with a shelter care hearing, if the court finds that the person against whom the protective order is being sought has been notified of the hearing or that diligent efforts have been made to notify such person, the court may conduct a hearing. If a protective order is sought at any time other than in conjunction with a shelter care hearing, the court may not conduct a hearing on the petition in the absence of the person against whom the order is sought unless the petitioner has notified such person by personal service at least 3 days before the hearing or has sent written notice by first class mail to such person's last known address at least 5 days before the hearing.

(7) A person against whom an order of protection is being sought who is neither a parent, guardian, legal custodian or responsible relative as described in Section 1-5 is not a party or respondent as defined in that Section and shall not be entitled to the rights provided therein. Such person does not have a right to appointed counsel or to be present at any hearing other than the hearing in which the order of protection is being sought or a hearing directly pertaining to that order. Unless the court orders otherwise, such person does not have a right to inspect the court file.

(8) All protective orders entered under this Section shall be in writing. Unless the person against whom the order was obtained was present in court when the order was issued, the sheriff, other law enforcement official or special process server shall promptly serve that order upon that person and file proof of such service, in the manner provided for service of process in civil proceedings. The person against whom the protective order was obtained may seek a modification of the order by filing a written motion to modify the order within 7 days after actual receipt by the person of a copy of the order.

(Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96; 90-655, eff. 7-30-98.)

(705 ILCS 405/5-130)

Sec. 5-130. Excluded jurisdiction.

(1) (a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 15 years of age and who is charged with: (i) first degree murder, (ii) aggravated criminal sexual assault, (iii) aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05 where the minor personally discharged a firearm as defined in Section 2-15.5 of the Criminal Code of 1961, (iv) armed robbery when the armed robbery was committed with a firearm, or (v) aggravated vehicular hijacking when the hijacking was committed with a firearm.

These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(b) (i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (1) the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the Criminal Code of 1961 on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (1) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the Criminal Code of 1961.

(c) (i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (1), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (1), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Juvenile Justice for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(2) (Blank).

(3) (a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of the offense was at least 15 years of age and who is charged with a violation of the provisions of paragraph (1), (3), (4), or (10) of subsection (a) of Section 24-1 of the Criminal Code of 1961 while in school, regardless of the time of day or the time of year, or on the real property comprising

any school, regardless of the time of day or the time of year. School is defined, for purposes of this Section as any public or private elementary or secondary school, community college, college, or university. These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(b) (i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (3) the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the criminal laws of this State on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (3) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(c) (i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (3), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (3), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Juvenile Justice for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(4) (a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 13 years of age and who is charged with first degree murder committed during the course of either aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping. However, this subsection (4) does not include a minor charged with first degree murder based exclusively upon the accountability provisions of the Criminal Code of 1961.

(b) (i) If before trial or plea an information or indictment is filed that does not charge first degree murder committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the criminal laws of this State on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes first degree murder committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, and additional charges that are not specified in paragraph (a) of this subsection, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(c) (i) If after trial or plea the minor is convicted of first degree murder committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If the minor was not yet 15 years of age at the time of the offense, and if after trial or plea the court finds that the minor committed an offense other than first degree murder committed during the course of either aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, the finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under

Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine whether the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous delinquent history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Juvenile Justice for the treatment and rehabilitation of the minor; (e) whether the best interest of the minor and the security of the public require sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(5) (a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who is charged with a violation of subsection (a) of Section 31-6 or Section 32-10 of the Criminal Code of 1961 when the minor is subject to prosecution under the criminal laws of this State as a result of the application of the provisions of Section 5-125, or subsection (1) or (2) of this Section. These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(b) (i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (5), the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the criminal laws of this State on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (5) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(c) (i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (5), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (5), the conviction shall not invalidate the verdict or the prosecution of the minor under the criminal laws of this State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if whether the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous delinquent history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Juvenile Justice for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(6) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who, pursuant to subsection (1) or (3) or Section 5-805 or 5-810, has previously been placed under the jurisdiction of the criminal court and has been convicted of a crime under an adult criminal or penal statute. Such a minor shall be subject to prosecution under the criminal laws of this State.

(7) The procedures set out in this Article for the investigation, arrest and prosecution of juvenile offenders shall not apply to minors who are excluded from jurisdiction of the Juvenile Court, except that minors under 17 years of age shall be kept separate from confined adults.

(8) Nothing in this Act prohibits or limits the prosecution of any minor for an offense committed on or after his or her 17th birthday even though he or she is at the time of the offense a ward of the court.

(9) If an original petition for adjudication of wardship alleges the commission by a minor 13 years of age or over of an act that constitutes a crime under the laws of this State, the minor, with the consent of his or her counsel, may, at any time before commencement of the adjudicatory hearing, file with the court a motion that criminal prosecution be ordered and that the petition be dismissed insofar as the act or acts involved in the criminal proceedings are concerned. If such a motion is filed as herein provided, the court shall enter its order accordingly.

(10) If, prior to August 12, 2005 (the effective date of Public Act 94-574), a minor is charged with a violation of Section 401 of the Illinois Controlled Substances Act under the criminal laws of this State, other than a minor charged with a Class X felony violation of the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act, any party including the minor or the court sua sponte may, before trial, move for a hearing for the purpose of trying and sentencing the minor as a delinquent minor. To request a hearing, the party must file a motion prior to trial. Reasonable notice of the motion shall be given to all parties. On its own motion or upon the filing of a motion by one of the parties including the minor, the court shall conduct a hearing to determine whether the minor should be tried and sentenced as a delinquent minor under this Article. In making its determination, the court shall consider among other matters:

- (a) The age of the minor;
- (b) Any previous delinquent or criminal history of the minor;
- (c) Any previous abuse or neglect history of the minor;
- (d) Any mental health or educational history of the minor, or both; and
- (e) Whether there is probable cause to support the charge, whether the minor is charged through accountability, and whether there is evidence the minor possessed a deadly weapon or caused serious bodily harm during the offense.

Any material that is relevant and reliable shall be admissible at the hearing. In all cases, the judge shall enter an order permitting prosecution under the criminal laws of Illinois unless the judge makes a finding based on a preponderance of the evidence that the minor would be amenable to the care, treatment, and training programs available through the facilities of the juvenile court based on an evaluation of the factors listed in this subsection (10).

(Source: P.A. 94-556, eff. 9-11-05; 94-574, eff. 8-12-05; 94-696, eff. 6-1-06.)

(705 ILCS 405/5-410)

Sec. 5-410. Non-secure custody or detention.

(1) Any minor arrested or taken into custody pursuant to this Act who requires care away from his or her home but who does not require physical restriction shall be given temporary care in a foster family home or other shelter facility designated by the court.

(2) (a) Any minor 10 years of age or older arrested pursuant to this Act where there is probable cause to believe that the minor is a delinquent minor and that (i) secured custody is a matter of immediate and urgent necessity for the protection of the minor or of the person or property of another, (ii) the minor is likely to flee the jurisdiction of the court, or (iii) the minor was taken into custody under a warrant, may be kept or detained in an authorized detention facility. No minor under 12 years of age shall be detained in a county jail or a municipal lockup for more than 6 hours.

(b) The written authorization of the probation officer or detention officer (or other public officer designated by the court in a county having 3,000,000 or more inhabitants) constitutes authority for the superintendent of any juvenile detention home to detain and keep a minor for up to 40 hours, excluding Saturdays, Sundays and court-designated holidays. These records shall be available to the same persons and pursuant to the same conditions as are law enforcement records as provided in Section 5-905.

(b-4) The consultation required by subsection (b-5) shall not be applicable if the probation officer or detention officer (or other public officer designated by the court in a county having 3,000,000 or more inhabitants) utilizes a scorable detention screening instrument, which has been developed with input by the State's Attorney, to determine whether a minor should be detained, however, subsection (b-5) shall still be applicable where no such screening instrument is used or where the probation officer, detention officer (or other public officer designated by the court in a county having 3,000,000 or more inhabitants) deviates from the screening instrument.

(b-5) Subject to the provisions of subsection (b-4), if a probation officer or detention officer (or other public officer designated by the court in a county having 3,000,000 or more inhabitants) does not intend to detain a minor for an offense which constitutes one of the following offenses he or she shall consult with the State's Attorney's Office prior to the release of the minor: first degree murder, second degree murder, involuntary manslaughter, criminal sexual assault, aggravated criminal sexual assault, aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05, aggravated or heinous battery involving permanent disability or disfigurement

or great bodily harm, robbery, aggravated robbery, armed robbery, vehicular hijacking, aggravated vehicular hijacking, vehicular invasion, arson, aggravated arson, kidnapping, aggravated kidnapping, home invasion, burglary, or residential burglary.

(c) Except as otherwise provided in paragraph (a), (d), or (e), no minor shall be detained in a county jail or municipal lockup for more than 12 hours, unless the offense is a crime of violence in which case the minor may be detained up to 24 hours. For the purpose of this paragraph, "crime of violence" has the meaning ascribed to it in Section 1-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(i) The period of detention is deemed to have begun once the minor has been placed in a locked room or cell or handcuffed to a stationary object in a building housing a county jail or municipal lockup. Time spent transporting a minor is not considered to be time in detention or secure custody.

(ii) Any minor so confined shall be under periodic supervision and shall not be permitted to come into or remain in contact with adults in custody in the building.

(iii) Upon placement in secure custody in a jail or lockup, the minor shall be informed of the purpose of the detention, the time it is expected to last and the fact that it cannot exceed the time specified under this Act.

(iv) A log shall be kept which shows the offense which is the basis for the detention, the reasons and circumstances for the decision to detain and the length of time the minor was in detention.

(v) Violation of the time limit on detention in a county jail or municipal lockup shall not, in and of itself, render inadmissible evidence obtained as a result of the violation of this time limit. Minors under 17 years of age shall be kept separate from confined adults and may not at any time be kept in the same cell, room or yard with adults confined pursuant to criminal law. Persons 17 years of age and older who have a petition of delinquency filed against them may be confined in an adult detention facility. In making a determination whether to confine a person 17 years of age or older who has a petition of delinquency filed against the person, these factors, among other matters, shall be considered:

(A) The age of the person;

(B) Any previous delinquent or criminal history of the person;

(C) Any previous abuse or neglect history of the person; and

(D) Any mental health or educational history of the person, or both.

(d) (i) If a minor 12 years of age or older is confined in a county jail in a county with a population below 3,000,000 inhabitants, then the minor's confinement shall be implemented in such a manner that there will be no contact by sight, sound or otherwise between the minor and adult prisoners. Minors 12 years of age or older must be kept separate from confined adults and may not at any time be kept in the same cell, room, or yard with confined adults. This paragraph (d)(i) shall only apply to confinement pending an adjudicatory hearing and shall not exceed 40 hours, excluding Saturdays, Sundays and court designated holidays. To accept or hold minors during this time period, county jails shall comply with all monitoring standards promulgated by the Department of Corrections and training standards approved by the Illinois Law Enforcement Training Standards Board.

(ii) To accept or hold minors, 12 years of age or older, after the time period prescribed in paragraph (d)(i) of this subsection (2) of this Section but not exceeding 7 days including Saturdays, Sundays and holidays pending an adjudicatory hearing, county jails shall comply with all temporary detention standards promulgated by the Department of Corrections and training standards approved by the Illinois Law Enforcement Training Standards Board.

(iii) To accept or hold minors 12 years of age or older, after the time period prescribed in paragraphs (d)(i) and (d)(ii) of this subsection (2) of this Section, county jails shall comply with all programmatic and training standards for juvenile detention homes promulgated by the Department of Corrections.

(e) When a minor who is at least 15 years of age is prosecuted under the criminal laws of this State, the court may enter an order directing that the juvenile be confined in the county jail. However, any juvenile confined in the county jail under this provision shall be separated from adults who are confined in the county jail in such a manner that there will be no contact by sight, sound or otherwise between the juvenile and adult prisoners.

(f) For purposes of appearing in a physical lineup, the minor may be taken to a county jail or municipal lockup under the direct and constant supervision of a juvenile police officer. During such time as is necessary to conduct a lineup, and while supervised by a juvenile police officer, the sight and sound separation provisions shall not apply.

(g) For purposes of processing a minor, the minor may be taken to a County Jail or municipal lockup under the direct and constant supervision of a law enforcement officer or correctional officer. During

such time as is necessary to process the minor, and while supervised by a law enforcement officer or correctional officer, the sight and sound separation provisions shall not apply.

(3) If the probation officer or State's Attorney (or such other public officer designated by the court in a county having 3,000,000 or more inhabitants) determines that the minor may be a delinquent minor as described in subsection (3) of Section 5-105, and should be retained in custody but does not require physical restriction, the minor may be placed in non-secure custody for up to 40 hours pending a detention hearing.

(4) Any minor taken into temporary custody, not requiring secure detention, may, however, be detained in the home of his or her parent or guardian subject to such conditions as the court may impose. (Source: P.A. 93-255, eff. 1-1-04.)

(705 ILCS 405/5-730)

Sec. 5-730. Order of protection.

(1) The court may make an order of protection in assistance of or as a condition of any other order authorized by this Act. The order of protection may set forth reasonable conditions of behavior to be observed for a specified period. The order may require a person:

- (a) to stay away from the home or the minor;
- (b) to permit a parent to visit the minor at stated periods;
- (c) to abstain from offensive conduct against the minor, his or her parent or any person to whom custody of the minor is awarded;
- (d) to give proper attention to the care of the home;
- (e) to cooperate in good faith with an agency to which custody of a minor is entrusted by the court or with an agency or association to which the minor is referred by the court;
- (f) to prohibit and prevent any contact whatsoever with the respondent minor by a specified individual or individuals who are alleged in either a criminal or juvenile proceeding to have caused injury to a respondent minor or a sibling of a respondent minor;
- (g) to refrain from acts of commission or omission that tend to make the home not a proper place for the minor.

(2) The court shall enter an order of protection to prohibit and prevent any contact between a respondent minor or a sibling of a respondent minor and any person named in a petition seeking an order of protection who has been convicted of heinous battery under Section 12-4.1 or aggravated battery under subdivision (a)(2) of Section 12-3.05, aggravated battery of a child under Section 12-4.3 or aggravated battery under subdivision (b)(1) of Section 12-3.05, criminal sexual assault under Section 12-13, aggravated criminal sexual assault under Section 12-14, predatory criminal sexual assault of a child under Section 12-14.1, criminal sexual abuse under Section 12-15, or aggravated criminal sexual abuse under Section 12-16 of the Criminal Code of 1961, or has been convicted of an offense that resulted in the death of a child, or has violated a previous order of protection under this Section.

(3) When the court issues an order of protection against any person as provided by this Section, the court shall direct a copy of such order to the sheriff of that county. The sheriff shall furnish a copy of the order of protection to the Department of State Police within 24 hours of receipt, in the form and manner required by the Department. The Department of State Police shall maintain a complete record and index of the orders of protection and make this data available to all local law enforcement agencies.

(4) After notice and opportunity for hearing afforded to a person subject to an order of protection, the order may be modified or extended for a further specified period or both or may be terminated if the court finds that the best interests of the minor and the public will be served by the modification, extension, or termination.

(5) An order of protection may be sought at any time during the course of any proceeding conducted under this Act. Any person against whom an order of protection is sought may retain counsel to represent him or her at a hearing, and has rights to be present at the hearing, to be informed prior to the hearing in writing of the contents of the petition seeking a protective order and of the date, place, and time of the hearing, and to cross-examine witnesses called by the petitioner and to present witnesses and argument in opposition to the relief sought in the petition.

(6) Diligent efforts shall be made by the petitioner to serve any person or persons against whom any order of protection is sought with written notice of the contents of the petition seeking a protective order and of the date, place and time at which the hearing on the petition is to be held. When a protective order is being sought in conjunction with a shelter care or detention hearing, if the court finds that the person against whom the protective order is being sought has been notified of the hearing or that diligent efforts have been made to notify the person, the court may conduct a hearing. If a protective order is sought at any time other than in conjunction with a shelter care or detention hearing, the court may not conduct a hearing on the petition in the absence of the person against whom the order is sought unless the

petitioner has notified the person by personal service at least 3 days before the hearing or has sent written notice by first class mail to the person's last known address at least 5 days before the hearing.

(7) A person against whom an order of protection is being sought who is neither a parent, guardian, or legal custodian or responsible relative as described in Section 1-5 of this Act or is not a party or respondent as defined in that Section shall not be entitled to the rights provided in that Section. The person does not have a right to appointed counsel or to be present at any hearing other than the hearing in which the order of protection is being sought or a hearing directly pertaining to that order. Unless the court orders otherwise, the person does not have a right to inspect the court file.

(8) All protective orders entered under this Section shall be in writing. Unless the person against whom the order was obtained was present in court when the order was issued, the sheriff, other law enforcement official, or special process server shall promptly serve that order upon that person and file proof of that service, in the manner provided for service of process in civil proceedings. The person against whom the protective order was obtained may seek a modification of the order by filing a written motion to modify the order within 7 days after actual receipt by the person of a copy of the order.

(Source: P.A. 90-590, eff. 1-1-99.)

Section 960. The Criminal Code of 1961 is amended by changing Sections 2-10.1, 24-1.7, 33A-2, 33A-3, and 36-1 as follows:

(720 ILCS 5/2-10.1) (from Ch. 38, par. 2-10.1)

Sec. 2-10.1. "Severely or profoundly mentally retarded person" means a person (i) whose intelligence quotient does not exceed 40 or (ii) whose intelligence quotient does not exceed 55 and who suffers from significant mental illness to the extent that the person's ability to exercise rational judgment is impaired. In any proceeding in which the defendant is charged with committing a violation of Section 10-2, 10-5, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-4.3, 12-14, or 12-16, or subdivision (b)(1) of Section 12-3.05, of this Code against a victim who is alleged to be a severely or profoundly mentally retarded person, any findings concerning the victim's status as a severely or profoundly mentally retarded person, made by a court after a judicial admission hearing concerning the victim under Articles V and VI of Chapter 4 of the Mental Health and Developmental Disabilities Code shall be admissible.

(Source: P.A. 92-434, eff. 1-1-02.)

(720 ILCS 5/24-1.7)

Sec. 24-1.7. Armed habitual criminal.

(a) A person commits the offense of being an armed habitual criminal if he or she receives, sells, possesses, or transfers any firearm after having been convicted a total of 2 or more times of any combination of the following offenses:

(1) a forcible felony as defined in Section 2-8 of this Code;

(2) unlawful use of a weapon by a felon; aggravated unlawful use of a weapon; aggravated discharge of a firearm; vehicular hijacking; aggravated vehicular hijacking; aggravated battery of a child as described in Section 12-4.3 or subdivision (b)(1) of Section 12-3.05; intimidation; aggravated intimidation; gunrunning; home invasion; or aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05; or

(3) any violation of the Illinois Controlled Substances Act or the Cannabis Control Act that is punishable as a Class 3 felony or higher.

(b) Sentence. Being an armed habitual criminal is a Class X felony.

(Source: P.A. 94-398, eff. 8-2-05.)

(720 ILCS 5/33A-2) (from Ch. 38, par. 33A-2)

Sec. 33A-2. Armed violence-Elements of the offense.

(a) A person commits armed violence when, while armed with a dangerous weapon, he commits any felony defined by Illinois Law, except first degree murder, attempted first degree murder, intentional homicide of an unborn child, second degree murder, involuntary manslaughter, reckless homicide, predatory criminal sexual assault of a child, aggravated battery of a child as described in Section 12-4.3 or subdivision (b)(1) of Section 12-3.05, home invasion, or any offense that makes the possession or use of a dangerous weapon either an element of the base offense, an aggravated or enhanced version of the offense, or a mandatory sentencing factor that increases the sentencing range.

(b) A person commits armed violence when he or she personally discharges a firearm that is a Category I or Category II weapon while committing any felony defined by Illinois law, except first degree murder, attempted first degree murder, intentional homicide of an unborn child, second degree murder, involuntary manslaughter, reckless homicide, predatory criminal sexual assault of a child, aggravated battery of a child as described in Section 12-4.3 or subdivision (b)(1) of Section 12-3.05, home invasion, or any offense that makes the possession or use of a dangerous weapon either an element

of the base offense, an aggravated or enhanced version of the offense, or a mandatory sentencing factor that increases the sentencing range.

(c) A person commits armed violence when he or she personally discharges a firearm that is a Category I or Category II weapon that proximately causes great bodily harm, permanent disability, or permanent disfigurement or death to another person while committing any felony defined by Illinois law, except first degree murder, attempted first degree murder, intentional homicide of an unborn child, second degree murder, involuntary manslaughter, reckless homicide, predatory criminal sexual assault of a child, aggravated battery of a child as described in Section 12-4.3 or subdivision (b)(1) of Section 12-3.05, home invasion, or any offense that makes the possession or use of a dangerous weapon either an element of the base offense, an aggravated or enhanced version of the offense, or a mandatory sentencing factor that increases the sentencing range.

(d) This Section does not apply to violations of the Fish and Aquatic Life Code or the Wildlife Code. (Source: P.A. 95-688, eff. 10-23-07.)

(720 ILCS 5/33A-3) (from Ch. 38, par. 33A-3)

Sec. 33A-3. Sentence.

(a) Violation of Section 33A-2(a) with a Category I weapon is a Class X felony for which the defendant shall be sentenced to a minimum term of imprisonment of 15 years.

(a-5) Violation of Section 33A-2(a) with a Category II weapon is a Class X felony for which the defendant shall be sentenced to a minimum term of imprisonment of 10 years.

(b) Violation of Section 33A-2(a) with a Category III weapon is a Class 2 felony or the felony classification provided for the same act while unarmed, whichever permits the greater penalty. A second or subsequent violation of Section 33A-2(a) with a Category III weapon is a Class 1 felony or the felony classification provided for the same act while unarmed, whichever permits the greater penalty.

(b-5) Violation of Section 33A-2(b) with a firearm that is a Category I or Category II weapon is a Class X felony for which the defendant shall be sentenced to a minimum term of imprisonment of 20 years.

(b-10) Violation of Section 33A-2(c) with a firearm that is a Category I or Category II weapon is a Class X felony for which the defendant shall be sentenced to a term of imprisonment of not less than 25 years nor more than 40 years.

(c) Unless sentencing under subsection (a) of Section 5-4.5-95 of the Unified Code of Corrections (730 ILCS 5/5-4.5-95) is applicable, any person who violates subsection (a) or (b) of Section 33A-2 with a firearm, when that person has been convicted in any state or federal court of 3 or more of the following offenses: treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, arson, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement, a violation of the Methamphetamine Control and Community Protection Act, or a violation of Section 401(a) of the Illinois Controlled Substances Act, when the third offense was committed after conviction on the second, the second offense was committed after conviction on the first, and the violation of Section 33A-2 was committed after conviction on the third, shall be sentenced to a term of imprisonment of not less than 25 years nor more than 50 years.

(c-5) Except as otherwise provided in paragraph (b-10) or (c) of this Section, a person who violates Section 33A-2(a) with a firearm that is a Category I weapon or Section 33A-2(b) in any school, in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity, or on the real property comprising any school or public park, and where the offense was related to the activities of an organized gang, shall be sentenced to a term of imprisonment of not less than the term set forth in subsection (a) or (b-5) of this Section, whichever is applicable, and not more than 30 years. For the purposes of this subsection (c-5), "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(d) For armed violence based upon a predicate offense listed in this subsection (d) the court shall enter the sentence for armed violence to run consecutively to the sentence imposed for the predicate offense. The offenses covered by this provision are:

(i) solicitation of murder,

(ii) solicitation of murder for hire,

(iii) heinous battery as described in Section 12-4.1 or subdivision (a)(2) of Section 12-3.05,

(iv) aggravated battery of a senior citizen as described in Section 12-4.6 or subdivision (a)(4) of Section 12-3.05,

(v) (blank),

(vi) a violation of subsection (g) of Section 5 of the Cannabis Control Act,

(vii) cannabis trafficking,

(viii) a violation of subsection (a) of Section 401 of the Illinois Controlled Substances Act,

(ix) controlled substance trafficking involving a Class X felony amount of controlled substance under Section 401 of the Illinois Controlled Substances Act,

(x) calculated criminal drug conspiracy,

(xi) streetgang criminal drug conspiracy, or

(xii) a violation of the Methamphetamine Control and Community Protection Act.

(Source: P.A. 94-556, eff. 9-11-05; 95-688, eff. 10-23-07; 95-1052, eff. 7-1-09.)

(720 ILCS 5/36-1) (from Ch. 38, par. 36-1)

Sec. 36-1. Seizure. Any vessel, vehicle or aircraft used with the knowledge and consent of the owner in the commission of, or in the attempt to commit as defined in Section 8-4 of this Code, an offense prohibited by (a) Section 9-1, 9-3, 10-2, 11-6, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-4.1, 12-4.2, 12-4.2-5, 12-4.3, 12-4.6, 12-7.3, 12-7.4, 12-13, 12-14, 16-1 if the theft is of precious metal or of scrap metal, 18-2, 19-1, 19-2, 19-3, 20-1, 20-2, ~~29D-15-2~~, 24-1.2, 24-1.2-5, 24-1.5, ~~or 28-1~~, or 29D-15.2 of this Code, subdivision (a)(1), (a)(2), (a)(4), (b)(1), (e)(1), (e)(2), (e)(3), (e)(4), (e)(5), (e)(6), or (e)(7) of Section 12-3.05, paragraph (a) of Section 12-4 of this Code, paragraph (a) of Section 12-15 or paragraphs (a), (c) or (d) of Section 12-16 of this Code, or paragraph (a)(6) or (a)(7) of Section 24-1 of this Code; (b) Section 21, 22, 23, 24 or 26 of the Cigarette Tax Act if the vessel, vehicle or aircraft contains more than 10 cartons of such cigarettes; (c) Section 28, 29 or 30 of the Cigarette Use Tax Act if the vessel, vehicle or aircraft contains more than 10 cartons of such cigarettes; (d) Section 44 of the Environmental Protection Act; (e) 11-204.1 of the Illinois Vehicle Code; (f) the offenses described in the following provisions of the Illinois Vehicle Code: Section 11-501 subdivisions (c-1)(1), (c-1)(2), (c-1)(3), (d)(1)(A), (d)(1)(D), (d)(1)(G), or (d)(1)(H); (g) an offense described in subsection (g) of Section 6-303 of the Illinois Vehicle Code; or (h) an offense described in subsection (e) of Section 6-101 of the Illinois Vehicle Code; may be seized and delivered forthwith to the sheriff of the county of seizure.

Within 15 days after such delivery the sheriff shall give notice of seizure to each person according to the following method: Upon each such person whose right, title or interest is of record in the office of the Secretary of State, the Secretary of Transportation, the Administrator of the Federal Aviation Agency, or any other Department of this State, or any other state of the United States if such vessel, vehicle or aircraft is required to be so registered, as the case may be, by mailing a copy of the notice by certified mail to the address as given upon the records of the Secretary of State, the Department of Aeronautics, Department of Public Works and Buildings or any other Department of this State or the United States if such vessel, vehicle or aircraft is required to be so registered. Within that 15 day period the sheriff shall also notify the State's Attorney of the county of seizure about the seizure.

In addition, any mobile or portable equipment used in the commission of an act which is in violation of Section 7g of the Metropolitan Water Reclamation District Act shall be subject to seizure and forfeiture under the same procedures provided in this Article for the seizure and forfeiture of vessels, vehicles and aircraft, and any such equipment shall be deemed a vessel, vehicle or aircraft for purposes of this Article.

When a person discharges a firearm at another individual from a vehicle with the knowledge and consent of the owner of the vehicle and with the intent to cause death or great bodily harm to that individual and as a result causes death or great bodily harm to that individual, the vehicle shall be subject to seizure and forfeiture under the same procedures provided in this Article for the seizure and forfeiture of vehicles used in violations of clauses (a), (b), (c), or (d) of this Section.

If the spouse of the owner of a vehicle seized for an offense described in subsection (g) of Section 6-303 of the Illinois Vehicle Code, a violation of subdivision (c-1)(1), (c-1)(2), (c-1)(3), (d)(1)(A), or (d)(1)(D) of Section 11-501 of the Illinois Vehicle Code, or Section 9-3 of this Code makes a showing that the seized vehicle is the only source of transportation and it is determined that the financial hardship to the family as a result of the seizure outweighs the benefit to the State from the seizure, the vehicle may be forfeited to the spouse or family member and the title to the vehicle shall be transferred to the spouse or family member who is properly licensed and who requires the use of the vehicle for employment or family transportation purposes. A written declaration of forfeiture of a vehicle under this Section shall be sufficient cause for the title to be transferred to the spouse or family member. The provisions of this paragraph shall apply only to one forfeiture per vehicle. If the vehicle is the subject of a subsequent forfeiture proceeding by virtue of a subsequent conviction of either spouse or the family member, the spouse or family member to whom the vehicle was forfeited under the first forfeiture proceeding may not utilize the provisions of this paragraph in another forfeiture proceeding. If the owner of the vehicle seized owns more than one vehicle, the procedure set out in this paragraph may be used

for only one vehicle.

Property declared contraband under Section 40 of the Illinois Streetgang Terrorism Omnibus Prevention Act may be seized and forfeited under this Article.

(Source: P.A. 96-313, eff. 1-1-10; 96-710, eff. 1-1-10; revised 10-9-09.)

Section 965. The Code of Criminal Procedure of 1963 is amended by changing Sections 110-5, 110-5.1, 110-6.3, 111-8, 112A-3, 112A-23, 112A-26, 115-7.3, 115-10, and 115-10.3 as follows:

(725 ILCS 5/110-5) (from Ch. 38, par. 110-5)

Sec. 110-5. Determining the amount of bail and conditions of release.

(a) In determining the amount of monetary bail or conditions of release, if any, which will reasonably assure the appearance of a defendant as required or the safety of any other person or the community and the likelihood of compliance by the defendant with all the conditions of bail, the court shall, on the basis of available information, take into account such matters as the nature and circumstances of the offense charged, whether the evidence shows that as part of the offense there was a use of violence or threatened use of violence, whether the offense involved corruption of public officials or employees, whether there was physical harm or threats of physical harm to any public official, public employee, judge, prosecutor, juror or witness, senior citizen, child or handicapped person, whether evidence shows that during the offense or during the arrest the defendant possessed or used a firearm, machine gun, explosive or metal piercing ammunition or explosive bomb device or any military or paramilitary armament, whether the evidence shows that the offense committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's membership in or allegiance to an organized gang, the condition of the victim, any written statement submitted by the victim or proffer or representation by the State regarding the impact which the alleged criminal conduct has had on the victim and the victim's concern, if any, with further contact with the defendant if released on bail, whether the offense was based on racial, religious, sexual orientation or ethnic hatred, the likelihood of the filing of a greater charge, the likelihood of conviction, the sentence applicable upon conviction, the weight of the evidence against such defendant, whether there exists motivation or ability to flee, whether there is any verification as to prior residence, education, or family ties in the local jurisdiction, in another county, state or foreign country, the defendant's employment, financial resources, character and mental condition, past conduct, prior use of alias names or dates of birth, and length of residence in the community, the consent of the defendant to periodic drug testing in accordance with Section 110-6.5, whether a foreign national defendant is lawfully admitted in the United States of America, whether the government of the foreign national maintains an extradition treaty with the United States by which the foreign government will extradite to the United States its national for a trial for a crime allegedly committed in the United States, whether the defendant is currently subject to deportation or exclusion under the immigration laws of the United States, whether the defendant, although a United States citizen, is considered under the law of any foreign state a national of that state for the purposes of extradition or non-extradition to the United States, the amount of unrecovered proceeds lost as a result of the alleged offense, the source of bail funds tendered or sought to be tendered for bail, whether from the totality of the court's consideration, the loss of funds posted or sought to be posted for bail will not deter the defendant from flight, whether the evidence shows that the defendant is engaged in significant possession, manufacture, or delivery of a controlled substance or cannabis, either individually or in consort with others, whether at the time of the offense charged he was on bond or pre-trial release pending trial, probation, periodic imprisonment or conditional discharge pursuant to this Code or the comparable Code of any other state or federal jurisdiction, whether the defendant is on bond or pre-trial release pending the imposition or execution of sentence or appeal of sentence for any offense under the laws of Illinois or any other state or federal jurisdiction, whether the defendant is under parole or mandatory supervised release or work release from the Illinois Department of Corrections or any penal institution or corrections department of any state or federal jurisdiction, the defendant's record of convictions, whether the defendant has been convicted of a misdemeanor or ordinance offense in Illinois or similar offense in other state or federal jurisdiction within the 10 years preceding the current charge or convicted of a felony in Illinois, whether the defendant was convicted of an offense in another state or federal jurisdiction that would be a felony if committed in Illinois within the 20 years preceding the current charge or has been convicted of such felony and released from the penitentiary within 20 years preceding the current charge if a penitentiary sentence was imposed in Illinois or other state or federal jurisdiction, the defendant's records of juvenile adjudication of delinquency in any jurisdiction, any record of appearance or failure to appear by the defendant at court proceedings, whether there was flight to avoid arrest or prosecution, whether the defendant escaped or attempted to escape to avoid arrest, whether the defendant refused to identify himself, or whether there was a refusal by the defendant to be

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fingerprinted as required by law. Information used by the court in its findings or stated in or offered in connection with this Section may be by way of proffer based upon reliable information offered by the State or defendant. All evidence shall be admissible if it is relevant and reliable regardless of whether it would be admissible under the rules of evidence applicable at criminal trials. If the State presents evidence that the offense committed by the defendant was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's membership in or allegiance to an organized gang, and if the court determines that the evidence may be substantiated, the court shall prohibit the defendant from associating with other members of the organized gang as a condition of bail or release. For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(b) The amount of bail shall be:

(1) Sufficient to assure compliance with the conditions set forth in the bail bond, which shall include the defendant's current address with a written admonishment to the defendant that he or she must comply with the provisions of Section 110-12 regarding any change in his or her address. The defendant's address shall at all times remain a matter of public record with the clerk of the court.

(2) Not oppressive.

(3) Considerate of the financial ability of the accused.

(4) When a person is charged with a drug related offense involving possession or delivery of cannabis or possession or delivery of a controlled substance as defined in the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, the full street value of the drugs seized shall be considered. "Street value" shall be determined by the court on the basis of a proffer by the State based upon reliable information of a law enforcement official contained in a written report as to the amount seized and such proffer may be used by the court as to the current street value of the smallest unit of the drug seized.

(b-5) Upon the filing of a written request demonstrating reasonable cause, the State's Attorney may request a source of bail hearing either before or after the posting of any funds. If the hearing is granted, before the posting of any bail, the accused must file a written notice requesting that the court conduct a source of bail hearing. The notice must be accompanied by justifying affidavits stating the legitimate and lawful source of funds for bail. At the hearing, the court shall inquire into any matters stated in any justifying affidavits, and may also inquire into matters appropriate to the determination which shall include, but are not limited to, the following:

(1) the background, character, reputation, and relationship to the accused of any surety; and

(2) the source of any money or property deposited by any surety, and whether any such money or property constitutes the fruits of criminal or unlawful conduct; and

(3) the source of any money posted as cash bail, and whether any such money constitutes the fruits of criminal or unlawful conduct; and

(4) the background, character, reputation, and relationship to the accused of the person posting cash bail.

Upon setting the hearing, the court shall examine, under oath, any persons who may possess material information.

The State's Attorney has a right to attend the hearing, to call witnesses and to examine any witness in the proceeding. The court shall, upon request of the State's Attorney, continue the proceedings for a reasonable period to allow the State's Attorney to investigate the matter raised in any testimony or affidavit. If the hearing is granted after the accused has posted bail, the court shall conduct a hearing consistent with this subsection (b-5). At the conclusion of the hearing, the court must issue an order either approving of disapproving the bail.

(c) When a person is charged with an offense punishable by fine only the amount of the bail shall not exceed double the amount of the maximum penalty.

(d) When a person has been convicted of an offense and only a fine has been imposed the amount of the bail shall not exceed double the amount of the fine.

(e) The State may appeal any order granting bail or setting a given amount for bail.

(f) When a person is charged with a violation of an order of protection under Section 12-3.4 or 12-30 of the Criminal Code of 1961,

(1) whether the alleged incident involved harassment or abuse, as defined in the Illinois Domestic Violence Act of 1986;

(2) whether the person has a history of domestic violence, as defined in the Illinois Domestic Violence Act, or a history of other criminal acts;

- (3) based on the mental health of the person;
- (4) whether the person has a history of violating the orders of any court or governmental entity;
- (5) whether the person has been, or is, potentially a threat to any other person;
- (6) whether the person has access to deadly weapons or a history of using deadly weapons;
- (7) whether the person has a history of abusing alcohol or any controlled substance;
- (8) based on the severity of the alleged incident that is the basis of the alleged offense, including, but not limited to, the duration of the current incident, and whether the alleged incident involved physical injury, sexual assault, strangulation, abuse during the alleged victim's pregnancy, abuse of pets, or forcible entry to gain access to the alleged victim;
- (9) whether a separation of the person from the alleged victim or a termination of the relationship between the person and the alleged victim has recently occurred or is pending;
- (10) whether the person has exhibited obsessive or controlling behaviors toward the alleged victim, including, but not limited to, stalking, surveillance, or isolation of the alleged victim or victim's family member or members;
- (11) whether the person has expressed suicidal or homicidal ideations;
- (12) based on any information contained in the complaint and any police reports, affidavits, or other documents accompanying the complaint,

the court may, in its discretion, order the respondent to undergo a risk assessment evaluation conducted by an Illinois Department of Human Services approved partner abuse intervention program provider, pretrial service, probation, or parole agency. These agencies shall have access to summaries of the defendant's criminal history, which shall not include victim interviews or information, for the risk evaluation. Based on the information collected from the 12 points to be considered at a bail hearing for a violation of an order of protection, the results of any risk evaluation conducted and the other circumstances of the violation, the court may order that the person, as a condition of bail, be placed under electronic surveillance as provided in Section 5-8A-7 of the Unified Code of Corrections.

(Source: P.A. 95-773, eff. 1-1-09; 96-688, eff. 8-25-09.)

(725 ILCS 5/110-5.1)

Sec. 110-5.1. Bail; certain persons charged with violent crimes against family or household members.

(a) Subject to subsection (c), a person who is charged with a violent crime shall appear before the court for the setting of bail if the alleged victim was a family or household member at the time of the alleged offense, and if any of the following applies:

(1) the person charged, at the time of the alleged offense, was subject to the terms of an order of protection issued under Section 112A-14 of this Code or Section 214 of the Illinois Domestic Violence Act of 1986 or previously was convicted of a violation of an order of protection under Section 12-3.4 or 12-30 of the Criminal Code of 1961 or a violent crime if the victim was a family or household member at the time of the offense or a violation of a substantially similar municipal ordinance or law of this or any other state or the United States if the victim was a family or household member at the time of the offense;

(2) the arresting officer indicates in a police report or other document accompanying the complaint any of the following:

(A) that the arresting officer observed on the alleged victim objective manifestations of physical harm that the arresting officer reasonably believes are a result of the alleged offense;

(B) that the arresting officer reasonably believes that the person had on the person's person at the time of the alleged offense a deadly weapon;

(C) that the arresting officer reasonably believes that the person presents a credible threat of serious physical harm to the alleged victim or to any other person if released on bail before trial.

(b) To the extent that information about any of the following is available to the court, the court shall consider all of the following, in addition to any other circumstances considered by the court, before setting bail for a person who appears before the court pursuant to subsection (a):

(1) whether the person has a history of domestic violence or a history of other violent acts;

(2) the mental health of the person;

(3) whether the person has a history of violating the orders of any court or governmental entity;

(4) whether the person is potentially a threat to any other person;

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- (5) whether the person has access to deadly weapons or a history of using deadly weapons;
- (6) whether the person has a history of abusing alcohol or any controlled substance;
- (7) the severity of the alleged violence that is the basis of the alleged offense, including, but not limited to, the duration of the alleged violent incident, and whether the alleged violent incident involved serious physical injury, sexual assault, strangulation, abuse during the alleged victim's pregnancy, abuse of pets, or forcible entry to gain access to the alleged victim;
- (8) whether a separation of the person from the alleged victim or a termination of the relationship between the person and the alleged victim has recently occurred or is pending;
- (9) whether the person has exhibited obsessive or controlling behaviors toward the alleged victim, including, but not limited to, stalking, surveillance, or isolation of the alleged victim;
- (10) whether the person has expressed suicidal or homicidal ideations;
- (11) any information contained in the complaint and any police reports, affidavits, or other documents accompanying the complaint.

(c) Upon the court's own motion or the motion of a party and upon any terms that the court may direct, a court may permit a person who is required to appear before it by subsection (a) to appear by video conferencing equipment. If, in the opinion of the court, the appearance in person or by video conferencing equipment of a person who is charged with a misdemeanor and who is required to appear before the court by subsection (a) is not practicable, the court may waive the appearance and release the person on bail on one or both of the following types of bail in an amount set by the court:

- (1) a bail bond secured by a deposit of 10% of the amount of the bond in cash;
- (2) a surety bond, a bond secured by real estate or securities as allowed by law, or the deposit of cash, at the option of the person.

Subsection (a) does not create a right in a person to appear before the court for the setting of bail or prohibit a court from requiring any person charged with a violent crime who is not described in subsection (a) from appearing before the court for the setting of bail.

(d) As used in this Section:

- (1) "Violent crime" has the meaning ascribed to it in Section 3 of the Rights of Crime Victims and Witnesses Act.
- (2) "Family or household member" has the meaning ascribed to it in Section 112A-3 of this Code.

(Source: P.A. 94-878, eff. 1-1-07.)

(725 ILCS 5/110-6.3) (from Ch. 38, par. 110-6.3)

Sec. 110-6.3. Denial of bail in stalking and aggravated stalking offenses.

(a) Upon verified petition by the State, the court shall hold a hearing to determine whether bail should be denied to a defendant who is charged with stalking or aggravated stalking, when it is alleged that the defendant's admission to bail poses a real and present threat to the physical safety of the alleged victim of the offense, and denial of release on bail or personal recognizance is necessary to prevent fulfillment of the threat upon which the charge is based.

(1) A petition may be filed without prior notice to the defendant at the first appearance before a judge, or within 21 calendar days, except as provided in Section 110-6, after arrest and release of the defendant upon reasonable notice to defendant; provided that while the petition is pending before the court, the defendant if previously released shall not be detained.

(2) The hearing shall be held immediately upon the defendant's appearance before the court, unless for good cause shown the defendant or the State seeks a continuance. A continuance on motion of the defendant may not exceed 5 calendar days, and the defendant may be held in custody during the continuance. A continuance on the motion of the State may not exceed 3 calendar days; however, the defendant may be held in custody during the continuance under this provision if the defendant has been previously found to have violated an order of protection or has been previously convicted of, or granted court supervision for, any of the offenses set forth in Sections 12-2, 12-3.05, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-7.3, 12-7.4, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, against the same person as the alleged victim of the stalking or aggravated stalking offense.

(b) The court may deny bail to the defendant when, after the hearing, it is determined that:

- (1) the proof is evident or the presumption great that the defendant has committed the offense of stalking or aggravated stalking; and
- (2) the defendant poses a real and present threat to the physical safety of the alleged victim of the offense; and
- (3) the denial of release on bail or personal recognizance is necessary to prevent fulfillment of the threat upon which the charge is based; and

(4) the court finds that no condition or combination of conditions set forth in subsection (b) of Section 110-10 of this Code, including mental health treatment at a community mental health center, hospital, or facility of the Department of Human Services, can reasonably assure the physical safety of the alleged victim of the offense.

(c) Conduct of the hearings.

(1) The hearing on the defendant's culpability and threat to the alleged victim of the offense shall be conducted in accordance with the following provisions:

(A) Information used by the court in its findings or stated in or offered at the hearing may be by way of proffer based upon reliable information offered by the State or by defendant. Defendant has the right to be represented by counsel, and if he is indigent, to have counsel appointed for him. Defendant shall have the opportunity to testify, to present witnesses in his own behalf, and to cross-examine witnesses if any are called by the State. The defendant has the right to present witnesses in his favor. When the ends of justice so require, the court may exercise its discretion and compel the appearance of a complaining witness. The court shall state on the record reasons for granting a defense request to compel the presence of a complaining witness. Cross-examination of a complaining witness at the pretrial detention hearing for the purpose of impeaching the witness' credibility is insufficient reason to compel the presence of the witness. In deciding whether to compel the appearance of a complaining witness, the court shall be considerate of the emotional and physical well-being of the witness. The pretrial detention hearing is not to be used for the purposes of discovery, and the post arraignment rules of discovery do not apply. The State shall tender to the defendant, prior to the hearing, copies of defendant's criminal history, if any, if available, and any written or recorded statements and the substance of any oral statements made by any person, if relied upon by the State. The rules concerning the admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. At the trial concerning the offense for which the hearing was conducted neither the finding of the court nor any transcript or other record of the hearing shall be admissible in the State's case in chief, but shall be admissible for impeachment, or as provided in Section 115-10.1 of this Code, or in a perjury proceeding.

(B) A motion by the defendant to suppress evidence or to suppress a confession shall not be entertained. Evidence that proof may have been obtained as the result of an unlawful search and seizure or through improper interrogation is not relevant to this state of the prosecution.

(2) The facts relied upon by the court to support a finding that:

(A) the defendant poses a real and present threat to the physical safety of the alleged victim of the offense; and

(B) the denial of release on bail or personal recognizance is necessary to prevent fulfillment of the threat upon which the charge is based;

shall be supported by clear and convincing evidence presented by the State.

(d) Factors to be considered in making a determination of the threat to the alleged victim of the offense. The court may, in determining whether the defendant poses, at the time of the hearing, a real and present threat to the physical safety of the alleged victim of the offense, consider but shall not be limited to evidence or testimony concerning:

(1) The nature and circumstances of the offense charged;

(2) The history and characteristics of the defendant including:

(A) Any evidence of the defendant's prior criminal history indicative of violent, abusive or assaultive behavior, or lack of that behavior. The evidence may include testimony or documents received in juvenile proceedings, criminal, quasi-criminal, civil commitment, domestic relations or other proceedings;

(B) Any evidence of the defendant's psychological, psychiatric or other similar social history that tends to indicate a violent, abusive, or assaultive nature, or lack of any such history.

(3) The nature of the threat which is the basis of the charge against the defendant;

(4) Any statements made by, or attributed to the defendant, together with the circumstances surrounding them;

(5) The age and physical condition of any person assaulted by the defendant;

(6) Whether the defendant is known to possess or have access to any weapon or weapons;

(7) Whether, at the time of the current offense or any other offense or arrest, the defendant was on probation, parole, mandatory supervised release or other release from custody pending trial, sentencing, appeal or completion of sentence for an offense under federal or state law;

(8) Any other factors, including those listed in Section 110-5 of this Code, deemed by

the court to have a reasonable bearing upon the defendant's propensity or reputation for violent, abusive or assaultive behavior, or lack of that behavior.

(e) The court shall, in any order denying bail to a person charged with stalking or aggravated stalking:

(1) briefly summarize the evidence of the defendant's culpability and its reasons for concluding that the defendant should be held without bail;

(2) direct that the defendant be committed to the custody of the sheriff for confinement in the county jail pending trial;

(3) direct that the defendant be given a reasonable opportunity for private consultation with counsel, and for communication with others of his choice by visitation, mail and telephone; and

(4) direct that the sheriff deliver the defendant as required for appearances in connection with court proceedings.

(f) If the court enters an order for the detention of the defendant under subsection (e) of this Section, the defendant shall be brought to trial on the offense for which he is detained within 90 days after the date on which the order for detention was entered. If the defendant is not brought to trial within the 90 day period required by this subsection (f), he shall not be held longer without bail. In computing the 90 day period, the court shall omit any period of delay resulting from a continuance granted at the request of the defendant. The court shall immediately notify the alleged victim of the offense that the defendant has been admitted to bail under this subsection.

(g) Any person shall be entitled to appeal any order entered under this Section denying bail to the defendant.

(h) The State may appeal any order entered under this Section denying any motion for denial of bail.

(i) Nothing in this Section shall be construed as modifying or limiting in any way the defendant's presumption of innocence in further criminal proceedings.

(Source: P.A. 90-14, eff. 7-1-97; 91-445, eff. 1-1-00.)

(725 ILCS 5/111-8) (from Ch. 38, par. 111-8)

Sec. 111-8. Orders of protection to prohibit domestic violence.

(a) Whenever a violation of Section 9-1, 9-2, 9-3, 10-3, 10-3.1, 10-4, 10-5, 11-15, 11-15.1, 11-20.1, 11-20a, 12-1, 12-2, 12-3, 12-3.05, 12-3.2, 12-3.3, 12-3.5, 12-4, 12-4.1, 12-4.3, 12-4.6, 12-5, 12-6, 12-6.3, 12-7.3, 12-7.4, 12-7.5, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 19-4, 21-1, 21-2, or 21-3 of the Criminal Code of 1961 or Section 1-1 of the Harassing and Obscene Communications Act is alleged in an information, complaint or indictment on file, and the alleged offender and victim are family or household members, as defined in the Illinois Domestic Violence Act, as now or hereafter amended, the People through the respective State's Attorneys may by separate petition and upon notice to the defendant, except as provided in subsection (c) herein, request the court to issue an order of protection.

(b) In addition to any other remedies specified in Section 208 of the Illinois Domestic Violence Act, as now or hereafter amended, the order may direct the defendant to initiate no contact with the alleged victim or victims who are family or household members and to refrain from entering the residence, school or place of business of the alleged victim or victims.

(c) The court may grant emergency relief without notice upon a showing of immediate and present danger of abuse to the victim or minor children of the victim and may enter a temporary order pending notice and full hearing on the matter.

(Source: P.A. 94-325, eff. 1-1-06.)

(725 ILCS 5/112A-3) (from Ch. 38, par. 112A-3)

Sec. 112A-3. Definitions. For the purposes of this Article, the following terms shall have the following meanings:

(1) "Abuse" means physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation but does not include reasonable direction of a minor child by a parent or person in loco parentis.

(2) "Domestic violence" means abuse as described in paragraph (1).

(3) "Family or household members" include spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, persons with disabilities and their personal assistants, and caregivers as defined in paragraph (3) of subsection (b) of Section 12-21 or in subsection (e) of Section 12-4.4a of the Criminal Code of 1961. For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship.

(4) "Harassment" means knowing conduct which is not necessary to accomplish a purpose which is reasonable under the circumstances; would cause a reasonable person emotional distress; and does cause emotional distress to the petitioner. Unless the presumption is rebutted by a preponderance of the evidence, the following types of conduct shall be presumed to cause emotional distress:

- (i) creating a disturbance at petitioner's place of employment or school;
- (ii) repeatedly telephoning petitioner's place of employment, home or residence;
- (iii) repeatedly following petitioner about in a public place or places;
- (iv) repeatedly keeping petitioner under surveillance by remaining present outside his

or her home, school, place of employment, vehicle or other place occupied by petitioner or by peering in petitioner's windows;

(v) improperly concealing a minor child from petitioner, repeatedly threatening to improperly remove a minor child of petitioner's from the jurisdiction or from the physical care of petitioner, repeatedly threatening to conceal a minor child from petitioner, or making a single such threat following an actual or attempted improper removal or concealment, unless respondent was fleeing from an incident or pattern of domestic violence; or

- (vi) threatening physical force, confinement or restraint on one or more occasions.

(5) "Interference with personal liberty" means committing or threatening physical abuse, harassment, intimidation or willful deprivation so as to compel another to engage in conduct from which she or he has a right to abstain or to refrain from conduct in which she or he has a right to engage.

(6) "Intimidation of a dependent" means subjecting a person who is dependent because of age, health or disability to participation in or the witnessing of: physical force against another or physical confinement or restraint of another which constitutes physical abuse as defined in this Article, regardless of whether the abused person is a family or household member.

(7) "Order of protection" means an emergency order, interim order or plenary order, granted pursuant to this Article, which includes any or all of the remedies authorized by Section 112A-14 of this Code.

(8) "Petitioner" may mean not only any named petitioner for the order of protection and any named victim of abuse on whose behalf the petition is brought, but also any other person protected by this Article.

(9) "Physical abuse" includes sexual abuse and means any of the following:

- (i) knowing or reckless use of physical force, confinement or restraint;
- (ii) knowing, repeated and unnecessary sleep deprivation; or
- (iii) knowing or reckless conduct which creates an immediate risk of physical harm.

(9.5) "Stay away" means for the respondent to refrain from both physical presence and nonphysical contact with the petitioner whether direct, indirect (including, but not limited to, telephone calls, mail, email, faxes, and written notes), or through third parties who may or may not know about the order of protection.

(10) "Willful deprivation" means wilfully denying a person who because of age, health or disability requires medication, medical care, shelter, accessible shelter or services, food, therapeutic device, or other physical assistance, and thereby exposing that person to the risk of physical, mental or emotional harm, except with regard to medical care and treatment when such dependent person has expressed the intent to forgo such medical care or treatment. This paragraph does not create any new affirmative duty to provide support to dependent persons.

(Source: P.A. 92-253, eff. 1-1-02; 93-811, eff. 1-1-05.)

(725 ILCS 5/112A-23) (from Ch. 38, par. 112A-23)

Sec. 112A-23. Enforcement of orders of protection.

(a) When violation is crime. A violation of any order of protection, whether issued in a civil, quasi-criminal proceeding, shall be enforced by a criminal court when:

(1) The respondent commits the crime of violation of an order of protection pursuant to Section 12-3.4 or 12-30 of the Criminal Code of 1961, by having knowingly violated:

- (i) remedies described in paragraphs (1), (2), (3), (14), or (14.5) of subsection
- (b) of Section 112A-14,

(ii) a remedy, which is substantially similar to the remedies authorized under paragraphs (1), (2), (3), (14) or (14.5) of subsection (b) of Section 214 of the Illinois Domestic Violence Act of 1986, in a valid order of protection, which is authorized under the laws of another state, tribe or United States territory,

- (iii) or any other remedy when the act constitutes a crime against the protected parties as defined by the Criminal Code of 1961.

Prosecution for a violation of an order of protection shall not bar concurrent prosecution for any other crime, including any crime that may have been committed at the time of the violation of the order of

protection; or

(2) The respondent commits the crime of child abduction pursuant to Section 10-5 of the Criminal Code of 1961, by having knowingly violated:

(i) remedies described in paragraphs (5), (6) or (8) of subsection (b) of Section 112A-14, or

(ii) a remedy, which is substantially similar to the remedies authorized under paragraphs (1), (5), (6), or (8) of subsection (b) of Section 214 of the Illinois Domestic Violence Act of 1986, in a valid order of protection, which is authorized under the laws of another state, tribe or United States territory.

(b) When violation is contempt of court. A violation of any valid order of protection, whether issued in a civil or criminal proceeding, may be enforced through civil or criminal contempt procedures, as appropriate, by any court with jurisdiction, regardless where the act or acts which violated the order of protection were committed, to the extent consistent with the venue provisions of this Article. Nothing in this Article shall preclude any Illinois court from enforcing any valid order of protection issued in another state. Illinois courts may enforce orders of protection through both criminal prosecution and contempt proceedings, unless the action which is second in time is barred by collateral estoppel or the constitutional prohibition against double jeopardy.

(1) In a contempt proceeding where the petition for a rule to show cause sets forth facts evidencing an immediate danger that the respondent will flee the jurisdiction, conceal a child, or inflict physical abuse on the petitioner or minor children or on dependent adults in petitioner's care, the court may order the attachment of the respondent without prior service of the rule to show cause or the petition for a rule to show cause. Bond shall be set unless specifically denied in writing.

(2) A petition for a rule to show cause for violation of an order of protection shall be treated as an expedited proceeding.

(c) Violation of custody or support orders. A violation of remedies described in paragraphs (5), (6), (8), or (9) of subsection (b) of Section 112A-14 may be enforced by any remedy provided by Section 611 of the Illinois Marriage and Dissolution of Marriage Act. The court may enforce any order for support issued under paragraph (12) of subsection (b) of Section 112A-14 in the manner provided for under Parts V and VII of the Illinois Marriage and Dissolution of Marriage Act.

(d) Actual knowledge. An order of protection may be enforced pursuant to this Section if the respondent violates the order after respondent has actual knowledge of its contents as shown through one of the following means:

(1) By service, delivery, or notice under Section 112A-10.

(2) By notice under Section 112A-11.

(3) By service of an order of protection under Section 112A-22.

(4) By other means demonstrating actual knowledge of the contents of the order.

(e) The enforcement of an order of protection in civil or criminal court shall not be affected by either of the following:

(1) The existence of a separate, correlative order entered under Section 112A-15.

(2) Any finding or order entered in a conjoined criminal proceeding.

(f) Circumstances. The court, when determining whether or not a violation of an order of protection has occurred, shall not require physical manifestations of abuse on the person of the victim.

(g) Penalties.

(1) Except as provided in paragraph (3) of this subsection, where the court finds the commission of a crime or contempt of court under subsections (a) or (b) of this Section, the penalty shall be the penalty that generally applies in such criminal or contempt proceedings, and may include one or more of the following: incarceration, payment of restitution, a fine, payment of attorneys' fees and costs, or community service.

(2) The court shall hear and take into account evidence of any factors in aggravation or mitigation before deciding an appropriate penalty under paragraph (1) of this subsection.

(3) To the extent permitted by law, the court is encouraged to:

(i) increase the penalty for the knowing violation of any order of protection over any penalty previously imposed by any court for respondent's violation of any order of protection or penal statute involving petitioner as victim and respondent as defendant;

(ii) impose a minimum penalty of 24 hours imprisonment for respondent's first violation of any order of protection; and

(iii) impose a minimum penalty of 48 hours imprisonment for respondent's second or subsequent violation of an order of protection

unless the court explicitly finds that an increased penalty or that period of imprisonment

would be manifestly unjust.

(4) In addition to any other penalties imposed for a violation of an order of protection, a criminal court may consider evidence of any violations of an order of protection:

- (i) to increase, revoke or modify the bail bond on an underlying criminal charge pursuant to Section 110-6;
- (ii) to revoke or modify an order of probation, conditional discharge or supervision, pursuant to Section 5-6-4 of the Unified Code of Corrections;
- (iii) to revoke or modify a sentence of periodic imprisonment, pursuant to Section 5-7-2 of the Unified Code of Corrections.

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

(725 ILCS 5/112A-26) (from Ch. 38, par. 112A-26)

Sec. 112A-26. Arrest without warrant.

(a) Any law enforcement officer may make an arrest without warrant if the officer has probable cause to believe that the person has committed or is committing any crime, including but not limited to violation of an order of protection, under Section 12-3.4 or 12-30 of the Criminal Code of 1961, even if the crime was not committed in the presence of the officer.

(b) The law enforcement officer may verify the existence of an order of protection by telephone or radio communication with his or her law enforcement agency or by referring to the copy of the order provided by petitioner or respondent.

(Source: P.A. 87-1186.)

(725 ILCS 5/115-7.3)

Sec. 115-7.3. Evidence in certain cases.

(a) This Section applies to criminal cases in which:

(1) the defendant is accused of predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, criminal sexual abuse, child pornography, aggravated child pornography, or criminal transmission of HIV;

(2) the defendant is accused of battery, aggravated battery, first degree murder, or second degree murder when the commission of the offense involves sexual penetration or sexual conduct as defined in Section 12-12 of the Criminal Code of 1961; or

(3) the defendant is tried or retried for any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child.

(b) If the defendant is accused of an offense set forth in paragraph (1) or (2) of subsection (a) or the defendant is tried or retried for any of the offenses set forth in paragraph (3) of subsection (a), evidence of the defendant's commission of another offense or offenses set forth in paragraph (1), (2), or (3) of subsection (a), or evidence to rebut that proof or an inference from that proof, may be admissible (if that evidence is otherwise admissible under the rules of evidence) and may be considered for its bearing on any matter to which it is relevant.

(c) In weighing the probative value of the evidence against undue prejudice to the defendant, the court may consider:

- (1) the proximity in time to the charged or predicate offense;
- (2) the degree of factual similarity to the charged or predicate offense; or
- (3) other relevant facts and circumstances.

(d) In a criminal case in which the prosecution intends to offer evidence under this Section, it must disclose the evidence, including statements of witnesses or a summary of the substance of any testimony, at a reasonable time in advance of trial, or during trial if the court excuses pretrial notice on good cause shown.

(e) In a criminal case in which evidence is offered under this Section, proof may be made by specific instances of conduct, testimony as to reputation, or testimony in the form of an expert opinion, except that the prosecution may offer reputation testimony only after the opposing party has offered that testimony.

(f) In prosecutions for a violation of Section 10-2, 12-3.05, 12-4, 12-13, 12-14, 12-14.1, 12-15, 12-16, or 18-5 of the Criminal Code of 1961, involving the involuntary delivery of a controlled substance to a victim, no inference may be made about the fact that a victim did not consent to a test for the presence of controlled substances.

(Source: P.A. 95-892, eff. 1-1-09.)

(725 ILCS 5/115-10) (from Ch. 38, par. 115-10)

Sec. 115-10. Certain hearsay exceptions.

(a) In a prosecution for a physical or sexual act perpetrated upon or against a child under the age of 13, or a person who was a moderately, severely, or profoundly mentally retarded person as defined in

this Code and in Section 2-10.1 of the Criminal Code of 1961 at the time the act was committed, including but not limited to prosecutions for violations of Sections 12-13 through 12-16 of the Criminal Code of 1961 and prosecutions for violations of Sections 10-1 (kidnapping), 10-2 (aggravated kidnapping), 10-3 (unlawful restraint), 10-3.1 (aggravated unlawful restraint), 10-4 (forcible detention), 10-5 (child abduction), 10-6 (harboring a runaway), 10-7 (aiding or abetting child abduction), 11-9 (public indecency), 11-11 (sexual relations within families), 11-21 (harmful material), 12-1 (assault), 12-2 (aggravated assault), 12-3 (battery), 12-3.2 (domestic battery), 12-3.3 (aggravated domestic battery), 12-3.05 or 12-4 (aggravated battery), 12-4.1 (heinous battery), 12-4.2 (aggravated battery with a firearm), 12-4.3 (aggravated battery of a child), 12-4.7 (drug induced infliction of great bodily harm), 12-5 (reckless conduct), 12-6 (intimidation), 12-6.1 or 12-6.5 (compelling organization membership of persons), 12-7.1 (hate crime), 12-7.3 (stalking), 12-7.4 (aggravated stalking), 12-10 (tattooing body of minor), 12-11 (home invasion), 12-21.5 (child abandonment), 12-21.6 (endangering the life or health of a child) or 12-32 (ritual mutilation) of the Criminal Code of 1961 or any sex offense as defined in subsection (B) of Section 2 of the Sex Offender Registration Act, the following evidence shall be admitted as an exception to the hearsay rule:

- (1) testimony by the victim of an out of court statement made by the victim that he or she complained of such act to another; and
  - (2) testimony of an out of court statement made by the victim describing any complaint of such act or matter or detail pertaining to any act which is an element of an offense which is the subject of a prosecution for a sexual or physical act against that victim.
- (b) Such testimony shall only be admitted if:
- (1) The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and
  - (2) The child or moderately, severely, or profoundly mentally retarded person either:
    - (A) testifies at the proceeding; or
    - (B) is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement; and
  - (3) In a case involving an offense perpetrated against a child under the age of 13, the out of court statement was made before the victim attained 13 years of age or within 3 months after the commission of the offense, whichever occurs later, but the statement may be admitted regardless of the age of the victim at the time of the proceeding.
  - (c) If a statement is admitted pursuant to this Section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given the statement and that, in making the determination, it shall consider the age and maturity of the child, or the intellectual capabilities of the moderately, severely, or profoundly mentally retarded person, the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.
  - (d) The proponent of the statement shall give the adverse party reasonable notice of his intention to offer the statement and the particulars of the statement.
  - (e) Statements described in paragraphs (1) and (2) of subsection (a) shall not be excluded on the basis that they were obtained as a result of interviews conducted pursuant to a protocol adopted by a Child Advocacy Advisory Board as set forth in subsections (c), (d), and (e) of Section 3 of the Children's Advocacy Center Act or that an interviewer or witness to the interview was or is an employee, agent, or investigator of a State's Attorney's office.

(Source: P.A. 95-892, eff. 1-1-09; 96-710, eff. 1-1-10.)

(725 ILCS 5/115-10.3)

Sec. 115-10.3. Hearsay exception regarding elder adults.

(a) In a prosecution for a physical act, abuse, neglect, or financial exploitation perpetrated upon or against an eligible adult, as defined in the Elder Abuse and Neglect Act, who has been diagnosed by a physician to suffer from (i) any form of dementia, developmental disability, or other form of mental incapacity or (ii) any physical infirmity, including but not limited to prosecutions for violations of Sections 10-1, 10-2, 10-3, 10-3.1, 10-4, 11-11, 12-1, 12-2, 12-3, 12-3.05, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.5, 12-4.6, 12-4.7, 12-5, 12-6, 12-7.3, 12-7.4, 12-11, 12-11.1, 12-13, 12-14, 12-15, 12-16, 12-21, 16-1, 16-1.3, 17-1, 17-3, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1.1, 24-1.2, and 33A-2, or subsection (b) of Section 12-4.4a, of the Criminal Code of 1961, the following evidence shall be admitted as an exception to the hearsay rule:

- (1) testimony by an eligible adult, of an out of court statement made by the eligible adult, that he or she complained of such act to another; and
- (2) testimony of an out of court statement made by the eligible adult, describing any complaint of such act or matter or detail pertaining to any act which is an element of an offense which

is the subject of a prosecution for a physical act, abuse, neglect, or financial exploitation perpetrated upon or against the eligible adult.

(b) Such testimony shall only be admitted if:

(1) The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and

(2) The eligible adult either:

(A) testifies at the proceeding; or

(B) is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement.

(c) If a statement is admitted pursuant to this Section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given the statement and that, in making the determination, it shall consider the condition of the eligible adult, the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.

(d) The proponent of the statement shall give the adverse party reasonable notice of his or her intention to offer the statement and the particulars of the statement.

(Source: P.A. 92-91, eff. 7-18-01; 93-301, eff. 1-1-04.)

Section 970. The Unified Code of Corrections is amended by changing Sections 3-6-3, 5-3-2, 5-5-3, 5-5-3.2, 5-8-4, 5-8A-2, and 5-9-1.16 as follows:

(730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

Sec. 3-6-3. Rules and Regulations for Early Release.

(a) (1) The Department of Corrections shall prescribe rules and regulations for the early release on account of good conduct of persons committed to the Department which shall be subject to review by the Prisoner Review Board.

(2) The rules and regulations on early release shall provide, with respect to offenses listed in clause (i), (ii), or (iii) of this paragraph (2) committed on or after June 19, 1998 or with respect to the offense listed in clause (iv) of this paragraph (2) committed on or after June 23, 2005 (the effective date of Public Act 94-71) or with respect to offense listed in clause (vi) committed on or after June 1, 2008 (the effective date of Public Act 95-625) or with respect to the offense of being an armed habitual criminal committed on or after August 2, 2005 (the effective date of Public Act 94-398) or with respect to the offenses listed in clause (v) of this paragraph (2) committed on or after August 13, 2007 (the effective date of Public Act 95-134), the following:

(i) that a prisoner who is serving a term of imprisonment for first degree murder or for the offense of terrorism shall receive no good conduct credit and shall serve the entire sentence imposed by the court;

(ii) that a prisoner serving a sentence for attempt to commit first degree murder, solicitation of murder, solicitation of murder for hire, intentional homicide of an unborn child, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated kidnapping, aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05, heinous battery as described in Section 12-4.1 or subdivision (a)(2) of Section 12-3.05, being an armed habitual criminal, aggravated battery of a senior citizen as described in Section 12-4.6 or subdivision (a)(4) of Section 12-3.05, or aggravated battery of a child as described in Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment;

(iii) that a prisoner serving a sentence for home invasion, armed robbery, aggravated vehicular hijacking, aggravated discharge of a firearm, or armed violence with a category I weapon or category II weapon, when the court has made and entered a finding, pursuant to subsection (c-1) of Section 5-4-1 of this Code, that the conduct leading to conviction for the enumerated offense resulted in great bodily harm to a victim, shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment;

(iv) that a prisoner serving a sentence for aggravated discharge of a firearm, whether or not the conduct leading to conviction for the offense resulted in great bodily harm to the victim, shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment;

(v) that a person serving a sentence for gunrunning, narcotics racketeering, controlled substance trafficking, methamphetamine trafficking, drug-induced homicide, aggravated methamphetamine-related child endangerment, money laundering pursuant to clause (c) (4) or (5) of Section 29B-1 of the Criminal Code of 1961, or a Class X felony conviction for delivery of a

controlled substance, possession of a controlled substance with intent to manufacture or deliver, calculated criminal drug conspiracy, criminal drug conspiracy, street gang criminal drug conspiracy, participation in methamphetamine manufacturing, aggravated participation in methamphetamine manufacturing, delivery of methamphetamine, possession with intent to deliver methamphetamine, aggravated delivery of methamphetamine, aggravated possession with intent to deliver methamphetamine, methamphetamine conspiracy when the substance containing the controlled substance or methamphetamine is 100 grams or more shall receive no more than 7.5 days good conduct credit for each month of his or her sentence of imprisonment; and

(vi) that a prisoner serving a sentence for a second or subsequent offense of luring a minor shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

(2.1) For all offenses, other than those enumerated in subdivision (a)(2)(i), (ii), or (iii) committed on or after June 19, 1998 or subdivision (a)(2)(iv) committed on or after June 23, 2005 (the effective date of Public Act 94-71) or subdivision (a)(2)(v) committed on or after August 13, 2007 (the effective date of Public Act 95-134) or subdivision (a)(2)(vi) committed on or after June 1, 2008 (the effective date of Public Act 95-625), and other than the offense of reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 committed on or after January 1, 1999, or aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, the rules and regulations shall provide that a prisoner who is serving a term of imprisonment shall receive one day of good conduct credit for each day of his or her sentence of imprisonment or recommitment under Section 3-3-9. Each day of good conduct credit shall reduce by one day the prisoner's period of imprisonment or recommitment under Section 3-3-9.

(2.2) A prisoner serving a term of natural life imprisonment or a prisoner who has been sentenced to death shall receive no good conduct credit.

(2.3) The rules and regulations on early release shall provide that a prisoner who is serving a sentence for reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 committed on or after January 1, 1999, or aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

(2.4) The rules and regulations on early release shall provide with respect to the offenses of aggravated battery with a machine gun or a firearm equipped with any device or attachment designed or used for silencing the report of a firearm or aggravated discharge of a machine gun or a firearm equipped with any device or attachment designed or used for silencing the report of a firearm, committed on or after July 15, 1999 (the effective date of Public Act 91-121), that a prisoner serving a sentence for any of these offenses shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

(2.5) The rules and regulations on early release shall provide that a prisoner who is serving a sentence for aggravated arson committed on or after July 27, 2001 (the effective date of Public Act 92-176) shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

(3) The rules and regulations shall also provide that the Director may award up to 180 days additional good conduct credit for meritorious service in specific instances as the Director deems proper; except that no more than 90 days of good conduct credit for meritorious service shall be awarded to any prisoner who is serving a sentence for conviction of first degree murder, reckless homicide while under the influence of alcohol or any other drug, or aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, aggravated kidnapping, kidnapping, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, deviate sexual assault, aggravated criminal sexual abuse, aggravated indecent liberties with a child, indecent liberties with a child, child pornography, heinous battery as described in Section 12-4.1 or subdivision (a)(2) of Section 12-3.05, aggravated battery of a spouse, aggravated battery of a spouse with a firearm, stalking, aggravated stalking, aggravated battery of a child as described in Section 12-4.3 or subdivision (b)(1) of Section 12-3.05, endangering the life or health of a child, or cruelty to a child. Notwithstanding the foregoing, good conduct credit for meritorious service shall not be awarded on a

sentence of imprisonment imposed for conviction of: (i) one of the offenses enumerated in subdivision (a)(2)(i), (ii), or (iii) when the offense is committed on or after June 19, 1998 or subdivision (a)(2)(iv) when the offense is committed on or after June 23, 2005 (the effective date of Public Act 94-71) or subdivision (a)(2)(v) when the offense is committed on or after August 13, 2007 (the effective date of Public Act 95-134) or subdivision (a)(2)(vi) when the offense is committed on or after June 1, 2008 (the effective date of Public Act 95-625), (ii) reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 when the offense is committed on or after January 1, 1999, or aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, (iii) one of the offenses enumerated in subdivision (a)(2.4) when the offense is committed on or after July 15, 1999 (the effective date of Public Act 91-121), or (iv) aggravated arson when the offense is committed on or after July 27, 2001 (the effective date of Public Act 92-176).

The Director shall not award good conduct credit for meritorious service under this paragraph (3) to an inmate unless the inmate has served a minimum of 60 days of the sentence; except nothing in this paragraph shall be construed to permit the Director to extend an inmate's sentence beyond that which was imposed by the court. Prior to awarding credit under this paragraph (3), the Director shall make a written determination that the inmate:

- (A) is eligible for good conduct credit for meritorious service;
- (B) has served a minimum of 60 days, or as close to 60 days as the sentence will allow; and
- (C) has met the eligibility criteria established by rule.

The Director shall determine the form and content of the written determination required in this subsection.

(4) The rules and regulations shall also provide that the good conduct credit accumulated and retained under paragraph (2.1) of subsection (a) of this Section by any inmate during specific periods of time in which such inmate is engaged full-time in substance abuse programs, correctional industry assignments, or educational programs provided by the Department under this paragraph (4) and satisfactorily completes the assigned program as determined by the standards of the Department, shall be multiplied by a factor of 1.25 for program participation before August 11, 1993 and 1.50 for program participation on or after that date. However, no inmate shall be eligible for the additional good conduct credit under this paragraph (4) or (4.1) of this subsection (a) while assigned to a boot camp or electronic detention, or if convicted of an offense enumerated in subdivision (a)(2)(i), (ii), or (iii) of this Section that is committed on or after June 19, 1998 or subdivision (a)(2)(iv) of this Section that is committed on or after June 23, 2005 (the effective date of Public Act 94-71) or subdivision (a)(2)(v) of this Section that is committed on or after August 13, 2007 (the effective date of Public Act 95-134) or subdivision (a)(2)(vi) when the offense is committed on or after June 1, 2008 (the effective date of Public Act 95-625), or if convicted of reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 if the offense is committed on or after January 1, 1999, or aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, or if convicted of an offense enumerated in paragraph (a)(2.4) of this Section that is committed on or after July 15, 1999 (the effective date of Public Act 91-121), or first degree murder, a Class X felony, criminal sexual assault, felony criminal sexual abuse, aggravated criminal sexual abuse, aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05, or any predecessor or successor offenses with the same or substantially the same elements, or any inchoate offenses relating to the foregoing offenses. No inmate shall be eligible for the additional good conduct credit under this paragraph (4) who (i) has previously received increased good conduct credit under this paragraph (4) and has subsequently been convicted of a felony, or (ii) has previously served more than one prior sentence of imprisonment for a felony in an adult correctional facility.

Educational, vocational, substance abuse and correctional industry programs under which good conduct credit may be increased under this paragraph (4) and paragraph (4.1) of this subsection (a) shall be evaluated by the Department on the basis of documented standards. The Department shall report the results of these evaluations to the Governor and the General Assembly by September 30th of each year. The reports shall include data relating to the recidivism rate among program participants.

Availability of these programs shall be subject to the limits of fiscal resources appropriated by the General Assembly for these purposes. Eligible inmates who are denied immediate admission shall be placed on a waiting list under criteria established by the Department. The inability

of any inmate to become engaged in any such programs by reason of insufficient program resources or for any other reason established under the rules and regulations of the Department shall not be deemed a cause of action under which the Department or any employee or agent of the Department shall be liable for damages to the inmate.

(4.1) The rules and regulations shall also provide that an additional 60 days of good conduct credit shall be awarded to any prisoner who passes the high school level Test of General Educational Development (GED) while the prisoner is incarcerated. The good conduct credit awarded under this paragraph (4.1) shall be in addition to, and shall not affect, the award of good conduct under any other paragraph of this Section, but shall also be pursuant to the guidelines and restrictions set forth in paragraph (4) of subsection (a) of this Section. The good conduct credit provided for in this paragraph shall be available only to those prisoners who have not previously earned a high school diploma or a GED. If, after an award of the GED good conduct credit has been made and the Department determines that the prisoner was not eligible, then the award shall be revoked.

(4.5) The rules and regulations on early release shall also provide that when the court's sentencing order recommends a prisoner for substance abuse treatment and the crime was committed on or after September 1, 2003 (the effective date of Public Act 93-354), the prisoner shall receive no good conduct credit awarded under clause (3) of this subsection (a) unless he or she participates in and completes a substance abuse treatment program. The Director may waive the requirement to participate in or complete a substance abuse treatment program and award the good conduct credit in specific instances if the prisoner is not a good candidate for a substance abuse treatment program for medical, programming, or operational reasons. Availability of substance abuse treatment shall be subject to the limits of fiscal resources appropriated by the General Assembly for these purposes. If treatment is not available and the requirement to participate and complete the treatment has not been waived by the Director, the prisoner shall be placed on a waiting list under criteria established by the Department. The Director may allow a prisoner placed on a waiting list to participate in and complete a substance abuse education class or attend substance abuse self-help meetings in lieu of a substance abuse treatment program. A prisoner on a waiting list who is not placed in a substance abuse program prior to release may be eligible for a waiver and receive good conduct credit under clause (3) of this subsection (a) at the discretion of the Director.

(4.6) The rules and regulations on early release shall also provide that a prisoner who has been convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act shall receive no good conduct credit unless he or she either has successfully completed or is participating in sex offender treatment as defined by the Sex Offender Management Board. However, prisoners who are waiting to receive such treatment, but who are unable to do so due solely to the lack of resources on the part of the Department, may, at the Director's sole discretion, be awarded good conduct credit at such rate as the Director shall determine.

(5) Whenever the Department is to release any inmate earlier than it otherwise would because of a grant of good conduct credit for meritorious service given at any time during the term, the Department shall give reasonable notice of the impending release not less than 14 days prior to the date of the release to the State's Attorney of the county where the prosecution of the inmate took place, and if applicable, the State's Attorney of the county into which the inmate will be released.

(b) Whenever a person is or has been committed under several convictions, with separate sentences, the sentences shall be construed under Section 5-8-4 in granting and forfeiting of good time.

(c) The Department shall prescribe rules and regulations for revoking good conduct credit, or suspending or reducing the rate of accumulation of good conduct credit for specific rule violations, during imprisonment. These rules and regulations shall provide that no inmate may be penalized more than one year of good conduct credit for any one infraction.

When the Department seeks to revoke, suspend or reduce the rate of accumulation of any good conduct credits for an alleged infraction of its rules, it shall bring charges therefor against the prisoner sought to be so deprived of good conduct credits before the Prisoner Review Board as provided in subparagraph (a)(4) of Section 3-3-2 of this Code, if the amount of credit at issue exceeds 30 days or when during any 12 month period, the cumulative amount of credit revoked exceeds 30 days except where the infraction is committed or discovered within 60 days of scheduled release. In those cases, the Department of Corrections may revoke up to 30 days of good conduct credit. The Board may subsequently approve the revocation of additional good conduct credit, if the Department seeks to revoke good conduct credit in excess of 30 days. However, the Board shall not be empowered to review the Department's decision with respect to the loss of 30 days of good conduct credit within any calendar year for any prisoner or to increase any penalty beyond the length requested by the Department.

The Director of the Department of Corrections, in appropriate cases, may restore up to 30 days good

conduct credits which have been revoked, suspended or reduced. Any restoration of good conduct credits in excess of 30 days shall be subject to review by the Prisoner Review Board. However, the Board may not restore good conduct credit in excess of the amount requested by the Director.

Nothing contained in this Section shall prohibit the Prisoner Review Board from ordering, pursuant to Section 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the sentence imposed by the court that was not served due to the accumulation of good conduct credit.

(d) If a lawsuit is filed by a prisoner in an Illinois or federal court against the State, the Department of Corrections, or the Prisoner Review Board, or against any of their officers or employees, and the court makes a specific finding that a pleading, motion, or other paper filed by the prisoner is frivolous, the Department of Corrections shall conduct a hearing to revoke up to 180 days of good conduct credit by bringing charges against the prisoner sought to be deprived of the good conduct credits before the Prisoner Review Board as provided in subparagraph (a)(8) of Section 3-3-2 of this Code. If the prisoner has not accumulated 180 days of good conduct credit at the time of the finding, then the Prisoner Review Board may revoke all good conduct credit accumulated by the prisoner.

For purposes of this subsection (d):

(1) "Frivolous" means that a pleading, motion, or other filing which purports to be a legal document filed by a prisoner in his or her lawsuit meets any or all of the following criteria:

(A) it lacks an arguable basis either in law or in fact;

(B) it is being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(C) the claims, defenses, and other legal contentions therein are not warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(D) the allegations and other factual contentions do not have evidentiary support or, if specifically so identified, are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; or

(E) the denials of factual contentions are not warranted on the evidence, or if specifically so identified, are not reasonably based on a lack of information or belief.

(2) "Lawsuit" means a motion pursuant to Section 116-3 of the Code of Criminal

Procedure of 1963, a habeas corpus action under Article X of the Code of Civil Procedure or under federal law (28 U.S.C. 2254), a petition for claim under the Court of Claims Act, an action under the federal Civil Rights Act (42 U.S.C. 1983), or a second or subsequent petition for post-conviction relief under Article 122 of the Code of Criminal Procedure of 1963 whether filed with or without leave of court or a second or subsequent petition for relief from judgment under Section 2-1401 of the Code of Civil Procedure.

(e) Nothing in Public Act 90-592 or 90-593 affects the validity of Public Act 89-404.

(f) Whenever the Department is to release any inmate who has been convicted of a violation of an order of protection under Section ~~12-3.4~~ or 12-30 of the Criminal Code of 1961, earlier than it otherwise would because of a grant of good conduct credit, the Department, as a condition of such early release, shall require that the person, upon release, be placed under electronic surveillance as provided in Section 5-8A-7 of this Code.

(Source: P.A. 95-134, eff. 8-13-07; 95-585, eff. 6-1-08; 95-625, eff. 6-1-08; 95-640, eff. 6-1-08; 95-773, eff. 1-1-09; 95-876, eff. 8-21-08; 96-860, eff. 1-15-10.)

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

Sec. 5-3-2. Presentence Report.

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

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

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

(3) the effect the offense committed has had upon the victim or victims thereof, and any compensatory benefit that various sentencing alternatives would confer on such victim or victims;

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

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

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

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

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

(b-5) In cases involving felony sex offenses in which the offender is being considered for probation only or any felony offense that is sexually motivated as defined in the Sex Offender Management Board Act in which the offender is being considered for probation only, the investigation shall include a sex offender evaluation by an evaluator approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act. In cases in which the offender is being considered for any mandatory prison sentence, the investigation shall not include a sex offender evaluation.

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

(d) In cases under Section 12-15 and Section 12-3.4 or 12-30 of the Criminal Code of 1961, as amended, the presentence report shall set forth information about alcohol, drug abuse, psychiatric, and marriage counseling or other treatment programs and facilities, information on the defendant's history of delinquency or criminality, and shall contain those additional matters listed in any of paragraphs (1) through (6) of subsection (a) or in subsection (b) of this Section as are specified by the court.

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

(Source: P.A. 96-322, eff. 1-1-10.)

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

(a) (Blank).

(b) (Blank).

(c) (1) (Blank).

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

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

(B) Attempted first degree murder.

(C) A Class X felony.

(D) A violation of Section 401.1 or 407 of the Illinois Controlled Substances Act, or a violation of subdivision (c)(1), (c)(1.5), or (c)(2) of Section 401 of that Act which relates to more than 5 grams of a substance containing heroin, cocaine, fentanyl, or an analog thereof.

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

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

(F-5) A violation of Section 24-1, 24-1.1, or 24-1.6 of the Criminal Code of 1961 for which imprisonment is prescribed in those Sections.

(G) Residential burglary, except as otherwise provided in Section 40-10 of the

Alcoholism and Other Drug Abuse and Dependency Act.

(H) Criminal sexual assault.

(I) Aggravated battery of a senior citizen as described in Section 12-4.6 or subdivision (a)(4) of Section 12-3.05.

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

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

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

(K) Vehicular hijacking.

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

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

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

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

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

(Q) A violation of Section 20-1.2 or 20-1.3 of the Criminal Code of 1961.

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

(S) (Blank).

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

(U) A second or subsequent violation of Section 6-303 of the Illinois Vehicle Code committed while his or her driver's license, permit, or privilege was revoked because of a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar provision of a law of another state.

(V) A violation of paragraph (4) of subsection (c) of Section 11-20.3 of the Criminal Code of 1961.

(W) A violation of Section 24-3.5 of the Criminal Code of 1961.

(X) A violation of subsection (a) of Section 31-1a of the Criminal Code of 1961.

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

(3) (Blank).

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

(4.1) (Blank).

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

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

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

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

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

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

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

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

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

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

(A) a period of conditional discharge;

(B) a fine;

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

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

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

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

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

(5.5) In addition to any other penalties imposed, a person convicted of violating Section 3-707 of the Illinois Vehicle Code during a period in which his or her driver's license, permit, or privileges were suspended for a previous violation of that Section shall have his or her driver's license, permit, or privileges suspended for an additional 6 months after the expiration of the original 3-month suspension and until he or she has paid a reinstatement fee of \$100.

(6) (Blank).

(7) (Blank).

(8) (Blank).

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

(10) (Blank).

(11) The court shall impose a minimum fine of \$1,000 for a first offense and \$2,000 for a second or subsequent offense upon a person convicted of or placed on supervision for battery when the individual harmed was a sports official or coach at any level of competition and the act causing harm to the sports official or coach occurred within an athletic facility or within the immediate vicinity of the athletic facility at which the sports official or coach was an active participant of the athletic contest held at the athletic facility. For the purposes of this paragraph (11), "sports official" means a person at an athletic contest who enforces the rules of the contest, such as an umpire or referee; "athletic facility" means an indoor or outdoor playing field or recreational area where sports activities are conducted; and "coach" means a person recognized as a coach by the sanctioning authority that conducted the sporting event.

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

(13) A person convicted of or placed on court supervision for an assault or aggravated

assault when the victim and the offender are family or household members as defined in Section 103 of the Illinois Domestic Violence Act of 1986 or convicted of domestic battery or aggravated domestic battery may be required to attend a Partner Abuse Intervention Program under protocols set forth by the Illinois Department of Human Services under such terms and conditions imposed by the court. The costs of such classes shall be paid by the offender.

(d) In any case in which a sentence originally imposed is vacated, the case shall be remanded to the trial court. The trial court shall hold a hearing under Section 5-4-1 of the Unified Code of Corrections which may include evidence of the defendant's life, moral character and occupation during the time since the original sentence was passed. The trial court shall then impose sentence upon the defendant. The trial court may impose any sentence which could have been imposed at the original trial subject to Section 5-5-4 of the Unified Code of Corrections. If a sentence is vacated on appeal or on collateral attack due to the failure of the trier of fact at trial to determine beyond a reasonable doubt the existence of a fact (other than a prior conviction) necessary to increase the punishment for the offense beyond the statutory maximum otherwise applicable, either the defendant may be re-sentenced to a term within the range otherwise provided or, if the State files notice of its intention to again seek the extended sentence, the defendant shall be afforded a new trial.

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

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

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

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

(i) removal from the household;

(ii) restricted contact with the victim;

(iii) continued financial support of the family;

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

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

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

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

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

(f) (Blank).

(g) Whenever a defendant is convicted of an offense under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, the defendant shall undergo medical testing to determine whether the defendant has any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Any such medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the defendant's person. Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of the test results. The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or legal guardian of the test results. The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this

Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-5.01 or 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

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

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

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

(j) In cases when prosecution for any violation of Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961, any violation of the Illinois Controlled Substances Act, any violation of the Cannabis Control Act, or any violation of the Methamphetamine Control and Community Protection Act results in conviction, a disposition of court supervision, or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substance Act, or Section 70 of the Methamphetamine Control and Community Protection Act of a defendant, the court shall determine whether the defendant is employed by a facility or center as defined under the Child Care Act of 1969, a public or private elementary or secondary school, or otherwise works with children under 18 years of age on a daily basis. When a defendant is so employed, the court shall order the Clerk of the Court to send a copy of the judgment of conviction or order of supervision or probation to the defendant's employer by certified mail. If the employer of the defendant is a school, the Clerk of the Court shall direct the mailing of a copy of the judgment of conviction or order of supervision or probation to the appropriate regional superintendent of schools. The regional superintendent of schools shall notify the State Board of Education of any notification under this subsection.

(j-5) A defendant at least 17 years of age who is convicted of a felony and who has not been previously convicted of a misdemeanor or felony and who is sentenced to a term of imprisonment in the Illinois Department of Corrections shall as a condition of his or her sentence be required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program offered by the Department of Corrections. If a defendant fails to complete the educational training required by his or her sentence during the term of incarceration, the Prisoner Review Board shall, as a condition of mandatory supervised release, require the defendant, at his or her own expense, to pursue a course of study toward a high school diploma or passage of the GED test. The Prisoner Review Board shall revoke the mandatory supervised release of a defendant who wilfully fails to comply with this subsection (j-5)

upon his or her release from confinement in a penal institution while serving a mandatory supervised release term; however, the inability of the defendant after making a good faith effort to obtain financial aid or pay for the educational training shall not be deemed a wilful failure to comply. The Prisoner Review Board shall recommit the defendant whose mandatory supervised release term has been revoked under this subsection (j-5) as provided in Section 3-3-9. This subsection (j-5) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This subsection (j-5) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(k) (Blank).

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

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

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

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

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

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

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

(C) This subsection (l) does not apply to offenders who are subject to the provisions of paragraph (2) of subsection (a) of Section 3-6-3.

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

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

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

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

(Source: P.A. 95-188, eff. 8-16-07; 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-348, eff. 8-12-09; 96-400, eff. 8-13-09; 96-829, eff. 12-3-09.)

(730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

(Text of Section before amendment by P.A. 96-339)

Sec. 5-5-3.2. Factors in Aggravation.

(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1 or Article 4.5 of Chapter V:

(1) the defendant's conduct caused or threatened serious harm;

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(2) the defendant received compensation for committing the offense;

(3) the defendant has a history of prior delinquency or criminal activity;

(4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;

(5) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;

(6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;

(7) the sentence is necessary to deter others from committing the same crime;

(8) the defendant committed the offense against a person 60 years of age or older or such person's property;

(9) the defendant committed the offense against a person who is physically handicapped or such person's property;

(10) by reason of another individual's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin, the defendant committed the offense against (i) the person or property of that individual; (ii) the person or property of a person who has an association with, is married to, or has a friendship with the other individual; or (iii) the person or property of a relative (by blood or marriage) of a person described in clause (i) or (ii). For the purposes of this Section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality;

(11) the offense took place in a place of worship or on the grounds of a place of worship, immediately prior to, during or immediately following worship services. For purposes of this subparagraph, "place of worship" shall mean any church, synagogue or other building, structure or place used primarily for religious worship;

(12) the defendant was convicted of a felony committed while he was released on bail or his own recognizance pending trial for a prior felony and was convicted of such prior felony, or the defendant was convicted of a felony committed while he was serving a period of probation, conditional discharge, or mandatory supervised release under subsection (d) of Section 5-8-1 for a prior felony;

(13) the defendant committed or attempted to commit a felony while he was wearing a bulletproof vest. For the purposes of this paragraph (13), a bulletproof vest is any device which is designed for the purpose of protecting the wearer from bullets, shot or other lethal projectiles;

(14) the defendant held a position of trust or supervision such as, but not limited to, family member as defined in Section 12-12 of the Criminal Code of 1961, teacher, scout leader, baby sitter, or day care worker, in relation to a victim under 18 years of age, and the defendant committed an offense in violation of Section 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 against that victim;

(15) the defendant committed an offense related to the activities of an organized gang. For the purposes of this factor, "organized gang" has the meaning ascribed to it in Section 10 of the Streetgang Terrorism Omnibus Prevention Act;

(16) the defendant committed an offense in violation of one of the following Sections while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(16.5) the defendant committed an offense in violation of one of the following Sections while in a day care center, regardless of the time of day or time of year; on the real property of a day care center, regardless of the time of day or time of year; or on a public way within 1,000 feet of the real property comprising any day care center, regardless of the time of day or time of year: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(17) the defendant committed the offense by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, "community policing volunteer" has the meaning ascribed to it in Section 2-3.5 of the Criminal Code of 1961;

(18) the defendant committed the offense in a nursing home or on the real property comprising a nursing home. For the purposes of this paragraph (18), "nursing home" means a skilled

nursing or intermediate long term care facility that is subject to license by the Illinois Department of Public Health under the Nursing Home Care Act;

(19) the defendant was a federally licensed firearm dealer and was previously convicted of a violation of subsection (a) of Section 3 of the Firearm Owners Identification Card Act and has now committed either a felony violation of the Firearm Owners Identification Card Act or an act of armed violence while armed with a firearm;

(20) the defendant (i) committed the offense of reckless homicide under Section 9-3 of the Criminal Code of 1961 or the offense of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof under Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(21) the defendant (i) committed the offense of reckless driving or aggravated reckless driving under Section 11-503 of the Illinois Vehicle Code and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(22) the defendant committed the offense against a person that the defendant knew, or reasonably should have known, was a member of the Armed Forces of the United States serving on active duty. For purposes of this clause (22), the term "Armed Forces" means any of the Armed Forces of the United States, including a member of any reserve component thereof or National Guard unit called to active duty;

(23) the defendant committed the offense against a person who was elderly, disabled, or infirm by taking advantage of a family or fiduciary relationship with the elderly, disabled, or infirm person; ~~or~~

(24) the defendant committed any offense under Section 11-20.1 of the Criminal Code of 1961 and possessed 100 or more images; ~~or~~

(25) the defendant committed the offense while the defendant or the victim was in a train, bus, or other vehicle used for public transportation; ~~or -~~

~~(25)~~ (26) the defendant committed the offense of child pornography or aggravated child pornography, specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context and specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.3 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context.

For the purposes of this Section:

"School" is defined as a public or private elementary or secondary school, community college, college, or university.

"Day care center" means a public or private State certified and licensed day care center as defined in Section 2.09 of the Child Care Act of 1969 that displays a sign in plain view stating that the property is a day care center.

"Public transportation" means the transportation or conveyance of persons by means available to the general public, and includes paratransit services.

(b) The following factors, related to all felonies, may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty; or

(3) When a defendant is convicted of any felony committed against:

(i) a person under 12 years of age at the time of the offense or such person's property;

(ii) a person 60 years of age or older at the time of the offense or such person's property; or

(iii) a person physically handicapped at the time of the offense or such person's property; or

(4) When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

- (i) the brutalizing or torturing of humans or animals;
- (ii) the theft of human corpses;
- (iii) the kidnapping of humans;
- (iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or
- (v) ritualized abuse of a child; or

(5) When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang; or

(6) When a defendant is convicted of an offense committed while using a firearm with a laser sight attached to it. For purposes of this paragraph, "laser sight" has the meaning ascribed to it in Section 24.6-5 of the Criminal Code of 1961; or

(7) When a defendant who was at least 17 years of age at the time of the commission of the offense is convicted of a felony and has been previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a Class X or Class 1 felony when the conviction has occurred within 10 years after the previous adjudication, excluding time spent in custody; or

(8) When a defendant commits any felony and the defendant used, possessed, exercised control over, or otherwise directed an animal to assault a law enforcement officer engaged in the execution of his or her official duties or in furtherance of the criminal activities of an organized gang in which the defendant is engaged.

(c) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

(1) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and the charges are separately brought and tried and arise out of different series of acts.

(1.5) When a defendant is convicted of first degree murder, after having been previously convicted of domestic battery (720 ILCS 5/12-3.2) or aggravated domestic battery (720 ILCS 5/12-3.3) committed on the same victim or after having been previously convicted of violation of an order of protection (720 ILCS 5/12-30) in which the same victim was the protected person.

(2) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter, or reckless homicide in which the defendant has been convicted of causing the death of more than one individual.

(3) When a defendant is convicted of aggravated criminal sexual assault or criminal sexual assault, when there is a finding that aggravated criminal sexual assault or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective.

(4) If the victim was under 18 years of age at the time of the commission of the offense, when a defendant is convicted of aggravated criminal sexual assault or predatory criminal sexual assault of a child under subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 (720 ILCS 5/12-14.1).

(5) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) and there is a finding that the defendant is a member of an organized gang.

(6) When a defendant was convicted of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) for possessing a weapon that is not readily distinguishable as one of the weapons enumerated in Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1).

(7) When a defendant is convicted of an offense involving the illegal manufacture of a controlled substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), the illegal manufacture of methamphetamine under Section 25 of the Methamphetamine Control and

Community Protection Act (720 ILCS 646/25), or the illegal possession of explosives and an emergency response officer in the performance of his or her duties is killed or injured at the scene of the offense while responding to the emergency caused by the commission of the offense. In this paragraph, "emergency" means a situation in which a person's life, health, or safety is in jeopardy; and "emergency response officer" means a peace officer, community policing volunteer, fireman, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance driver, other medical assistance or first aid personnel, or hospital emergency room personnel.

(d) For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569, eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10; 96-328, eff. 8-11-09; revised 9-25-09.)

(Text of Section after amendment by P.A. 96-339)

Sec. 5-5-3.2. Factors in Aggravation.

(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1 or Article 4.5 of Chapter V:

- (1) the defendant's conduct caused or threatened serious harm;
- (2) the defendant received compensation for committing the offense;
- (3) the defendant has a history of prior delinquency or criminal activity;
- (4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;
- (5) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;
- (6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;
- (7) the sentence is necessary to deter others from committing the same crime;
- (8) the defendant committed the offense against a person 60 years of age or older or such person's property;
- (9) the defendant committed the offense against a person who is physically handicapped or such person's property;

(10) by reason of another individual's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin, the defendant committed the offense against (i) the person or property of that individual; (ii) the person or property of a person who has an association with, is married to, or has a friendship with the other individual; or (iii) the person or property of a relative (by blood or marriage) of a person described in clause (i) or (ii). For the purposes of this Section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality;

(11) the offense took place in a place of worship or on the grounds of a place of worship, immediately prior to, during or immediately following worship services. For purposes of this subparagraph, "place of worship" shall mean any church, synagogue or other building, structure or place used primarily for religious worship;

(12) the defendant was convicted of a felony committed while he was released on bail or his own recognizance pending trial for a prior felony and was convicted of such prior felony, or the defendant was convicted of a felony committed while he was serving a period of probation, conditional discharge, or mandatory supervised release under subsection (d) of Section 5-8-1 for a prior felony;

(13) the defendant committed or attempted to commit a felony while he was wearing a bulletproof vest. For the purposes of this paragraph (13), a bulletproof vest is any device which is designed for the purpose of protecting the wearer from bullets, shot or other lethal projectiles;

(14) the defendant held a position of trust or supervision such as, but not limited to, family member as defined in Section 12-12 of the Criminal Code of 1961, teacher, scout leader, baby sitter, or day care worker, in relation to a victim under 18 years of age, and the defendant committed an offense in violation of Section 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 against that victim;

(15) the defendant committed an offense related to the activities of an organized gang.

For the purposes of this factor, "organized gang" has the meaning ascribed to it in Section 10 of the

Streetgang Terrorism Omnibus Prevention Act;

(16) the defendant committed an offense in violation of one of the following Sections while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2, or Section 12-3.05 except for subdivision (a)(4) or (g)(1), of the Criminal Code of 1961;

(16.5) the defendant committed an offense in violation of one of the following Sections while in a day care center, regardless of the time of day or time of year; on the real property of a day care center, regardless of the time of day or time of year; or on a public way within 1,000 feet of the real property comprising any day care center, regardless of the time of day or time of year: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2, or Section 12-3.05 except for subdivision (a)(4) or (g)(1), of the Criminal Code of 1961;

(17) the defendant committed the offense by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, "community policing volunteer" has the meaning ascribed to it in Section 2-3.5 of the Criminal Code of 1961;

(18) the defendant committed the offense in a nursing home or on the real property comprising a nursing home. For the purposes of this paragraph (18), "nursing home" means a skilled nursing or intermediate long term care facility that is subject to license by the Illinois Department of Public Health under the Nursing Home Care Act or the MR/DD Community Care Act;

(19) the defendant was a federally licensed firearm dealer and was previously convicted of a violation of subsection (a) of Section 3 of the Firearm Owners Identification Card Act and has now committed either a felony violation of the Firearm Owners Identification Card Act or an act of armed violence while armed with a firearm;

(20) the defendant (i) committed the offense of reckless homicide under Section 9-3 of the Criminal Code of 1961 or the offense of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof under Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(21) the defendant (i) committed the offense of reckless driving or aggravated reckless driving under Section 11-503 of the Illinois Vehicle Code and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(22) the defendant committed the offense against a person that the defendant knew, or reasonably should have known, was a member of the Armed Forces of the United States serving on active duty. For purposes of this clause (22), the term "Armed Forces" means any of the Armed Forces of the United States, including a member of any reserve component thereof or National Guard unit called to active duty;

(23) the defendant committed the offense against a person who was elderly, disabled, or infirm by taking advantage of a family or fiduciary relationship with the elderly, disabled, or infirm person; ~~or~~

(24) the defendant committed any offense under Section 11-20.1 of the Criminal Code of 1961 and possessed 100 or more images; ~~or~~

(25) the defendant committed the offense while the defendant or the victim was in a train, bus, or other vehicle used for public transportation; or -

~~(26)~~ (25) the defendant committed the offense of child pornography or aggravated child pornography, specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context and specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.3 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context.

For the purposes of this Section:

"School" is defined as a public or private elementary or secondary school, community college,

college, or university.

"Day care center" means a public or private State certified and licensed day care center as defined in Section 2.09 of the Child Care Act of 1969 that displays a sign in plain view stating that the property is a day care center.

"Public transportation" means the transportation or conveyance of persons by means available to the general public, and includes paratransit services.

(b) The following factors, related to all felonies, may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty; or

(3) When a defendant is convicted of any felony committed against:

(i) a person under 12 years of age at the time of the offense or such person's property;

(ii) a person 60 years of age or older at the time of the offense or such person's property; or

(iii) a person physically handicapped at the time of the offense or such person's property; or

(4) When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

(i) the brutalizing or torturing of humans or animals;

(ii) the theft of human corpses;

(iii) the kidnapping of humans;

(iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or

(v) ritualized abuse of a child; or

(5) When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang; or

(6) When a defendant is convicted of an offense committed while using a firearm with a laser sight attached to it. For purposes of this paragraph, "laser sight" has the meaning ascribed to it in Section 24.6-5 of the Criminal Code of 1961; or

(7) When a defendant who was at least 17 years of age at the time of the commission of the offense is convicted of a felony and has been previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a Class X or Class 1 felony when the conviction has occurred within 10 years after the previous adjudication, excluding time spent in custody; or

(8) When a defendant commits any felony and the defendant used, possessed, exercised control over, or otherwise directed an animal to assault a law enforcement officer engaged in the execution of his or her official duties or in furtherance of the criminal activities of an organized gang in which the defendant is engaged.

(c) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

(1) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and the charges are separately brought and tried and arise out of different series of acts.

(1.5) When a defendant is convicted of first degree murder, after having been previously convicted of domestic battery (720 ILCS 5/12-3.2) or aggravated domestic battery (720 ILCS 5/12-3.3) committed on the same victim or after having been previously convicted of violation of an order of protection (720 ILCS 5/12-30) in which the same victim was the protected person.

(2) When a defendant is convicted of voluntary manslaughter, second degree murder,

involuntary manslaughter, or reckless homicide in which the defendant has been convicted of causing the death of more than one individual.

(3) When a defendant is convicted of aggravated criminal sexual assault or criminal sexual assault, when there is a finding that aggravated criminal sexual assault or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective.

(4) If the victim was under 18 years of age at the time of the commission of the offense, when a defendant is convicted of aggravated criminal sexual assault or predatory criminal sexual assault of a child under subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 (720 ILCS 5/12-14.1).

(5) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) and there is a finding that the defendant is a member of an organized gang.

(6) When a defendant was convicted of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) for possessing a weapon that is not readily distinguishable as one of the weapons enumerated in Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1).

(7) When a defendant is convicted of an offense involving the illegal manufacture of a controlled substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), the illegal manufacture of methamphetamine under Section 25 of the Methamphetamine Control and Community Protection Act (720 ILCS 646/25), or the illegal possession of explosives and an emergency response officer in the performance of his or her duties is killed or injured at the scene of the offense while responding to the emergency caused by the commission of the offense. In this paragraph, "emergency" means a situation in which a person's life, health, or safety is in jeopardy; and "emergency response officer" means a peace officer, community policing volunteer, fireman, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance driver, other medical assistance or first aid personnel, or hospital emergency room personnel.

(d) For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569, eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10; 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; revised 9-25-09.)

(730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

Sec. 5-8-4. Concurrent and consecutive terms of imprisonment.

(a) Concurrent terms; multiple or additional sentences. When an Illinois court (i) imposes multiple sentences of imprisonment on a defendant at the same time or (ii) imposes a sentence of imprisonment on a defendant who is already subject to a sentence of imprisonment imposed by an Illinois court, a court of another state, or a federal court, then the sentences shall run concurrently unless otherwise determined by the Illinois court under this Section.

(b) Concurrent terms; misdemeanor and felony. A defendant serving a sentence for a misdemeanor who is convicted of a felony and sentenced to imprisonment shall be transferred to the Department of Corrections, and the misdemeanor sentence shall be merged in and run concurrently with the felony sentence.

(c) Consecutive terms; permissive. The court may impose consecutive sentences in any of the following circumstances:

(1) If, having regard to the nature and circumstances of the offense and the history and character of the defendant, it is the opinion of the court that consecutive sentences are required to protect the public from further criminal conduct by the defendant, the basis for which the court shall set forth in the record.

(2) If one of the offenses for which a defendant was convicted was a violation of Section 32-5.2 (aggravated false personation of a peace officer) of the Criminal Code of 1961 (720 ILCS 5/32-5.2) and the offense was committed in attempting or committing a forcible felony.

(d) Consecutive terms; mandatory. The court shall impose consecutive sentences in each of the following circumstances:

(1) One of the offenses for which the defendant was convicted was first degree murder or a Class X or Class 1 felony and the defendant inflicted severe bodily injury.

(2) The defendant was convicted of a violation of Section 12-13 (criminal sexual

assault), 12-14 (aggravated criminal sexual assault), or 12-14.1 (predatory criminal sexual assault of a child) of the Criminal Code of 1961 (720 ILCS 5/12-13, 5/12-14, or 5/12-14.1).

(3) The defendant was convicted of armed violence based upon the predicate offense of any of the following: solicitation of murder, solicitation of murder for hire, heinous battery as described in Section 12-4.1 or subdivision (a)(2) of Section 12-3.05, aggravated battery of a senior citizen as described in Section 12-4.6 or subdivision (a)(4) of Section 12-3.05, criminal sexual assault, a violation of subsection (g) of Section 5 of the Cannabis Control Act (720 ILCS 550/5), cannabis trafficking, a violation of subsection (a) of Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), controlled substance trafficking involving a Class X felony amount of controlled substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), a violation of the Methamphetamine Control and Community Protection Act (720 ILCS 646/), calculated criminal drug conspiracy, or streetgang criminal drug conspiracy.

(4) The defendant was convicted of the offense of leaving the scene of a motor vehicle accident involving death or personal injuries under Section 11-401 of the Illinois Vehicle Code (625 ILCS 5/11-401) and either: (A) aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof under Section 11-501 of the Illinois Vehicle Code (625 ILCS 5/11-501), (B) reckless homicide under Section 9-3 of the Criminal Code of 1961 (720 ILCS 5/9-3), or (C) both an offense described in item (A) and an offense described in item (B).

(5) The defendant was convicted of a violation of Section 9-3.1 (concealment of homicidal death) or Section 12-20.5 (dismembering a human body) of the Criminal Code of 1961 (720 ILCS 5/9-3.1 or 5/12-20.5). ~~or~~

(5.5) The ~~(vi)~~ the defendant was convicted of a violation of Section 24-3.7 (use of a stolen firearm  
in

the commission of an offense) of the Criminal Code of 1961.

(6) If the defendant was in the custody of the Department of Corrections at the time of the commission of the offense, the sentence shall be served consecutive to the sentence under which the defendant is held by the Department of Corrections. If, however, the defendant is sentenced to punishment by death, the sentence shall be executed at such time as the court may fix without regard to the sentence under which the defendant may be held by the Department.

(7) A sentence under Section 3-6-4 (730 ILCS 5/3-6-4) for escape or attempted escape shall be served consecutive to the terms under which the offender is held by the Department of Corrections.

(8) If a person charged with a felony commits a separate felony while on pretrial release or in pretrial detention in a county jail facility or county detention facility, then the sentences imposed upon conviction of these felonies shall be served consecutively regardless of the order in which the judgments of conviction are entered.

(8.5) If a person commits a battery against a county correctional officer or sheriff's employee while serving a sentence or in pretrial detention in a county jail facility, then the sentence imposed upon conviction of the battery shall be served consecutively with the sentence imposed upon conviction of the earlier misdemeanor or felony, regardless of the order in which the judgments of conviction are entered.

(9) If a person admitted to bail following conviction of a felony commits a separate felony while free on bond or if a person detained in a county jail facility or county detention facility following conviction of a felony commits a separate felony while in detention, then any sentence following conviction of the separate felony shall be consecutive to that of the original sentence for which the defendant was on bond or detained.

(10) If a person is found to be in possession of an item of contraband, as defined in clause (c)(2) of Section 31A-1.1 of the Criminal Code of 1961, while serving a sentence in a county jail or while in pre-trial detention in a county jail, the sentence imposed upon conviction for the offense of possessing contraband in a penal institution shall be served consecutively to the sentence imposed for the offense in which the person is serving sentence in the county jail or serving pretrial detention, regardless of the order in which the judgments of conviction are entered.

(e) Consecutive terms; subsequent non-Illinois term. If an Illinois court has imposed a sentence of imprisonment on a defendant and the defendant is subsequently sentenced to a term of imprisonment by a court of another state or a federal court, then the Illinois sentence shall run consecutively to the sentence imposed by the court of the other state or the federal court. That same Illinois court, however, may order that the Illinois sentence run concurrently with the sentence imposed by the court of the other state or the federal court, but only if the defendant applies to that same Illinois court within 30 days after

the sentence imposed by the court of the other state or the federal court is finalized.

(f) Consecutive terms; aggregate maximums and minimums. The aggregate maximum and aggregate minimum of consecutive sentences shall be determined as follows:

(1) For sentences imposed under law in effect prior to February 1, 1978, the aggregate maximum of consecutive sentences shall not exceed the maximum term authorized under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V for the 2 most serious felonies involved. The aggregate minimum period of consecutive sentences shall not exceed the highest minimum term authorized under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V for the 2 most serious felonies involved. When sentenced only for misdemeanors, a defendant shall not be consecutively sentenced to more than the maximum for one Class A misdemeanor.

(2) For sentences imposed under the law in effect on or after February 1, 1978, the aggregate of consecutive sentences for offenses that were committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective shall not exceed the sum of the maximum terms authorized under Section 5-8-2 (730 ILCS 5/5-8-2) for the 2 most serious felonies involved, but no such limitation shall apply for offenses that were not committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective. When sentenced only for misdemeanors, a defendant shall not be consecutively sentenced to more than the maximum for one Class A misdemeanor.

(g) Consecutive terms; manner served. In determining the manner in which consecutive sentences of imprisonment, one or more of which is for a felony, will be served, the Department of Corrections shall treat the defendant as though he or she had been committed for a single term subject to each of the following:

(1) The maximum period of a term of imprisonment shall consist of the aggregate of the maximums of the imposed indeterminate terms, if any, plus the aggregate of the imposed determinate sentences for felonies, plus the aggregate of the imposed determinate sentences for misdemeanors, subject to subsection (f) of this Section.

(2) The parole or mandatory supervised release term shall be as provided in paragraph (e) of Section 5-4.5-50 (730 ILCS 5/5-4.5-50) for the most serious of the offenses involved.

(3) The minimum period of imprisonment shall be the aggregate of the minimum and determinate periods of imprisonment imposed by the court, subject to subsection (f) of this Section.

(4) The defendant shall be awarded credit against the aggregate maximum term and the aggregate minimum term of imprisonment for all time served in an institution since the commission of the offense or offenses and as a consequence thereof at the rate specified in Section 3-6-3 (730 ILCS 3/3-6-3).

(Source: P.A. 95-379, eff. 8-23-07; 95-766, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-190, eff. 1-1-10; revised 8-20-09.)

(730 ILCS 5/5-8A-2) (from Ch. 38, par. 1005-8A-2)

Sec. 5-8A-2. Definitions. As used in this Article:

(A) "Approved electronic monitoring device" means a device approved by the supervising authority which is primarily intended to record or transmit information as to the defendant's presence or nonpresence in the home.

An approved electronic monitoring device may record or transmit: oral or wire communications or an auditory sound; visual images; or information regarding the offender's activities while inside the offender's home. These devices are subject to the required consent as set forth in Section 5-8A-5 of this Article.

An approved electronic monitoring device may be used to record a conversation between the participant and the monitoring device, or the participant and the person supervising the participant solely for the purpose of identification and not for the purpose of eavesdropping or conducting any other illegally intrusive monitoring.

(B) "Excluded offenses" means first degree murder, escape, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05, bringing or possessing a firearm, ammunition or explosive in a penal institution, any "Super-X" drug offense or calculated criminal drug conspiracy or streetgang criminal drug conspiracy, or any predecessor or successor offenses with the same or substantially the same elements, or any inchoate offenses relating to the foregoing offenses.

(C) "Home detention" means the confinement of a person convicted or charged with an offense to his or her place of residence under the terms and conditions established by the supervising authority.

(D) "Participant" means an inmate or offender placed into an electronic monitoring program.

(E) "Supervising authority" means the Department of Corrections, probation supervisory authority, sheriff, superintendent of municipal house of corrections or any other officer or agency charged with authorizing and supervising home detention.

(F) "Super-X drug offense" means a violation of Section 401(a)(1)(B), (C), or (D); Section 401(a)(2)(B), (C), or (D); Section 401(a)(3)(B), (C), or (D); or Section 401(a)(7)(B), (C), or (D) of the Illinois Controlled Substances Act.

(Source: P.A. 88-311; 89-428, eff. 12-13-95; 89-462, eff. 5-29-96; 89-498, eff. 6-27-96.)

(730 ILCS 5/5-9-1.16)

Sec. 5-9-1.16. Protective order violation fees.

(a) There shall be added to every penalty imposed in sentencing for a violation of an order of protection under Section 12-3.4 or 12-30 of the Criminal Code of 1961 an additional fee to be set in an amount not less than \$200 to be imposed upon a plea of guilty or finding of guilty resulting in a judgment of conviction.

(b) Such additional amount shall be assessed by the court imposing sentence and shall be collected by the Circuit Clerk in addition to the fine, if any, and costs in the case to be used by the supervising authority in implementing the domestic violence surveillance program. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund under Section 15.1 of the Probation and Probations Officers Act.

(c) The supervising authority of a domestic violence surveillance program under Section 5-8A-7 of this Act shall assess a person either convicted of, or charged with, the violation of an order of protection an additional fee to cover the costs of providing the equipment used and the additional supervision needed for such domestic violence surveillance program. If the court finds that the fee would impose an undue burden on the victim, the court may reduce or waive the fee. The court shall order that the defendant may not use funds belonging solely to the victim of the offense for payment of the fee.

When the supervising authority is the court or the probation and court services department, the fee shall be collected by the circuit court clerk. The clerk of the circuit court shall pay all monies collected from this fee and all other required probation fees that are assessed to the county treasurer for deposit in the probation and court services fund under Section 15.1 of the Probation and Probations Officers Act. In counties with a population of 2 million or more, when the supervising authority is the court or the probation and court services department, the fee shall be collected by the supervising authority. In these counties, the supervising authority shall pay all monies collected from this fee and all other required probation fees that are assessed, to the county treasurer for deposit in the probation and court services fund under Section 15.1 of the Probation and Probations Officers Act.

When the supervising authority is the Department of Corrections, the Department shall collect the fee for deposit into the Illinois Department of Corrections "fund". The Circuit Clerk shall retain 10% of such penalty and deposit that percentage into the Circuit Court Clerk Operation and Administrative Fund to cover the costs incurred in administering and enforcing this Section.

(d) (Blank).

(e) (Blank).

(Source: P.A. 95-773, eff. 1-1-09; 96-688, eff. 8-25-09.)

Section 975. The Secure Residential Youth Care Facility Licensing Act is amended by changing Section 45-30 as follows:

(730 ILCS 175/45-30)

Sec. 45-30. License or employment eligibility.

(a) No applicant may receive a license from the Department and no person may be employed by a licensed facility who refuses to authorize an investigation as required by Section 45-25.

(b) No applicant may receive a license from the Department and no person may be employed by a secure residential youth care facility licensed by the Department who has been declared a sexually dangerous person under the Sexually Dangerous Persons Act or convicted of committing or attempting to commit any of the following offenses under the Criminal Code of 1961:

(1) First degree murder.

(2) A sex offense under Article 11, except offenses described in Sections 11-7, 11-8, 11-12, 11-13 and 11-18.

(3) Kidnapping.

(4) Aggravated kidnapping.

(5) Child abduction.

(6) Aggravated battery of a child as described in Section 12-4.3 or subdivision (b)(1) of Section 12-3.05.

- (7) Criminal sexual assault.
- (8) Aggravated criminal sexual assault.
- (8.1) Predatory criminal sexual assault of a child.
- (9) Criminal sexual abuse.
- (10) Aggravated criminal sexual abuse.
- (11) A federal offense or an offense in any other state the elements of which are similar to any of the foregoing offenses.

(Source: P.A. 88-680, eff. 1-1-95; 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

Section 980. The Crime Victims Compensation Act is amended by changing Section 2 as follows:  
(740 ILCS 45/2) (from Ch. 70, par. 72)

Sec. 2. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Applicant" means any person who applies for compensation under this Act or any person the Court of Claims finds is entitled to compensation, including the guardian of a minor or of a person under legal disability. It includes any person who was a dependent of a deceased victim of a crime of violence for his or her support at the time of the death of that victim.

(b) "Court of Claims" means the Court of Claims created by the Court of Claims Act.

(c) "Crime of violence" means and includes any offense defined in Sections 9-1, 9-2, 9-3, 10-1, 10-2, 11-11, 11-19.2, 11-20.1, 12-1, 12-2, 12-3, 12-3.2, 12-3.3, 12-3.4, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-5, 12-7.1, 12-7.3, 12-7.4, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-20.5, 12-30, 20-1 or 20-1.1, or Section 12-3.05 except for subdivision (a)(4) or (g)(1), of the Criminal Code of 1961, Sections 1(a) and 1(a-5) of the Cemetery Protection Act, driving under the influence of intoxicating liquor or narcotic drugs as defined in Section 11-501 of the Illinois Vehicle Code, and a violation of Section 11-401 of the Illinois Vehicle Code, provided the victim was a pedestrian or was operating a vehicle moved solely by human power or a mobility device at the time of contact; so long as the offense did not occur during a civil riot, insurrection or rebellion. "Crime of violence" does not include any other offense or accident involving a motor vehicle except those vehicle offenses specifically provided for in this paragraph. "Crime of violence" does include all of the offenses specifically provided for in this paragraph that occur within this State but are subject to federal jurisdiction and crimes involving terrorism as defined in 18 U.S.C. 2331.

(d) "Victim" means (1) a person killed or injured in this State as a result of a crime of violence perpetrated or attempted against him or her, (2) the parent of a person killed or injured in this State as a result of a crime of violence perpetrated or attempted against the person, (3) a person killed or injured in this State while attempting to assist a person against whom a crime of violence is being perpetrated or attempted, if that attempt of assistance would be expected of a reasonable person under the circumstances, (4) a person killed or injured in this State while assisting a law enforcement official apprehend a person who has perpetrated a crime of violence or prevent the perpetration of any such crime if that assistance was in response to the express request of the law enforcement official, (5) a person who personally witnessed a violent crime, (5.1) solely for the purpose of compensating for pecuniary loss incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime, any other person under the age of 18 who is the brother, sister, half brother, half sister, child, or stepchild of a person killed or injured in this State as a result of a crime of violence, (6) an Illinois resident who is a victim of a "crime of violence" as defined in this Act except, if the crime occurred outside this State, the resident has the same rights under this Act as if the crime had occurred in this State upon a showing that the state, territory, country, or political subdivision of a country in which the crime occurred does not have a compensation of victims of crimes law for which that Illinois resident is eligible, (7) a deceased person whose body is dismembered or whose remains are desecrated as the result of a crime of violence, or (8) solely for the purpose of compensating for pecuniary loss incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime, any parent, spouse, or child under the age of 18 of a deceased person whose body is dismembered or whose remains are desecrated as the result of a crime of violence.

(e) "Dependent" means a relative of a deceased victim who was wholly or partially dependent upon the victim's income at the time of his or her death and shall include the child of a victim born after his or her death.

(f) "Relative" means a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, brother-in-law, sister, sister-in-law, half brother, half sister, spouse's parent, nephew, niece, uncle or aunt.

(g) "Child" means an unmarried son or daughter who is under 18 years of age and includes a stepchild, an adopted child or a child born out of wedlock.

(h) "Pecuniary loss" means, in the case of injury, appropriate medical expenses and hospital expenses including expenses of medical examinations, rehabilitation, medically required nursing care expenses, appropriate psychiatric care or psychiatric counseling expenses, expenses for care or counseling by a licensed clinical psychologist, licensed clinical social worker, or licensed clinical professional counselor and expenses for treatment by Christian Science practitioners and nursing care appropriate thereto; transportation expenses to and from medical and treatment facilities; prosthetic appliances, eyeglasses, and hearing aids necessary or damaged as a result of the crime; replacement costs for clothing and bedding used as evidence; costs associated with temporary lodging or relocation necessary as a result of the crime, including, but not limited to, the first month's rent and security deposit of the dwelling that the claimant relocated to and other reasonable relocation expenses incurred as a result of the violent crime; locks or windows necessary or damaged as a result of the crime; the purchase, lease, or rental of equipment necessary to create usability of and accessibility to the victim's real and personal property, or the real and personal property which is used by the victim, necessary as a result of the crime; the costs of appropriate crime scene clean-up; replacement services loss, to a maximum of \$1000 per month; dependents replacement services loss, to a maximum of \$1000 per month; loss of tuition paid to attend grammar school or high school when the victim had been enrolled as a student prior to the injury, or college or graduate school when the victim had been enrolled as a day or night student prior to the injury when the victim becomes unable to continue attendance at school as a result of the crime of violence perpetrated against him or her; loss of earnings, loss of future earnings because of disability resulting from the injury, and, in addition, in the case of death, expenses for funeral, burial, and travel and transport for survivors of homicide victims to secure bodies of deceased victims and to transport bodies for burial all of which may not exceed a maximum of \$5,000 and loss of support of the dependents of the victim; in the case of dismemberment or desecration of a body, expenses for funeral and burial, all of which may not exceed a maximum of \$5,000. Loss of future earnings shall be reduced by any income from substitute work actually performed by the victim or by income he or she would have earned in available appropriate substitute work he or she was capable of performing but unreasonably failed to undertake. Loss of earnings, loss of future earnings and loss of support shall be determined on the basis of the victim's average net monthly earnings for the 6 months immediately preceding the date of the injury or on \$1000 per month, whichever is less. If a divorced or legally separated applicant is claiming loss of support for a minor child of the deceased, the amount of support for each child shall be based either on the amount of support pursuant to the judgment prior to the date of the deceased victim's injury or death, or, if the subject of pending litigation filed by or on behalf of the divorced or legally separated applicant prior to the injury or death, on the result of that litigation. Real and personal property includes, but is not limited to, vehicles, houses, apartments, town houses, or condominiums. Pecuniary loss does not include pain and suffering or property loss or damage.

(i) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income, but for the benefit of himself or herself or his or her family, if he or she had not been injured.

(j) "Dependents replacement services loss" means loss reasonably incurred by dependents or private legal guardians of minor dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for their benefit, if he or she had not been fatally injured.

(k) "Survivor" means immediate family including a parent, step-father, step-mother, child, brother, sister, or spouse.

(Source: P.A. 96-267, eff. 8-11-09; 96-863, eff. 3-1-10.)

Section 985. The Illinois Marriage and Dissolution of Marriage Act is amended by changing Section 503 as follows:

(750 ILCS 5/503) (from Ch. 40, par. 503)

Sec. 503. Disposition of property.

(a) For purposes of this Act, "marital property" means all property acquired by either spouse subsequent to the marriage, except the following, which is known as "non-marital property":

- (1) property acquired by gift, legacy or descent;
- (2) property acquired in exchange for property acquired before the marriage or in exchange for property acquired by gift, legacy or descent;
- (3) property acquired by a spouse after a judgment of legal separation;
- (4) property excluded by valid agreement of the parties;
- (5) any judgment or property obtained by judgment awarded to a spouse from the other spouse;

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(6) property acquired before the marriage;

(7) the increase in value of property acquired by a method listed in paragraphs (1) through (6) of this subsection, irrespective of whether the increase results from a contribution of marital property, non-marital property, the personal effort of a spouse, or otherwise, subject to the right of reimbursement provided in subsection (c) of this Section; and

(8) income from property acquired by a method listed in paragraphs (1) through (7) of this subsection if the income is not attributable to the personal effort of a spouse.

(b)(1) For purposes of distribution of property pursuant to this Section, all property acquired by either spouse after the marriage and before a judgment of dissolution of marriage or declaration of invalidity of marriage, including non-marital property transferred into some form of co-ownership between the spouses, is presumed to be marital property, regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, or community property. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection (a) of this Section.

(2) For purposes of distribution of property pursuant to this Section, all pension benefits (including pension benefits under the Illinois Pension Code) acquired by either spouse after the marriage and before a judgment of dissolution of marriage or declaration of invalidity of the marriage are presumed to be marital property, regardless of which spouse participates in the pension plan. The presumption that these pension benefits are marital property is overcome by a showing that the pension benefits were acquired by a method listed in subsection (a) of this Section. The right to a division of pension benefits in just proportions under this Section is enforceable under Section 1-119 of the Illinois Pension Code.

The value of pension benefits in a retirement system subject to the Illinois Pension Code shall be determined in accordance with the valuation procedures established by the retirement system.

The recognition of pension benefits as marital property and the division of those benefits pursuant to a Qualified Illinois Domestic Relations Order shall not be deemed to be a diminishment, alienation, or impairment of those benefits. The division of pension benefits is an allocation of property in which each spouse has a species of common ownership.

(3) For purposes of distribution of property under this Section, all stock options granted to either spouse after the marriage and before a judgment of dissolution of marriage or declaration of invalidity of marriage, whether vested or non-vested or whether their value is ascertainable, are presumed to be marital property. This presumption of marital property is overcome by a showing that the stock options were acquired by a method listed in subsection (a) of this Section. The court shall allocate stock options between the parties at the time of the judgment of dissolution of marriage or declaration of invalidity of marriage recognizing that the value of the stock options may not be then determinable and that the actual division of the options may not occur until a future date. In making the allocation between the parties, the court shall consider, in addition to the factors set forth in subsection (d) of this Section, the following:

- (i) All circumstances underlying the grant of the stock option including but not limited to whether the grant was for past, present, or future efforts, or any combination thereof.
- (ii) The length of time from the grant of the option to the time the option is exercisable.

(c) Commingled marital and non-marital property shall be treated in the following manner, unless otherwise agreed by the spouses:

(1) When marital and non-marital property are commingled by contributing one estate of property into another resulting in a loss of identity of the contributed property, the classification of the contributed property is transmuted to the estate receiving the contribution, subject to the provisions of paragraph (2) of this subsection; provided that if marital and non-marital property are commingled into newly acquired property resulting in a loss of identity of the contributing estates, the commingled property shall be deemed transmuted to marital property, subject to the provisions of paragraph (2) of this subsection.

(2) When one estate of property makes a contribution to another estate of property, or when a spouse contributes personal effort to non-marital property, the contributing estate shall be reimbursed from the estate receiving the contribution notwithstanding any transmutation; provided, that no such reimbursement shall be made with respect to a contribution which is not retraceable by clear and convincing evidence, or was a gift, or, in the case of a contribution of personal effort of a spouse to non-marital property, unless the effort is significant and results in substantial appreciation of the non-marital property. Personal effort of a spouse shall be deemed a contribution by the marital estate. The court may provide for reimbursement out of the marital property to be divided or by imposing a lien against the non-marital property which received the contribution.

(d) In a proceeding for dissolution of marriage or declaration of invalidity of marriage, or in a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall assign each spouse's non-marital property to that spouse. It also shall divide the marital property without regard to marital misconduct in just proportions considering all relevant factors, including:

- (1) the contribution of each party to the acquisition, preservation, or increase or decrease in value of the marital or non-marital property, including (i) any such decrease attributable to a payment deemed to have been an advance from the parties' marital estate under subsection (c-1)(2) of Section 501 and (ii) the contribution of a spouse as a homemaker or to the family unit;
- (2) the dissipation by each party of the marital or non-marital property;
- (3) the value of the property assigned to each spouse;
- (4) the duration of the marriage;
- (5) the relevant economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home, or the right to live therein for reasonable periods, to the spouse having custody of the children;
- (6) any obligations and rights arising from a prior marriage of either party;
- (7) any antenuptial agreement of the parties;
- (8) the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and needs of each of the parties;
- (9) the custodial provisions for any children;
- (10) whether the apportionment is in lieu of or in addition to maintenance;
- (11) the reasonable opportunity of each spouse for future acquisition of capital assets and income; and
- (12) the tax consequences of the property division upon the respective economic circumstances of the parties.

(e) Each spouse has a species of common ownership in the marital property which vests at the time dissolution proceedings are commenced and continues only during the pendency of the action. Any such interest in marital property shall not encumber that property so as to restrict its transfer, assignment or conveyance by the title holder unless such title holder is specifically enjoined from making such transfer, assignment or conveyance.

(f) In a proceeding for dissolution of marriage or declaration of invalidity of marriage or in a proceeding for disposition of property following dissolution of marriage by a court that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court, in determining the value of the marital and non-marital property for purposes of dividing the property, shall value the property as of the date of trial or some other date as close to the date of trial as is practicable.

(g) The court if necessary to protect and promote the best interests of the children may set aside a portion of the jointly or separately held estates of the parties in a separate fund or trust for the support, maintenance, education, physical and mental health, and general welfare of any minor, dependent, or incompetent child of the parties. In making a determination under this subsection, the court may consider, among other things, the conviction of a party of any of the offenses set forth in Section 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-13, 12-14, 12-14.1, 12-15, or 12-16, or Section 12-3.05 except for subdivision (a)(4) or (g)(1), of the Criminal Code of 1961 if the victim is a child of one or both of the parties, and there is a need for, and cost of, care, healing and counseling for the child who is the victim of the crime.

(h) Unless specifically directed by a reviewing court, or upon good cause shown, the court shall not on remand consider any increase or decrease in the value of any "marital" or "non-marital" property occurring since the assessment of such property at the original trial or hearing, but shall use only that assessment made at the original trial or hearing.

(i) The court may make such judgments affecting the marital property as may be just and may enforce such judgments by ordering a sale of marital property, with proceeds therefrom to be applied as determined by the court.

(j) After proofs have closed in the final hearing on all other issues between the parties (or in conjunction with the final hearing, if all parties so stipulate) and before judgment is entered, a party's petition for contribution to fees and costs incurred in the proceeding shall be heard and decided, in accordance with the following provisions:

- (1) A petition for contribution, if not filed before the final hearing on other issues between the parties, shall be filed no later than 30 days after the closing of proofs in the final hearing or within such other period as the court orders.
- (2) Any award of contribution to one party from the other party shall be based on the

criteria for division of marital property under this Section 503 and, if maintenance has been awarded, on the criteria for an award of maintenance under Section 504.

(3) The filing of a petition for contribution shall not be deemed to constitute a waiver of the attorney-client privilege between the petitioning party and current or former counsel; and such a waiver shall not constitute a prerequisite to a hearing for contribution. If either party's presentation on contribution, however, includes evidence within the scope of the attorney-client privilege, the disclosure or disclosures shall be narrowly construed and shall not be deemed by the court to constitute a general waiver of the privilege as to matters beyond the scope of the presentation.

(4) No finding on which a contribution award is based or denied shall be asserted against counsel or former counsel for purposes of any hearing under subsection (c) or (e) of Section 508.

(5) A contribution award (payable to either the petitioning party or the party's counsel, or jointly, as the court determines) may be in the form of either a set dollar amount or a percentage of fees and costs (or a portion of fees and costs) to be subsequently agreed upon by the petitioning party and counsel or, alternatively, thereafter determined in a hearing pursuant to subsection (c) of Section 508 or previously or thereafter determined in an independent proceeding under subsection (e) of Section 508.

(6) The changes to this Section 503 made by this amendatory Act of 1996 apply to cases pending on or after June 1, 1997, except as otherwise provided in Section 508.

(Source: P.A. 95-374, eff. 1-1-08; 96-583, eff. 1-1-10.)

Section 990. The Illinois Domestic Violence Act of 1986 is amended by changing Sections 103, 223, and 301 as follows:

(750 ILCS 60/103) (from Ch. 40, par. 2311-3)

Sec. 103. Definitions. For the purposes of this Act, the following terms shall have the following meanings:

(1) "Abuse" means physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation but does not include reasonable direction of a minor child by a parent or person in loco parentis.

(2) "Adult with disabilities" means an elder adult with disabilities or a high-risk adult with disabilities. A person may be an adult with disabilities for purposes of this Act even though he or she has never been adjudicated an incompetent adult. However, no court proceeding may be initiated or continued on behalf of an adult with disabilities over that adult's objection, unless such proceeding is approved by his or her legal guardian, if any.

(3) "Domestic violence" means abuse as defined in paragraph (1).

(4) "Elder adult with disabilities" means an adult prevented by advanced age from taking appropriate action to protect himself or herself from abuse by a family or household member.

(5) "Exploitation" means the illegal, including tortious, use of a high-risk adult with disabilities or of the assets or resources of a high-risk adult with disabilities. Exploitation includes, but is not limited to, the misappropriation of assets or resources of a high-risk adult with disabilities by undue influence, by breach of a fiduciary relationship, by fraud, deception, or extortion, or the use of such assets or resources in a manner contrary to law.

(6) "Family or household members" include spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, persons with disabilities and their personal assistants, and caregivers as defined in [Section 12-4.4a](#) or paragraph (3) of subsection (b) of Section 12-21 of the Criminal Code of 1961. For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship. In the case of a high-risk adult with disabilities, "family or household members" includes any person who has the responsibility for a high-risk adult as a result of a family relationship or who has assumed responsibility for all or a portion of the care of a high-risk adult with disabilities voluntarily, or by express or implied contract, or by court order.

(7) "Harassment" means knowing conduct which is not necessary to accomplish a purpose that is reasonable under the circumstances; would cause a reasonable person emotional distress; and does cause emotional distress to the petitioner. Unless the presumption is rebutted by a preponderance of the evidence, the following types of conduct shall be presumed to cause emotional distress:

(i) creating a disturbance at petitioner's place of employment or school;

- (ii) repeatedly telephoning petitioner's place of employment, home or residence;
  - (iii) repeatedly following petitioner about in a public place or places;
  - (iv) repeatedly keeping petitioner under surveillance by remaining present outside his or her home, school, place of employment, vehicle or other place occupied by petitioner or by peering in petitioner's windows;
  - (v) improperly concealing a minor child from petitioner, repeatedly threatening to improperly remove a minor child of petitioner's from the jurisdiction or from the physical care of petitioner, repeatedly threatening to conceal a minor child from petitioner, or making a single such threat following an actual or attempted improper removal or concealment, unless respondent was fleeing an incident or pattern of domestic violence; or
  - (vi) threatening physical force, confinement or restraint on one or more occasions.
- (8) "High-risk adult with disabilities" means a person aged 18 or over whose physical or mental disability impairs his or her ability to seek or obtain protection from abuse, neglect, or exploitation.
- (9) "Interference with personal liberty" means committing or threatening physical abuse, harassment, intimidation or willful deprivation so as to compel another to engage in conduct from which she or he has a right to abstain or to refrain from conduct in which she or he has a right to engage.
- (10) "Intimidation of a dependent" means subjecting a person who is dependent because of age, health or disability to participation in or the witnessing of: physical force against another or physical confinement or restraint of another which constitutes physical abuse as defined in this Act, regardless of whether the abused person is a family or household member.
- (11) (A) "Neglect" means the failure to exercise that degree of care toward a high-risk adult with disabilities which a reasonable person would exercise under the circumstances and includes but is not limited to:
- (i) the failure to take reasonable steps to protect a high-risk adult with disabilities from acts of abuse;
  - (ii) the repeated, careless imposition of unreasonable confinement;
  - (iii) the failure to provide food, shelter, clothing, and personal hygiene to a high-risk adult with disabilities who requires such assistance;
  - (iv) the failure to provide medical and rehabilitative care for the physical and mental health needs of a high-risk adult with disabilities; or
  - (v) the failure to protect a high-risk adult with disabilities from health and safety hazards.
- (B) Nothing in this subsection (10) shall be construed to impose a requirement that assistance be provided to a high-risk adult with disabilities over his or her objection in the absence of a court order, nor to create any new affirmative duty to provide support to a high-risk adult with disabilities.
- (12) "Order of protection" means an emergency order, interim order or plenary order, granted pursuant to this Act, which includes any or all of the remedies authorized by Section 214 of this Act.
- (13) "Petitioner" may mean not only any named petitioner for the order of protection and any named victim of abuse on whose behalf the petition is brought, but also any other person protected by this Act.
- (14) "Physical abuse" includes sexual abuse and means any of the following:
- (i) knowing or reckless use of physical force, confinement or restraint;
  - (ii) knowing, repeated and unnecessary sleep deprivation; or
  - (iii) knowing or reckless conduct which creates an immediate risk of physical harm.
- (14.5) "Stay away" means for the respondent to refrain from both physical presence and nonphysical contact with the petitioner whether direct, indirect (including, but not limited to, telephone calls, mail, email, faxes, and written notes), or through third parties who may or may not know about the order of protection.
- (15) "Willful deprivation" means wilfully denying a person who because of age, health or disability requires medication, medical care, shelter, accessible shelter or services, food, therapeutic device, or other physical assistance, and thereby exposing that person to the risk of physical, mental or emotional harm, except with regard to medical care or treatment when the dependent person has expressed an intent to forgo such medical care or treatment. This paragraph does not create any new affirmative duty to provide support to dependent persons.
- (Source: P.A. 92-253, eff. 1-1-02; 93-811, eff. 1-1-05.)  
 (750 ILCS 60/223) (from Ch. 40, par. 2312-23)  
 Sec. 223. Enforcement of orders of protection.
- (a) When violation is crime. A violation of any order of protection, whether issued in a civil or criminal proceeding, shall be enforced by a criminal court when:
- (1) The respondent commits the crime of violation of an order of protection pursuant to

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Section ~~12-3.4~~ or 12-30 of the Criminal Code of 1961, by having knowingly violated:

- (i) remedies described in paragraphs (1), (2), (3), (14), or (14.5) of subsection (b) of Section 214 of this Act; or
- (ii) a remedy, which is substantially similar to the remedies authorized under paragraphs (1), (2), (3), (14), and (14.5) of subsection (b) of Section 214 of this Act, in a valid order of protection which is authorized under the laws of another state, tribe, or United States territory; or
- (iii) any other remedy when the act constitutes a crime against the protected parties as defined by the Criminal Code of 1961.

Prosecution for a violation of an order of protection shall not bar concurrent prosecution for any other crime, including any crime that may have been committed at the time of the violation of the order of protection; or

(2) The respondent commits the crime of child abduction pursuant to Section 10-5 of the Criminal Code of 1961, by having knowingly violated:

- (i) remedies described in paragraphs (5), (6) or (8) of subsection (b) of Section 214 of this Act; or
- (ii) a remedy, which is substantially similar to the remedies authorized under paragraphs (5), (6), or (8) of subsection (b) of Section 214 of this Act, in a valid order of protection which is authorized under the laws of another state, tribe, or United States territory.

(b) When violation is contempt of court. A violation of any valid Illinois order of protection, whether issued in a civil or criminal proceeding, may be enforced through civil or criminal contempt procedures, as appropriate, by any court with jurisdiction, regardless where the act or acts which violated the order of protection were committed, to the extent consistent with the venue provisions of this Act. Nothing in this Act shall preclude any Illinois court from enforcing any valid order of protection issued in another state. Illinois courts may enforce orders of protection through both criminal prosecution and contempt proceedings, unless the action which is second in time is barred by collateral estoppel or the constitutional prohibition against double jeopardy.

(1) In a contempt proceeding where the petition for a rule to show cause sets forth facts evidencing an immediate danger that the respondent will flee the jurisdiction, conceal a child, or inflict physical abuse on the petitioner or minor children or on dependent adults in petitioner's care, the court may order the attachment of the respondent without prior service of the rule to show cause or the petition for a rule to show cause. Bond shall be set unless specifically denied in writing.

(2) A petition for a rule to show cause for violation of an order of protection shall be treated as an expedited proceeding.

(c) Violation of custody or support orders. A violation of remedies described in paragraphs (5), (6), (8), or (9) of subsection (b) of Section 214 of this Act may be enforced by any remedy provided by Section 611 of the Illinois Marriage and Dissolution of Marriage Act. The court may enforce any order for support issued under paragraph (12) of subsection (b) of Section 214 in the manner provided for under Parts V and VII of the Illinois Marriage and Dissolution of Marriage Act.

(d) Actual knowledge. An order of protection may be enforced pursuant to this Section if the respondent violates the order after the respondent has actual knowledge of its contents as shown through one of the following means:

- (1) By service, delivery, or notice under Section 210.
- (2) By notice under Section 210.1 or 211.
- (3) By service of an order of protection under Section 222.
- (4) By other means demonstrating actual knowledge of the contents of the order.

(e) The enforcement of an order of protection in civil or criminal court shall not be affected by either of the following:

- (1) The existence of a separate, correlative order, entered under Section 215.
- (2) Any finding or order entered in a conjoined criminal proceeding.

(f) Circumstances. The court, when determining whether or not a violation of an order of protection has occurred, shall not require physical manifestations of abuse on the person of the victim.

(g) Penalties.

(1) Except as provided in paragraph (3) of this subsection, where the court finds the commission of a crime or contempt of court under subsections (a) or (b) of this Section, the penalty shall be the penalty that generally applies in such criminal or contempt proceedings, and may include one or more of the following: incarceration, payment of restitution, a fine, payment of attorneys' fees and costs, or community service.

(2) The court shall hear and take into account evidence of any factors in aggravation or mitigation before deciding an appropriate penalty under paragraph (1) of this subsection.

(3) To the extent permitted by law, the court is encouraged to:

(i) increase the penalty for the knowing violation of any order of protection over any penalty previously imposed by any court for respondent's violation of any order of protection or penal statute involving petitioner as victim and respondent as defendant;

(ii) impose a minimum penalty of 24 hours imprisonment for respondent's first violation of any order of protection; and

(iii) impose a minimum penalty of 48 hours imprisonment for respondent's second or subsequent violation of an order of protection

unless the court explicitly finds that an increased penalty or that period of imprisonment would be manifestly unjust.

(4) In addition to any other penalties imposed for a violation of an order of protection, a criminal court may consider evidence of any violations of an order of protection:

(i) to increase, revoke or modify the bail bond on an underlying criminal charge pursuant to Section 110-6 of the Code of Criminal Procedure of 1963;

(ii) to revoke or modify an order of probation, conditional discharge or supervision, pursuant to Section 5-6-4 of the Unified Code of Corrections;

(iii) to revoke or modify a sentence of periodic imprisonment, pursuant to Section 5-7-2 of the Unified Code of Corrections.

(5) In addition to any other penalties, the court shall impose an additional fine of \$20 as authorized by Section 5-9-1.11 of the Unified Code of Corrections upon any person convicted of or placed on supervision for a violation of an order of protection. The additional fine shall be imposed for each violation of this Section.

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

(750 ILCS 60/301) (from Ch. 40, par. 2313-1)

Sec. 301. Arrest without warrant.

(a) Any law enforcement officer may make an arrest without warrant if the officer has probable cause to believe that the person has committed or is committing any crime, including but not limited to violation of an order of protection, under Section 12-3.4 or 12-30 of the Criminal Code of 1961, even if the crime was not committed in the presence of the officer.

(b) The law enforcement officer may verify the existence of an order of protection by telephone or radio communication with his or her law enforcement agency or by referring to the copy of the order provided by the petitioner or respondent.

(c) Any law enforcement officer may make an arrest without warrant if the officer has reasonable grounds to believe a defendant at liberty under the provisions of subdivision (d)(1) or (d)(2) of Section 110-10 of the Code of Criminal Procedure of 1963 has violated a condition of his or her bail bond or recognizance.

(Source: P.A. 88-624, eff. 1-1-95.)

Section 995. The Probate Act of 1975 is amended by changing Sections 2-6.2 and 2-6.6 as follows:

(755 ILCS 5/2-6.2)

Sec. 2-6.2. Financial exploitation, abuse, or neglect of an elderly person or a person with a disability.

(a) In this Section:

"Abuse" means any offense described in Section 12-21 or subsection (b) of Section 12-4.4a of the Criminal Code of 1961.

"Financial exploitation" means any offense described in Section 16-1.3 of the Criminal Code of 1961.

"Neglect" means any offense described in Section 12-19 or subsection (a) of Section 12-4.4a of the Criminal Code of 1961.

(b) Persons convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability shall not receive any property, benefit, or other interest by reason of the death of that elderly person or person with a disability, whether as heir, legatee, beneficiary, survivor, appointee, claimant under Section 18-1.1, or in any other capacity and whether the property, benefit, or other interest passes pursuant to any form of title registration, testamentary or nontestamentary instrument, intestacy, renunciation, or any other circumstance. The property, benefit, or other interest shall pass as if the person convicted of the financial exploitation, abuse, or neglect died before the decedent, provided that with respect to joint tenancy property the interest possessed prior to the death by the person convicted of the financial exploitation, abuse, or neglect shall not be diminished by the application of this Section. Notwithstanding the foregoing, a person convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability shall be entitled to receive property, a benefit, or an interest in any capacity and under any circumstances described in this subsection (b) if it is demonstrated by

clear and convincing evidence that the victim of that offense knew of the conviction and subsequent to the conviction expressed or ratified his or her intent to transfer the property, benefit, or interest to the person convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability in any manner contemplated by this subsection (b).

(c) (1) The holder of any property subject to the provisions of this Section shall not be liable for distributing or releasing the property to the person convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability if the distribution or release occurs prior to the conviction.

(2) If the holder is a financial institution, trust company, trustee, or similar entity or person, the holder shall not be liable for any distribution or release of the property, benefit, or other interest to the person convicted of a violation of Section 12-19, 12-21, or 16-1.3, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 unless the holder knowingly distributes or releases the property, benefit, or other interest to the person so convicted after first having received actual written notice of the conviction in sufficient time to act upon the notice.

(d) If the holder of any property subject to the provisions of this Section knows that a potential beneficiary has been convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability within the scope of this Section, the holder shall fully cooperate with law enforcement authorities and judicial officers in connection with any investigation of the financial exploitation, abuse, or neglect. If the holder is a person or entity that is subject to regulation by a regulatory agency pursuant to the laws of this or any other state or pursuant to the laws of the United States, including but not limited to the business of a financial institution, corporate fiduciary, or insurance company, then such person or entity shall not be deemed to be in violation of this Section to the extent that privacy laws and regulations applicable to such person or entity prevent it from voluntarily providing law enforcement authorities or judicial officers with information.

(Source: P.A. 95-315, eff. 1-1-08.)

(755 ILCS 5/2-6.6)

Sec. 2-6.6. Person convicted of certain offenses against the elderly or disabled. A person who is convicted of a violation of Section 12-19, 12-21, or 16-1.3, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 may not receive any property, benefit, or other interest by reason of the death of the victim of that offense, whether as heir, legatee, beneficiary, joint tenant, tenant by the entirety, survivor, appointee, or in any other capacity and whether the property, benefit, or other interest passes pursuant to any form of title registration, testamentary or nontestamentary instrument, intestacy, renunciation, or any other circumstance. The property, benefit, or other interest shall pass as if the person convicted of a violation of Section 12-19, 12-21, or 16-1.3, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 died before the decedent; provided that with respect to joint tenancy property or property held in tenancy by the entirety, the interest possessed prior to the death by the person convicted may not be diminished by the application of this Section. Notwithstanding the foregoing, a person convicted of a violation of Section 12-19, 12-21, or 16-1.3, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 shall be entitled to receive property, a benefit, or an interest in any capacity and under any circumstances described in this Section if it is demonstrated by clear and convincing evidence that the victim of that offense knew of the conviction and subsequent to the conviction expressed or ratified his or her intent to transfer the property, benefit, or interest to the person convicted of a violation of Section 12-19, 12-21, or 16-1.3, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 in any manner contemplated by this Section.

The holder of any property subject to the provisions of this Section is not liable for distributing or releasing the property to the person convicted of violating Section 12-19, 12-21, or 16-1.3, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961.

If the holder is a financial institution, trust company, trustee, or similar entity or person, the holder shall not be liable for any distribution or release of the property, benefit, or other interest to the person convicted of a violation of Section 12-19, 12-21, or 16-1.3, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 unless the holder knowingly distributes or releases the property, benefit, or other interest to the person so convicted after first having received actual written notice of the conviction in sufficient time to act upon the notice.

The Department of State Police shall have access to State of Illinois databases containing information that may help in the identification or location of persons convicted of the offenses enumerated in this Section. Interagency agreements shall be implemented, consistent with security and procedures established by the State agency and consistent with the laws governing the confidentiality of the information in the databases. Information shall be used only for administration of this Section.

(Source: P.A. 93-301, eff. 1-1-04.)

## Article 95.

Section 9995. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

## Article 99.

Section 9999. Effective date. This Act takes effect January 1, 2011."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Dillard offered the following amendment and moved its adoption:

**AMENDMENT NO. 3 TO HOUSE BILL 5640**

AMENDMENT NO. 3. Amend House Bill 5640, AS AMENDED, by inserting the following immediately before Article 95:

## "Article 2.

Section 5. The Criminal Code of 1961 is amended by adding the headings of Subdivisions 1, 5, 10, 15, 20, and 25 of Article 11, by adding Sections 11-0.1, 11-9.1A, 11-14.3, and 11-14.4, by changing Sections 11-6, 11-6.5, 11-9.1, 11-9.2, 11-9.3, 11-9.5, 11-11, 11-14, 11-14.1, 11-18, 11-18.1, 11-20, 11-20.1, 11-20.2, 11-21, 11-23, and 11-24, and by renumbering and changing Sections 11-7, 11-8, 11-9, 11-12, 11-20.3, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-17, 12-18, and 12-18.1 as follows:

(720 ILCS 5/Art. 11 Subdiv. 1 heading new)

SUBDIVISION 1. GENERAL DEFINITIONS

(720 ILCS 5/11-0.1 new)

Sec. 11-0.1. Definitions. In this Article, unless the context clearly requires otherwise, the following terms are defined as indicated:

"Accused" means a person accused of an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code or a person for whose conduct the accused is legally responsible under Article 5 of this Code.

"Adult obscenity or child pornography Internet site". See Section 11-23.

"Advance prostitution" means:

(1) Soliciting for a prostitute by performing any of the following acts when acting other than as a prostitute or a patron of a prostitute:

(A) Soliciting another for the purpose of prostitution.

(B) Arranging or offering to arrange a meeting of persons for the purpose of prostitution.

(C) Directing another to a place knowing the direction is for the purpose of prostitution.

(2) Keeping a place of prostitution by controlling or exercising control over the use of any place that could offer seclusion or shelter for the practice of prostitution and performing any of the following acts when acting other than as a prostitute or a patron of a prostitute:

(A) Knowingly granting or permitting the use of the place for the purpose of prostitution.

(B) Granting or permitting the use of the place under circumstances from which he or she could reasonably know that the place is used or is to be used for purposes of prostitution.

(C) Permitting the continued use of the place after becoming aware of facts or circumstances from which he or she should reasonably know that the place is being used for purposes of prostitution.

"Agency". See Section 11-9.5.

"Arranges". See Section 11-6.5.

"Bodily harm" means physical harm, and includes, but is not limited to, sexually transmitted disease, pregnancy, and impotence.

"Care and custody". See Section 11-9.5.

"Child care institution". See Section 11-9.3.

"Child pornography". See Section 11-20.1.

"Child sex offender". See Section 11-9.3.

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"Community agency". See Section 11-9.5.

"Conditional release". See Section 11-9.2.

"Consent". See Section 11-1.70.

"Custody". See Section 11-9.2.

"Day care center". See Section 11-9.3.

"Depict by computer". See Section 11-20.1.

"Depiction by computer". See Section 11-20.1.

"Disseminate". See Section 11-20.1.

"Distribute". See Section 11-21.

"Family member" means a parent, grandparent, child, aunt, uncle, great-aunt, or great-uncle, whether by whole blood, half-blood, or adoption, and includes a step-grandparent, step-parent, or step-child. "Family member" also means, if the victim is a child under 18 years of age, an accused who has resided in the household with the child continuously for at least 6 months.

"Force or threat of force" means the use of force or violence or the threat of force or violence, including, but not limited to, the following situations:

(1) when the accused threatens to use force or violence on the victim or on any other person, and the victim under the circumstances reasonably believes that the accused has the ability to execute that threat; or

(2) when the accused overcomes the victim by use of superior strength or size, physical restraint, or physical confinement.

"Harmful to minors". See Section 11-21.

"Loiter". See Section 9.3.

"Material". See Section 11-21.

"Minor". See Section 11-21.

"Nudity". See Section 11-21.

"Obscene". See Section 11-20.

"Part day child care facility". See Section 11-9.3.

"Penal system". See Section 11-9.2.

"Person responsible for the child's welfare". See Section 11-9.1A.

"Person with a disability". See Section 11-9.5.

"Playground". See Section 11-9.3.

"Probation officer". See Section 11-9.2.

"Produce". See Section 11-20.1.

"Profit from prostitution" means, when acting other than as a prostitute, to receive anything of value for personally rendered prostitution services or to receive anything of value from a prostitute, if the thing received is not for lawful consideration and the person knows it was earned in whole or in part from the practice of prostitution.

"Public park". See Section 11-9.3.

"Public place". See Section 11-30.

"Reproduce". See Section 11-20.1.

"Sado-masochistic abuse". See Section 11-21.

"School". See Section 11-9.3.

"School official". See Section 11-9.3.

"Sexual abuse". See Section 11-9.1A.

"Sexual act". See Section 11-9.1.

"Sexual conduct" means any knowing touching or fondling by the victim or the accused, either directly or through clothing, of the sex organs, anus, or breast of the victim or the accused, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the accused upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of the victim or the accused.

"Sexual excitement". See Section 11-21.

"Sexual penetration" means any contact, however slight, between the sex organ or anus of one person and an object or the sex organ, mouth, or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including, but not limited to, cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

"Solicit". See Section 11-6.

"State-operated facility". See Section 11-9.5.

"Supervising officer". See Section 11-9.2.

"Surveillance agent". See Section 11-9.2.

"Treatment and detention facility". See Section 11-9.2.

"Victim" means a person alleging to have been subjected to an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code.

(720 ILCS 5/Art. 11 Subdiv. 5 heading new)

**SUBDIVISION 5. SEXUAL MISCONDUCT OFFENSES**

(720 ILCS 5/11-1.10) (was 720 ILCS 5/12-18)

Sec. 11-1.10, 12-18. General provisions concerning offenses described in Sections 11-1.20 through 11-1.60. Provisions.

(a) No person accused of violating Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 Sections 12-13, 12-14, 12-15 or 12-16 of this Code shall be presumed to be incapable of committing an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 Sections 12-13, 12-14, 12-14.1, 12-15 or 12-16 of this Code because of age, physical condition or relationship to the victim, ~~except as otherwise provided in subsection (e) of this Section.~~ Nothing in this Section shall be construed to modify or abrogate the affirmative defense of infancy under Section 6-1 of this Code or the provisions of Section 5-805 of the Juvenile Court Act of 1987.

(b) Any medical examination or procedure which is conducted by a physician, nurse, medical or hospital personnel, parent, or caretaker for purposes and in a manner consistent with reasonable medical standards is not an offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 Sections 12-13, 12-14, 12-14.1, 12-15 and 12-16 of this Code.

(c) (Blank).

(d) (Blank).

(e) After a finding at a preliminary hearing that there is probable cause to believe that an accused has committed a violation of Section 11-1.20, 11-1.30, or 11-1.40 12-13, 12-14, or 12-14.1 of this Code, or after an indictment is returned charging an accused with a violation of Section 11-1.20, 11-1.30, or 11-1.40 12-13, 12-14, or 12-14.1 of this Code, or after a finding that a defendant charged with a violation of Section 11-1.20, 11-1.30, or 11-1.40 12-13, 12-14, or 12-14.1 of this Code is unfit to stand trial pursuant to Section 104-16 of the Code of Criminal Procedure of 1963 where the finding is made prior to preliminary hearing, at the request of the person who was the victim of the violation of Section 11-1.20, 11-1.30, or 11-1.40 12-13, 12-14, or 12-14.1, the prosecuting State's attorney shall seek an order from the court to compel the accused to be tested within 48 hours for any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV). The medical tests shall be performed only by appropriately licensed medical practitioners. The test for infection with human immunodeficiency virus (HIV) shall consist of an enzyme-linked immunosorbent assay (ELISA) test, or such other test as may be approved by the Illinois Department of Public Health; in the event of a positive result, the Western Blot Assay or a more reliable confirmatory test shall be administered. The results of the tests and any follow-up tests shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the victim, to the defendant, to the State's Attorney, and to the judge who entered the order, for the judge's inspection in camera. The judge shall provide to the victim a referral to the Illinois Department of Public Health HIV/AIDS toll-free hotline for counseling and information in connection with the test result. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the result of the testing may be revealed; however, in no case shall the identity of the victim be disclosed. The court shall order that the cost of the tests shall be paid by the county, and shall be taxed as costs against the accused if convicted.

(f) Whenever any law enforcement officer has reasonable cause to believe that a person has been delivered a controlled substance without his or her consent, the law enforcement officer shall advise the victim about seeking medical treatment and preserving evidence.

(g) Every hospital providing emergency hospital services to an alleged sexual assault survivor, when there is reasonable cause to believe that a person has been delivered a controlled substance without his or her consent, shall designate personnel to provide:

- (1) An explanation to the victim about the nature and effects of commonly used controlled substances and how such controlled substances are administered.
- (2) An offer to the victim of testing for the presence of such controlled substances.
- (3) A disclosure to the victim that all controlled substances or alcohol ingested by the victim will be disclosed by the test.
- (4) A statement that the test is completely voluntary.
- (5) A form for written authorization for sample analysis of all controlled substances

and alcohol ingested by the victim.

A physician licensed to practice medicine in all its branches may agree to be a designated person under this subsection.

No sample analysis may be performed unless the victim returns a signed written authorization within 30 days after the sample was collected.

Any medical treatment or care under this subsection shall be only in accordance with the order of a physician licensed to practice medicine in all of its branches. Any testing under this subsection shall be only in accordance with the order of a licensed individual authorized to order the testing.

(Source: P.A. 94-397, eff. 1-1-06; 95-926, eff. 8-26-08.)

(720 ILCS 5/11-1.20) (was 720 ILCS 5/12-13)

Sec. 11-1.20, ~~12-13~~. Criminal Sexual Assault.

(a) ~~A person commits criminal sexual assault if that person commits an act of sexual penetration and:~~

~~(1) uses force or threat of force;~~

~~(2) knows that the victim is unable to understand the nature of the act or is unable to give knowing consent;~~

~~(3) is a family member of the victim, and the victim is under 18 years of age; or~~

~~(4) is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim, and the victim is at least 13 years of age but under 18 years of age. The accused commits criminal sexual assault if he or she:~~

~~(1) commits an act of sexual penetration by the use of force or threat of force; or~~

~~(2) commits an act of sexual penetration and the accused knew that the victim was unable to understand the nature of the act or was unable to give knowing consent; or~~

~~(3) commits an act of sexual penetration with a victim who was under 18 years of age when the act was committed and the accused was a family member; or~~

~~(4) commits an act of sexual penetration with a victim who was at least 13 years of age but under 18 years of age when the act was committed and the accused was 17 years of age or over and held a position of trust, authority or supervision in relation to the victim.~~

(b) Sentence.

(1) Criminal sexual assault is a Class 1 felony, except that: -

(A) ~~(2)~~ A person who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted of the offense of criminal sexual assault or the offense of exploitation of a child, or who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of criminal sexual assault or to the offense of exploitation of a child, commits a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 30 years and not more than 60 years. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (A) ~~(2)~~ to apply.

(B) ~~(3)~~ A person who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted of the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child, or who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of aggravated criminal sexual assault or the offense of ~~criminal~~ predatory criminal sexual assault of a child shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (B) ~~(3)~~ to apply.

(C) ~~(4)~~ A second or subsequent conviction for a violation of paragraph (a)(3) or (a)(4)

or under any similar statute of this State or any other state for any offense involving criminal sexual assault that is substantially equivalent to or more serious than the sexual assault prohibited under paragraph (a)(3) or (a)(4) is a Class X felony.

~~(5) When a person has any such prior conviction, the information or indictment charging that person shall state such prior conviction so as to give notice of the State's intention to treat the charge as a Class X felony. The fact of such prior conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial.~~

(Source: P.A. 95-640, eff. 6-1-08.)

(720 ILCS 5/11-1.30) (was 720 ILCS 5/12-14)

Sec. 11-1.30 ~~12-14~~. Aggravated Criminal Sexual Assault.

(a) A person commits aggravated criminal sexual assault if that person commits criminal sexual

assault and any of the following aggravating circumstances exist during the commission of the offense or, for purposes of paragraph (7), occur as part of the same course of conduct as the commission of the offense:

(1) the person displays, threatens to use, or uses a dangerous weapon, other than a firearm, or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;

(2) the person causes bodily harm to the victim, except as provided in paragraph (10);

(3) the person acts in a manner that threatens or endangers the life of the victim or any other person;

(4) the person commits the criminal sexual assault during the course of committing or attempting to commit any other felony;

(5) the victim is 60 years of age or older;

(6) the victim is a physically handicapped person;

(7) the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception for other than medical purposes;

(8) the person is armed with a firearm;

(9) the person personally discharges a firearm during the commission of the offense; or

(10) the person personally discharges a firearm during the commission of the offense, and that discharge proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person. The accused commits aggravated criminal sexual assault if he or she commits criminal sexual assault and any of the following aggravating circumstances existed during, or for the purposes of paragraph (7) of this subsection (a) as part of the same course of conduct as, the commission of the offense:

(1) the accused displayed, threatened to use, or used a dangerous weapon, other than a firearm, or any object fashioned or utilized in such a manner as to lead the victim under the circumstances reasonably to believe it to be a dangerous weapon; or

(2) the accused caused bodily harm, except as provided in subsection (a)(10), to the victim; or

(3) the accused acted in such a manner as to threaten or endanger the life of the victim or any other person; or

(4) the criminal sexual assault was perpetrated during the course of the commission or attempted commission of any other felony by the accused; or

(5) the victim was 60 years of age or over when the offense was committed; or

(6) the victim was a physically handicapped person; or

(7) the accused delivered (by injection, inhalation, ingestion, transfer of possession, or any other means) to the victim without his or her consent, or by threat or deception, and for other than medical purposes, any controlled substance; or

(8) the accused was armed with a firearm; or

(9) the accused personally discharged a firearm during the commission of the offense; or

(10) the accused, during the commission of the offense, personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person.

(b) A person ~~The accused~~ commits aggravated criminal sexual assault if that person is the accused was under 17 years of age and : (i) commits an act of sexual penetration with a victim who is ~~was~~ under 9 years of age ~~when the act was committed~~; or (ii) commits an act of sexual penetration with a victim who is ~~was~~ at least 9 years of age but under 13 years of age ~~when the act was committed~~ and the person uses ~~accused used~~ force or threat of force to commit the act.

(c) A person ~~The accused~~ commits aggravated criminal sexual assault if that person ~~he or she~~ commits an act of sexual penetration with a victim who is ~~was~~ a severely or profoundly mentally retarded person ~~at the time the act was committed~~.

(d) Sentence.

(1) Aggravated criminal sexual assault in violation of paragraph (2), (3), (4), (5),

(6), or (7) of subsection (a) or in violation of subsection (b) or (c) is a Class X felony. A violation of subsection (a)(1) is a Class X felony for which 10 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(8) is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(9) is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(10) is a Class X felony for which 25 years or up to a term of natural life imprisonment shall be added to the term of imprisonment imposed by the court.

(2) A person who is convicted of a second or subsequent offense of aggravated criminal

sexual assault, or who is convicted of the offense of aggravated criminal sexual assault after having previously been convicted of the offense of criminal sexual assault or the offense of predatory criminal sexual assault of a child, or who is convicted of the offense of aggravated criminal sexual assault after having previously been convicted under the laws of this or any other state of an offense that is substantially equivalent to the offense of criminal sexual assault, the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child, shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (2) to apply.

(Source: P.A. 91-404, eff. 1-1-00; 92-434, eff. 1-1-02; 92-502, eff. 12-19-01; 92-721, eff. 1-1-03.)

(720 ILCS 5/11-1.40) (was 720 ILCS 5/12-14.1)

Sec. 11-1.40 ~~12-14.1~~. Predatory criminal sexual assault of a child.

(a) A person commits predatory criminal sexual assault of a child if that person commits an act of sexual penetration, is 17 years of age or older, and:

(1) the victim is under 13 years of age; or

(2) the victim is under 13 years of age and that person:

(A) is armed with a firearm;

(B) personally discharges a firearm during the commission of the offense;

(C) causes great bodily harm to the victim that:

(i) results in permanent disability; or

(ii) is life threatening; or

(D) delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception, for other than medical purposes. The accused commits predatory criminal sexual assault of a child if:

(1) the accused was 17 years of age or over and commits an act of sexual penetration with a victim who was under 13 years of age when the act was committed; or

(1.1) the accused was 17 years of age or over and, while armed with a firearm, commits an act of sexual penetration with a victim who was under 13 years of age when the act was committed; or

(1.2) the accused was 17 years of age or over and commits an act of sexual penetration with a victim who was under 13 years of age when the act was committed and, during the commission of the offense, the accused personally discharged a firearm; or

(2) the accused was 17 years of age or over and commits an act of sexual penetration with a victim who was under 13 years of age when the act was committed and the accused caused great bodily harm to the victim that:

(A) resulted in permanent disability; or

(B) was life threatening; or

(3) the accused was 17 years of age or over and commits an act of sexual penetration with a victim who was under 13 years of age when the act was committed and the accused delivered (by injection, inhalation, ingestion, transfer of possession, or any other means) to the victim without his or her consent, or by threat or deception, and for other than medical purposes, any controlled substance.

(b) Sentence.

(1) A person convicted of a violation of subsection (a)(1) commits a Class X felony, for which the person shall be sentenced to a term of imprisonment of not less than 6 years and not more than 60 years. A person convicted of a violation of subsection (a)(2)(A) ~~(a)(1.1)~~ commits a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A person convicted of a violation of subsection (a)(2)(B) ~~(a)(1.2)~~ commits a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A person convicted of a violation of subsection (a)(2)(C) ~~(a)(2)~~ commits a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 50 years or up to a term of natural life imprisonment.

(1.1) A person convicted of a violation of subsection (a)(2)(D) ~~(a)(3)~~ commits a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 50 years and not more than 60 years.

(1.2) A person convicted of predatory criminal sexual assault of a child committed against 2 or more persons regardless of whether the offenses occurred as the result of the same act or of several related or unrelated acts shall be sentenced to a term of natural life imprisonment.

(2) A person who is convicted of a second or subsequent offense of predatory criminal sexual assault of a child, or who is convicted of the offense of predatory criminal sexual assault of a child after having previously been convicted of the offense of criminal sexual assault or the offense of aggravated criminal sexual assault, or who is convicted of the offense of predatory criminal sexual

assault of a child after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of predatory criminal sexual assault of a child, the offense of aggravated criminal sexual assault or the offense of criminal sexual assault, shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (2) to apply.

(Source: P.A. 95-640, eff. 6-1-08.)

(720 ILCS 5/11-1.50) (was 720 ILCS 5/12-15)

Sec. 11-1.50 ~~12-15~~. Criminal sexual abuse.

(a) A person ~~The accused~~ commits criminal sexual abuse if that person ~~he or she~~:

(1) commits an act of sexual conduct by the use of force or threat of force; or

(2) commits an act of sexual conduct and knows ~~the accused knew~~ that the victim is ~~was~~ unable to understand the

nature of the act or is ~~was~~ unable to give knowing consent.

(b) A person ~~The accused~~ commits criminal sexual abuse if that person is ~~the accused was~~ under 17 years of age and commits an act of sexual penetration or sexual conduct with a victim who is ~~was~~ at least 9 years of age but under 17 years of age ~~when the act was committed~~.

(c) A person ~~The accused~~ commits criminal sexual abuse if that person ~~he or she~~ commits an act of sexual penetration or sexual conduct with a victim who is ~~was~~ at least 13 years of age but under 17 years of age and the person is ~~accused was~~ less than 5 years older than the victim.

(d) Sentence. Criminal sexual abuse for a violation of subsection (b) or (c) of this Section is a Class A misdemeanor. Criminal sexual abuse for a violation of paragraph (1) or (2) of subsection (a) of this Section is a Class 4 felony. A second or subsequent conviction for a violation of subsection (a) of this Section is a Class 2 felony. For purposes of this Section it is a second or subsequent conviction if the accused has at any time been convicted under this Section or under any similar statute of this State or any other state for any offense involving sexual abuse or sexual assault that is substantially equivalent to or more serious than the sexual abuse prohibited under this Section.

(Source: P.A. 91-389, eff. 1-1-00.)

(720 ILCS 5/11-1.60) (was 720 ILCS 5/12-16)

Sec. 11-1.60 ~~12-16~~. Aggravated Criminal Sexual Abuse.

(a) A person commits aggravated criminal sexual abuse if that person commits criminal sexual abuse and any of the following aggravating circumstances exist (i) during the commission of the offense or (ii) for purposes of paragraph (7), as part of the same course of conduct as the commission of the offense:

(1) the person displays, threatens to use, or uses a dangerous weapon or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;

(2) the person causes bodily harm to the victim;

(3) the victim is 60 years of age or older;

(4) the victim is a physically handicapped person;

(5) the person acts in a manner that threatens or endangers the life of the victim or any other person;

(6) the person commits the criminal sexual abuse during the course of committing or attempting to commit any other felony; or

(7) the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim for other than medical purposes without the victim's consent or by threat or deception. ~~The accused commits aggravated criminal sexual abuse if he or she commits criminal sexual abuse as defined in subsection (a) of Section 12-15 of this Code and any of the following aggravating circumstances existed during, or for the purposes of paragraph (7) of this subsection (a) as part of the same course of conduct as, the commission of the offense:~~

(1) the accused displayed, threatened to use or used a dangerous weapon or any object fashioned or utilized in such a manner as to lead the victim under the circumstances reasonably to believe it to be a dangerous weapon; or

(2) the accused caused bodily harm to the victim; or

(3) the victim was 60 years of age or over when the offense was committed; or

(4) the victim was a physically handicapped person; or

(5) the accused acted in such a manner as to threaten or endanger the life of the victim or any other person; or

(6) the criminal sexual abuse was perpetrated during the course of the commission or attempted commission of any other felony by the accused; or

(7) the accused delivered (by injection, inhalation, ingestion, transfer of possession, or any other means) to the victim without his or her consent, or by threat or deception, and for other than medical

~~purposes, any controlled substance.~~

(b) ~~A person~~ ~~The accused~~ commits aggravated criminal sexual abuse if ~~that person~~ ~~he or she~~ commits an act of sexual conduct with a victim who ~~is~~ ~~was~~ under 18 years of age ~~when the act was committed~~ and the person ~~is~~ ~~accused~~ ~~was~~ a family member.

(c) ~~A person~~ ~~The accused~~ commits aggravated criminal sexual abuse if:

(1) ~~that person is~~ ~~the accused~~ ~~was~~ 17 years of age or over and ~~;~~ (i) commits an act of sexual conduct with a victim

who ~~is~~ ~~was~~ under 13 years of age ~~when the act was committed~~; or (ii) commits an act of sexual conduct with a victim who ~~is~~ ~~was~~ at least 13 years of age but under 17 years of age ~~when the act was committed~~ and the person ~~uses~~ ~~accused~~ ~~used~~ force or threat of force to commit the act; or

(2) ~~that person is~~ ~~the accused~~ ~~was~~ under 17 years of age and ~~;~~ (i) commits an act of sexual conduct with a victim who ~~is~~

~~was~~ under 9 years of age ~~when the act was committed~~; or (ii) commits an act of sexual conduct with a victim who ~~is~~ ~~was~~ at least 9 years of age but under 17 years of age ~~when the act was committed~~ and the person ~~uses~~ ~~accused~~ ~~used~~ force or threat of force to commit the act.

(d) ~~A person~~ ~~The accused~~ commits aggravated criminal sexual abuse if ~~that person~~ ~~he or she~~ commits an act of sexual penetration or sexual conduct with a victim who ~~is~~ ~~was~~ at least 13 years of age but under 17 years of age and the person ~~is~~ ~~accused~~ ~~was~~ at least 5 years older than the victim.

(e) ~~A person~~ ~~The accused~~ commits aggravated criminal sexual abuse if ~~that person~~ ~~he or she~~ commits an act of sexual conduct with a victim who ~~is~~ ~~was~~ a severely or profoundly mentally retarded person ~~at the time the act was committed~~.

(f) ~~A person~~ ~~The accused~~ commits aggravated criminal sexual abuse if ~~that person~~ ~~he or she~~ commits an act of sexual conduct with a victim who ~~is~~ ~~was~~ at least 13 years of age but under 18 years of age ~~when the act was committed~~ and the person ~~is~~ ~~accused~~ ~~was~~ 17 years of age or over and ~~holds~~ ~~held~~ a position of trust, authority, ~~;~~ or supervision in relation to the victim.

(g) Sentence. Aggravated criminal sexual abuse is a Class 2 felony.

(Source: P.A. 92-434, eff. 1-1-02.)

(720 ILCS 5/11-1.70) (was 720 ILCS 5/12-17)

Sec. ~~11-1.70~~ ~~12-17~~. Defenses ~~with respect to offenses described in Sections 11-1.20 through 11-1.60.~~

(a) It shall be a defense to any offense under Section ~~11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60~~ ~~12-13 through 12-16~~ of this Code where force or threat of force is an element of the offense that the victim consented. "Consent" means a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent.

(b) It shall be a defense under subsection (b) and subsection (c) of Section ~~11-1.50~~ ~~12-15~~ and subsection (d) of Section ~~11-1.60~~ ~~12-16~~ of this Code that the accused reasonably believed the person to be 17 years of age or over.

(c) A person who initially consents to sexual penetration or sexual conduct is not deemed to have consented to any sexual penetration or sexual conduct that occurs after he or she withdraws consent during the course of that sexual penetration or sexual conduct.

(Source: P.A. 93-389, eff. 7-25-03.)

(720 ILCS 5/11-1.80) (was 720 ILCS 5/12-18.1)

Sec. ~~11-1.80~~ ~~12-18.1~~. Civil Liability.

(a) If any person has been convicted of any offense defined in Section ~~11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16~~ of this Act, a victim of such offense has a cause of action for damages against any person or entity who, by the manufacture, production, or wholesale distribution of any obscene material which was possessed or viewed by the person convicted of the offense, proximately caused such person, through his or her reading or viewing of the obscene material, to commit the violation of Section ~~11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16~~. No victim may recover in any such action unless he or she proves by a preponderance of the evidence that: (1) the reading or viewing of the specific obscene material manufactured, produced, or distributed wholesale by the defendant proximately caused the person convicted of the violation of Section ~~11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16~~ to commit such violation and (2) the defendant knew or had reason to know that the manufacture, production, or wholesale distribution of such material was likely to cause a violation of an offense substantially of the type enumerated.

(b) The manufacturer, producer or wholesale distributor shall be liable to the victim for:

(1) actual damages incurred by the victim, including medical costs;

- (2) court costs and reasonable attorneys fees;
- (3) infliction of emotional distress;
- (4) pain and suffering; and
- (5) loss of consortium.

(c) Every action under this Section shall be commenced within 3 years after the conviction of the defendant for a violation of Section 11-1.20, 11-1.30, 11-1.50, 11-1.60, 12-13, 12-14, 12-15 or 12-16 of this Code. However, if the victim was under the age of 18 years at the time of the conviction of the defendant for a violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of this Code, an action under this Section shall be commenced within 3 years after the victim attains the age of 18 years.

(d) For the purposes of this Section:

- (1) "obscene" has the meaning ascribed to it in subsection (b) of Section 11-20 of this Code;
- (2) "wholesale distributor" means any individual, partnership, corporation, association, or other legal entity which stands between the manufacturer and the retail seller in purchases, consignments, contracts for sale or rental of the obscene material;
- (3) "producer" means any individual, partnership, corporation, association, or other legal entity which finances or supervises, to any extent, the production or making of obscene material;
- (4) "manufacturer" means any individual, partnership, corporation, association, or other legal entity which manufactures, assembles or produces obscene material.

(Source: P.A. 86-857.)

(720 ILCS 5/11-6) (from Ch. 38, par. 11-6)

Sec. 11-6. Indecent solicitation of a child.

(a) A person of the age of 17 years and upwards commits ~~the offense of~~ indecent solicitation of a child if the person, with the intent that the offense of aggravated criminal sexual assault, criminal sexual assault, predatory criminal sexual assault of a child, or aggravated criminal sexual abuse be committed, knowingly solicits a child or one whom he or she believes to be a child to perform an act of sexual penetration or sexual conduct as defined in Section 11-0.1 12-12 of this Code.

(a-5) A person of the age of 17 years and upwards commits ~~the offense of~~ indecent solicitation of a child if the person knowingly discusses an act of sexual conduct or sexual penetration with a child or with one whom he or she believes to be a child by means of the Internet with the intent that the offense of aggravated criminal sexual assault, predatory criminal sexual assault of a child, or aggravated criminal sexual abuse be committed.

(a-6) It is not a defense to subsection (a-5) that the person did not solicit the child to perform sexual conduct or sexual penetration with the person.

(b) Definitions. As used in this Section:

"Solicit" means to command, authorize, urge, incite, request, or advise another to perform an act by any means including, but not limited to, in person, over the phone, in writing, by computer, or by advertisement of any kind.

"Child" means a person under 17 years of age.

"Internet" ~~has the meaning set forth in Section 16J-5 of this Code means an interactive computer service or system or an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, and includes, but is not limited to, an information service, system, or access software provider that provides access to a network system commonly known as the Internet, or any comparable system or service and also includes, but is not limited to, a World Wide Web page, newsgroup, message board, mailing list, or chat area on any interactive computer service or system or other online service.~~

"Sexual penetration" or "sexual conduct" are defined in Section 11-0.1 12-12 of this Code.

(c) Sentence. Indecent solicitation of a child under subsection (a) is:

- (1) a Class 1 felony when the act, if done, would be predatory criminal sexual assault of a child or aggravated criminal sexual assault;
- (2) a Class 2 felony when the act, if done, would be criminal sexual assault;
- (3) a Class 3 felony when the act, if done, would be aggravated criminal sexual abuse.

Indecent solicitation of a child under subsection (a-5) is a Class 4 felony.

(Source: P.A. 95-143, eff. 1-1-08.)

(720 ILCS 5/11-6.5)

Sec. 11-6.5. Indecent solicitation of an adult.

(a) A person commits indecent solicitation of an adult if the person knowingly:

- (1) Arranges for a person 17 years of age or over to commit an act of sexual penetration as defined in Section 11-0.1 12-12 with a person:

- (i) Under the age of 13 years; or
- (ii) Thirteen years of age or over but under the age of 17 years; or
- (2) Arranges for a person 17 years of age or over to commit an act of sexual conduct as defined in Section ~~11-0.1~~ ~~42-12~~ with a person:
  - (i) Under the age of 13 years; or
  - (ii) Thirteen years of age or older but under the age of 17 years.
- (b) Sentence.
  - (1) Violation of paragraph (a)(1)(i) is a Class X felony.
  - (2) Violation of paragraph (a)(1)(ii) is a Class 1 felony.
  - (3) Violation of paragraph (a)(2)(i) is a Class 2 felony.
  - (4) Violation of paragraph (a)(2)(ii) is a Class A misdemeanor.
- (c) For the purposes of this Section, "arranges" includes but is not limited to oral or written communication and communication by telephone, computer, or other electronic means. "Computer" has the meaning ascribed to it in Section 16D-2 of this Code.  
(Source: P.A. 88-165; 89-203, eff. 7-21-95.)

(720 ILCS 5/Art. 11 Subdiv. 10 heading new)

SUBDIVISION 10. VULNERABLE VICTIM OFFENSES

(720 ILCS 5/11-9.1) (from Ch. 38, par. 11-9.1)

Sec. 11-9.1. Sexual exploitation of a child.

(a) ~~A~~ ~~Any~~ person commits sexual exploitation of a child if in the presence of a child and with ~~intent or~~ knowledge that a child would view his or her acts, that person:

- (1) engages in a sexual act; or
- (2) exposes his or her sex organs, anus or breast for the purpose of sexual arousal or gratification of such person or the child.

(a-5) A person commits sexual exploitation of a child who knowingly entices, coerces, or persuades a child to remove the child's clothing for the purpose of sexual arousal or gratification of the person or the child, or both.

(b) Definitions. As used in this Section:

"Sexual act" means masturbation, sexual conduct or sexual penetration as defined in Section ~~11-0.1~~ ~~42-12~~ of this Code.

"Sex offense" means any violation of Article 11 of this Code or ~~a violation of~~ Section ~~42-13, 42-14, 42-14.1, 42-15, 42-16, or~~ 12-16.2 of this Code.

"Child" means a person under 17 years of age.

(c) Sentence.

- (1) Sexual exploitation of a child is a Class A misdemeanor. A second or subsequent violation of this Section or a substantially similar law of another state is a Class 4 felony.
- (2) Sexual exploitation of a child is a Class 4 felony if the person has been previously convicted of a sex offense.
- (3) Sexual exploitation of a child is a Class 4 felony if the victim was under 13 years of age at the time of the commission of the offense.

(Source: P.A. 94-140, eff. 7-7-05.)

(720 ILCS 5/11-9.1A new)

Sec. 11-9.1A. Permitting sexual abuse of a child.

(a) A person responsible for a child's welfare commits permitting sexual abuse of a child if the person has actual knowledge of and permits an act of sexual abuse upon the child, or permits the child to engage in prostitution as defined in Section 11-14 of the Criminal Code of 1961.

(b) In this Section:

"Actual knowledge" includes credible allegations made by the child.

"Child" means a minor under the age of 17 years.

"Person responsible for the child's welfare" means the child's parent, step-parent, legal guardian, or other person having custody of a child, who is responsible for the child's care at the time of the alleged sexual abuse.

"Prostitution" means prostitution as defined in Section 11-14 of the Criminal Code of 1961.

"Sexual abuse" includes criminal sexual abuse or criminal sexual assault as defined in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of the Criminal Code of 1961.

(c) This Section does not apply to a person responsible for the child's welfare who, having reason to believe that sexual abuse has occurred, makes timely and reasonable efforts to stop the sexual abuse by reporting the sexual abuse in conformance with the Abused and Neglected Child Reporting Act or by

reporting the sexual abuse, or causing a report to be made, to medical or law enforcement authorities or anyone who is a mandated reporter under Section 4 of the Abused and Neglected Child Reporting Act.

(d) Whenever a law enforcement officer has reason to believe that the child or the person responsible for the child's welfare has been abused by a family or household member as defined by the Illinois Domestic Violence Act of 1986, the officer shall immediately use all reasonable means to prevent further abuse under Section 112A-30 of the Code of Criminal Procedure of 1963.

(e) An order of protection under Section 111-8 of the Code of Criminal Procedure of 1963 shall be sought in all cases where there is reason to believe that a child has been sexually abused by a family or household member. In considering appropriate available remedies, it shall be presumed that awarding physical care or custody to the abuser is not in the child's best interest.

(f) A person may not be charged with the offense of permitting sexual abuse of a child under this Section until the person who committed the offense is charged with criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, aggravated criminal sexual abuse, or prostitution.

(g) A person convicted of permitting the sexual abuse of a child is guilty of a Class 1 felony. As a condition of any sentence of supervision, probation, conditional discharge, or mandatory supervised release, any person convicted under this Section shall be ordered to undergo child sexual abuse, domestic violence, or other appropriate counseling for a specified duration with a qualified social or mental health worker.

(h) It is an affirmative defense to a charge of permitting sexual abuse of a child under this Section that the person responsible for the child's welfare had a reasonable apprehension that timely action to stop the abuse or prostitution would result in the imminent infliction of death, great bodily harm, permanent disfigurement, or permanent disability to that person or another in retaliation for reporting.

(720 ILCS 5/11-9.2)

Sec. 11-9.2. Custodial sexual misconduct.

(a) A person commits ~~the offense of~~ custodial sexual misconduct when: (1) he or she is an employee of a penal system and engages in sexual conduct or sexual penetration with a person who is in the custody of that penal system or (2) he or she is an employee of a treatment and detention facility and engages in sexual conduct or sexual penetration with a person who is in the custody of that treatment and detention facility.

(b) A probation or supervising officer or surveillance agent commits ~~the offense of~~ custodial sexual misconduct when the probation or supervising officer or surveillance agent engages in sexual conduct or sexual penetration with a probationer, parolee, or releasee or person serving a term of conditional release who is under the supervisory, disciplinary, or custodial authority of the officer or agent so engaging in the sexual conduct or sexual penetration.

(c) Custodial sexual misconduct is a Class 3 felony.

(d) Any person convicted of violating this Section immediately shall forfeit his or her employment with a penal system, treatment and detention facility, or conditional release program.

(e) For purposes of this Section, the consent of the probationer, parolee, releasee, or inmate in custody of the penal system or person detained or civilly committed under the Sexually Violent Persons Commitment Act shall not be a defense to a prosecution under this Section. A person is deemed incapable of consent, for purposes of this Section, when he or she is a probationer, parolee, releasee, or inmate in custody of a penal system or person detained or civilly committed under the Sexually Violent Persons Commitment Act.

(f) This Section does not apply to:

(1) Any employee, probation or supervising officer, or surveillance agent who is lawfully married to a person in custody if the marriage occurred before the date of custody.

(2) Any employee, probation or supervising officer, or surveillance agent who has no knowledge, and would have no reason to believe, that the person with whom he or she engaged in custodial sexual misconduct was a person in custody.

(g) In this Section:

(1) "Custody" means:

(i) pretrial incarceration or detention;

(ii) incarceration or detention under a sentence or commitment to a State or local penal institution;

(iii) parole or mandatory supervised release;

(iv) electronic home detention;

(v) probation;

(vi) detention or civil commitment either in secure care or in the community under

the Sexually Violent Persons Commitment Act.

(2) "Penal system" means any system which includes institutions as defined in Section 2-14 of this Code or a county shelter care or detention home established under Section 1 of the County Shelter Care and Detention Home Act.

(2.1) "Treatment and detention facility" means any Department of Human Services facility established for the detention or civil commitment of persons under the Sexually Violent Persons Commitment Act.

(2.2) "Conditional release" means a program of treatment and services, vocational services, and alcohol or other drug abuse treatment provided to any person civilly committed and conditionally released to the community under the Sexually Violent Persons Commitment Act;

(3) "Employee" means:

(i) an employee of any governmental agency of this State or any county or municipal corporation that has by statute, ordinance, or court order the responsibility for the care, control, or supervision of pretrial or sentenced persons in a penal system or persons detained or civilly committed under the Sexually Violent Persons Commitment Act;

(ii) a contractual employee of a penal system as defined in paragraph (g)(2) of this Section who works in a penal institution as defined in Section 2-14 of this Code;

(iii) a contractual employee of a "treatment and detention facility" as defined in paragraph (g)(2.1) of this Code or a contractual employee of the Department of Human Services who provides supervision of persons serving a term of conditional release as defined in paragraph (g)(2.2) of this Code.

(4) "Sexual conduct" or "sexual penetration" means any act of sexual conduct or sexual penetration as defined in Section ~~11-0.1 42-42~~ of this Code.

(5) "Probation officer" means any person employed in a probation or court services department as defined in Section 9b of the Probation and Probation Officers Act.

(6) "Supervising officer" means any person employed to supervise persons placed on parole or mandatory supervised release with the duties described in Section 3-14-2 of the Unified Code of Corrections.

(7) "Surveillance agent" means any person employed or contracted to supervise persons placed on conditional release in the community under the Sexually Violent Persons Commitment Act. (Source: P.A. 92-415, eff. 8-17-01.)

(720 ILCS 5/11-9.3)

Sec. 11-9.3. Presence within school zone by child sex offenders prohibited; approaching, contacting, residing with, or communicating with a child within certain places by child sex offenders prohibited.

(a) It is unlawful for a child sex offender to knowingly be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity when persons under the age of 18 are present in the building, on the grounds or in the conveyance, unless the offender is a parent or guardian of a student attending the school and the parent or guardian is: (i) attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion and notifies the principal of the school of his or her presence at the school or unless the offender has permission to be present from the superintendent or the school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Notification includes the nature of the sex offender's visit and the hours in which the sex offender will be present in the school. The sex offender is responsible for notifying the principal's office when he or she arrives on school property and when he or she departs from school property. If the sex offender is to be present in the vicinity of children, the sex offender has the duty to remain under the direct supervision of a school official. ~~A child sex offender who violates this provision is guilty of a Class 4 felony.~~

(a-5) It is unlawful for a child sex offender to knowingly be present within 100 feet of a site posted as a pick-up or discharge stop for a conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity when one or more persons under the age of 18 are present at the site.

(a-10) It is unlawful for a child sex offender to knowingly be present in any public park building or on real property comprising any public park when persons under the age of 18 are present in the building or on the grounds and to approach, contact, or communicate with a child under 18 years of age, unless the

offender is a parent or guardian of a person under 18 years of age present in the building or on the grounds.

(b) It is unlawful for a child sex offender to knowingly loiter within 500 feet of a school building or real property comprising any school while persons under the age of 18 are present in the building or on the grounds, unless the offender is a parent or guardian of a student attending the school and the parent or guardian is: (i) attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion and notifies the principal of the school of his or her presence at the school or has permission to be present from the superintendent or the school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Notification includes the nature of the sex offender's visit and the hours in which the sex offender will be present in the school. The sex offender is responsible for notifying the principal's office when he or she arrives on school property and when he or she departs from school property. If the sex offender is to be present in the vicinity of children, the sex offender has the duty to remain under the direct supervision of a school official. ~~A child sex offender who violates this provision is guilty of a Class 4 felony.~~

(b-2) It is unlawful for a child sex offender to knowingly loiter on a public way within 500 feet of a public park building or real property comprising any public park while persons under the age of 18 are present in the building or on the grounds and to approach, contact, or communicate with a child under 18 years of age, unless the offender is a parent or guardian of a person under 18 years of age present in the building or on the grounds.

(b-5) It is unlawful for a child sex offender to knowingly reside within 500 feet of a school building or the real property comprising any school that persons under the age of 18 attend. Nothing in this subsection (b-5) prohibits a child sex offender from residing within 500 feet of a school building or the real property comprising any school that persons under 18 attend if the property is owned by the child sex offender and was purchased before the effective date of this amendatory Act of the 91st General Assembly.

(b-10) It is unlawful for a child sex offender to knowingly reside within 500 feet of a playground, child care institution, day care center, part day child care facility, or a facility providing programs or services exclusively directed toward persons under 18 years of age. Nothing in this subsection (b-10) prohibits a child sex offender from residing within 500 feet of a playground or a facility providing programs or services exclusively directed toward persons under 18 years of age if the property is owned by the child sex offender and was purchased before July 7, 2000. Nothing in this subsection (b-10) prohibits a child sex offender from residing within 500 feet of a child care institution, day care center, or part day child care facility if the property is owned by the child sex offender and was purchased before June 26, 2006.

(b-15) It is unlawful for a child sex offender to knowingly reside within 500 feet of the victim of the sex offense. Nothing in this subsection (b-15) prohibits a child sex offender from residing within 500 feet of the victim if the property in which the child sex offender resides is owned by the child sex offender and was purchased before August 22, 2002.

This subsection (b-15) does not apply if the victim of the sex offense is 21 years of age or older.

(b-20) It is unlawful for a child sex offender to knowingly communicate, other than for a lawful purpose under Illinois law, using the Internet or any other digital media, with a person under 18 years of age or with a person whom he or she believes to be a person under 18 years of age, unless the offender is a parent or guardian of the person under 18 years of age.

(c) It is unlawful for a child sex offender to knowingly operate, manage, be employed by, volunteer at, be associated with, or knowingly be present at any: (i) facility providing programs or services exclusively directed toward persons under the age of 18; (ii) day care center; (iii) part day child care facility; (iv) child care institution; or (v) school providing before and after school programs for children under 18 years of age. This does not prohibit a child sex offender from owning the real property upon which the programs or services are offered or upon which the day care center, part day child care facility, child care institution, or school providing before and after school programs for children under 18 years of age is located, provided the child sex offender refrains from being present on the premises for the hours during which: (1) the programs or services are being offered or (2) the day care center, part day child care facility, child care institution, or school providing before and after school programs for children under 18 years of age is operated.

(c-5) It is unlawful for a child sex offender to knowingly operate, manage, be employed by, or be associated with any county fair when persons under the age of 18 are present.

(d) (e) Definitions. In this Section:

(1) "Child sex offender" means any person who:

(i) has been charged under Illinois law, or any substantially similar federal law or law of another state, with a sex offense set forth in paragraph (2) of this subsection (d) (e) or the attempt to commit an included sex offense, and:

(A) is convicted of such offense or an attempt to commit such offense; or

(B) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or

(C) is found not guilty by reason of insanity pursuant to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or

(D) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or

(E) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal law or the law of another state substantially similar to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such offense; or

(F) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal law or the law of another state substantially similar to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(ii) is certified as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act, or any substantially similar federal law or the law of another state, when any conduct giving rise to such certification is committed or attempted against a person less than 18 years of age; or

(iii) is subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Section.

(2) Except as otherwise provided in paragraph (2.5), "sex offense" means:

(i) A violation of any of the following Sections of the Criminal Code of 1961: 10-7

(aiding or abetting child abduction under Section 10-5(b)(10)), 10-5(b)(10) (child luring), 11-1.40 (predatory criminal sexual assault of a child), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), ~~11-9 (public indecency when committed in a school, on the real property comprising a school, or on a conveyance, owned, leased, or contracted by a school to transport students to or from school or a school related activity)~~, 11-9.1 (sexual exploitation of a child), 11-14.4 (promoting juvenile prostitution), ~~11-15.1 (soliciting for a juvenile prostitute)~~, ~~11-17.1 (keeping a place of juvenile prostitution)~~, 11-18.1 (patronizing a juvenile prostitute), ~~11-19.1 (juvenile pimping)~~, 11-19.2 (exploitation of a child), 11-20.1 (child pornography), 11-20.1B 11-20.3 (aggravated child pornography), 11-21 (harmful material), ~~12-14.1 (predatory criminal sexual assault of a child)~~, 12-33 (ritualized abuse of a child), 11-20 (obscenity) (when that offense was committed in any school, on real property comprising any school, in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity, or in a public park), 11-30 (public indecency) (when committed in a school, on real property comprising a school, in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity, or in a public park). An attempt to commit any of these offenses.

(ii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age: ~~11-1.20 12-13~~ (criminal sexual assault), 11-1.30 12-14 (aggravated criminal sexual assault), ~~11-1.50 12-15~~ (criminal sexual abuse), 11-1.60 12-16 (aggravated criminal sexual abuse). An attempt to commit any of these offenses.

(iii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age and the defendant is not a parent of the victim:

10-1 (kidnapping),

10-2 (aggravated kidnapping),

10-3 (unlawful restraint),

10-3.1 (aggravated unlawful restraint).

An attempt to commit any of these offenses.

(iv) A violation of any former law of this State substantially equivalent to any offense listed in clause (2)(i) of subsection ~~(d)~~ ~~(e)~~ of this Section.

(2.5) For the purposes of ~~subsections~~ ~~subsection~~ (b-5) and (b-10) only, a sex offense means:

(i) A violation of any of the following Sections of the Criminal Code of 1961:

10-5(b)(10) (child luring), 10-7 (aiding or abetting child abduction under Section

~~10-5(b)(10)~~, ~~11-1.40 (predatory criminal sexual assault of a child)~~, 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), ~~11-14.4 (promoting juvenile prostitution)~~, ~~11-15.1 (soliciting for a juvenile prostitute)~~, ~~11-17.1 (keeping a place of juvenile prostitution)~~, 11-18.1 (patronizing a juvenile prostitute), ~~11-19.1 (juvenile pimping)~~, 11-19.2 (exploitation of a child), 11-20.1 (child pornography), ~~11-20.1B~~ ~~11-20.3~~ (aggravated child pornography), ~~12-14.1 (predatory criminal sexual assault of a child)~~, or 12-33 (ritualized abuse of a child). An attempt to commit any of these offenses.

(ii) A violation of any of the following Sections of the Criminal Code of 1961,

when the victim is a person under 18 years of age: ~~11-1.20~~ ~~12-13~~ (criminal sexual assault), ~~11-1.30~~ ~~12-14~~ (aggravated criminal sexual assault), ~~11-1.60~~ ~~12-16~~ (aggravated criminal sexual abuse), and subsection (a) of Section ~~11-1.50~~ ~~12-15~~ (criminal sexual abuse). An attempt to commit any of these offenses.

(iii) A violation of any of the following Sections of the Criminal Code of 1961,

when the victim is a person under 18 years of age and the defendant is not a parent of the victim:

10-1 (kidnapping),

10-2 (aggravated kidnapping),

10-3 (unlawful restraint),

10-3.1 (aggravated unlawful restraint).

An attempt to commit any of these offenses.

(iv) A violation of any former law of this State substantially equivalent to any offense listed in this paragraph (2.5) of this subsection.

(3) A conviction for an offense of federal law or the law of another state that is substantially equivalent to any offense listed in paragraph (2) of subsection ~~(d)~~ ~~(e)~~ of this Section shall constitute a conviction for the purpose of this ~~Section Article~~. A finding or adjudication as a sexually dangerous person under any federal law or law of another state that is substantially equivalent to the Sexually Dangerous Persons Act shall constitute an adjudication for the purposes of this Section.

(4) "Child care institution" has the meaning ascribed to it in Section 2.06 of the Child Care Act of 1969.

(5) "Day care center" has the meaning ascribed to it in Section 2.09 of the Child Care Act of 1969.

(6) "Internet" has the meaning set forth in Section 16J-5 of this Code.

(4) "School" means a public or private pre school, elementary, or secondary school.

(7) ~~(5)~~ "Loiter" means:

(i) Standing, sitting idly, whether or not the person is in a vehicle, or remaining in or around school or public park property.

(ii) Standing, sitting idly, whether or not the person is in a vehicle, or remaining in or around school or public park property, for the purpose of committing or attempting to commit a sex offense.

(iii) Entering or remaining in a building in or around school property, other than the offender's residence.

(8) "Part day child care facility" has the meaning ascribed to it in Section 2.10 of the Child Care Act of 1969.

(9) "Playground" means a piece of land owned or controlled by a unit of local government that is designated by the unit of local government for use solely or primarily for children's recreation.

(10) "Public park" includes a park, forest preserve, or conservation area under the jurisdiction of the State or a unit of local government.

(11) "School" means a public or private preschool or elementary or secondary school.

(12) ~~(6)~~ "School official" means the principal, a teacher, or any other certified employee of the school, the superintendent of schools or a member of the school board.

(c-5) For the purposes of this Section, the 500 feet distance shall be measured from the edge of the property of the school building or the real property comprising the school that is closest to the edge of the property of the child sex offender's residence or where he or she is loitering.

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(d) Sentence. A person who violates this Section is guilty of a Class 4 felony.  
 (Source: P.A. 95-331, eff. 8-21-07; 95-440, eff. 8-27-07; 95-640, eff. 6-1-08; 95-819, eff. 1-1-09; 95-876, eff. 8-21-08; 96-328, eff. 8-11-09; 96-710, eff. 1-1-10.)  
 (720 ILCS 5/11-9.5)

Sec. 11-9.5. Sexual misconduct with a person with a disability.

(a) Definitions. As used in this Section:

(1) "Person with a disability" means:

- (i) a person diagnosed with a developmental disability as defined in Section 1-106 of the Mental Health and Developmental Disabilities Code; or
- (ii) a person diagnosed with a mental illness as defined in Section 1-129 of the Mental Health and Developmental Disabilities Code.

(2) "State-operated facility" means:

- (i) a developmental disability facility as defined in the Mental Health and Developmental Disabilities Code; or
- (ii) a mental health facility as defined in the Mental Health and Developmental Disabilities Code.

(3) "Community agency" or "agency" means any community entity or program providing residential mental health or developmental disabilities services that is licensed, certified, or funded by the Department of Human Services and not licensed or certified by any other human service agency of the State such as the Departments of Public Health, Healthcare and Family Services, and Children and Family Services.

(4) "Care and custody" means admission to a State-operated facility.

(5) "Employee" means:

- (i) any person employed by the Illinois Department of Human Services;
- (ii) any person employed by a community agency providing services at the direction of the owner or operator of the agency on or off site; or
- (iii) any person who is a contractual employee or contractual agent of the Department of Human Services or the community agency. This includes but is not limited to payroll personnel, contractors, subcontractors, and volunteers.

(6) "Sexual conduct" or "sexual penetration" means any act of sexual conduct or sexual penetration as defined in Section ~~11-0.1 12-12~~ of this Code.

(b) A person commits ~~the offense of~~ sexual misconduct with a person with a disability when:

(1) he or she is an employee and knowingly engages in sexual conduct or sexual penetration with a person with a disability who is under the care and custody of the Department of Human Services at a State-operated facility; or

(2) he or she is an employee of a community agency funded by the Department of Human Services and knowingly engages in sexual conduct or sexual penetration with a person with a disability who is in a residential program operated or supervised by a community agency.

(c) For purposes of this Section, the consent of a person with a disability in custody of the Department of Human Services residing at a State-operated facility or receiving services from a community agency shall not be a defense to a prosecution under this Section. A person is deemed incapable of consent, for purposes of this Section, when he or she is a person with a disability and is receiving services at a State-operated facility or is a person with a disability who is in a residential program operated or supervised by a community agency.

(d) This Section does not apply to:

(1) any State employee or any community agency employee who is lawfully married to a person with a disability in custody of the Department of Human Services or receiving services from a community agency if the marriage occurred before the date of custody or the initiation of services at a community agency; or

(2) any State employee or community agency employee who has no knowledge, and would have no reason to believe, that the person with whom he or she engaged in sexual misconduct was a person with a disability in custody of the Department of Human Services or was receiving services from a community agency.

(e) Sentence. Sexual misconduct with a person with a disability is a Class 3 felony.

(f) Any person convicted of violating this Section shall immediately forfeit his or her employment with the State or the community agency.

(Source: P.A. 94-1053, eff. 7-24-06.)

(720 ILCS 5/11-11) (from Ch. 38, par. 11-11)

Sec. 11-11. Sexual Relations Within Families.

(a) A person commits sexual relations within families if he or she:

(1) Commits an act of sexual penetration as defined in Section ~~11-0.1 12-12~~ of this Code; and

(2) The person knows that he or she is related to the other person as follows: (i)

Brother or sister, either of the whole blood or the half blood; or (ii) Father or mother, when the child, regardless of legitimacy and regardless of whether the child was of the whole blood or half-blood or was adopted, was 18 years of age or over when the act was committed; or (iii) Stepfather or stepmother, when the stepchild was 18 years of age or over when the act was committed; or (iv) Aunt or uncle, when the niece or nephew was 18 years of age or over when the act was committed; or (v) Great-aunt or great-uncle, when the grand-niece or grand-nephew was 18 years of age or over when the act was committed; or (vi) Grandparent or step-grandparent, when the grandchild or step-grandchild was 18 years of age or over when the act was committed.

(b) Sentence. Sexual relations within families is a Class 3 felony.

(Source: P.A. 96-233, eff. 1-1-10.)

(720 ILCS 5/Art. 11 Subdiv. 15 heading new)

#### SUBDIVISION 15. PROSTITUTION OFFENSES

(720 ILCS 5/11-14) (from Ch. 38, par. 11-14)

Sec. 11-14. Prostitution.

(a) Any person who knowingly performs, offers or agrees to perform any act of sexual penetration as defined in Section ~~11-0.1 12-12~~ of this Code for ~~any money, property, token, object, or article or anything of value, or any touching or fondling of the sex organs of one person by another person, for any money, property, token, object, or article or anything of value,~~ for the purpose of sexual arousal or gratification commits an act of prostitution.

(b) Sentence.

A violation of this Section is a Class A misdemeanor, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class 4 felony. A second or subsequent violation of this Section, or any combination of convictions under this Section and Section 11-14.3 (promoting prostitution), 11-18 (patronizing a prostitute), or 11-18.1 (patronizing a juvenile prostitute), is a Class 4 felony. Prostitution is a Class A misdemeanor. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-15, 11-17, 11-18, 11-18.1 and 11-19 of this Code is guilty of a Class 4 felony. When a person has one or more prior convictions, the information or indictment charging that person shall state such prior conviction so as to give notice of the State's intention to treat the charge as a felony. The fact of such prior conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial.

(c) First offender; felony prostitution.

(1) Whenever any person who has not previously been convicted of or placed on probation for felony prostitution or any law of the United States or of any other state relating to felony prostitution pleads guilty to or is found guilty of felony prostitution, the court, without entering a judgment and with the consent of such person, may sentence the person to probation.

(2) When a person is placed on probation, the court shall enter an order specifying a period of probation of 24 months and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

(3) The conditions of probation shall be that the person: (i) not violate any criminal statute of any jurisdiction; (ii) refrain from possessing a firearm or other dangerous weapon; (iii) submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than 3 times during the period of the probation, with the cost of the testing to be paid by the probationer; and (iv) perform no less than 30 hours of community service, provided community service is available in the jurisdiction and is funded and approved by the county board.

(4) The court may, in addition to other conditions, require that the person:

(A) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation;

(B) pay a fine and costs;

(C) work or pursue a course of study or vocational training;

(D) undergo medical or psychiatric treatment; or treatment or rehabilitation by a provider approved by the Illinois Department of Human Services;

(E) attend or reside in a facility established for the instruction or residence of defendants on probation;

(F) support his or her dependents;

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(G) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act or the Illinois Controlled Substances Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(H) and in addition, if a minor:

(i) reside with his or her parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his or her own support at home or in a foster home.

(5) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided.

(6) Upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against him or her.

(7) A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal, however, discharge and dismissal under this subsection is not a conviction for purposes of this Code or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(8) There may be only one discharge and dismissal under this Section.

(9) If a person is convicted of prostitution within 5 years subsequent to a discharge and dismissal under this subsection, the discharge and dismissal under this subsection shall be admissible in the sentencing proceeding for that conviction as evidence in aggravation. A person who violates this Section within 1,000 feet of real property comprising a school commits a Class 4 felony.

(Source: P.A. 91-274, eff. 1-1-00; 91-498, eff. 1-1-00; 91-696, eff. 4-13-00.)

(720 ILCS 5/11-14.1)

Sec. 11-14.1. Solicitation of a sexual act.

(a) Any person who offers a person not his or her spouse any money, property, token, object, or article or anything of value to perform any act of sexual penetration as defined in Section 11-0.1 ~~12-12~~ of this Code, or any touching or fondling of the sex organs of one person by another person for the purpose of sexual arousal or gratification, commits ~~the offense of~~ solicitation of a sexual act.

(b) Sentence. Solicitation of a sexual act is a Class B misdemeanor.

(Source: P.A. 91-696, eff. 4-13-00.)

(720 ILCS 5/11-14.3 new)

Sec. 11-14.3. Promoting prostitution.

(a) Any person who knowingly performs any of the following acts commits promoting prostitution:

(1) advances prostitution as defined in Section 11-0.1;

(2) profits from prostitution by:

(A) compelling a person to become a prostitute;

(B) arranging or offering to arrange a situation in which a person may practice prostitution; or

(C) any means other than those described in subparagraph (A) or (B).

(b) Sentence.

(1) A violation of subdivision (a)(1) is a Class A misdemeanor, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class 4 felony. A second or subsequent violation of subdivision (a)(1), or any combination of convictions under subdivision (a)(1) and Section 11-14 (prostitution), 11-18 (patronizing a prostitute) or 11-18.1 (patronizing a juvenile prostitute), is a Class 4 felony.

(2) A violation of subdivision (a)(2)(A) or (a)(2)(B) is a Class 4 felony, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class 3 felony.

(3) A violation of subdivision (a)(2)(C) is a Class A misdemeanor, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class 4 felony. A second or subsequent violation of subdivision (a)(2)(C), or any combination of convictions under subdivision (a)(2)(C) and subdivision (a)(1) of this Section (promoting prostitution), 11-14 (prostitution), 11-18 (patronizing a prostitute) or 11-18.1 (patronizing a juvenile prostitute), is a Class 4 felony.

(c) Impounding vehicle. A peace officer may impound any vehicle used by a person in the commission of promoting prostitution, if the officer arrested the person for a violation involving:

(1) soliciting another for the purpose of prostitution;

(2) arranging or offering to arrange a meeting of persons for the purpose of prostitution; or

(3) directing another to a place knowing the direction is for the purpose of prostitution.

The person may recover the vehicle from the impound after a minimum of 2 hours after arrest upon payment of a fee of \$200. The fee shall be distributed to the unit of government whose peace officer made the arrest for a violation of this Section. This \$200 fee includes the costs incurred by the unit of

government to tow the vehicle to the impound. Upon the presentation of a signed court order by the defendant whose vehicle was impounded showing that the defendant has been acquitted of the offense or that the charges have been dismissed against the defendant for the offense, the municipality shall refund the \$200 fee to the defendant.

(720 ILCS 5/11-14.4 new)

Sec. 11-14.4. Promoting juvenile prostitution.

(a) Any person who knowingly performs any of the following acts commits promoting juvenile prostitution:

(1) advances prostitution as defined in Section 11-0.1, where the prostitute, or a prostitute in the place, is under 17 years of age or is severely or profoundly mentally retarded at the time of the offense;

(2) profits from prostitution by any means where the prostitute is under 17 years of age or is severely or profoundly mentally retarded at the time of the offense;

(3) profits from prostitution by any means where the prostitute is under 13 years of age at the time of the offense;

(4) confines a child under the age of 16 or a severely or profoundly mentally retarded person against his or her will by the infliction or threat of imminent infliction of great bodily harm or permanent disability or disfigurement or by administering to the child or severely or profoundly mentally retarded person, without his or her consent or by threat or deception and for other than medical purposes, any alcoholic intoxicant or a drug as defined in the Illinois Controlled Substances Act or the Cannabis Control Act or methamphetamine as defined in the Methamphetamine Control and Community Protection Act and:

(A) compels the child or severely or profoundly mentally retarded person to become a prostitute;

(B) arranges a situation in which the child or severely or profoundly mentally retarded person may practice prostitution; or

(C) profits from prostitution by the child or severely or profoundly mentally retarded person.

(b) For purposes of this Section, administering drugs, as defined in subdivision (a)(4), or an alcoholic intoxicant to a child under the age of 13 or a severely or profoundly mentally retarded person shall be deemed to be without consent if the administering is done without the consent of the parents or legal guardian.

(c) It is an affirmative defense to a charge of promoting juvenile prostitution, except for a charge under subdivision (a)(4), that the accused reasonably believed the person was of the age of 17 years or over or was not a severely or profoundly mentally retarded person at the time of the act giving rise to the charge.

(d) Sentence. A violation of subdivision (a)(1) or (a)(2) is a Class 1 felony. A violation of subdivision (a)(3) is a Class X felony. A violation of subdivision (a)(4) is a Class X felony, for which the person shall be sentenced to a term of imprisonment of not less than 6 years and not more than 60 years. A second or subsequent violation of this Section that involves promoting juvenile prostitution by keeping a place of juvenile prostitution is a Class X felony.

(e) Forfeiture. Any person convicted of a violation of this Section that involves promoting juvenile prostitution by keeping a place of juvenile prostitution or convicted of a violation of subdivision (a)(4) is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(720 ILCS 5/11-18) (from Ch. 38, par. 11-18)

Sec. 11-18. Patronizing a prostitute.

(a) Any person who knowingly performs any of the following acts with a person not his or her spouse commits the offense of patronizing a prostitute:

(1) Engages in an act of sexual penetration as defined in Section ~~11-0.1~~ ~~42-42~~ of this Code with a prostitute; or

(2) Enters or remains in a place of prostitution with intent to engage in an act of sexual penetration as defined in Section ~~11-0.1~~ ~~42-42~~ of this Code ; or -

(3) Engages in any touching or fondling with a prostitute of the sex organs of one person by the other person, with the intent to achieve sexual arousal or gratification.

(b) Sentence.

Patronizing a prostitute is a Class A misdemeanor, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class 4 felony. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-14 (prostitution), 11-14.3 (promoting prostitution), and 11-14.4 (promoting juvenile prostitution), ~~11-15, 11-17, 11-18.1 and 11-19~~ of this Code, is guilty of a Class 4 felony. ~~When a person has one or more prior convictions, the information or indictment charging that person shall state such~~

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~~prior convictions so as to give notice of the State's intention to treat the charge as a felony. The fact of such conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial.~~

~~(c) (Blank). A person who violates this Section within 1,000 feet of real property comprising a school commits a Class 4 felony.~~

(Source: P.A. 91-274, eff. 1-1-00; 91-498, eff. 1-1-00; 92-16, eff. 6-28-01.)

(720 ILCS 5/11-18.1) (from Ch. 38, par. 11-18.1)

Sec. 11-18.1. Patronizing a juvenile prostitute.

(a) Any person who engages in an act of sexual penetration as defined in Section ~~11-0.1~~ ~~42-42~~ of this Code with a prostitute under 17 years of age commits ~~the offense of~~ patronizing a juvenile prostitute.

(a-5) Any person who engages in any touching or fondling with a prostitute, under 17 years of age, of the sex organs of one person by the other person, with the intent to achieve sexual arousal or gratification, commits patronizing a juvenile prostitute.

(b) It is an affirmative defense to the charge of patronizing a juvenile prostitute that the accused reasonably believed that the person was of the age of 17 years or over at the time of the act giving rise to the charge.

(c) Sentence. A person who commits patronizing a juvenile prostitute is guilty of a Class 4 felony.

(Source: P.A. 85-1447.)

(720 ILCS 5/Art. 11 Subdiv. 20 heading new)

#### SUBDIVISION 20. PORNOGRAPHY OFFENSES

(720 ILCS 5/11-20) (from Ch. 38, par. 11-20)

Sec. 11-20. Obscenity.

(a) Elements of the Offense. A person commits obscenity when, with knowledge of the nature or content thereof, or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he or she:

- (1) Sells, delivers or provides, or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or
- (2) Presents or directs an obscene play, dance or other performance or participates directly in that portion thereof which makes it obscene; or
- (3) Publishes, exhibits or otherwise makes available anything obscene; or
- (4) Performs an obscene act or otherwise presents an obscene exhibition of his or her body for gain; or

(5) Creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this Section, or of the penal laws or regulations of any other jurisdiction; or

(6) Advertises or otherwise promotes the sale of material represented or held out by him or her to be obscene, whether or not it is obscene.

(b) Obscene Defined.

Any material or performance is obscene if: (1) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and (2) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and (3) taken as a whole, it lacks serious literary, artistic, political or scientific value.

(c) Interpretation of Evidence.

Obscenity shall be judged with reference to ordinary adults, except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience.

Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value.

In any prosecution for an offense under this Section evidence shall be admissible to show:

- (1) The character of the audience for which the material was designed or to which it was directed;
- (2) What the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;

- (3) The artistic, literary, scientific, educational or other merits of the material, or absence thereof;
- (4) The degree, if any, of public acceptance of the material in this State;
- (5) Appeal to prurient interest, or absence thereof, in advertising or other promotion of the material;
- (6) Purpose of the author, creator, publisher or disseminator.

(d) Sentence.

Obscenity is a Class A misdemeanor. A second or subsequent offense is a Class 4 felony.

(e) ~~Permissive Inference Prima Facie Evidence.~~

The trier of fact may infer an intent to disseminate from the creation, purchase, procurement or possession of a mold, engraved plate or other embodiment of obscenity specially adapted for reproducing multiple copies, or the possession of more than 3 copies of obscene material ~~shall be prima facie evidence of an intent to disseminate.~~

(f) Affirmative Defenses.

It shall be an affirmative defense to obscenity that the dissemination:

- (1) Was not for gain and was made to personal associates other than children under 18 years of age;
- (2) Was to institutions or individuals having scientific or other special justification for possession of such material.

(g) Forfeiture of property. A person who has been convicted previously of the offense of obscenity and who is convicted of a second or subsequent offense of obscenity is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(Source: P.A. 96-712, eff. 1-1-10.)

(720 ILCS 5/11-20.1) (from Ch. 38, par. 11-20.1)

Sec. 11-20.1. Child pornography.

(a) A person commits ~~the offense of~~ child pornography who:

(1) films, videotapes, photographs, or otherwise depicts or portrays by means of any similar visual medium or reproduction or depicts by computer any child whom he or she knows or reasonably should know to be under the age of 18 and at least 13 years of age or any severely or profoundly mentally retarded person where such child or severely or profoundly mentally retarded person is:

(i) actually or by simulation engaged in any act of sexual penetration or sexual conduct with any person or animal; or

(ii) actually or by simulation engaged in any act of sexual penetration or sexual conduct involving the sex organs of the child or severely or profoundly mentally retarded person and the mouth, anus, or sex organs of another person or animal; or which involves the mouth, anus or sex organs of the child or severely or profoundly mentally retarded person and the sex organs of another person or animal; or

(iii) actually or by simulation engaged in any act of masturbation; or

(iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal; or

(v) actually or by simulation engaged in any act of excretion or urination within a sexual context; or

(vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or

(vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the child or other person; or

(2) with the knowledge of the nature or content thereof, reproduces, disseminates, offers to disseminate, exhibits or possesses with intent to disseminate any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child or severely or profoundly mentally retarded person whom the person knows or reasonably should know to be under the age of 18 and at least 13 years of age or to be a severely or profoundly mentally retarded person, engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(3) with knowledge of the subject matter or theme thereof, produces any stage play, live performance, film, videotape or other similar visual portrayal or depiction by computer which includes a child whom the person knows or reasonably should know to be under the age of 18 and at least 13 years of age or a severely or profoundly mentally retarded person engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(4) solicits, uses, persuades, induces, entices, or coerces any child whom he or she knows or reasonably should know to be under the age of 18 and at least 13 years of age or a severely or profoundly mentally retarded person to appear in any stage play, live presentation, film, videotape, photograph or other similar visual reproduction or depiction by computer in which the child or severely or profoundly mentally retarded person is or will be depicted, actually or by simulation, in any act, pose or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(5) is a parent, step-parent, legal guardian or other person having care or custody of a child whom the person knows or reasonably should know to be under the age of 18 and at least 13 years of age or a severely or profoundly mentally retarded person and who knowingly permits, induces, promotes, or arranges for such child or severely or profoundly mentally retarded person to appear in any stage play, live performance, film, videotape, photograph or other similar visual presentation, portrayal or simulation or depiction by computer of any act or activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(6) with knowledge of the nature or content thereof, possesses any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child or severely or profoundly mentally retarded person whom the person knows or reasonably should know to be under the age of 18 and at least 13 years of age or to be a severely or profoundly mentally retarded person, engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(7) solicits, or knowingly uses, persuades, induces, entices, or coerces, a person to provide a child under the age of 18 and at least 13 years of age or a severely or profoundly mentally retarded person to appear in any videotape, photograph, film, stage play, live presentation, or other similar visual reproduction or depiction by computer in which the child or severely or profoundly mentally retarded person will be depicted, actually or by simulation, in any act, pose, or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection.

(b) (1) It shall be an affirmative defense to a charge of child pornography that the defendant reasonably believed, under all of the circumstances, that the child was 18 years of age or older or that the person was not a severely or profoundly mentally retarded person but only where, prior to the act or acts giving rise to a prosecution under this Section, he or she took some affirmative action or made a bonafide inquiry designed to ascertain whether the child was 18 years of age or older or that the person was not a severely or profoundly mentally retarded person and his or her reliance upon the information so obtained was clearly reasonable.

(2) (Blank).

(3) The charge of child pornography shall not apply to the performance of official duties by law enforcement or prosecuting officers or persons employed by law enforcement or prosecuting agencies, court personnel or attorneys, nor to bonafide treatment or professional education programs conducted by licensed physicians, psychologists or social workers.

(4) ~~If Possession by the defendant possessed of more than one of the same film, videotape or visual reproduction or depiction by computer in which child pornography is depicted, then the trier of fact may infer shall raise a rebuttable presumption~~ that the defendant possessed such materials with the intent to disseminate them.

(5) The charge of child pornography does not apply to a person who does not voluntarily possess a film, videotape, or visual reproduction or depiction by computer in which child pornography is depicted. Possession is voluntary if the defendant knowingly procures or receives a film, videotape, or visual reproduction or depiction for a sufficient time to be able to terminate his or her possession.

(6) Any violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) that includes a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context shall be deemed a crime of violence.

(c) Violation of paragraph (1), (4), (5), or (7) of subsection (a) is a Class 1 felony with a mandatory minimum fine of \$2,000 and a maximum fine of \$100,000. Violation of paragraph (3) of subsection (a) is a Class 1 felony with a mandatory minimum fine of \$1500 and a maximum fine of \$100,000. Violation of paragraph (2) of subsection (a) is a Class 1 felony with a mandatory minimum fine of \$1000 and a maximum fine of \$100,000. Violation of paragraph (6) of subsection (a) is a Class 3 felony with a mandatory minimum fine of \$1000 and a maximum fine of \$100,000.

(d) If a person is convicted of a second or subsequent violation of this Section within 10 years of a prior conviction, the court shall order a presentence psychiatric examination of the person. The examiner

shall report to the court whether treatment of the person is necessary.

(e) Any film, videotape, photograph or other similar visual reproduction or depiction by computer which includes a child under the age of 18 and at least 13 years of age or a severely or profoundly mentally retarded person engaged in any activity described in subparagraphs (i) through (vii) or paragraph 1 of subsection (a), and any material or equipment used or intended for use in photographing, filming, printing, producing, reproducing, manufacturing, projecting, exhibiting, depiction by computer, or disseminating such material shall be seized and forfeited in the manner, method and procedure provided by Section 36-1 of this Code for the seizure and forfeiture of vessels, vehicles and aircraft.

In addition, any person convicted under this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(e-5) Upon the conclusion of a case brought under this Section, the court shall seal all evidence depicting a victim or witness that is sexually explicit. The evidence may be unsealed and viewed, on a motion of the party seeking to unseal and view the evidence, only for good cause shown and in the discretion of the court. The motion must expressly set forth the purpose for viewing the material. The State's attorney and the victim, if possible, shall be provided reasonable notice of the hearing on the motion to unseal the evidence. Any person entitled to notice of a hearing under this subsection (e-5) may object to the motion.

(f) Definitions. For the purposes of this Section:

(1) "Disseminate" means (i) to sell, distribute, exchange or transfer possession, whether with or without consideration or (ii) to make a depiction by computer available for distribution or downloading through the facilities of any telecommunications network or through any other means of transferring computer programs or data to a computer.

(2) "Produce" means to direct, promote, advertise, publish, manufacture, issue, present or show.

(3) "Reproduce" means to make a duplication or copy.

(4) "Depict by computer" means to generate or create, or cause to be created or generated, a computer program or data that, after being processed by a computer either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

(5) "Depiction by computer" means a computer program or data that, after being processed by a computer either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

(6) "Computer", "computer program", and "data" have the meanings ascribed to them in Section 16D-2 of this Code.

(7) For the purposes of this Section, "child pornography Child" includes a film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer that is, or appears to be, that of a person, either in part, or in total, under the age of 18 and at least 13 years of age or a severely or profoundly mentally retarded person, regardless of the method by which the film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer is created, adopted, or modified to appear as such. "Child pornography" also includes a film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer that is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer is of a person under the age of 18 and at least 13 years of age or a severely or profoundly mentally retarded person.

~~(8) "Sexual penetration" and "sexual conduct" have the meanings ascribed to them in Section 12-12 of this Code.~~

(g) Re-enactment; findings; purposes.

(1) The General Assembly finds and declares that:

(i) Section 50-5 of Public Act 88-680, effective January 1, 1995, contained provisions amending the child pornography statute, Section 11-20.1 of the Criminal Code of 1961. Section 50-5 also contained other provisions.

(ii) In addition, Public Act 88-680 was entitled "AN ACT to create a Safe Neighborhoods Law". (A) Article 5 was entitled JUVENILE JUSTICE and amended the Juvenile Court Act of 1987. (B) Article 15 was entitled GANGS and amended various provisions of the Criminal Code of 1961 and the Unified Code of Corrections. (C) Article 20 was entitled ALCOHOL ABUSE and amended various provisions of the Illinois Vehicle Code. (D) Article 25 was entitled DRUG ABUSE and amended the Cannabis Control Act and the Illinois Controlled Substances Act. (E) Article 30 was entitled FIREARMS and amended the Criminal Code of 1961

and the Code of Criminal Procedure of 1963. (F) Article 35 amended the Criminal Code of 1961, the Rights of Crime Victims and Witnesses Act, and the Unified Code of Corrections. (G) Article 40 amended the Criminal Code of 1961 to increase the penalty for compelling organization membership of persons. (H) Article 45 created the Secure Residential Youth Care Facility Licensing Act and amended the State Finance Act, the Juvenile Court Act of 1987, the Unified Code of Corrections, and the Private Correctional Facility Moratorium Act. (I) Article 50 amended the WIC Vendor Management Act, the Firearm Owners Identification Card Act, the Juvenile Court Act of 1987, the Criminal Code of 1961, the Wrongs to Children Act, and the Unified Code of Corrections.

(iii) On September 22, 1998, the Third District Appellate Court in *People v.*

*Dainty*, 701 N.E. 2d 118, ruled that Public Act 88-680 violates the single subject clause of the Illinois Constitution (Article IV, Section 8 (d)) and was unconstitutional in its entirety. As of the time this amendatory Act of 1999 was prepared, *People v. Dainty* was still subject to appeal.

(iv) Child pornography is a vital concern to the people of this State and the validity of future prosecutions under the child pornography statute of the Criminal Code of 1961 is in grave doubt.

(2) It is the purpose of this amendatory Act of 1999 to prevent or minimize any problems relating to prosecutions for child pornography that may result from challenges to the constitutional validity of Public Act 88-680 by re-enacting the Section relating to child pornography that was included in Public Act 88-680.

(3) This amendatory Act of 1999 re-enacts Section 11-20.1 of the Criminal Code of 1961, as it has been amended. This re-enactment is intended to remove any question as to the validity or content of that Section; it is not intended to supersede any other Public Act that amends the text of the Section as set forth in this amendatory Act of 1999. The material is shown as existing text (i.e., without underscoring) because, as of the time this amendatory Act of 1999 was prepared, *People v. Dainty* was subject to appeal to the Illinois Supreme Court.

(4) The re-enactment by this amendatory Act of 1999 of Section 11-20.1 of the Criminal Code of 1961 relating to child pornography that was amended by Public Act 88-680 is not intended, and shall not be construed, to imply that Public Act 88-680 is invalid or to limit or impair any legal argument concerning whether those provisions were substantially re-enacted by other Public Acts.

(Source: P.A. 96-292, eff. 1-1-10; 96-712, eff. 1-1-10; revised 10-1-09.)

(720 ILCS 5/11-20.1B) (was 720 ILCS 5/11-20.3)

Sec. ~~11-20.1B~~ ~~11-20.3~~. Aggravated child pornography.

(a) A person commits the offense of aggravated child pornography who:

(1) films, videotapes, photographs, or otherwise depicts or portrays by means of any similar visual medium or reproduction or depicts by computer any child whom he or she knows or reasonably should know to be under the age of 13 years where such child is:

(i) actually or by simulation engaged in any act of sexual penetration or sexual conduct with any person or animal; or

(ii) actually or by simulation engaged in any act of sexual penetration or sexual conduct involving the sex organs of the child and the mouth, anus, or sex organs of another person or animal; or which involves the mouth, anus or sex organs of the child and the sex organs of another person or animal; or

(iii) actually or by simulation engaged in any act of masturbation; or

(iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal; or

(v) actually or by simulation engaged in any act of excretion or urination within a sexual context; or

(vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or

(vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the child or other person; or

(2) with the knowledge of the nature or content thereof, reproduces, disseminates,

offers to disseminate, exhibits or possesses with intent to disseminate any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child whom the person knows or reasonably should know to be under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(3) with knowledge of the subject matter or theme thereof, produces any stage play, live

performance, film, videotape or other similar visual portrayal or depiction by computer which includes a child whom the person knows or reasonably should know to be under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(4) solicits, uses, persuades, induces, entices, or coerces any child whom he or she knows or reasonably should know to be under the age of 13 to appear in any stage play, live presentation, film, videotape, photograph or other similar visual reproduction or depiction by computer in which the child or ~~severely or profoundly mentally retarded person~~ is or will be depicted, actually or by simulation, in any act, pose or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(5) is a parent, step-parent, legal guardian or other person having care or custody of a child whom the person knows or reasonably should know to be under the age of 13 and who knowingly permits, induces, promotes, or arranges for such child to appear in any stage play, live performance, film, videotape, photograph or other similar visual presentation, portrayal or simulation or depiction by computer of any act or activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(6) with knowledge of the nature or content thereof, possesses any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child whom the person knows or reasonably should know to be under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(7) solicits, or knowingly uses, persuades, induces, entices, or coerces a person to provide a child under the age of 13 to appear in any videotape, photograph, film, stage play, live presentation, or other similar visual reproduction or depiction by computer in which the child will be depicted, actually or by simulation, in any act, pose, or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection.

(b)(1) It shall be an affirmative defense to a charge of aggravated child pornography that the defendant reasonably believed, under all of the circumstances, that the child was 13 years of age or older, but only where, prior to the act or acts giving rise to a prosecution under this Section, he or she took some affirmative action or made a bonafide inquiry designed to ascertain whether the child was 13 years of age or older and his or her reliance upon the information so obtained was clearly reasonable.

(2) The charge of aggravated child pornography shall not apply to the performance of official duties by law enforcement or prosecuting officers or persons employed by law enforcement or prosecuting agencies, court personnel or attorneys, nor to bonafide treatment or professional education programs conducted by licensed physicians, psychologists or social workers.

(3) If the defendant possessed more than ~~one~~ <sup>one</sup> of the same film, videotape or visual reproduction or depiction by computer in which aggravated child pornography is depicted, then the trier of fact may infer that the defendant possessed such materials with the intent to disseminate them.

(4) The charge of aggravated child pornography does not apply to a person who does not voluntarily possess a film, videotape, or visual reproduction or depiction by computer in which aggravated child pornography is depicted. Possession is voluntary if the defendant knowingly procures or receives a film, videotape, or visual reproduction or depiction for a sufficient time to be able to terminate his or her possession.

(5) Any violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) that includes a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context shall be deemed a crime of violence.

(c) Sentence: (1) A person who commits a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) is guilty of a Class X felony with a mandatory minimum fine of \$2,000 and a maximum fine of \$100,000.

(2) A person who commits a violation of paragraph (6) of subsection (a) is guilty of a Class 2 felony with a mandatory minimum fine of \$1000 and a maximum fine of \$100,000.

(3) A person who commits a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 9 years with a mandatory minimum fine

of \$2,000 and a maximum fine of \$100,000.

(4) A person who commits a violation of paragraph (6) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class 1 felony with a mandatory minimum fine of \$1000 and a maximum fine of \$100,000.

(d) If a person is convicted of a second or subsequent violation of this Section within 10 years of a prior conviction, the court shall order a presentence psychiatric examination of the person. The examiner shall report to the court whether treatment of the person is necessary.

(e) Any film, videotape, photograph or other similar visual reproduction or depiction by computer which includes a child under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of subsection (a), and any material or equipment used or intended for use in photographing, filming, printing, producing, reproducing, manufacturing, projecting, exhibiting, depiction by computer, or disseminating such material shall be seized and forfeited in the manner, method and procedure provided by Section 36-1 of this Code for the seizure and forfeiture of vessels, vehicles and aircraft.

In addition, any person convicted under this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(e-5) Upon the conclusion of a case brought under this Section, the court shall seal all evidence depicting a victim or witness that is sexually explicit. The evidence may be unsealed and viewed, on a motion of the party seeking to unseal and view the evidence, only for good cause shown and in the discretion of the court. The motion must expressly set forth the purpose for viewing the material. The State's attorney and the victim, if possible, shall be provided reasonable notice of the hearing on the motion to unseal the evidence. Any person entitled to notice of a hearing under this subsection (e-5) may object to the motion.

(f) Definitions. For the purposes of this Section:

(1) "Disseminate" means (i) to sell, distribute, exchange or transfer possession, whether with or without consideration or (ii) to make a depiction by computer available for distribution or downloading through the facilities of any telecommunications network or through any other means of transferring computer programs or data to a computer.

(2) "Produce" means to direct, promote, advertise, publish, manufacture, issue, present or show.

(3) "Reproduce" means to make a duplication or copy.

(4) "Depict by computer" means to generate or create, or cause to be created or generated, a computer program or data that, after being processed by a computer either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

(5) "Depiction by computer" means a computer program or data that, after being processed by a computer either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

(6) "Computer", "computer program", and "data" have the meanings ascribed to them in Section 16D-2 of this Code.

(7) For the purposes of this Section, "child" means a person, either in part or in total, under the age of 13, regardless of the method by which the film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer is created, adopted, or modified to appear as such.

~~(8) "Sexual penetration" and "sexual conduct" have the meanings ascribed to them in Section 12-12 of this Code.~~

(g) When a charge of aggravated child pornography is brought, the age of the child is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding the age in question. The trier of fact can rely on its own everyday observations and common experiences in making this determination.

(Source: P.A. 95-579, eff. 6-1-08; 96-292, eff. 1-1-10; 96-712, eff. 1-1-10; revised 10-1-09.)  
(720 ILCS 5/11-20.2) (from Ch. 38, par. 11-20.2)

Sec. 11-20.2. Duty of commercial film and photographic print processors to report sexual depiction of children. Duty to report child pornography.

(a) Any commercial film and photographic print processor or computer technician who has knowledge of or observes, within the scope of his professional capacity or employment, any film, photograph, videotape, negative, slide, computer hard drive or any other magnetic or optical media which depicts a child whom the processor or computer technician knows or reasonably should know to be under the age of 18 where such child is:

(i) actually or by simulation engaged in any act of sexual penetration or sexual conduct with any person or animal; or

(ii) actually or by simulation engaged in any act of sexual penetration or sexual conduct involving the sex organs of the child and the mouth, anus, or sex organs of another person or animal; or which involves the mouth, anus or sex organs of the child and the sex organs of another person or animal; or

(iii) actually or by simulation engaged in any act of masturbation; or

(iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal; or

(v) actually or by simulation engaged in any act of excretion or urination within a sexual context; or

(vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or

(vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the child or other person;

shall report or cause a report to be made pursuant to subsections (b) and (c) as soon as reasonably possible. Failure to make such report shall be a business offense with a fine of \$1,000.

(b) Commercial film and photographic film processors shall report or cause a report to be made to the local law enforcement agency of the jurisdiction in which the image or images described in subsection (a) are discovered.

(c) Computer technicians shall report or cause the report to be made to the local law enforcement agency of the jurisdiction in which the image or images described in subsection (a) are discovered or to the Illinois Child Exploitation e-Tipline at [reportchildporn@atg.state.il.us](mailto:reportchildporn@atg.state.il.us).

(d) Reports required by this Act shall include the following information: (i) name, address, and telephone number of the person filing the report; (ii) the employer of the person filing the report, if any; (iii) the name, address and telephone number of the person whose property is the subject of the report, if known; (iv) the circumstances which led to the filing of the report, including a description of the reported content.

(e) If a report is filed with the Cyber Tipline at the National Center for Missing and Exploited Children or in accordance with the requirements of 42 U.S.C. 13032, the requirements of this Act will be deemed to have been met.

(f) A computer technician or an employer caused to report child pornography under this Section is immune from any criminal, civil, or administrative liability in connection with making the report, except for willful or wanton misconduct.

(g) For the purposes of this Section, a "computer technician" is a person who installs, maintains, troubleshoots, repairs or upgrades computer hardware, software, computer networks, peripheral equipment, electronic mail systems, or provides user assistance for any of the aforementioned tasks.

(Source: P.A. 95-983, eff. 6-1-09.)

(720 ILCS 5/11-21) (from Ch. 38, par. 11-21)

Sec. 11-21. Harmful material.

(a) As used in this Section:

"Distribute" means to transfer possession of, whether with or without consideration.

"Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse, when, taken as a whole, it (i) predominately appeals to the prurient interest in sex of minors, (ii) is patently offensive to prevailing standards in the adult community in the State as a whole with respect to what is suitable material for minors, and (iii) lacks serious literary, artistic, political, or scientific value for minors.

"Knowingly" means having knowledge of the contents of the subject matter, or recklessly failing to exercise reasonable inspection which would have disclosed the contents.

"Material" means (i) any picture, photograph, drawing, sculpture, film, video game, computer game, video or similar visual depiction, including any such representation or image which is stored electronically, or (ii) any book, magazine, printed matter however reproduced, or recorded audio of any sort.

"Minor" means any person under the age of 18.

"Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a ~~fully full~~ opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion below the top of the nipple, or the depiction of covered male genitals in a discernably turgid state.

"Sado-masochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one clothed for sexual gratification or stimulation.

"Sexual conduct" means acts of masturbation, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be a female, breast.

"Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(b) A person is guilty of distributing harmful material to a minor when he or she:

(1) knowingly sells, lends, distributes, exhibits to, depicts to, or gives away to a minor, knowing that the minor is under the age of 18 or failing to exercise reasonable care in ascertaining the person's true age:

(A) any material which depicts nudity, sexual conduct or sado-masochistic abuse, or which contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sado-masochistic abuse, and which taken as a whole is harmful to minors;

(B) a motion picture, show, or other presentation which depicts nudity, sexual conduct or sado-masochistic abuse and is harmful to minors; or

(C) an admission ticket or pass to premises where there is exhibited or to be exhibited such a motion picture, show, or other presentation; or

(2) admits a minor to premises where there is exhibited or to be exhibited such a motion picture, show, or other presentation, knowing that the minor is a person under the age of 18 or failing to exercise reasonable care in ascertaining the person's true age.

(c) In any prosecution arising under this Section, it is an affirmative defense:

(1) that the minor as to whom the offense is alleged to have been committed exhibited to the accused a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that the minor was 18 years of age or older, which was relied upon by the accused;

(2) that the defendant was in a parental or guardianship relationship with the minor or that the minor was accompanied by a parent or legal guardian;

(3) that the defendant was a bona fide school, museum, or public library, or was a person acting in the course of his or her employment as an employee or official of such organization or retail outlet affiliated with and serving the educational purpose of such organization;

(4) that the act charged was committed in aid of legitimate scientific or educational purposes; or

(5) that an advertisement of harmful material as defined in this Section culminated in the sale or distribution of such harmful material to a child under circumstances where there was no personal confrontation of the child by the defendant, his or her employees, or agents, as where the order or request for such harmful material was transmitted by mail, telephone, Internet or similar means of communication, and delivery of such harmful material to the child was by mail, freight, Internet or similar means of transport, which advertisement contained the following statement, or a substantially similar statement, and that the defendant required the purchaser to certify that he or she was not under the age of 18 and that the purchaser falsely stated that he or she was not under the age of 18: "NOTICE: It is unlawful for any person under the age of 18 to purchase the matter advertised. Any person under the age of 18 that falsely states that he or she is not under the age of 18 for the purpose of obtaining the material advertised is guilty of a Class B misdemeanor under the laws of the State."

(d) The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was sold, lent, distributed or given, unless it appears from the nature of the matter or the circumstances of its dissemination or distribution that it is designed for specially susceptible groups, in which case the predominant appeal of the material shall be judged with reference to its intended or probable recipient group.

(e) Distribution of harmful material in violation of this Section is a Class A misdemeanor. A second or subsequent offense is a Class 4 felony.

(f) Any person under the age of 18 ~~who~~ who falsely states, either orally or in writing, that he or she is

not under the age of 18, or ~~who that~~ presents or offers to any person any evidence of age and identity that is false or not actually his or her own with the intent for the purpose of ordering, obtaining, viewing, or otherwise procuring or attempting to procure or view any harmful material is guilty of a Class B misdemeanor.

(g) A person over the age of 18 who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly distributes to, or sends, or causes to be sent, or exhibits to, or offers to distribute, or exhibits any harmful material to a person that he or she believes is a minor is guilty of a Class A misdemeanor. If that person utilized a computer web camera, cellular telephone, or any other type of device to manufacture the harmful material, then each offense is a Class 4 felony.

(h) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(Source: P.A. 95-983, eff. 6-1-09; 96-280, eff. 1-1-10.)

(720 ILCS 5/11-23)

Sec. 11-23. Posting of identifying or graphic information on a pornographic Internet site or possessing graphic information with pornographic material.

(a) A person at least 17 years of age who knowingly discloses on an adult obscenity or child pornography Internet site the name, address, telephone number, or e-mail address of a person under 17 years of age at the time of the commission of the offense or of a person at least 17 years of age without the consent of the person at least 17 years of age is guilty of ~~the offense of~~ posting of identifying information on a pornographic Internet site.

(a-5) Any person who knowingly places, posts, reproduces, or maintains on an adult obscenity or child pornography Internet site a photograph, video, or digital image of a person under 18 years of age that is not child pornography under Section 11-20.1, without the knowledge and consent of the person under 18 years of age, is guilty of ~~the offense of~~ posting of graphic information on a pornographic Internet site. This provision applies even if the person under 18 years of age is fully or properly clothed in the photograph, video, or digital image.

(a-10) Any person who knowingly places, posts, reproduces, or maintains on an adult obscenity or child pornography Internet site, or possesses with obscene or child pornographic material a photograph, video, or digital image of a person under 18 years of age in which the child is posed in a suggestive manner with the focus or concentration of the image on the child's clothed genitals, clothed pubic area, clothed buttocks area, or if the child is female, the breast exposed through transparent clothing, and the photograph, video, or digital image is not child pornography under Section 11-20.1, is guilty of posting of graphic information on a pornographic Internet site or possessing graphic information with pornographic material.

(b) Sentence. A person who violates subsection (a) of this Section is guilty of a Class 4 felony if the victim is at least 17 years of age at the time of the offense and a Class 3 felony if the victim is under 17 years of age at the time of the offense. A person who violates subsection (a-5) of this Section is guilty of a Class 4 felony. A person who violates subsection (a-10) of this Section is guilty of a Class 3 felony.

(c) Definitions. For purposes of this Section:

(1) "Adult obscenity or child pornography Internet site" means a site on the Internet

that contains material that is obscene as defined in Section 11-20 of this Code or that is child pornography as defined in Section 11-20.1 of this Code.

(2) "Internet" has the meaning set forth in Section 16J-5 of this Code ~~includes the World Wide Web, electronic mail, a news group posting, or Internet file transfer.~~

(Source: P.A. 95-983, eff. 6-1-09.)

(720 ILCS 5/11-24)

Sec. 11-24. Child photography by sex offender.

(a) In this Section:

"Child" means a person under 18 years of age.

"Child sex offender" has the meaning ascribed to it in Section 11-0.1 ~~11-9.3~~ of this Code.

(b) It is unlawful for a child sex offender to knowingly:

(1) conduct or operate any type of business in which he or she photographs, videotapes, or takes a digital image of a child; or

(2) conduct or operate any type of business in which he or she instructs or directs another person to photograph, videotape, or take a digital image of a child; or

- (3) photograph, videotape, or take a digital image of a child, or instruct or direct another person to photograph, videotape, or take a digital image of a child without the consent of the parent or guardian.
- (c) Sentence. A violation of this Section is a Class 2 felony. A person who violates this Section at a playground, park facility, school, forest preserve, day care facility, or at a facility providing programs or services directed to persons under 17 years of age is guilty of a Class 1 felony. (Source: P.A. 95-983, eff. 6-1-09.)

(720 ILCS 5/Art. 11 Subdiv. 25 heading new)

SUBDIVISION 25. OTHER OFFENSES

(720 ILCS 5/11-30) (was 720 ILCS 5/11-9)

Sec. ~~11-30~~ ~~11-9~~. Public indecency.

(a) Any person of the age of 17 years and upwards who performs any of the following acts in a public place commits a public indecency:

- (1) An act of sexual penetration or sexual conduct as defined in Section 12-12 of this Code; or
- (2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person.

Breast-feeding of infants is not an act of public indecency.

(b) "Public place" for purposes of this Section means any place where the conduct may reasonably be expected to be viewed by others.

(c) Sentence.

Public indecency is a Class A misdemeanor. A person convicted of a third or subsequent violation for public indecency is guilty of a Class 4 felony.

(Source: P.A. 91-115, eff. 1-1-00.)

(720 ILCS 5/11-35) (was 720 ILCS 5/11-7)

Sec. ~~11-35~~ ~~11-7~~. Adultery.

~~Adultery~~ (a) ~~A~~ Any person commits adultery when he or she ~~who~~ has sexual intercourse with another not his or her spouse ~~commits adultery~~, if the behavior is open and notorious, and

(1) The person is married and knows the other person involved in such intercourse is not his spouse; or

(2) The person is not married and knows that the other person involved in such intercourse is married.

A person shall be exempt from prosecution under this Section if his liability is based solely on evidence he has given in order to comply with the requirements of Section 4-1.7 of "The Illinois Public Aid Code", approved April 11, 1967, as amended.

(b) Sentence.

Adultery is a Class A misdemeanor.

(Source: P.A. 86-490.)

(720 ILCS 5/11-40) (was 720 ILCS 5/11-8)

Sec. ~~11-40~~ ~~11-8~~. Fornication.

~~Fornication~~ (a) ~~A~~ Any person commits fornication when he or she knowingly ~~who~~ has sexual intercourse with another not his or her spouse ~~commits fornication~~ if the behavior is open and notorious.

A person shall be exempt from prosecution under this Section if his liability is based solely on evidence he has given in order to comply with the requirements of Section 4-1.7 of "The Illinois Public Aid Code", approved April 11, 1967, as amended.

(b) Sentence.

Fornication is a Class B misdemeanor.

(Source: P.A. 86-490.)

(720 ILCS 5/11-45) (was 720 ILCS 5/11-12)

Sec. ~~11-45~~ ~~11-12~~. Bigamy and Marrying a bigamist.

(a) Bigamy. A person commits bigamy when that person has ~~Any person having~~ a husband or wife and who subsequently knowingly marries another or cohabits in this State after such marriage commits bigamy.

(a-5) Marrying a bigamist. An unmarried person commits marrying a bigamist when that person knowingly marries another under circumstances known to him or her which would render the other person guilty of bigamy under the laws of this State.

(b) It shall be an affirmative defense to bigamy and marrying a bigamist that:

- (1) The prior marriage was dissolved or declared invalid; or
- (2) The accused reasonably believed the prior spouse to be dead; or
- (3) The prior spouse had been continually absent for a period of 5 years during which

time the accused did not know the prior spouse to be alive; or

(4) The accused reasonably believed that he or she or the person he or she marries was legally eligible to be married ~~remarry~~.

(c) Sentence.

Bigamy is a Class 4 felony. Marrying a bigamist is a Class A misdemeanor.

(Source: P.A. 81-230.)

(720 ILCS 5/11-9.4 rep.) (720 ILCS 5/11-13 rep.) (720 ILCS 5/11-14.2 rep.) (720 ILCS 5/11-15 rep.) (720 ILCS 5/11-15.1 rep.) (720 ILCS 5/11-16 rep.) (720 ILCS 5/11-17 rep.) (720 ILCS 5/11-17.1 rep.) (720 ILCS 5/11-19 rep.) (720 ILCS 5/11-19.1 rep.) (720 ILCS 5/11-19.2 rep.) (720 ILCS 5/12-12 rep.)

Section 6. The Criminal Code of 1961 is amended by repealing Sections 11-9.4, 11-13, 11-14.2, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-19, 11-19.1, 11-19.2, and 12-12.

(720 ILCS 150/5.1 rep.)

Section 10. The Wrongs to Children Act is amended by repealing Section 5.1.

Section 905. The Secretary of State Merit Employment Code is amended by changing Section 10b.1 as follows:

(15 ILCS 310/10b.1) (from Ch. 124, par. 110b.1)

Sec. 10b.1. Competitive examinations.

(a) For open competitive examinations to test the relative fitness of applicants for the respective positions. Tests shall be designed to eliminate those who are not qualified for entrance into the Office of the Secretary of State and to discover the relative fitness of those who are qualified. The Director may use any one of or any combination of the following examination methods which in his judgment best serves this end: investigation of education and experience; test of cultural knowledge; test of capacity; test of knowledge; test of manual skill; test of linguistic ability; test of character; test of physical skill; test of psychological fitness. No person with a record of misdemeanor convictions except those under Sections 11-1.50, 11-6, 11-7, 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 11-30, 11-35, 12-2, 12-6, 12-15, 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, and 32-8, subdivisions (a)(1) and (a)(2)(C) of Section 11-14.3, and sub-sections 1, 6 and 8 of Section 24-1 of the Criminal Code of 1961, or arrested for any cause but not convicted thereon shall be disqualified from taking such examinations or subsequent appointment unless the person is attempting to qualify for a position which would give him the powers of a peace officer, in which case the person's conviction or arrest record may be considered as a factor in determining the person's fitness for the position. All examinations shall be announced publicly at least 2 weeks in advance of the date of examinations and may be advertised through the press, radio or other media.

The Director may, at his discretion, accept the results of competitive examinations conducted by any merit system established by Federal law or by the law of any State, and may compile eligible lists therefrom or may add the names of successful candidates in examinations conducted by those merit systems to existing eligible lists in accordance with their respective ratings. No person who is a non-resident of the State of Illinois may be appointed from those eligible lists, however, unless the requirement that applicants be residents of the State of Illinois is waived by the Director of Personnel and unless there are less than 3 Illinois residents available for appointment from the appropriate eligible list. The results of the examinations conducted by other merit systems may not be used unless they are comparable in difficulty and comprehensiveness to examinations conducted by the Department of Personnel for similar positions. Special linguistic options may also be established where deemed appropriate.

(b) The Director of Personnel may require that each person seeking employment with the Secretary of State, as part of the application process, authorize an investigation to determine if the applicant has ever been convicted of a crime and if so, the disposition of those convictions; this authorization shall indicate the scope of the inquiry and the agencies which may be contacted. Upon this authorization, the Director of Personnel may request and receive information and assistance from any federal, state or local governmental agency as part of the authorized investigation. The investigation shall be undertaken after the fingerprinting of an applicant in the form and manner prescribed by the Department of State Police. The investigation shall consist of a criminal history records check performed by the Department of State Police and the Federal Bureau of Investigation, or some other entity that has the ability to check the applicant's fingerprints against the fingerprint records now and hereafter filed in the Department of State Police and Federal Bureau of Investigation criminal history records databases. If the Department of State Police and the Federal Bureau of Investigation conduct an investigation directly for the Secretary of State's Office, then the Department of State Police shall charge a fee for conducting the criminal history

records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall provide information concerning any criminal convictions, and their disposition, brought against the applicant or prospective employee of the Secretary of State upon request of the Department of Personnel when the request is made in the form and manner required by the Department of State Police. The information derived from this investigation, including the source of this information, and any conclusions or recommendations derived from this information by the Director of Personnel shall be provided to the applicant or prospective employee, or his designee, upon request to the Director of Personnel prior to any final action by the Director of Personnel on the application. No information obtained from such investigation may be placed in any automated information system. Any criminal convictions and their disposition information obtained by the Director of Personnel shall be confidential and may not be transmitted outside the Office of the Secretary of State, except as required herein, and may not be transmitted to anyone within the Office of the Secretary of State except as needed for the purpose of evaluating the application. The only physical identity materials which the applicant or prospective employee can be required to provide the Director of Personnel are photographs or fingerprints; these shall be returned to the applicant or prospective employee upon request to the Director of Personnel, after the investigation has been completed and no copy of these materials may be kept by the Director of Personnel or any agency to which such identity materials were transmitted. Only information and standards which bear a reasonable and rational relation to the performance of an employee shall be used by the Director of Personnel. The Secretary of State shall adopt rules and regulations for the administration of this Section. Any employee of the Secretary of State who gives or causes to be given away any confidential information concerning any criminal convictions and their disposition of an applicant or prospective employee shall be guilty of a Class A misdemeanor unless release of such information is authorized by this Section.  
(Source: P.A. 95-331, eff. 8-21-07.)

Section 910. The Comptroller Merit Employment Code is amended by changing Section 10b.1 as follows:

(15 ILCS 410/10b.1) (from Ch. 15, par. 426)

Sec. 10b.1. Competitive examinations. For open competitive examinations to test the relative fitness of applicants for the respective positions. Tests shall be designed to eliminate those who are not qualified for entrance into the Office of the Comptroller and to discover the relative fitness of those who are qualified. The Director may use any one of or any combination of the following examination methods which in his judgment best serves this end: investigation of education and experience; test of cultural knowledge; test of capacity; test of knowledge; test of manual skill; test of linguistic ability; test of character; test of physical skill; test of psychological fitness. No person with a record of misdemeanor convictions except those under Sections 11-1.50, 11-6, 11-7, 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 11-30, 11-35, 12-2, 12-6, 12-15, 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, and 32-8, subdivisions (a)(1) and (a)(2)(C) of Section 11-14.3, and sub-sections 1, 6 and 8 of Section 24-1 of the Criminal Code of 1961, or arrested for any cause but not convicted thereon shall be disqualified from taking such examinations or subsequent appointment unless the person is attempting to qualify for a position which entails financial responsibilities, in which case the person's conviction or arrest record may be considered as a factor in determining the person's fitness for the position. All examinations shall be announced publicly at least 2 weeks in advance of the date of examinations and may be advertised through the press, radio or other media.

The Director may, at his or her discretion, accept the results of competitive examinations conducted by any merit system established by Federal law or by the law of any State, and may compile eligible lists therefrom or may add the names of successful candidates in examinations conducted by those merit systems to existing eligible lists in accordance with their respective ratings. No person who is a non-resident of the State of Illinois may be appointed from those eligible lists, however, unless the requirement that applicants be residents of the State of Illinois is waived by the Director of Human Resources and unless there are less than 3 Illinois residents available for appointment from the appropriate eligible list. The results of the examinations conducted by other merit systems may not be used unless they are comparable in difficulty and comprehensiveness to examinations conducted by the Department of Human Resources for similar positions. Special linguistic options may also be established where deemed appropriate.

(Source: P.A. 90-24, eff. 6-20-97.)

Section 915. The Personnel Code is amended by changing Section 8b.1 as follows:  
(20 ILCS 415/8b.1) (from Ch. 127, par. 63b108b.1)

Sec. 8b.1. For open competitive examinations to test the relative fitness of applicants for the respective positions.

Tests shall be designed to eliminate those who are not qualified for entrance into or promotion within the service, and to discover the relative fitness of those who are qualified. The Director may use any one or any combination of the following examination methods which in his judgment best serves this end: investigation of education; investigation of experience; test of cultural knowledge; test of capacity; test of knowledge; test of manual skill; test of linguistic ability; test of character; test of physical fitness; test of psychological fitness. No person with a record of misdemeanor convictions except those under Sections 11-1.50, 11-6, 11-7, 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 11-30, 11-35, 12-2, 12-6, 12-15, 14-4, 16-1, 21-1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, and 32-8, subdivisions (a)(1) and (a)(2)(C) of Section 11-14.3, and sub-sections 1, 6 and 8 of Section 24-1 of the Criminal Code of 1961 or arrested for any cause but not convicted thereon shall be disqualified from taking such examinations or subsequent appointment, unless the person is attempting to qualify for a position which would give him the powers of a peace officer, in which case the person's conviction or arrest record may be considered as a factor in determining the person's fitness for the position. The eligibility conditions specified for the position of Assistant Director of Healthcare and Family Services in the Department of Healthcare and Family Services in Section 5-230 of the Departments of State Government Law (20 ILCS 5/5-230) shall be applied to that position in addition to other standards, tests or criteria established by the Director. All examinations shall be announced publicly at least 2 weeks in advance of the date of the examinations and may be advertised through the press, radio and other media. The Director may, however, in his discretion, continue to receive applications and examine candidates long enough to assure a sufficient number of eligibles to meet the needs of the service and may add the names of successful candidates to existing eligible lists in accordance with their respective ratings.

The Director may, in his discretion, accept the results of competitive examinations conducted by any merit system established by federal law or by the law of any State, and may compile eligible lists therefrom or may add the names of successful candidates in examinations conducted by those merit systems to existing eligible lists in accordance with their respective ratings. No person who is a non-resident of the State of Illinois may be appointed from those eligible lists, however, unless the requirement that applicants be residents of the State of Illinois is waived by the Director of Central Management Services and unless there are less than 3 Illinois residents available for appointment from the appropriate eligible list. The results of the examinations conducted by other merit systems may not be used unless they are comparable in difficulty and comprehensiveness to examinations conducted by the Department of Central Management Services for similar positions. Special linguistic options may also be established where deemed appropriate.

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

Section 920. The Children and Family Services Act is amended by changing Section 7 as follows:  
(20 ILCS 505/7) (from Ch. 23, par. 5007)

Sec. 7. Placement of children; considerations.

(a) In placing any child under this Act, the Department shall place such child, as far as possible, in the care and custody of some individual holding the same religious belief as the parents of the child, or with some child care facility which is operated by persons of like religious faith as the parents of such child.

(b) In placing a child under this Act, the Department may place a child with a relative if the Department determines that the relative will be able to adequately provide for the child's safety and welfare based on the factors set forth in the Department's rules governing relative placements, and that the placement is consistent with the child's best interests, taking into consideration the factors set out in subsection (4.05) of Section 1-3 of the Juvenile Court Act of 1987.

When the Department first assumes custody of a child, in placing that child under this Act, the Department shall make reasonable efforts to identify and locate a relative who is ready, willing, and able to care for the child. At a minimum, these efforts shall be renewed each time the child requires a placement change and it is appropriate for the child to be cared for in a home environment. The Department must document its efforts to identify and locate such a relative placement and maintain the documentation in the child's case file.

If the Department determines that a placement with any identified relative is not in the child's best interests or that the relative does not meet the requirements to be a relative caregiver, as set forth in Department rules or by statute, the Department must document the basis for that decision and maintain the documentation in the child's case file.

If, pursuant to the Department's rules, any person files an administrative appeal of the Department's decision not to place a child with a relative, it is the Department's burden to prove that the decision is

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consistent with the child's best interests.

When the Department determines that the child requires placement in an environment, other than a home environment, the Department shall continue to make reasonable efforts to identify and locate relatives to serve as visitation resources for the child and potential future placement resources, except when the Department determines that those efforts would be futile or inconsistent with the child's best interests.

If the Department determines that efforts to identify and locate relatives would be futile or inconsistent with the child's best interests, the Department shall document the basis of its determination and maintain the documentation in the child's case file.

If the Department determines that an individual or a group of relatives are inappropriate to serve as visitation resources or possible placement resources, the Department shall document the basis of its determination and maintain the documentation in the child's case file.

When the Department determines that an individual or a group of relatives are appropriate to serve as visitation resources or possible future placement resources, the Department shall document the basis of its determination, maintain the documentation in the child's case file, create a visitation or transition plan, or both, and incorporate the visitation or transition plan, or both, into the child's case plan. For the purpose of this subsection, any determination as to the child's best interests shall include consideration of the factors set out in subsection (4.05) of Section 1-3 of the Juvenile Court Act of 1987.

The Department may not place a child with a relative, with the exception of certain circumstances which may be waived as defined by the Department in rules, if the results of a check of the Law Enforcement Agencies Data System (LEADS) identifies a prior criminal conviction of the relative or any adult member of the relative's household for any of the following offenses under the Criminal Code of 1961:

- (1) murder;
  - (1.1) solicitation of murder;
  - (1.2) solicitation of murder for hire;
  - (1.3) intentional homicide of an unborn child;
  - (1.4) voluntary manslaughter of an unborn child;
  - (1.5) involuntary manslaughter;
  - (1.6) reckless homicide;
  - (1.7) concealment of a homicidal death;
  - (1.8) involuntary manslaughter of an unborn child;
  - (1.9) reckless homicide of an unborn child;
  - (1.10) drug-induced homicide;
- (2) a sex offense under Article 11, except offenses described in Sections 11-7, 11-8, 11-12, ~~and~~ 11-13, 11-35, 11-40, and 11-45;
- (3) kidnapping;
  - (3.1) aggravated unlawful restraint;
  - (3.2) forcible detention;
  - (3.3) aiding and abetting child abduction;
- (4) aggravated kidnapping;
- (5) child abduction;
- (6) aggravated battery of a child;
- (7) criminal sexual assault;
- (8) aggravated criminal sexual assault;
  - (8.1) predatory criminal sexual assault of a child;
- (9) criminal sexual abuse;
- (10) aggravated sexual abuse;
- (11) heinous battery;
- (12) aggravated battery with a firearm;
- (13) tampering with food, drugs, or cosmetics;
- (14) drug-induced infliction of great bodily harm;
- (15) aggravated stalking;
- (16) home invasion;
- (17) vehicular invasion;
- (18) criminal transmission of HIV;
- (19) criminal abuse or neglect of an elderly or disabled person;
- (20) child abandonment;
- (21) endangering the life or health of a child;

- (22) ritual mutilation;
- (23) ritualized abuse of a child;
- (24) an offense in any other state the elements of which are similar and bear a substantial relationship to any of the foregoing offenses.

For the purpose of this subsection, "relative" shall include any person, 21 years of age or over, other than the parent, who (i) is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, second cousin, godparent, great-uncle, or great-aunt; or (ii) is the spouse of such a relative; or (iii) is the child's step-father, step-mother, or adult step-brother or step-sister; "relative" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this paragraph prior to the adoption, but only if the Department determines, and documents, that it would be in the child's best interests to consider this person a relative, based upon the factors for determining best interests set forth in subsection (4.05) of Section 1-3 of the Juvenile Court Act of 1987. A relative with whom a child is placed pursuant to this subsection may, but is not required to, apply for licensure as a foster family home pursuant to the Child Care Act of 1969; provided, however, that as of July 1, 1995, foster care payments shall be made only to licensed foster family homes pursuant to the terms of Section 5 of this Act.

(c) In placing a child under this Act, the Department shall ensure that the child's health, safety, and best interests are met. In rejecting placement of a child with an identified relative, the Department shall ensure that the child's health, safety, and best interests are met. In evaluating the best interests of the child, the Department shall take into consideration the factors set forth in subsection (4.05) of Section 1-3 of the Juvenile Court Act of 1987.

The Department shall consider the individual needs of the child and the capacity of the prospective foster or adoptive parents to meet the needs of the child. When a child must be placed outside his or her home and cannot be immediately returned to his or her parents or guardian, a comprehensive, individualized assessment shall be performed of that child at which time the needs of the child shall be determined. Only if race, color, or national origin is identified as a legitimate factor in advancing the child's best interests shall it be considered. Race, color, or national origin shall not be routinely considered in making a placement decision. The Department shall make special efforts for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of the children for whom foster and adoptive homes are needed. "Special efforts" shall include contacting and working with community organizations and religious organizations and may include contracting with those organizations, utilizing local media and other local resources, and conducting outreach activities.

(c-1) At the time of placement, the Department shall consider concurrent planning, as described in subsection (1-1) of Section 5, so that permanency may occur at the earliest opportunity. Consideration should be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child.

(d) The Department may accept gifts, grants, offers of services, and other contributions to use in making special recruitment efforts.

(e) The Department in placing children in adoptive or foster care homes may not, in any policy or practice relating to the placement of children for adoption or foster care, discriminate against any child or prospective adoptive or foster parent on the basis of race.

(Source: P.A. 94-880, eff. 8-1-06.)

Section 925. The Criminal Identification Act is amended by changing Section 5.2 as follows:  
(20 ILCS 2630/5.2)

Sec. 5.2. Expungement and sealing.

(a) General Provisions.

(1) Definitions. In this Act, words and phrases have the meanings set forth in this subsection, except when a particular context clearly requires a different meaning.

(A) The following terms shall have the meanings ascribed to them in the Unified Code of Corrections, 730 ILCS 5/5-1-2 through 5/5-1-22:

- (i) Business Offense (730 ILCS 5/5-1-2),
- (ii) Charge (730 ILCS 5/5-1-3),
- (iii) Court (730 ILCS 5/5-1-6),

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- (iv) Defendant (730 ILCS 5/5-1-7),
- (v) Felony (730 ILCS 5/5-1-9),
- (vi) Imprisonment (730 ILCS 5/5-1-10),
- (vii) Judgment (730 ILCS 5/5-1-12),
- (viii) Misdemeanor (730 ILCS 5/5-1-14),
- (ix) Offense (730 ILCS 5/5-1-15),
- (x) Parole (730 ILCS 5/5-1-16),
- (xi) Petty Offense (730 ILCS 5/5-1-17),
- (xii) Probation (730 ILCS 5/5-1-18),
- (xiii) Sentence (730 ILCS 5/5-1-19),
- (xiv) Supervision (730 ILCS 5/5-1-21), and
- (xv) Victim (730 ILCS 5/5-1-22).

(B) As used in this Section, "charge not initiated by arrest" means a charge (as defined by 730 ILCS 5/5-1-3) brought against a defendant where the defendant is not arrested prior to or as a direct result of the charge.

(C) "Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. An order of supervision successfully completed by the petitioner is not a conviction. An order of qualified probation (as defined in subsection (a)(1)(J)) successfully completed by the petitioner is not a conviction. An order of supervision or an order of qualified probation that is terminated unsatisfactorily is a conviction, unless the unsatisfactory termination is reversed, vacated, or modified and the judgment of conviction, if any, is reversed or vacated.

(D) "Criminal offense" means a petty offense, business offense, misdemeanor, felony, or municipal ordinance violation (as defined in subsection (a)(1)(H)). As used in this Section, a minor traffic offense (as defined in subsection (a)(1)(G)) shall not be considered a criminal offense.

(E) "Expunge" means to physically destroy the records or return them to the petitioner and to obliterate the petitioner's name from any official index or public record, or both. Nothing in this Act shall require the physical destruction of the circuit court file, but such records relating to arrests or charges, or both, ordered expunged shall be impounded as required by subsections (d)(9)(A)(ii) and (d)(9)(B)(ii).

(F) As used in this Section, "last sentence" means the sentence, order of supervision, or order of qualified probation (as defined by subsection (a)(1)(J)), for a criminal offense (as defined by subsection (a)(1)(D)) that terminates last in time in any jurisdiction, regardless of whether the petitioner has included the criminal offense for which the sentence or order of supervision or qualified probation was imposed in his or her petition. If multiple sentences, orders of supervision, or orders of qualified probation terminate on the same day and are last in time, they shall be collectively considered the "last sentence" regardless of whether they were ordered to run concurrently.

(G) "Minor traffic offense" means a petty offense, business offense, or Class C misdemeanor under the Illinois Vehicle Code or a similar provision of a municipal or local ordinance.

(H) "Municipal ordinance violation" means an offense defined by a municipal or local ordinance that is criminal in nature and with which the petitioner was charged or for which the petitioner was arrested and released without charging.

(I) "Petitioner" means an adult or a minor prosecuted as an adult who has applied for relief under this Section.

(J) "Qualified probation" means an order of probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3(b)(1) and (2) of the Criminal Code of 1961 (as those provisions existed before their deletion by Public Act 89-313), Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act. For the purpose of this Section, "successful completion" of an order of qualified probation under Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act and Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act means that the probation was terminated satisfactorily and the judgment of conviction was vacated.

(K) "Seal" means to physically and electronically maintain the records, unless the records would otherwise be destroyed due to age, but to make the records unavailable without a

court order, subject to the exceptions in Sections 12 and 13 of this Act. The petitioner's name shall also be obliterated from the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but any index issued by the circuit court clerk before the entry of the order to seal shall not be affected.

(L) "Sexual offense committed against a minor" includes but is not limited to the offenses of indecent solicitation of a child or criminal sexual abuse when the victim of such offense is under 18 years of age.

(M) "Terminate" as it relates to a sentence or order of supervision or qualified probation includes either satisfactory or unsatisfactory termination of the sentence, unless otherwise specified in this Section.

(2) Minor Traffic Offenses. Orders of supervision or convictions for minor traffic offenses shall not affect a petitioner's eligibility to expunge or seal records pursuant to this Section.

(3) Exclusions. Except as otherwise provided in subsections (b)(5), (b)(6), and (e) of this Section, the court shall not order:

(A) the sealing or expungement of the records of arrests or charges not initiated by arrest that result in an order of supervision for or conviction of: (i) any sexual offense committed against a minor; (ii) Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance; or (iii) Section 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance.

(B) the sealing or expungement of records of minor traffic offenses (as defined in subsection (a)(1)(G)), unless the petitioner was arrested and released without charging.

(C) the sealing of the records of arrests or charges not initiated by arrest which result in an order of supervision, an order of qualified probation (as defined in subsection (a)(1)(J)), or a conviction for the following offenses:

(i) offenses included in Article 11 of the Criminal Code of 1961 or a similar provision of a local ordinance, except Section 11-14 of the Criminal Code of 1961 or a similar provision of a local ordinance;

(ii) Section 11-1.50, 12-15, 12-30, or 26-5 of the Criminal Code of 1961 or a similar provision of a local ordinance;

(iii) offenses defined as "crimes of violence" in Section 2 of the Crime Victims Compensation Act or a similar provision of a local ordinance;

(iv) offenses which are Class A misdemeanors under the Humane Care for Animals Act; or

(v) any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act.

(D) the sealing of the records of an arrest which results in the petitioner being charged with a felony offense or records of a charge not initiated by arrest for a felony offense, regardless of the disposition, unless:

(i) the charge is amended to a misdemeanor and is otherwise eligible to be sealed pursuant to subsection (c);

(ii) the charge results in first offender probation as set forth in subsection (c)(2)(E); or

(iii) the charge is for a Class 4 felony offense listed in subsection (c)(2)(F) or the charge is amended to a Class 4 felony offense listed in subsection (c)(2)(F). Records of arrests which result in the petitioner being charged with a Class 4 felony offense listed in subsection (c)(2)(F), records of charges not initiated by arrest for Class 4 felony offenses listed in subsection (c)(2)(F), and records of charges amended to a Class 4 felony offense listed in (c)(2)(F) may be sealed, regardless of the disposition, subject to any waiting periods set forth in subsection (c)(3).

(b) Expungement.

(1) A petitioner may petition the circuit court to expunge the records of his or her arrests and charges not initiated by arrest when:

(A) He or she has never been convicted of a criminal offense; and

(B) Each arrest or charge not initiated by arrest sought to be expunged resulted in: (i) acquittal, dismissal, or the petitioner's release without charging, unless excluded by subsection (a)(3)(B); (ii) a conviction which was vacated or reversed, unless excluded by subsection (a)(3)(B); (iii) an order of supervision and such supervision was successfully completed by the petitioner, unless excluded by subsection (a)(3)(A) or (a)(3)(B); or (iv) an order of qualified probation (as defined in subsection (a)(1)(J)) and such probation was successfully completed by the

petitioner.

(2) Time frame for filing a petition to expunge.

(A) When the arrest or charge not initiated by arrest sought to be expunged resulted in an acquittal, dismissal, the petitioner's release without charging, or the reversal or vacation of a conviction, there is no waiting period to petition for the expungement of such records.

(B) When the arrest or charge not initiated by arrest sought to be expunged resulted in an order of supervision, successfully completed by the petitioner, the following time frames will apply:

(i) Those arrests or charges that resulted in orders of supervision under Section 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar provision of a local ordinance, or under Section 11-1.50, 12-3.2, 12-15 or 16A-3 of the Criminal Code of 1961, shall not be eligible for expungement until 5 years have passed following the satisfactory termination of the supervision.

(ii) Those arrests or charges that resulted in orders of supervision for any other offenses shall not be eligible for expungement until 2 years have passed following the satisfactory termination of the supervision.

(C) When the arrest or charge not initiated by arrest sought to be expunged resulted in an order of qualified probation, successfully completed by the petitioner, such records shall not be eligible for expungement until 5 years have passed following the satisfactory termination of the probation.

(3) Those records maintained by the Department for persons arrested prior to their 17th birthday shall be expunged as provided in Section 5-915 of the Juvenile Court Act of 1987.

(4) Whenever a person has been arrested for or convicted of any offense, in the name of a person whose identity he or she has stolen or otherwise come into possession of, the aggrieved person from whom the identity was stolen or otherwise obtained without authorization, upon learning of the person having been arrested using his or her identity, may, upon verified petition to the chief judge of the circuit wherein the arrest was made, have a court order entered nunc pro tunc by the Chief Judge to correct the arrest record, conviction record, if any, and all official records of the arresting authority, the Department, other criminal justice agencies, the prosecutor, and the trial court concerning such arrest, if any, by removing his or her name from all such records in connection with the arrest and conviction, if any, and by inserting in the records the name of the offender, if known or ascertainable, in lieu of the aggrieved's name. The records of the circuit court clerk shall be sealed until further order of the court upon good cause shown and the name of the aggrieved person obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order. Nothing in this Section shall limit the Department of State Police or other criminal justice agencies or prosecutors from listing under an offender's name the false names he or she has used.

(5) Whenever a person has been convicted of criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, or aggravated criminal sexual abuse, the victim of that offense may request that the State's Attorney of the county in which the conviction occurred file a verified petition with the presiding trial judge at the petitioner's trial to have a court order entered to seal the records of the circuit court clerk in connection with the proceedings of the trial court concerning that offense. However, the records of the arresting authority and the Department of State Police concerning the offense shall not be sealed. The court, upon good cause shown, shall make the records of the circuit court clerk in connection with the proceedings of the trial court concerning the offense available for public inspection.

(6) If a conviction has been set aside on direct review or on collateral attack and the court determines by clear and convincing evidence that the petitioner was factually innocent of the charge, the court shall enter an expungement order as provided in subsection (b) of Section 5-5-4 of the Unified Code of Corrections.

(7) Nothing in this Section shall prevent the Department of State Police from maintaining all records of any person who is admitted to probation upon terms and conditions and who fulfills those terms and conditions pursuant to Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act.

(c) Sealing.

(1) Applicability. Notwithstanding any other provision of this Act to the contrary, and cumulative with any rights to expungement of criminal records, this subsection authorizes the sealing of criminal records of adults and of minors prosecuted as adults.

(2) Eligible Records. The following records may be sealed:

(A) All arrests resulting in release without charging;

(B) Arrests or charges not initiated by arrest resulting in acquittal, dismissal, or conviction when the conviction was reversed or vacated, except as excluded by subsection (a)(3)(B) or (a)(3)(D);

(C) Arrests or charges not initiated by arrest resulting in orders of supervision successfully completed by the petitioner, unless excluded by subsection (a)(3);

(D) Arrests or charges not initiated by arrest resulting in convictions unless excluded by subsection (a)(3);

(E) Arrests or charges not initiated by arrest resulting in orders of first offender probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act; and

(F) Arrests or charges not initiated by arrest resulting in Class 4 felony convictions for the following offenses:

(i) Section 11-14 of the Criminal Code of 1961;

(ii) Section 4 of the Cannabis Control Act;

(iii) Section 402 of the Illinois Controlled Substances Act;

(iv) the Methamphetamine Precursor Control Act; and

(v) the Steroid Control Act.

(3) When Records Are Eligible to Be Sealed. Records identified as eligible under subsection (c)(2) may be sealed as follows:

(A) Records identified as eligible under subsection (c)(2)(A) and (c)(2)(B) may be sealed at any time.

(B) Records identified as eligible under subsection (c)(2)(C) may be sealed (i) 3 years after the termination of petitioner's last sentence (as defined in subsection (a)(1)(F)) if the petitioner has never been convicted of a criminal offense (as defined in subsection (a)(1)(D)); or (ii) 4 years after the termination of the petitioner's last sentence (as defined in subsection (a)(1)(F)) if the petitioner has ever been convicted of a criminal offense (as defined in subsection (a)(1)(D)).

(C) Records identified as eligible under subsections (c)(2)(D), (c)(2)(E), and (c)(2)(F) may be sealed 4 years after the termination of the petitioner's last sentence (as defined in subsection (a)(1)(F)).

(4) Subsequent felony convictions. A person may not have subsequent felony conviction records sealed as provided in this subsection (c) if he or she is convicted of any felony offense after the date of the sealing of prior felony convictions as provided in this subsection (c). The court may, upon conviction for a subsequent felony offense, order the unsealing of prior felony conviction records previously ordered sealed by the court.

(5) Notice of eligibility for sealing. Upon entry of a disposition for an eligible record under this subsection (c), the petitioner shall be informed by the court of the right to have the records sealed and the procedures for the sealing of the records.

(d) Procedure. The following procedures apply to expungement under subsections (b) and (e), and sealing under subsection (c):

(1) Filing the petition. Upon becoming eligible to petition for the expungement or sealing of records under this Section, the petitioner shall file a petition requesting the expungement or sealing of records with the clerk of the court where the arrests occurred or the charges were brought, or both. If arrests occurred or charges were brought in multiple jurisdictions, a petition must be filed in each such jurisdiction. The petitioner shall pay the applicable fee, if not waived.

(2) Contents of petition. The petition shall be verified and shall contain the petitioner's name, date of birth, current address and, for each arrest or charge not initiated by arrest sought to be sealed or expunged, the case number, the date of arrest (if any), the identity of the arresting authority, and such other information as the court may require. During the pendency of the proceeding, the petitioner shall promptly notify the circuit court clerk of any change of his or her address.

(3) Drug test. The petitioner must attach to the petition proof that the petitioner has passed a test taken within 30 days before the filing of the petition showing the absence within his or her body of all illegal substances as defined by the Illinois Controlled Substances Act, the

Methamphetamine Control and Community Protection Act, and the Cannabis Control Act if he or she is petitioning to seal felony records pursuant to clause (c)(2)(E) or (c)(2)(F)(ii)-(v) or if he or she is petitioning to expunge felony records of a qualified probation pursuant to clause (b)(1)(B)(iv).

(4) Service of petition. The circuit court clerk shall promptly serve a copy of the petition on the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government effecting the arrest.

(5) Objections.

(A) Any party entitled to notice of the petition may file an objection to the petition. All objections shall be in writing, shall be filed with the circuit court clerk, and shall state with specificity the basis of the objection.

(B) Objections to a petition to expunge or seal must be filed within 60 days of the date of service of the petition.

(6) Entry of order.

(A) The Chief Judge of the circuit wherein the charge was brought, any judge of that circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the petitioner's trial, if any, shall rule on the petition to expunge or seal as set forth in this subsection (d)(6).

(B) Unless the State's Attorney or prosecutor, the Department of State Police, the arresting agency, or the chief legal officer files an objection to the petition to expunge or seal within 60 days from the date of service of the petition, the court shall enter an order granting or denying the petition.

(7) Hearings. If an objection is filed, the court shall set a date for a hearing and notify the petitioner and all parties entitled to notice of the petition of the hearing date at least 30 days prior to the hearing, and shall hear evidence on whether the petition should or should not be granted, and shall grant or deny the petition to expunge or seal the records based on the evidence presented at the hearing.

(8) Service of order. After entering an order to expunge or seal records, the court must provide copies of the order to the Department, in a form and manner prescribed by the Department, to the petitioner, to the State's Attorney or prosecutor charged with the duty of prosecuting the offense, to the arresting agency, to the chief legal officer of the unit of local government effecting the arrest, and to such other criminal justice agencies as may be ordered by the court.

(9) Effect of order.

(A) Upon entry of an order to expunge records pursuant to (b)(2)(A) or (b)(2)(B)(ii), or both:

(i) the records shall be expunged (as defined in subsection (a)(1)(E)) by the arresting agency, the Department, and any other agency as ordered by the court, within 60 days of the date of service of the order, unless a motion to vacate, modify, or reconsider the order is filed pursuant to paragraph (12) of subsection (d) of this Section;

(ii) the records of the circuit court clerk shall be impounded until further order of the court upon good cause shown and the name of the petitioner obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order; and

(iii) in response to an inquiry for expunged records, the court, the Department, or the agency receiving such inquiry, shall reply as it does in response to inquiries when no records ever existed.

(B) Upon entry of an order to expunge records pursuant to (b)(2)(B)(i) or (b)(2)(C), or both:

(i) the records shall be expunged (as defined in subsection (a)(1)(E)) by the arresting agency and any other agency as ordered by the court, within 60 days of the date of service of the order, unless a motion to vacate, modify, or reconsider the order is filed pursuant to paragraph (12) of subsection (d) of this Section;

(ii) the records of the circuit court clerk shall be impounded until further order of the court upon good cause shown and the name of the petitioner obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order;

(iii) the records shall be impounded by the Department within 60 days of the

date of service of the order as ordered by the court, unless a motion to vacate, modify, or reconsider the order is filed pursuant to paragraph (12) of subsection (d) of this Section;

(iv) records impounded by the Department may be disseminated by the Department only to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or a similar offense or for the purpose of sentencing for any subsequent felony, and to the Department of Corrections upon conviction for any offense; and

(v) in response to an inquiry for such records from anyone not authorized by law to access such records the court, the Department, or the agency receiving such inquiry shall reply as it does in response to inquiries when no records ever existed.

(C) Upon entry of an order to seal records under subsection (c), the arresting agency, any other agency as ordered by the court, the Department, and the court shall seal the records (as defined in subsection (a)(1)(K)). In response to an inquiry for such records from anyone not authorized by law to access such records the court, the Department, or the agency receiving such inquiry shall reply as it does in response to inquiries when no records ever existed.

(10) Fees. The Department may charge the petitioner a fee equivalent to the cost of processing any order to expunge or seal records. Notwithstanding any provision of the Clerks of Courts Act to the contrary, the circuit court clerk may charge a fee equivalent to the cost associated with the sealing or expungement of records by the circuit court clerk. From the total filing fee collected for the petition to seal or expunge, the circuit court clerk shall deposit \$10 into the Circuit Court Clerk Operation and Administrative Fund, to be used to offset the costs incurred by the circuit court clerk in performing the additional duties required to serve the petition to seal or expunge on all parties. The circuit court clerk shall collect and forward the Department of State Police portion of the fee to the Department and it shall be deposited in the State Police Services Fund.

(11) Final Order. No court order issued under the expungement or sealing provisions of this Section shall become final for purposes of appeal until 30 days after service of the order on the petitioner and all parties entitled to notice of the petition.

(12) Motion to Vacate, Modify, or Reconsider. The petitioner or any party entitled to notice may file a motion to vacate, modify, or reconsider the order granting or denying the petition to expunge or seal within 60 days of service of the order.

(e) Whenever a person who has been convicted of an offense is granted a pardon by the Governor which specifically authorizes expungement, he or she may, upon verified petition to the Chief Judge of the circuit where the person had been convicted, any judge of the circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the defendant's trial, have a court order entered expunging the record of arrest from the official records of the arresting authority and order that the records of the circuit court clerk and the Department be sealed until further order of the court upon good cause shown or as otherwise provided herein, and the name of the defendant obliterated from the official index requested to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act in connection with the arrest and conviction for the offense for which he or she had been pardoned but the order shall not affect any index issued by the circuit court clerk before the entry of the order. All records sealed by the Department may be disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction for any subsequent offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual. Upon entry of the order of expungement, the circuit court clerk shall promptly mail a copy of the order to the person who was pardoned.

(f) Subject to available funding, the Illinois Department of Corrections shall conduct a study of the impact of sealing, especially on employment and recidivism rates, utilizing a random sample of those who apply for the sealing of their criminal records under Public Act 93-211. At the request of the Illinois Department of Corrections, records of the Illinois Department of Employment Security shall be utilized as appropriate to assist in the study. The study shall not disclose any data in a manner that would allow the identification of any particular individual or employing unit. The study shall be made available to the General Assembly no later than September 1, 2010.

(Source: P.A. 96-409, eff. 1-1-10.)

Section 930. The Sex Offender Management Board Act is amended by changing Section 10 as follows:

(20 ILCS 4026/10)

Sec. 10. Definitions. In this Act, unless the context otherwise requires:

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(a) "Board" means the Sex Offender Management Board created in Section 15.

(b) "Sex offender" means any person who is convicted or found delinquent in the State of Illinois, or under any substantially similar federal law or law of another state, of any sex offense or attempt of a sex offense as defined in subsection (c) of this Section, or any former statute of this State that defined a felony sex offense, or who has been certified as a sexually dangerous person under the Sexually Dangerous Persons Act or declared a sexually violent person under the Sexually Violent Persons Commitment Act, or any substantially similar federal law or law of another state.

(c) "Sex offense" means any felony or misdemeanor offense described in this subsection (c) as follows:

- (1) Indecent solicitation of a child, in violation of Section 11-6 of the Criminal Code of 1961;
  - (2) Indecent solicitation of an adult, in violation of Section 11-6.5 of the Criminal Code of 1961;
  - (3) Public indecency, in violation of Section 11-9 or 11-30 of the Criminal Code of 1961;
  - (4) Sexual exploitation of a child, in violation of Section 11-9.1 of the Criminal Code of 1961;
  - (5) Sexual relations within families, in violation of Section 11-11 of the Criminal Code of 1961;
  - (6) ~~Promoting juvenile prostitution or soliciting~~ ~~Soliciting~~ for a juvenile prostitute, in violation of Section ~~11-14.4 or~~ 11-15.1 of the Criminal Code of 1961;
  - (7) ~~Promoting juvenile prostitution or keeping~~ ~~Keeping~~ a place of juvenile prostitution, in violation of Section ~~11-14.4 or~~ 11-17.1 of the Criminal Code of 1961;
  - (8) Patronizing a juvenile prostitute, in violation of Section 11-18.1 of the Criminal Code of 1961;
  - (9) ~~Promoting juvenile prostitution or juvenile~~ ~~Juvenile~~ pimping, in violation of Section ~~11-14.4 or~~ 11-19.1 of the Criminal Code of 1961;
  - (10) ~~promoting juvenile prostitution or exploitation~~ ~~Exploitation~~ of a child, in violation of Section ~~11-14.4 or~~ 11-19.2 of the Criminal Code of 1961;
  - (11) Child pornography, in violation of Section 11-20.1 of the Criminal Code of 1961;
  - (11.5) ~~Aggravated child pornography~~, in violation of Section 11-20.1B or 11-20.3 of the ~~Criminal Code of 1961~~;
  - (12) Harmful material, in violation of Section 11-21 of the Criminal Code of 1961;
  - (13) Criminal sexual assault, in violation of Section ~~11-1.20 or~~ 12-13 of the Criminal Code of 1961;
  - (14) Aggravated criminal sexual assault, in violation of Section ~~11-1.30 or~~ 12-14 of the Criminal Code of 1961;
  - (15) Predatory criminal sexual assault of a child, in violation of Section ~~11-1.40 or~~ 12-14.1 of the Criminal Code of 1961;
  - (16) Criminal sexual abuse, in violation of Section ~~11-1.50 or~~ 12-15 of the Criminal Code of 1961;
  - (17) Aggravated criminal sexual abuse, in violation of Section ~~11-1.60 or~~ 12-16 of the Criminal Code of 1961;
  - (18) Ritualized abuse of a child, in violation of Section 12-33 of the Criminal Code of 1961;
  - (19) An attempt to commit any of the offenses enumerated in this subsection (c); or
  - (20) Any felony offense under Illinois law that is sexually motivated.
- (d) "Management" means counseling, monitoring, and supervision of any sex offender that conforms to the standards created by the Board under Section 15.
- (e) "Sexually motivated" means one or more of the facts of the underlying offense indicates conduct that is of a sexual nature or that shows an intent to engage in behavior of a sexual nature.  
(Source: P.A. 93-616, eff. 1-1-04.)

Section 935. The Illinois Police Training Act is amended by changing Sections 6 and 6.1 as follows:  
(50 ILCS 705/6) (from Ch. 85, par. 506)

Sec. 6. Selection and certification of schools. The Board shall select and certify schools within the State of Illinois for the purpose of providing basic training for probationary police officers, probationary county corrections officers, and court security officers and of providing advanced or in-service training for permanent police officers or permanent county corrections officers, which schools may be either

publicly or privately owned and operated. In addition, the Board has the following power and duties:

- a. To require local governmental units to furnish such reports and information as the Board deems necessary to fully implement this Act.
- b. To establish appropriate mandatory minimum standards relating to the training of probationary local law enforcement officers or probationary county corrections officers.
- c. To provide appropriate certification to those probationary officers who successfully complete the prescribed minimum standard basic training course.
- d. To review and approve annual training curriculum for county sheriffs.
- e. To review and approve applicants to ensure no applicant is admitted to a certified academy unless the applicant is a person of good character and has not been convicted of a felony offense, any of the misdemeanors in Sections 11-1.50, 11-6, 11-9.1, 11-14, 11-17, 11-19, 12-2, 12-15, 16-1, 17-1, 17-2, 28-3, 29-1, 31-1, 31-6, 31-7, 32-4a, or 32-7 of the Criminal Code of 1961, subdivision (a)(1) or (a)(2)(C) of Section 11-14.3 of the Criminal Code of 1961, or Section 5 or 5.2 of the Cannabis Control Act, or a crime involving moral turpitude under the laws of this State or any other state which if committed in this State would be punishable as a felony or a crime of moral turpitude. The Board may appoint investigators who shall enforce the duties conferred upon the Board by this Act.

(Source: P.A. 91-495, eff. 1-1-00.)

(50 ILCS 705/6.1)

Sec. 6.1. Decertification of full-time and part-time police officers.

(a) The Board must review police officer conduct and records to ensure that no police officer is certified or provided a valid waiver if that police officer has been convicted of a felony offense under the laws of this State or any other state which if committed in this State would be punishable as a felony. The Board must also ensure that no police officer is certified or provided a valid waiver if that police officer has been convicted on or after the effective date of this amendatory Act of 1999 of any misdemeanor specified in this Section or if committed in any other state would be an offense similar to Section 11-1.50, 11-6, 11-9.1, 11-14, 11-17, 11-19, 12-2, 12-15, 16-1, 17-1, 17-2, 28-3, 29-1, 31-1, 31-6, 31-7, 32-4a, or 32-7 of the Criminal Code of 1961, to subdivision (a)(1) or (a)(2)(C) of Section 11-14.3 of the Criminal Code of 1961, or to Section 5 or 5.2 of the Cannabis Control Act. The Board must appoint investigators to enforce the duties conferred upon the Board by this Act.

(b) It is the responsibility of the sheriff or the chief executive officer of every local law enforcement agency or department within this State to report to the Board any arrest or conviction of any officer for an offense identified in this Section.

(c) It is the duty and responsibility of every full-time and part-time police officer in this State to report to the Board within 30 days, and the officer's sheriff or chief executive officer, of his or her arrest or conviction for an offense identified in this Section. Any full-time or part-time police officer who knowingly makes, submits, causes to be submitted, or files a false or untruthful report to the Board must have his or her certificate or waiver immediately decertified or revoked.

(d) Any person, or a local or State agency, or the Board is immune from liability for submitting, disclosing, or releasing information of arrests or convictions in this Section as long as the information is submitted, disclosed, or released in good faith and without malice. The Board has qualified immunity for the release of the information.

(e) Any full-time or part-time police officer with a certificate or waiver issued by the Board who is convicted of any offense described in this Section immediately becomes decertified or no longer has a valid waiver. The decertification and invalidity of waivers occurs as a matter of law. Failure of a convicted person to report to the Board his or her conviction as described in this Section or any continued law enforcement practice after receiving a conviction is a Class 4 felony.

(f) The Board's investigators are peace officers and have all the powers possessed by policemen in cities and by sheriff's, provided that the investigators may exercise those powers anywhere in the State, only after contact and cooperation with the appropriate local law enforcement authorities.

(g) The Board must request and receive information and assistance from any federal, state, or local governmental agency as part of the authorized criminal background investigation. The Department of State Police must process, retain, and additionally provide and disseminate information to the Board concerning criminal charges, arrests, convictions, and their disposition, that have been filed before, on, or after the effective date of this amendatory Act of the 91st General Assembly against a basic academy applicant, law enforcement applicant, or law enforcement officer whose fingerprint identification cards are on file or maintained by the Department of State Police. The Federal Bureau of Investigation must provide the Board any criminal history record information contained in its files pertaining to law enforcement officers or any applicant to a Board certified basic law enforcement academy as described

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in this Act based on fingerprint identification. The Board must make payment of fees to the Department of State Police for each fingerprint card submission in conformance with the requirements of paragraph 22 of Section 55a of the Civil Administrative Code of Illinois.

(h) A police officer who has been certified or granted a valid waiver shall also be decertified or have his or her waiver revoked upon a determination by the Illinois Labor Relations Board State Panel that he or she, while under oath, has knowingly and willfully made false statements as to a material fact going to an element of the offense of murder. If an appeal is filed, the determination shall be stayed.

(1) In the case of an acquittal on a charge of murder, a verified complaint may be filed:

(A) by the defendant; or

(B) by a police officer with personal knowledge of perjured testimony.

The complaint must allege that a police officer, while under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder. The verified complaint must be filed with the Executive Director of the Illinois Law Enforcement Training Standards Board within 2 years of the judgment of acquittal.

(2) Within 30 days, the Executive Director of the Illinois Law Enforcement Training Standards Board shall review the verified complaint and determine whether the verified complaint is frivolous and without merit, or whether further investigation is warranted. The Illinois Law Enforcement Training Standards Board shall notify the officer and the Executive Director of the Illinois Labor Relations Board State Panel of the filing of the complaint and any action taken thereon. If the Executive Director of the Illinois Law Enforcement Training Standards Board determines that the verified complaint is frivolous and without merit, it shall be dismissed. The Executive Director of the Illinois Law Enforcement Training Standards Board has sole discretion to make this determination and this decision is not subject to appeal.

(i) If the Executive Director of the Illinois Law Enforcement Training Standards Board determines that the verified complaint warrants further investigation, he or she shall refer the matter to a task force of investigators created for this purpose. This task force shall consist of 8 sworn police officers: 2 from the Illinois State Police, 2 from the City of Chicago Police Department, 2 from county police departments, and 2 from municipal police departments. These investigators shall have a minimum of 5 years of experience in conducting criminal investigations. The investigators shall be appointed by the Executive Director of the Illinois Law Enforcement Training Standards Board. Any officer or officers acting in this capacity pursuant to this statutory provision will have statewide police authority while acting in this investigative capacity. Their salaries and expenses for the time spent conducting investigations under this paragraph shall be reimbursed by the Illinois Law Enforcement Training Standards Board.

(j) Once the Executive Director of the Illinois Law Enforcement Training Standards Board has determined that an investigation is warranted, the verified complaint shall be assigned to an investigator or investigators. The investigator or investigators shall conduct an investigation of the verified complaint and shall write a report of his or her findings. This report shall be submitted to the Executive Director of the Illinois Labor Relations Board State Panel.

Within 30 days, the Executive Director of the Illinois Labor Relations Board State Panel shall review the investigative report and determine whether sufficient evidence exists to conduct an evidentiary hearing on the verified complaint. If the Executive Director of the Illinois Labor Relations Board State Panel determines upon his or her review of the investigatory report that a hearing should not be conducted, the complaint shall be dismissed. This decision is in the Executive Director's sole discretion, and this dismissal may not be appealed.

If the Executive Director of the Illinois Labor Relations Board State Panel determines that there is sufficient evidence to warrant a hearing, a hearing shall be ordered on the verified complaint, to be conducted by an administrative law judge employed by the Illinois Labor Relations Board State Panel. The Executive Director of the Illinois Labor Relations Board State Panel shall inform the Executive Director of the Illinois Law Enforcement Training Standards Board and the person who filed the complaint of either the dismissal of the complaint or the issuance of the complaint for hearing. The Executive Director shall assign the complaint to the administrative law judge within 30 days of the decision granting a hearing.

(k) In the case of a finding of guilt on the offense of murder, if a new trial is granted on direct appeal, or a state post-conviction evidentiary hearing is ordered, based on a claim that a police officer, under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder, the Illinois Labor Relations Board State Panel shall hold a hearing to determine whether the officer should be decertified if an interested party requests such a hearing within 2 years of

the court's decision. The complaint shall be assigned to an administrative law judge within 30 days so that a hearing can be scheduled.

At the hearing, the accused officer shall be afforded the opportunity to:

- (1) Be represented by counsel of his or her own choosing;
- (2) Be heard in his or her own defense;
- (3) Produce evidence in his or her defense;
- (4) Request that the Illinois Labor Relations Board State Panel compel the attendance of witnesses and production of related documents including but not limited to court documents and records.

Once a case has been set for hearing, the verified complaint shall be referred to the Department of Professional Regulation. That office shall prosecute the verified complaint at the hearing before the administrative law judge. The Department of Professional Regulation shall have the opportunity to produce evidence to support the verified complaint and to request the Illinois Labor Relations Board State Panel to compel the attendance of witnesses and the production of related documents, including, but not limited to, court documents and records. The Illinois Labor Relations Board State Panel shall have the power to issue subpoenas requiring the attendance of and testimony of witnesses and the production of related documents including, but not limited to, court documents and records and shall have the power to administer oaths.

The administrative law judge shall have the responsibility of receiving into evidence relevant testimony and documents, including court records, to support or disprove the allegations made by the person filing the verified complaint and, at the close of the case, hear arguments. If the administrative law judge finds that there is not clear and convincing evidence to support the verified complaint that the police officer has, while under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder, the administrative law judge shall make a written recommendation of dismissal to the Illinois Labor Relations Board State Panel. If the administrative law judge finds that there is clear and convincing evidence that the police officer has, while under oath, knowingly and willfully made false statements as to a material fact that goes to an element of the offense of murder, the administrative law judge shall make a written recommendation so concluding to the Illinois Labor Relations Board State Panel. The hearings shall be transcribed. The Executive Director of the Illinois Law Enforcement Training Standards Board shall be informed of the administrative law judge's recommended findings and decision and the Illinois Labor Relations Board State Panel's subsequent review of the recommendation.

(l) An officer named in any complaint filed pursuant to this Act shall be indemnified for his or her reasonable attorney's fees and costs by his or her employer. These fees shall be paid in a regular and timely manner. The State, upon application by the public employer, shall reimburse the public employer for the accused officer's reasonable attorney's fees and costs. At no time and under no circumstances will the accused officer be required to pay his or her own reasonable attorney's fees or costs.

(m) The accused officer shall not be placed on unpaid status because of the filing or processing of the verified complaint until there is a final non-appealable order sustaining his or her guilt and his or her certification is revoked. Nothing in this Act, however, restricts the public employer from pursuing discipline against the officer in the normal course and under procedures then in place.

(n) The Illinois Labor Relations Board State Panel shall review the administrative law judge's recommended decision and order and determine by a majority vote whether or not there was clear and convincing evidence that the accused officer, while under oath, knowingly and willfully made false statements as to a material fact going to the offense of murder. Within 30 days of service of the administrative law judge's recommended decision and order, the parties may file exceptions to the recommended decision and order and briefs in support of their exceptions with the Illinois Labor Relations Board State Panel. The parties may file responses to the exceptions and briefs in support of the responses no later than 15 days after the service of the exceptions. If exceptions are filed by any of the parties, the Illinois Labor Relations Board State Panel shall review the matter and make a finding to uphold, vacate, or modify the recommended decision and order. If the Illinois Labor Relations Board State Panel concludes that there is clear and convincing evidence that the accused officer, while under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense murder, the Illinois Labor Relations Board State Panel shall inform the Illinois Law Enforcement Training Standards Board and the Illinois Law Enforcement Training Standards Board shall revoke the accused officer's certification. If the accused officer appeals that determination to the Appellate Court, as provided by this Act, he or she may petition the Appellate Court to stay the revocation of his or her certification pending the court's review of the matter.

(o) None of the Illinois Labor Relations Board State Panel's findings or determinations shall set any

precedent in any of its decisions decided pursuant to the Illinois Public Labor Relations Act by the Illinois Labor Relations Board State Panel or the courts.

(p) A party aggrieved by the final order of the Illinois Labor Relations Board State Panel may apply for and obtain judicial review of an order of the Illinois Labor Relations Board State Panel, in accordance with the provisions of the Administrative Review Law, except that such judicial review shall be afforded directly in the Appellate Court for the district in which the accused officer resides. Any direct appeal to the Appellate Court shall be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision.

(q) Interested parties. Only interested parties to the criminal prosecution in which the police officer allegedly, while under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder may file a verified complaint pursuant to this Section. For purposes of this Section, "interested parties" shall be limited to the defendant and any police officer who has personal knowledge that the police officer who is the subject of the complaint has, while under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder.

(r) Semi-annual reports. The Executive Director of the Illinois Labor Relations Board shall submit semi-annual reports to the Governor, President, and Minority Leader of the Senate, and to the Speaker and Minority Leader of the House of Representatives beginning on June 30, 2004, indicating:

- (1) the number of verified complaints received since the date of the last report;
- (2) the number of investigations initiated since the date of the last report;
- (3) the number of investigations concluded since the date of the last report;
- (4) the number of investigations pending as of the reporting date;
- (5) the number of hearings held since the date of the last report; and
- (6) the number of officers decertified since the date of the last report.

(Source: P.A. 93-605, eff. 11-19-03; 93-655, eff. 1-20-04.)

Section 940. The Illinois Municipal Code is amended by changing Sections 10-1-7 and 10-2.1-6 as follows:

(65 ILCS 5/10-1-7) (from Ch. 24, par. 10-1-7)

Sec. 10-1-7. Examination of applicants; disqualifications.

(a) All applicants for offices or places in the classified service, except those mentioned in Section 10-1-17, are subject to examination. The examination shall be public, competitive, and open to all citizens of the United States, with specified limitations as to residence, age, health, habits and moral character.

(b) Residency requirements in effect at the time an individual enters the fire or police service of a municipality (other than a municipality that has more than 1,000,000 inhabitants) cannot be made more restrictive for that individual during his or her period of service for that municipality, or be made a condition of promotion, except for the rank or position of Fire or Police Chief.

(c) No person with a record of misdemeanor convictions except those under Sections 11-1.50, 11-6, 11-7, 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 11-30, 11-35, 12-2, 12-6, 12-15, 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, and 32-8, subdivisions (a)(1) and (a)(2)(C) of Section 11-14.3, and subsections (1), (6) and (8) of Section 24-1 of the Criminal Code of 1961 or arrested for any cause but not convicted on that cause shall be disqualified from taking the examination on grounds of habits or moral character, unless the person is attempting to qualify for a position on the police department, in which case the conviction or arrest may be considered as a factor in determining the person's habits or moral character.

(d) Persons entitled to military preference under Section 10-1-16 shall not be subject to limitations specifying age unless they are applicants for a position as a fireman or a policeman having no previous employment status as a fireman or policeman in the regularly constituted fire or police department of the municipality, in which case they must not have attained their 35th birthday, except any person who has served as an auxiliary police officer under Section 3.1-30-20 for at least 5 years and is under 40 years of age.

(e) All employees of a municipality of less than 500,000 population (except those who would be excluded from the classified service as provided in this Division 1) who are holding that employment as of the date a municipality adopts this Division 1, or as of July 17, 1959, whichever date is the later, and who have held that employment for at least 2 years immediately before that later date, and all firemen and policemen regardless of length of service who were either appointed to their respective positions by the board of fire and police commissioners under the provisions of Division 2 of this Article or who are serving in a position (except as a temporary employee) in the fire or police department in the

municipality on the date a municipality adopts this Division 1, or as of July 17, 1959, whichever date is the later, shall become members of the classified civil service of the municipality without examination.

(f) The examinations shall be practical in their character, and shall relate to those matters that will fairly test the relative capacity of the persons examined to discharge the duties of the positions to which they seek to be appointed. The examinations shall include tests of physical qualifications, health, and (when appropriate) manual skill. If an applicant is unable to pass the physical examination solely as the result of an injury received by the applicant as the result of the performance of an act of duty while working as a temporary employee in the position for which he or she is being examined, however, the physical examination shall be waived and the applicant shall be considered to have passed the examination. No questions in any examination shall relate to political or religious opinions or affiliations. Results of examinations and the eligible registers prepared from the results shall be published by the commission within 60 days after any examinations are held.

(g) The commission shall control all examinations, and may, whenever an examination is to take place, designate a suitable number of persons, either in or not in the official service of the municipality, to be examiners. The examiners shall conduct the examinations as directed by the commission and shall make a return or report of the examinations to the commission. If the appointed examiners are in the official service of the municipality, the examiners shall not receive extra compensation for conducting the examinations. The commission may at any time substitute any other person, whether or not in the service of the municipality, in the place of any one selected as an examiner. The commission members may themselves at any time act as examiners without appointing examiners. The examiners at any examination shall not all be members of the same political party.

(h) In municipalities of 500,000 or more population, no person who has attained his or her 35th birthday shall be eligible to take an examination for a position as a fireman or a policeman unless the person has had previous employment status as a policeman or fireman in the regularly constituted police or fire department of the municipality, except as provided in this Section.

(i) In municipalities of more than 5,000 but not more than 200,000 inhabitants, no person who has attained his or her 35th birthday shall be eligible to take an examination for a position as a fireman or a policeman unless the person has had previous employment status as a policeman or fireman in the regularly constituted police or fire department of the municipality, except as provided in this Section.

(j) In all municipalities, applicants who are 20 years of age and who have successfully completed 2 years of law enforcement studies at an accredited college or university may be considered for appointment to active duty with the police department. An applicant described in this subsection (j) who is appointed to active duty shall not have power of arrest, nor shall the applicant be permitted to carry firearms, until he or she reaches 21 years of age.

(k) In municipalities of more than 500,000 population, applications for examination for and appointment to positions as firefighters or police shall be made available at various branches of the public library of the municipality.

(l) No municipality having a population less than 1,000,000 shall require that any fireman appointed to the lowest rank serve a probationary employment period of longer than one year. The limitation on periods of probationary employment provided in this amendatory Act of 1989 is an exclusive power and function of the State. Pursuant to subsection (h) of Section 6 of Article VII of the Illinois Constitution, a home rule municipality having a population less than 1,000,000 must comply with this limitation on periods of probationary employment, which is a denial and limitation of home rule powers. Notwithstanding anything to the contrary in this Section, the probationary employment period limitation may be extended for a firefighter who is required, as a condition of employment, to be a certified paramedic, during which time the sole reason that a firefighter may be discharged without a hearing is for failing to meet the requirements for paramedic certification.

(Source: P.A. 94-135, eff. 7-7-05; 94-984, eff. 6-30-06.)

(65 ILCS 5/10-2.1-6) (from Ch. 24, par. 10-2.1-6)

Sec. 10-2.1-6. Examination of applicants; disqualifications.

(a) All applicants for a position in either the fire or police department of the municipality shall be under 35 years of age, shall be subject to an examination that shall be public, competitive, and open to all applicants (unless the council or board of trustees by ordinance limit applicants to electors of the municipality, county, state or nation) and shall be subject to reasonable limitations as to residence, health, habits, and moral character. The municipality may not charge or collect any fee from an applicant who has met all prequalification standards established by the municipality for any such position. With respect to a police department, a veteran shall be allowed to exceed the maximum age provision of this Section by the number of years served on active military duty, but by no more than 10 years of active military duty.

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(b) Residency requirements in effect at the time an individual enters the fire or police service of a municipality (other than a municipality that has more than 1,000,000 inhabitants) cannot be made more restrictive for that individual during his period of service for that municipality, or be made a condition of promotion, except for the rank or position of Fire or Police Chief.

(c) No person with a record of misdemeanor convictions except those under Sections 11-1.50, 11-6, 11-7, 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 11-30, 11-35, 12-2, 12-6, 12-15, 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, and 32-8, subdivisions (a)(1) and (a)(2)(C) of Section 11-14.3, and subsections (1), (6) and (8) of Section 24-1 of the Criminal Code of 1961 or arrested for any cause but not convicted on that cause shall be disqualified from taking the examination to qualify for a position in the fire department on grounds of habits or moral character.

(d) The age limitation in subsection (a) does not apply (i) to any person previously employed as a policeman or fireman in a regularly constituted police or fire department of (I) any municipality, regardless of whether the municipality is located in Illinois or in another state, or (II) a fire protection district whose obligations were assumed by a municipality under Section 21 of the Fire Protection District Act, (ii) to any person who has served a municipality as a regularly enrolled volunteer fireman for 5 years immediately preceding the time that municipality begins to use full time firemen to provide all or part of its fire protection service, or (iii) to any person who has served as an auxiliary police officer under Section 3.1-30-20 for at least 5 years and is under 40 years of age, (iv) to any person who has served as a deputy under Section 3-6008 of the Counties Code and otherwise meets necessary training requirements, or (v) to any person who has served as a sworn officer as a member of the Illinois Department of State Police.

(e) Applicants who are 20 years of age and who have successfully completed 2 years of law enforcement studies at an accredited college or university may be considered for appointment to active duty with the police department. An applicant described in this subsection (e) who is appointed to active duty shall not have power of arrest, nor shall the applicant be permitted to carry firearms, until he or she reaches 21 years of age.

(f) Applicants who are 18 years of age and who have successfully completed 2 years of study in fire techniques, amounting to a total of 4 high school credits, within the cadet program of a municipality may be considered for appointment to active duty with the fire department of any municipality.

(g) The council or board of trustees may by ordinance provide that persons residing outside the municipality are eligible to take the examination.

(h) The examinations shall be practical in character and relate to those matters that will fairly test the capacity of the persons examined to discharge the duties of the positions to which they seek appointment. No person shall be appointed to the police or fire department if he or she does not possess a high school diploma or an equivalent high school education. A board of fire and police commissioners may, by its rules, require police applicants to have obtained an associate's degree or a bachelor's degree as a prerequisite for employment. The examinations shall include tests of physical qualifications and health. A board of fire and police commissioners may, by its rules, waive portions of the required examination for police applicants who have previously been full-time sworn officers of a regular police department in any municipal, county, university, or State law enforcement agency, provided they are certified by the Illinois Law Enforcement Training Standards Board and have been with their respective law enforcement agency within the State for at least 2 years. No person shall be appointed to the police or fire department if he or she has suffered the amputation of any limb unless the applicant's duties will be only clerical or as a radio operator. No applicant shall be examined concerning his or her political or religious opinions or affiliations. The examinations shall be conducted by the board of fire and police commissioners of the municipality as provided in this Division 2.1.

(i) No person who is classified by his local selective service draft board as a conscientious objector, or who has ever been so classified, may be appointed to the police department.

(j) No person shall be appointed to the police or fire department unless he or she is a person of good character and not an habitual drunkard, gambler, or a person who has been convicted of a felony or a crime involving moral turpitude. No person, however, shall be disqualified from appointment to the fire department because of his or her record of misdemeanor convictions except those under Sections 11-1.50, 11-6, 11-7, 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 11-30, 11-35, 12-2, 12-6, 12-15, 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, and 32-8, subdivisions (a)(1) and (a)(2)(C) of Section 11-14.3, and subsections (1), (6) and (8) of Section 24-1 of the Criminal Code of 1961 or arrest for any cause without conviction on that cause. Any such person who is in the department may be removed on charges brought and after a trial as provided in this Division 2.1.

(Source: P.A. 95-165, eff. 1-1-08; 95-931, eff. 1-1-09; 96-472, eff. 8-14-09.)

Section 945. The Fire Protection District Act is amended by changing Section 16.06 as follows:  
(70 ILCS 705/16.06) (from Ch. 127 1/2, par. 37.06)

Sec. 16.06. Eligibility for positions in fire department; disqualifications.

(a) All applicants for a position in the fire department of the fire protection district shall be under 35 years of age and shall be subjected to examination, which shall be public, competitive, and free to all applicants, subject to reasonable limitations as to health, habits, and moral character; provided that the foregoing age limitation shall not apply in the case of any person having previous employment status as a fireman in a regularly constituted fire department of any fire protection district, and further provided that each fireman or fire chief who is a member in good standing in a regularly constituted fire department of any municipality which shall be or shall have subsequently been included within the boundaries of any fire protection district now or hereafter organized shall be given a preference for original appointment in the same class, grade or employment over all other applicants. The examinations shall be practical in their character and shall relate to those matters which will fairly test the persons examined as to their relative capacity to discharge the duties of the positions to which they seek appointment. The examinations shall include tests of physical qualifications and health. No applicant, however, shall be examined concerning his political or religious opinions or affiliations. The examinations shall be conducted by the board of fire commissioners.

In any fire protection district that employs full-time firefighters and is subject to a collective bargaining agreement, a person who has not qualified for regular appointment under the provisions of this Section shall not be used as a temporary or permanent substitute for certificated members of a fire district's fire department or for regular appointment as a certificated member of a fire district's fire department unless mutually agreed to by the employee's certified bargaining agent. Such agreement shall be considered a permissive subject of bargaining. Fire protection districts covered by the changes made by this amendatory Act of the 95th General Assembly that are using non-certificated employees as substitutes immediately prior to the effective date of this amendatory Act of the 95th General Assembly may, by mutual agreement with the certified bargaining agent, continue the existing practice or a modified practice and that agreement shall be considered a permissive subject of bargaining.

(b) No person shall be appointed to the fire department unless he or she is a person of good character and not a person who has been convicted of a felony in Illinois or convicted in another jurisdiction for conduct that would be a felony under Illinois law, or convicted of a crime involving moral turpitude. No person, however, shall be disqualified from appointment to the fire department because of his or her record of misdemeanor convictions, except those under Sections 11-1.50, 11-6, 11-7, 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 11-30, 11-35, 12-2, 12-6, 12-15, 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, and 32-8, subdivisions (a)(1) and (a)(2)(C) of Section 11-14.3, and subsections (1), (6), and (8) of Section 24-1 of the Criminal Code of 1961.

(Source: P.A. 95-490, eff. 6-1-08.)

Section 950. The Park District Code is amended by changing Section 8-23 as follows:  
(70 ILCS 1205/8-23)

Sec. 8-23. Criminal background investigations.

(a) An applicant for employment with a park district is required as a condition of employment to authorize an investigation to determine if the applicant has been convicted of any of the enumerated criminal or drug offenses in subsection (c) of this Section or has been convicted, within 7 years of the application for employment with the park district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State. Authorization for the investigation shall be furnished by the applicant to the park district. Upon receipt of this authorization, the park district shall submit the applicant's name, sex, race, date of birth, and social security number to the Department of State Police on forms prescribed by the Department of State Police. The Department of State Police shall conduct a search of the Illinois criminal history records database to ascertain if the applicant being considered for employment has been convicted of committing or attempting to commit any of the enumerated criminal or drug offenses in subsection (c) of this Section or has been convicted of committing or attempting to commit, within 7 years of the application for employment with the park district, any other felony under the laws of this State. The Department of State Police shall charge the park district a fee for conducting the investigation, which fee shall be deposited in the State Police Services Fund and shall not exceed the cost of the inquiry. The applicant shall not be charged a fee by the park district for the investigation.

(b) If the search of the Illinois criminal history record database indicates that the applicant has been

convicted of committing or attempting to commit any of the enumerated criminal or drug offenses in subsection (c) or has been convicted of committing or attempting to commit, within 7 years of the application for employment with the park district, any other felony under the laws of this State, the Department of State Police and the Federal Bureau of Investigation shall furnish, pursuant to a fingerprint based background check, records of convictions, until expunged, to the president of the park district. Any information concerning the record of convictions obtained by the president shall be confidential and may only be transmitted to those persons who are necessary to the decision on whether to hire the applicant for employment. A copy of the record of convictions obtained from the Department of State Police shall be provided to the applicant for employment. Any person who releases any confidential information concerning any criminal convictions of an applicant for employment shall be guilty of a Class A misdemeanor, unless the release of such information is authorized by this Section.

(c) No park district shall knowingly employ a person who has been convicted for committing attempted first degree murder or for committing or attempting to commit first degree murder, a Class X felony, or any one or more of the following offenses: (i) those defined in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-20.1B, 11-20.3, 11-21, 11-30, 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961; (ii) those defined in the Cannabis Control Act, except those defined in Sections 4(a), 4(b), and 5(a) of that Act; (iii) those defined in the Illinois Controlled Substances Act; (iv) those defined in the Methamphetamine Control and Community Protection Act; and (v) any offense committed or attempted in any other state or against the laws of the United States, which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. Further, no park district shall knowingly employ a person who has been found to be the perpetrator of sexual or physical abuse of any minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987. No park district shall knowingly employ a person for whom a criminal background investigation has not been initiated.

(Source: P.A. 93-418, eff. 1-1-04; 94-556, eff. 9-11-05.)

Section 955. The Chicago Park District Act is amended by changing Section 16a-5 as follows:  
(70 ILCS 1505/16a-5)

Sec. 16a-5. Criminal background investigations.

(a) An applicant for employment with the Chicago Park District is required as a condition of employment to authorize an investigation to determine if the applicant has been convicted of any of the enumerated criminal or drug offenses in subsection (c) of this Section or has been convicted, within 7 years of the application for employment with the Chicago Park District, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State. Authorization for the investigation shall be furnished by the applicant to the Chicago Park District. Upon receipt of this authorization, the Chicago Park District shall submit the applicant's name, sex, race, date of birth, and social security number to the Department of State Police on forms prescribed by the Department of State Police. The Department of State Police shall conduct a search of the Illinois criminal history record information database to ascertain if the applicant being considered for employment has been convicted of committing or attempting to commit any of the enumerated criminal or drug offenses in subsection (c) of this Section or has been convicted, of committing or attempting to commit within 7 years of the application for employment with the Chicago Park District, any other felony under the laws of this State. The Department of State Police shall charge the Chicago Park District a fee for conducting the investigation, which fee shall be deposited in the State Police Services Fund and shall not exceed the cost of the inquiry. The applicant shall not be charged a fee by the Chicago Park District for the investigation.

(b) If the search of the Illinois criminal history record database indicates that the applicant has been convicted of committing or attempting to commit any of the enumerated criminal or drug offenses in subsection (c) or has been convicted of committing or attempting to commit, within 7 years of the application for employment with the Chicago Park District, any other felony under the laws of this State, the Department of State Police and the Federal Bureau of Investigation shall furnish, pursuant to a fingerprint based background check, records of convictions, until expunged, to the General Superintendent and Chief Executive Officer of the Chicago Park District. Any information concerning the record of convictions obtained by the General Superintendent and Chief Executive Officer shall be confidential and may only be transmitted to those persons who are necessary to the decision on whether to hire the applicant for employment. A copy of the record of convictions obtained from the Department of State Police shall be provided to the applicant for employment. Any person who releases any

confidential information concerning any criminal convictions of an applicant for employment shall be guilty of a Class A misdemeanor, unless the release of such information is authorized by this Section.

(c) The Chicago Park District may not knowingly employ a person who has been convicted for committing attempted first degree murder or for committing or attempting to commit first degree murder, a Class X felony, or any one or more of the following offenses: (i) those defined in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-20.1B, 11-20.3, 11-21, 11-30, 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961; (ii) those defined in the Cannabis Control Act, except those defined in Sections 4(a), 4(b), and 5(a) of that Act; (iii) those defined in the Illinois Controlled Substances Act; (iv) those defined in the Methamphetamine Control and Community Protection Act; and (v) any offense committed or attempted in any other state or against the laws of the United States, which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. Further, the Chicago Park District may not knowingly employ a person who has been found to be the perpetrator of sexual or physical abuse of any minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987. The Chicago Park District may not knowingly employ a person for whom a criminal background investigation has not been initiated.

(Source: P.A. 93-418, eff. 1-1-04; 94-556, eff. 9-11-05.)

Section 960. The Metropolitan Transit Authority Act is amended by changing Section 28b as follows: (70 ILCS 3605/28b) (from Ch. 111 2/3, par. 328b)

Sec. 28b. Any person applying for a position as a driver of a vehicle owned by a private carrier company which provides public transportation pursuant to an agreement with the Authority shall be required to authorize an investigation by the private carrier company to determine if the applicant has been convicted of any of the following offenses: (i) those offenses defined in Sections 9-1, 9-1.2, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-6, 10-7, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-20.1B, 11-20.3, 11-21, 11-22, 11-30, 12-4.3, 12-4.4, 12-4.5, 12-6, 12-7.1, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.1, 18-1, 18-2, 20-1, 20-1.1, 31A-1, 31A-1.1, and 33A-2, and in subsection (a) and subsection (b), clause (1), of Section 12-4 of the Criminal Code of 1961; (ii) those offenses defined in the Cannabis Control Act except those offenses defined in subsections (a) and (b) of Section 4, and subsection (a) of Section 5 of the Cannabis Control Act (iii) those offenses defined in the Illinois Controlled Substances Act; (iv) those offenses defined in the Methamphetamine Control and Community Protection Act; and (v) any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State would be punishable as one or more of the foregoing offenses. Upon receipt of this authorization, the private carrier company shall submit the applicant's name, sex, race, date of birth, fingerprints and social security number to the Department of State Police on forms prescribed by the Department. The Department of State Police shall conduct an investigation to ascertain if the applicant has been convicted of any of the above enumerated offenses. The Department shall charge the private carrier company a fee for conducting the investigation, which fee shall be deposited in the State Police Services Fund and shall not exceed the cost of the inquiry; and the applicant shall not be charged a fee for such investigation by the private carrier company. The Department of State Police shall furnish, pursuant to positive identification, records of convictions, until expunged, to the private carrier company which requested the investigation. A copy of the record of convictions obtained from the Department shall be provided to the applicant. Any record of conviction received by the private carrier company shall be confidential. Any person who releases any confidential information concerning any criminal convictions of an applicant shall be guilty of a Class A misdemeanor, unless authorized by this Section.

(Source: P.A. 94-556, eff. 9-11-05.)

Section 965. The School Code is amended by changing Sections 2-3.147, 10-22.39, 21-23a, 34-2.1, and 34-84b as follows:

(105 ILCS 5/2-3.147)

Sec. 2-3.147. The Ensuring Success in School Task Force.

(a) In this Section:

"Domestic violence" means abuse by a family or household member, as "abuse" and "family or household members" are defined in Section 103 of the Illinois Domestic Violence Act of 1986.

"Sexual violence" means sexual assault, abuse, or stalking of an adult or minor child proscribed in the Criminal Code of 1961 in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-7.3, 12-7.4, 12-7.5,

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12-12, 12-13, 12-14, 12-14.1, 12-15, and 12-16, including sexual violence committed by perpetrators who are strangers to the victim and sexual violence committed by perpetrators who are known or related by blood or marriage to the victim.

(b) The State Board of Education shall convene an Ensuring Success in School Task Force to develop policies, procedures, and protocols to be adopted by school districts for addressing the educational and related needs of children and youth who are parents, expectant parents, or victims of domestic or sexual violence to ensure their ability to stay in school, stay safe while in school, and successfully complete their education. The State Board of Education shall be the agency responsible for providing staff and administrative support to the task force.

(c) The Ensuring Success in School Task Force shall do all of the following:

(1) Conduct a thorough examination of the barriers to school attendance, safety, and completion for children and youth who are parents, expectant parents, or victims of domestic or sexual violence.

(2) Conduct a discovery process that includes relevant research and the identification of effective policies, protocols, and programs within this State and elsewhere.

(3) Conduct meetings and public hearings in geographically diverse locations throughout the State to ensure the maximum input from area advocates and service providers, from local education agencies, and from children and youth who are parents, expectant parents, or victims of domestic or sexual violence and their parents or guardians.

(4) Establish and adhere to procedures and protocols to allow children and youth who are parents, expectant parents, or victims of domestic or sexual violence, their parents or guardians, and advocates who work on behalf of such children and youth to participate in the task force anonymously and confidentially.

(5) Invite the testimony of and confer with experts on relevant topics.

(6) Produce a report of the task force's findings on best practices and policies, which shall include a plan with a phased and prioritized implementation timetable with focus on ensuring the successful and safe completion of school for children and youth who are parents, expectant parents, or victims of domestic or sexual violence. The task force shall submit a report to the General Assembly on or before December 1, 2009 on its findings, recommendations, and implementation plan. Any task force reports shall be published on the State Board of Education's Internet website on the date the report is delivered to the General Assembly.

(7) Recommend new legislation or proposed rules developed by the task force.

(d) The President of the Senate and the Speaker of the House of Representatives shall each appoint one co-chairperson of the Ensuring Success in School Task Force. In addition to the 2 co-chairpersons, the task force shall be comprised of each of the following members, appointed by the State Board of Education, and shall be representative of the geographic, racial, ethnic, and cultural diversity of this State:

(1) A representative of a statewide nonprofit, nongovernmental domestic violence organization.

(2) A domestic violence victims' advocate or service provider from a different nonprofit, nongovernmental domestic violence organization.

(3) A representative of a statewide nonprofit, nongovernmental sexual assault organization.

(4) A sexual assault victims' advocate or service provider from a different nonprofit, nongovernmental sexual assault organization.

(5) A teen parent advocate or service provider from a nonprofit, nongovernmental organization.

(6) A school social worker.

(7) A school psychologist.

(8) A school counselor.

(9) A representative of a statewide professional teachers' organization.

(10) A representative of a different statewide professional teachers' organization.

(11) A representative of a statewide organization that represents school boards.

(12) A representative of a statewide organization representing principals.

(13) A representative of City of Chicago School District 299.

(14) A representative of a nonprofit, nongovernmental youth services provider.

(15) A representative of a statewide nonprofit, nongovernmental multi-issue advocacy organization with expertise in a cross-section of relevant issues.

(16) An alternative education service provider.

(17) A representative from a regional office of education.

(18) A truancy intervention services provider.

(19) A youth who is a parent or expectant parent directly affected by the issues, problems, and concerns of staying in school and successfully completing his or her education through high school.

(20) A youth who is a victim of domestic or sexual violence directly affected by the issues, problems, and concerns of staying in school and successfully completing his or her education.

(21) A parent or guardian of a child or youth who is a parent or expectant parent directly affected by the issues, problems, and concerns of staying in school and successfully completing his or her education.

(22) A parent or guardian of a child or youth who is a victim of domestic or sexual violence directly affected by the issues, problems, and concerns of staying in school and successfully completing his or her education.

The task force shall also consist of one member appointed by the Minority Leader of the Senate, one member appointed by the Minority Leader of the House of Representatives, the State Superintendent of Education, the Secretary of Human Services, the Director of Healthcare and Family Services, the Director of Children and Family Services, and the Director of Public Health or their designees.

(e) Members of the Ensuring Success in School Task Force shall receive no compensation for their participation, but may be reimbursed by the State Board of Education for expenses in connection with their participation, including travel, if funds are available. However, members of the task force who are youth who are parents, expectant parents, or victims of domestic or sexual violence and the parents or guardians of such youth shall be reimbursed for their travel expenses connected to their participation in the task force.

(Source: P.A. 95-558, eff. 8-30-07; 95-876, eff. 8-21-08; 96-364, eff. 8-13-09.)

(105 ILCS 5/10-22.39)

Sec. 10-22.39. In-service training programs.

(a) To conduct in-service training programs for teachers.

(b) In addition to other topics at in-service training programs, school guidance counselors, teachers and other school personnel who work with pupils in grades 7 through 12 shall be trained to identify the warning signs of suicidal behavior in adolescents and teens and shall be taught appropriate intervention and referral techniques.

(c) School guidance counselors, nurses, teachers and other school personnel who work with pupils may be trained to have a basic knowledge of matters relating to acquired immunodeficiency syndrome (AIDS), including the nature of the disease, its causes and effects, the means of detecting it and preventing its transmission, and the availability of appropriate sources of counseling and referral, and any other information that may be appropriate considering the age and grade level of such pupils. The School Board shall supervise such training. The State Board of Education and the Department of Public Health shall jointly develop standards for such training.

(d) In this subsection (d):

"Domestic violence" means abuse by a family or household member, as "abuse" and "family or household members" are defined in Section 103 of the Illinois Domestic Violence Act of 1986.

"Sexual violence" means sexual assault, abuse, or stalking of an adult or minor child proscribed in the Criminal Code of 1961 in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-7.3, 12-7.4, 12-7.5, 12-12, 12-13, 12-14, 12-14.1, 12-15, and 12-16, including sexual violence committed by perpetrators who are strangers to the victim and sexual violence committed by perpetrators who are known or related by blood or marriage to the victim.

At least once every 2 years, an in-service training program for school personnel who work with pupils, including, but not limited to, school and school district administrators, teachers, school guidance counselors, school social workers, school counselors, school psychologists, and school nurses, must be conducted by persons with expertise in domestic and sexual violence and the needs of expectant and parenting youth and shall include training concerning (i) communicating with and listening to youth victims of domestic or sexual violence and expectant and parenting youth, (ii) connecting youth victims of domestic or sexual violence and expectant and parenting youth to appropriate in-school services and other agencies, programs, and services as needed, and (iii) implementing the school district's policies, procedures, and protocols with regard to such youth, including confidentiality. At a minimum, school personnel must be trained to understand, provide information and referrals, and address issues pertaining to youth who are parents, expectant parents, or victims of domestic or sexual violence.

(e) At least every 2 years, an in-service training program for school personnel who work with pupils

must be conducted by persons with expertise in anaphylactic reactions and management.

(f) ~~(e)~~ At least once every 2 years, a school board shall conduct in-service training on educator ethics, teacher-student conduct, and school employee-student conduct for all personnel.

(Source: P.A. 95-558, eff. 8-30-07; 96-349, eff. 8-13-09; 96-431, eff. 8-13-09; revised 9-4-09.)

(105 ILCS 5/21-23a) (from Ch. 122, par. 21-23a)

Sec. 21-23a. Conviction of certain offenses as grounds for revocation of certificate.

(a) Whenever the holder of any certificate issued pursuant to this Article has been convicted of any sex offense or narcotics offense as defined in this Section, the State Superintendent of Education shall forthwith suspend the certificate. If the conviction is reversed and the holder is acquitted of the offense in a new trial or the charges against him are dismissed, the suspending authority shall forthwith terminate the suspension of the certificate. When the conviction becomes final, the State Superintendent of Education shall forthwith revoke the certificate. "Sex offense" as used in this Section means any one or more of the following offenses: (1) any offense defined in Sections 11-6, ~~and~~ 11-9 through 11-9.5, inclusive, and 11-30, Sections 11-14 through 11-21, inclusive, Sections 11-23 (if punished as a Class 3 felony), 11-24, 11-25, and 11-26, and Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-4.9, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-32, and 12-33 of the Criminal Code of 1961; (2) any attempt to commit any of the foregoing offenses, and (3) any offense committed or attempted in any other state which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. "Narcotics offense" as used in this Section means any one or more of the following offenses: (1) any offense defined in the Cannabis Control Act, except those defined in Sections 4(a), 4(b) and 5(a) of that Act and any offense for which the holder of any certificate is placed on probation under the provisions of Section 10 of that Act, provided that if the terms and conditions of probation required by the court are not fulfilled, the offense is not eligible for this exception; (2) any offense defined in the Illinois Controlled Substances Act, except any offense for which the holder of any certificate is placed on probation under the provisions of Section 410 of that Act, provided that if the terms and conditions of probation required by the court are not fulfilled, the offense is not eligible for this exception; (3) any offense defined in the Methamphetamine Control and Community Protection Act, except any offense for which the holder of any certificate is placed on probation under the provision of Section 70 of that Act, provided that if the terms and conditions of probation required by the court are not fulfilled, the offense is not eligible for this exception; (4) any attempt to commit any of the foregoing offenses; and (5) any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. The changes made by this amendatory Act of the 96th General Assembly to the definition of "narcotics offense" in this subsection (a) are declaratory of existing law.

(b) Whenever the holder of a certificate issued pursuant to this Article has been convicted of first degree murder, attempted first degree murder, conspiracy to commit first degree murder, attempted conspiracy to commit first degree murder, or a Class X felony or any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses, the State Superintendent of Education shall forthwith suspend the certificate. If the conviction is reversed and the holder is acquitted of that offense in a new trial or the charges that he or she committed that offense are dismissed, the State Superintendent of Education shall forthwith terminate the suspension of the certificate. When the conviction becomes final, the State Superintendent of Education shall forthwith revoke the certificate.

(Source: P.A. 96-431, eff. 8-13-09.)

(105 ILCS 5/34-2.1) (from Ch. 122, par. 34-2.1)

Sec. 34-2.1. Local School Councils - Composition - Voter-Eligibility - Elections - Terms.

(a) A local school council shall be established for each attendance center within the school district. Each local school council shall consist of the following 11 voting members: the principal of the attendance center, 2 teachers employed and assigned to perform the majority of their employment duties at the attendance center, 6 parents of students currently enrolled at the attendance center and 2 community residents. Neither the parents nor the community residents who serve as members of the local school council shall be employees of the Board of Education. In each secondary attendance center, the local school council shall consist of 12 voting members -- the 11 voting members described above and one full-time student member, appointed as provided in subsection (m) below. In the event that the chief executive officer of the Chicago School Reform Board of Trustees determines that a local school council is not carrying out its financial duties effectively, the chief executive officer is authorized to appoint a representative of the business community with experience in finance and management to serve as an advisor to the local school council for the purpose of providing advice and assistance to the local school council on fiscal matters. The advisor shall have access to relevant financial records of the local

school council. The advisor may attend executive sessions. The chief executive officer shall issue a written policy defining the circumstances under which a local school council is not carrying out its financial duties effectively.

(b) Within 7 days of January 11, 1991, the Mayor shall appoint the members and officers (a Chairperson who shall be a parent member and a Secretary) of each local school council who shall hold their offices until their successors shall be elected and qualified. Members so appointed shall have all the powers and duties of local school councils as set forth in this amendatory Act of 1991. The Mayor's appointments shall not require approval by the City Council.

The membership of each local school council shall be encouraged to be reflective of the racial and ethnic composition of the student population of the attendance center served by the local school council.

(c) Beginning with the 1995-1996 school year and in every even-numbered year thereafter, the Board shall set second semester Parent Report Card Pick-up Day for Local School Council elections and may schedule elections at year-round schools for the same dates as the remainder of the school system. Elections shall be conducted as provided herein by the Board of Education in consultation with the local school council at each attendance center.

(d) Beginning with the 1995-96 school year, the following procedures shall apply to the election of local school council members at each attendance center:

(i) The elected members of each local school council shall consist of the 6 parent members and the 2 community resident members.

(ii) Each elected member shall be elected by the eligible voters of that attendance center to serve for a two-year term commencing on July 1 immediately following the election described in subsection (c). Eligible voters for each attendance center shall consist of the parents and community residents for that attendance center.

(iii) Each eligible voter shall be entitled to cast one vote for up to a total of 5 candidates, irrespective of whether such candidates are parent or community resident candidates.

(iv) Each parent voter shall be entitled to vote in the local school council election at each attendance center in which he or she has a child currently enrolled. Each community resident voter shall be entitled to vote in the local school council election at each attendance center for which he or she resides in the applicable attendance area or voting district, as the case may be.

(v) Each eligible voter shall be entitled to vote once, but not more than once, in the local school council election at each attendance center at which the voter is eligible to vote.

(vi) The 2 teacher members of each local school council shall be appointed as provided in subsection (l) below each to serve for a two-year term coinciding with that of the elected parent and community resident members.

(vii) At secondary attendance centers, the voting student member shall be appointed as provided in subsection (m) below to serve for a one-year term coinciding with the beginning of the terms of the elected parent and community members of the local school council.

(e) The Council shall publicize the date and place of the election by posting notices at the attendance center, in public places within the attendance boundaries of the attendance center and by distributing notices to the pupils at the attendance center, and shall utilize such other means as it deems necessary to maximize the involvement of all eligible voters.

(f) Nomination. The Council shall publicize the opening of nominations by posting notices at the attendance center, in public places within the attendance boundaries of the attendance center and by distributing notices to the pupils at the attendance center, and shall utilize such other means as it deems necessary to maximize the involvement of all eligible voters. Not less than 2 weeks before the election date, persons eligible to run for the Council shall submit their name, date of birth, social security number, if available, and some evidence of eligibility to the Council. The Council shall encourage nomination of candidates reflecting the racial/ethnic population of the students at the attendance center. Each person nominated who runs as a candidate shall disclose, in a manner determined by the Board, any economic interest held by such person, by such person's spouse or children, or by each business entity in which such person has an ownership interest, in any contract with the Board, any local school council or any public school in the school district. Each person nominated who runs as a candidate shall also disclose, in a manner determined by the Board, if he or she ever has been convicted of any of the offenses specified in subsection (c) of Section 34-18.5; provided that neither this provision nor any other provision of this Section shall be deemed to require the disclosure of any information that is contained in any law enforcement record or juvenile court record that is confidential or whose accessibility or disclosure is restricted or prohibited under Section 5-901 or 5-905 of the Juvenile Court Act of 1987. Failure to make such disclosure shall render a person ineligible for election or to serve on the local school council. The same disclosure shall be required of persons under consideration for appointment to

the Council pursuant to subsections (l) and (m) of this Section.

(f-5) Notwithstanding disclosure, a person who has been convicted of any of the following offenses at any time shall be ineligible for election or appointment to a local school council and ineligible for appointment to a local school council pursuant to subsections (l) and (m) of this Section: (i) those defined in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9.1, 11-14.4, 11-16, 11-17.1, 11-19, 11-19.1, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15, or 12-16, or subdivision (a)(2) of Section 11-14.3, of the Criminal Code of 1961 or (ii) any offense committed or attempted in any other state or against the laws of the United States, which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. Notwithstanding disclosure, a person who has been convicted of any of the following offenses within the 10 years previous to the date of nomination or appointment shall be ineligible for election or appointment to a local school council: (i) those defined in Section 401.1, 405.1, or 405.2 of the Illinois Controlled Substances Act or (ii) any offense committed or attempted in any other state or against the laws of the United States, which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses.

Immediately upon election or appointment, incoming local school council members shall be required to undergo a criminal background investigation, to be completed prior to the member taking office, in order to identify any criminal convictions under the offenses enumerated in Section 34-18.5. The investigation shall be conducted by the Department of State Police in the same manner as provided for in Section 34-18.5. However, notwithstanding Section 34-18.5, the social security number shall be provided only if available. If it is determined at any time that a local school council member or member-elect has been convicted of any of the offenses enumerated in this Section or failed to disclose a conviction of any of the offenses enumerated in Section 34-18.5, the general superintendent shall notify the local school council member or member-elect of such determination and the local school council member or member-elect shall be removed from the local school council by the Board, subject to a hearing, convened pursuant to Board rule, prior to removal.

(g) At least one week before the election date, the Council shall publicize, in the manner provided in subsection (e), the names of persons nominated for election.

(h) Voting shall be in person by secret ballot at the attendance center between the hours of 6:00 a.m. and 7:00 p.m.

(i) Candidates receiving the highest number of votes shall be declared elected by the Council. In cases of a tie, the Council shall determine the winner by lot.

(j) The Council shall certify the results of the election and shall publish the results in the minutes of the Council.

(k) The general superintendent shall resolve any disputes concerning election procedure or results and shall ensure that, except as provided in subsections (e) and (g), no resources of any attendance center shall be used to endorse or promote any candidate.

(l) Beginning with the 1995-1996 school year and in every even numbered year thereafter, the Board shall appoint 2 teacher members to each local school council. These appointments shall be made in the following manner:

(i) The Board shall appoint 2 teachers who are employed and assigned to perform the majority of their employment duties at the attendance center to serve on the local school council of the attendance center for a two-year term coinciding with the terms of the elected parent and community members of that local school council. These appointments shall be made from among those teachers who are nominated in accordance with subsection (f).

(ii) A non-binding, advisory poll to ascertain the preferences of the school staff regarding appointments of teachers to the local school council for that attendance center shall be conducted in accordance with the procedures used to elect parent and community Council representatives. At such poll, each member of the school staff shall be entitled to indicate his or her preference for up to 2 candidates from among those who submitted statements of candidacy as described above. These preferences shall be advisory only and the Board shall maintain absolute discretion to appoint teacher members to local school councils, irrespective of the preferences expressed in any such poll.

(iii) In the event that a teacher representative is unable to perform his or her employment duties at the school due to illness, disability, leave of absence, disciplinary action, or any other reason, the Board shall declare a temporary vacancy and appoint a replacement teacher representative to serve on the local school council until such time as the teacher member originally appointed pursuant to this subsection (l) resumes service at the attendance center or for the remainder of the term. The replacement teacher representative shall be appointed in the same manner and by the

same procedures as teacher representatives are appointed in subdivisions (i) and (ii) of this subsection (l).

(m) Beginning with the 1995-1996 school year, and in every year thereafter, the Board shall appoint one student member to each secondary attendance center. These appointments shall be made in the following manner:

(i) Appointments shall be made from among those students who submit statements of candidacy to the principal of the attendance center, such statements to be submitted commencing on the first day of the twentieth week of school and continuing for 2 weeks thereafter. The form and manner of such candidacy statements shall be determined by the Board.

(ii) During the twenty-second week of school in every year, the principal of each attendance center shall conduct a non-binding, advisory poll to ascertain the preferences of the school students regarding the appointment of a student to the local school council for that attendance center. At such poll, each student shall be entitled to indicate his or her preference for up to one candidate from among those who submitted statements of candidacy as described above. The Board shall promulgate rules to ensure that these non-binding, advisory polls are conducted in a fair and equitable manner and maximize the involvement of all school students. The preferences expressed in these non-binding, advisory polls shall be transmitted by the principal to the Board. However, these preferences shall be advisory only and the Board shall maintain absolute discretion to appoint student members to local school councils, irrespective of the preferences expressed in any such poll.

(iii) For the 1995-96 school year only, appointments shall be made from among those students who submitted statements of candidacy to the principal of the attendance center during the first 2 weeks of the school year. The principal shall communicate the results of any nonbinding, advisory poll to the Board. These results shall be advisory only, and the Board shall maintain absolute discretion to appoint student members to local school councils, irrespective of the preferences expressed in any such poll.

(n) The Board may promulgate such other rules and regulations for election procedures as may be deemed necessary to ensure fair elections.

(o) In the event that a vacancy occurs during a member's term, the Council shall appoint a person eligible to serve on the Council, to fill the unexpired term created by the vacancy, except that any teacher vacancy shall be filled by the Board after considering the preferences of the school staff as ascertained through a non-binding advisory poll of school staff.

(p) If less than the specified number of persons is elected within each candidate category, the newly elected local school council shall appoint eligible persons to serve as members of the Council for two-year terms.

(q) The Board shall promulgate rules regarding conflicts of interest and disclosure of economic interests which shall apply to local school council members and which shall require reports or statements to be filed by Council members at regular intervals with the Secretary of the Board. Failure to comply with such rules or intentionally falsifying such reports shall be grounds for disqualification from local school council membership. A vacancy on the Council for disqualification may be so declared by the Secretary of the Board. Rules regarding conflicts of interest and disclosure of economic interests promulgated by the Board shall apply to local school council members. No less than 45 days prior to the deadline, the general superintendent shall provide notice, by mail, to each local school council member of all requirements and forms for compliance with economic interest statements.

(r) (1) If a parent member of a local school council ceases to have any child enrolled in the attendance center governed by the Local School Council due to the graduation or voluntary transfer of a child or children from the attendance center, the parent's membership on the Local School Council and all voting rights are terminated immediately as of the date of the child's graduation or voluntary transfer. If the child of a parent member of a local school council dies during the member's term in office, the member may continue to serve on the local school council for the balance of his or her term. Further, a local school council member may be removed from the Council by a majority vote of the Council as provided in subsection (c) of Section 34-2.2 if the Council member has missed 3 consecutive regular meetings, not including committee meetings, or 5 regular meetings in a 12 month period, not including committee meetings. If a parent member of a local school council ceases to be eligible to serve on the Council for any other reason, he or she shall be removed by the Board subject to a hearing, convened pursuant to Board rule, prior to removal. A vote to remove a Council member by the local school council shall only be valid if the Council member has been notified personally or by certified mail, mailed to the person's last known address, of the Council's intent to vote on the Council member's removal at least 7 days prior to the vote. The Council member in question shall have the right to explain his or her actions and shall be eligible to vote on the question of his or her removal from the Council. The provisions of this

subsection shall be contained within the petitions used to nominate Council candidates.

(2) A person may continue to serve as a community resident member of a local school council as long as he or she resides in the attendance area served by the school and is not employed by the Board nor is a parent of a student enrolled at the school. If a community resident member ceases to be eligible to serve on the Council, he or she shall be removed by the Board subject to a hearing, convened pursuant to Board rule, prior to removal.

(3) A person may continue to serve as a teacher member of a local school council as long as he or she is employed and assigned to perform a majority of his or her duties at the school, provided that if the teacher representative resigns from employment with the Board or voluntarily transfers to another school, the teacher's membership on the local school council and all voting rights are terminated immediately as of the date of the teacher's resignation or upon the date of the teacher's voluntary transfer to another school. If a teacher member of a local school council ceases to be eligible to serve on a local school council for any other reason, that member shall be removed by the Board subject to a hearing, convened pursuant to Board rule, prior to removal.

(Source: P.A. 95-1015, eff. 12-15-08.)

(105 ILCS 5/34-84b) (from Ch. 122, par. 34-84b)

Sec. 34-84b. Conviction of sex or narcotics offense, first degree murder, attempted first degree murder, or Class X felony as grounds for revocation of certificate.

(a) Whenever the holder of any certificate issued by the board of education has been convicted of any sex offense or narcotics offense as defined in this Section, the board of education shall forthwith suspend the certificate. If the conviction is reversed and the holder is acquitted of the offense in a new trial or the charges against him are dismissed, the board shall forthwith terminate the suspension of the certificate. When the conviction becomes final, the board shall forthwith revoke the certificate. "Sex offense" as used in this Section means any one or more of the following offenses: (1) any offense defined in Sections 11-6, ~~and 11-9, and 11-30, and~~ Sections 11-14 through 11-21, inclusive, and Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the Criminal Code of 1961; (2) any attempt to commit any of the foregoing offenses, and (3) any offense committed or attempted in any other state which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. "Narcotics offense" as used in this Section means any one or more of the following offenses: (1) any offense defined in the Cannabis Control Act except those defined in Sections 4(a), 4(b) and 5(a) of that Act and any offense for which the holder of any certificate is placed on probation under the provisions of Section 10 of that Act and fulfills the terms and conditions of probation as may be required by the court; (2) any offense defined in the Illinois Controlled Substances Act except any offense for which the holder of any certificate is placed on probation under the provisions of Section 410 of that Act and fulfills the terms and conditions of probation as may be required by the court; (3) any offense defined in the Methamphetamine Control and Community Protection Act except any offense for which the holder of any certificate is placed on probation under the provision of Section 70 of that Act and fulfills the terms and conditions of probation as may be required by the court; (4) any attempt to commit any of the foregoing offenses; and (5) any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses.

(b) Whenever the holder of any certificate issued by the board of education or pursuant to Article 21 or any other provisions of the School Code has been convicted of first degree murder, attempted first degree murder, or a Class X felony, the board of education or the State Superintendent of Education shall forthwith suspend the certificate. If the conviction is reversed and the holder is acquitted of that offense in a new trial or the charges that he or she committed that offense are dismissed, the suspending authority shall forthwith terminate the suspension of the certificate. When the conviction becomes final, the State Superintendent of Education shall forthwith revoke the certificate. The stated offenses of "first degree murder", "attempted first degree murder", and "Class X felony" referred to in this Section include any offense committed in another state that, if committed in this State, would have been punishable as any one of the stated offenses.

(Source: P.A. 94-556, eff. 9-11-05.)

Section 970. The Medical School Matriculant Criminal History Records Check Act is amended by changing Section 5 as follows:

(110 ILCS 57/5)

Sec. 5. Definitions.

"Matriculant" means an individual who is conditionally admitted as a student to a medical school located in Illinois, pending the medical school's consideration of his or her criminal history records

check under this Act.

"Sex offender" means any person who is convicted pursuant to Illinois law or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law with any of the following sex offenses set forth in the Criminal Code of 1961:

- (1) Indecent solicitation of a child.
- (2) Sexual exploitation of a child.
- (3) Custodial sexual misconduct.
- (4) Exploitation of a child.
- (5) Child pornography.
- (6) Aggravated child pornography.

"Violent felony" means any of the following offenses, as defined by the Criminal Code of 1961:

- (1) First degree murder.
- (2) Second degree murder.
- (3) Predatory criminal sexual assault of a child.
- (4) Aggravated criminal sexual assault.
- (5) Criminal sexual assault.
- (6) Aggravated arson.
- (7) Aggravated kidnapping.
- (8) Kidnapping.
- (9) Aggravated battery resulting in great bodily harm or permanent disability or disfigurement.

(Source: P.A. 94-709, eff. 12-5-05.)

Section 975. The Illinois Insurance Code is amended by changing Sections 356e and 367 as follows:  
(215 ILCS 5/356e) (from Ch. 73, par. 968e)

Sec. 356e. Victims of certain offenses.

(1) No policy of accident and health insurance, which provides benefits for hospital or medical expenses based upon the actual expenses incurred, delivered or issued for delivery to any person in this State shall contain any specific exception to coverage which would preclude the payment under that policy of actual expenses incurred in the examination and testing of a victim of an offense defined in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, as now or hereafter amended, or an attempt to commit such offense to establish that sexual contact did occur or did not occur, and to establish the presence or absence of sexually transmitted disease or infection, and examination and treatment of injuries and trauma sustained by a victim of such offense arising out of the offense. Every policy of accident and health insurance which specifically provides benefits for routine physical examinations shall provide full coverage for expenses incurred in the examination and testing of a victim of an offense defined in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, as now or hereafter amended, or an attempt to commit such offense as set forth in this Section. This Section shall not apply to a policy which covers hospital and medical expenses for specified illnesses or injuries only.

(2) For purposes of enabling the recovery of State funds, any insurance carrier subject to this Section shall upon reasonable demand by the Department of Public Health disclose the names and identities of its insureds entitled to benefits under this provision to the Department of Public Health whenever the Department of Public Health has determined that it has paid, or is about to pay, hospital or medical expenses for which an insurance carrier is liable under this Section. All information received by the Department of Public Health under this provision shall be held on a confidential basis and shall not be subject to subpoena and shall not be made public by the Department of Public Health or used for any purpose other than that authorized by this Section.

(3) Whenever the Department of Public Health finds that it has paid all or part of any hospital or medical expenses which an insurance carrier is obligated to pay under this Section, the Department of Public Health shall be entitled to receive reimbursement for its payments from such insurance carrier provided that the Department of Public Health has notified the insurance carrier of its claims before the carrier has paid such benefits to its insureds or in behalf of its insureds.

(Source: P.A. 89-187, eff. 7-19-95.)

(215 ILCS 5/367) (from Ch. 73, par. 979)

Sec. 367. Group accident and health insurance.

(1) Group accident and health insurance is hereby declared to be that form of accident and health insurance covering not less than 2 employees, members, or employees of members, written under a master policy issued to any governmental corporation, unit, agency or department thereof, or to any

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corporation, copartnership, individual employer, or to any association upon application of an executive officer or trustee of such association having a constitution or bylaws and formed in good faith for purposes other than that of obtaining insurance, where officers, members, employees, employees of members or classes or department thereof, may be insured for their individual benefit. In addition a group accident and health policy may be written to insure any group which may be insured under a group life insurance policy. The term "employees" shall include the officers, managers and employees of subsidiary or affiliated corporations, and the individual proprietors, partners and employees of affiliated individuals and firms, when the business of such subsidiary or affiliated corporations, firms or individuals, is controlled by a common employer through stock ownership, contract or otherwise.

(2) Any insurance company authorized to write accident and health insurance in this State shall have power to issue group accident and health policies. No policy of group accident and health insurance may be issued or delivered in this State unless a copy of the form thereof shall have been filed with the department and approved by it in accordance with Section 355, and it contains in substance those provisions contained in Sections 357.1 through 357.30 as may be applicable to group accident and health insurance and the following provisions:

(a) A provision that the policy, the application of the employer, or executive officer or trustee of any association, and the individual applications, if any, of the employees, members or employees of members insured shall constitute the entire contract between the parties, and that all statements made by the employer, or the executive officer or trustee, or by the individual employees, members or employees of members shall (in the absence of fraud) be deemed representations and not warranties, and that no such statement shall be used in defense to a claim under the policy, unless it is contained in a written application.

(b) A provision that the insurer will issue to the employer, or to the executive officer or trustee of the association, for delivery to the employee, member or employee of a member, who is insured under such policy, an individual certificate setting forth a statement as to the insurance protection to which he is entitled and to whom payable.

(c) A provision that to the group or class thereof originally insured shall be added from time to time all new employees of the employer, members of the association or employees of members eligible to and applying for insurance in such group or class.

(3) Anything in this code to the contrary notwithstanding, any group accident and health policy may provide that all or any portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services, may, at the insurer's option, be paid directly to the hospital or person rendering such services; but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance so paid. Nothing in this subsection (3) shall prohibit an insurer from providing incentives for insureds to utilize the services of a particular hospital or person.

(4) Special group policies may be issued to school districts providing medical or hospital service, or both, for pupils of the district injured while participating in any athletic activity under the jurisdiction of or sponsored or controlled by the district or the authorities of any school thereof. The provisions of this Section governing the issuance of group accident and health insurance shall, insofar as applicable, control the issuance of such policies issued to schools.

(5) No policy of group accident and health insurance may be issued or delivered in this State unless it provides that upon the death of the insured employee or group member the dependents' coverage, if any, continues for a period of at least 90 days subject to any other policy provisions relating to termination of dependents' coverage.

(6) No group hospital policy covering miscellaneous hospital expenses issued or delivered in this State shall contain any exception or exclusion from coverage which would preclude the payment of expenses incurred for the processing and administration of blood and its components.

(7) No policy of group accident and health insurance, delivered in this State more than 120 days after the effective day of the Section, which provides inpatient hospital coverage for sicknesses shall exclude from such coverage the treatment of alcoholism. This subsection shall not apply to a policy which covers only specified sicknesses.

(8) No policy of group accident and health insurance, which provides benefits for hospital or medical expenses based upon the actual expenses incurred, issued or delivered in this State shall contain any specific exception to coverage which would preclude the payment of actual expenses incurred in the examination and testing of a victim of an offense defined in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, or an attempt to commit such offense, to establish that sexual contact did occur or did not occur, and to establish the presence or absence of sexually transmitted disease or infection, and examination and treatment of injuries and trauma sustained by the

victim of such offense, arising out of the offense. Every group policy of accident and health insurance which specifically provides benefits for routine physical examinations shall provide full coverage for expenses incurred in the examination and testing of a victim of an offense defined in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, or an attempt to commit such offense, as set forth in this Section. This subsection shall not apply to a policy which covers hospital and medical expenses for specified illnesses and injuries only.

(9) For purposes of enabling the recovery of State funds, any insurance carrier subject to this Section shall upon reasonable demand by the Department of Public Health disclose the names and identities of its insureds entitled to benefits under this provision to the Department of Public Health whenever the Department of Public Health has determined that it has paid, or is about to pay, hospital or medical expenses for which an insurance carrier is liable under this Section. All information received by the Department of Public Health under this provision shall be held on a confidential basis and shall not be subject to subpoena and shall not be made public by the Department of Public Health or used for any purpose other than that authorized by this Section.

(10) Whenever the Department of Public Health finds that it has paid all or part of any hospital or medical expenses which an insurance carrier is obligated to pay under this Section, the Department of Public Health shall be entitled to receive reimbursement for its payments from such insurance carrier provided that the Department of Public Health has notified the insurance carrier of its claim before the carrier has paid the benefits to its insureds or the insureds' assignees.

(11) (a) No group hospital, medical or surgical expense policy shall contain any provision whereby benefits otherwise payable thereunder are subject to reduction solely on account of the existence of similar benefits provided under other group or group-type accident and sickness insurance policies where such reduction would operate to reduce total benefits payable under these policies below an amount equal to 100% of total allowable expenses provided under these policies.

(b) When dependents of insureds are covered under 2 policies, both of which contain coordination of benefits provisions, benefits of the insured whose birthday falls earlier in the year are determined before those of the policy of the insured whose birthday falls later in the year. Birthday, as used herein, refers only to the month and day in a calendar year, not the year in which the person was born. The Department of Insurance shall promulgate rules defining the order of benefit determination pursuant to this paragraph (b).

(12) Every group policy under this Section shall be subject to the provisions of Sections 356g and 356n of this Code.

(13) No accident and health insurer providing coverage for hospital or medical expenses on an expense incurred basis shall deny reimbursement for an otherwise covered expense incurred for any organ transplantation procedure solely on the basis that such procedure is deemed experimental or investigational unless supported by the determination of the Office of Health Care Technology Assessment within the Agency for Health Care Policy and Research within the federal Department of Health and Human Services that such procedure is either experimental or investigational or that there is insufficient data or experience to determine whether an organ transplantation procedure is clinically acceptable. If an accident and health insurer has made written request, or had one made on its behalf by a national organization, for determination by the Office of Health Care Technology Assessment within the Agency for Health Care Policy and Research within the federal Department of Health and Human Services as to whether a specific organ transplantation procedure is clinically acceptable and said organization fails to respond to such a request within a period of 90 days, the failure to act may be deemed a determination that the procedure is deemed to be experimental or investigational.

(14) Whenever a claim for benefits by an insured under a dental prepayment program is denied or reduced, based on the review of x-ray films, such review must be performed by a dentist.

(Source: P.A. 91-549, eff. 8-14-99.)

Section 980. The Health Maintenance Organization Act is amended by changing Section 4-4 as follows:

(215 ILCS 125/4-4) (from Ch. 111 1/2, par. 1408.4)

Sec. 4-4. Sexual assault or abuse victims; coverage of expenses; recovery of State funds; reimbursement of Department of Public Health.

(1) Contracts or evidences of coverage issued by a health maintenance organization, which provide benefits for health care services, shall to the full extent of coverage provided for any other emergency or accident care, provide for the payment of actual expenses incurred, without offset or reduction for benefit deductibles or co-insurance amounts, in the examination and testing of a victim of an offense defined in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, as

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now or hereafter amended, or an attempt to commit such offense, to establish that sexual contact did occur or did not occur, and to establish the presence or absence of sexually transmitted disease or infection, and examination and treatment of injuries and trauma sustained by a victim of such offense.

(2) For purposes of enabling the recovery of State funds, any health maintenance organization subject to this Section shall upon reasonable demand by the Department of Public Health disclose the names and identities of its enrollees entitled to benefits under this provision to the Department of Public Health whenever the Department of Public Health has determined that it has paid, or is about to pay for, health care services for which a health maintenance organization is liable under this Section. All information received by the Department of Public Health under this provision shall be held on a confidential basis and shall not be subject to subpoena and shall not be made public by the Department of Public Health or used for any purpose other than that authorized by this Section.

(3) Whenever the Department of Public Health finds that it has paid for all or part of any health care services for which a health maintenance organization is obligated to pay under this Section, the Department of Public Health shall be entitled to receive reimbursement for its payments from such organization provided that the Department of Public Health has notified the organization of its claims before the organization has paid such benefits to its enrollees or in behalf of its enrollees.

(Source: P.A. 91-357, eff. 7-29-99.)

Section 985. The Voluntary Health Services Plans Act is amended by changing Section 15.8 as follows:

(215 ILCS 165/15.8) (from Ch. 32, par. 609.8)

Sec. 15.8. Sexual assault or abuse victims.

(1) Policies, contracts or subscription certificates issued by a health services plan corporation, which provide benefits for hospital or medical expenses based upon the actual expenses incurred, shall to the full extent of coverage provided for any other emergency or accident care, provide for the payment of actual expenses incurred, without offset or reduction for benefit deductibles or co-insurance amounts, in the examination and testing of a victim of an offense defined in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, as now or hereafter amended, or attempt to commit such offense, to establish that sexual contact did occur or did not occur, and to establish the presence or absence of sexually transmitted disease or infection, and examination and treatment of injuries and trauma sustained by a victim of such offense.

(2) For purposes of enabling the recovery of State Funds, any health services plan corporation subject to this Section shall upon reasonable demand by the Department of Public Health disclose the names and identities of its insureds or subscribers entitled to benefits under this provision to the Department of Public Health whenever the Department of Public Health has determined that it has paid, or is about to pay, hospital or medical expenses for which a health care service corporation is liable under this Section. All information received by the Department of Public Health under this provision shall be held on a confidential basis and shall not be subject to subpoena and shall not be made public by the Department of Public Health or used for any purpose other than that authorized by this Section.

(3) Whenever the Department of Public Health finds that it has paid all or part of any hospital or medical expenses which a health services plan corporation is obligated to pay under this Section, the Department of Public Health shall be entitled to receive reimbursement for its payments from such corporation provided that the Department of Public Health has notified the corporation of its claims before the corporation has paid such benefits to its subscribers or in behalf of its subscribers.

(Source: P.A. 89-187, eff. 7-19-95.)

Section 990. The Child Care Act of 1969 is amended by changing Section 4.2 as follows:

(225 ILCS 10/4.2) (from Ch. 23, par. 2214.2)

Sec. 4.2. (a) No applicant may receive a license from the Department and no person may be employed by a licensed child care facility who refuses to authorize an investigation as required by Section 4.1.

(b) In addition to the other provisions of this Section, no applicant may receive a license from the Department and no person may be employed by a child care facility licensed by the Department who has been declared a sexually dangerous person under "An Act in relation to sexually dangerous persons, and providing for their commitment, detention and supervision", approved July 6, 1938, as amended, or convicted of committing or attempting to commit any of the following offenses stipulated under the Criminal Code of 1961:

(1) murder;

(1.1) solicitation of murder;

(1.2) solicitation of murder for hire;

- (1.3) intentional homicide of an unborn child;
- (1.4) voluntary manslaughter of an unborn child;
- (1.5) involuntary manslaughter;
- (1.6) reckless homicide;
- (1.7) concealment of a homicidal death;
- (1.8) involuntary manslaughter of an unborn child;
- (1.9) reckless homicide of an unborn child;
- (1.10) drug-induced homicide;
- (2) a sex offense under Article 11, except offenses described in Sections 11-7, 11-8, 11-12, ~~and~~ 11-13, 11-35, 11-40, and 11-45;
- (3) kidnapping;
- (3.1) aggravated unlawful restraint;
- (3.2) forcible detention;
- (3.3) harboring a runaway;
- (3.4) aiding and abetting child abduction;
- (4) aggravated kidnapping;
- (5) child abduction;
- (6) aggravated battery of a child;
- (7) criminal sexual assault;
- (8) aggravated criminal sexual assault;
- (8.1) predatory criminal sexual assault of a child;
- (9) criminal sexual abuse;
- (10) aggravated sexual abuse;
- (11) heinous battery;
- (12) aggravated battery with a firearm;
- (13) tampering with food, drugs, or cosmetics;
- (14) drug induced infliction of great bodily harm;
- (15) hate crime;
- (16) stalking;
- (17) aggravated stalking;
- (18) threatening public officials;
- (19) home invasion;
- (20) vehicular invasion;
- (21) criminal transmission of HIV;
- (22) criminal abuse or neglect of an elderly or disabled person;
- (23) child abandonment;
- (24) endangering the life or health of a child;
- (25) ritual mutilation;
- (26) ritualized abuse of a child;
- (27) an offense in any other jurisdiction the elements of which are similar and bear a substantial relationship to any of the foregoing offenses.

(b-1) In addition to the other provisions of this Section, beginning January 1, 2004, no new applicant and, on the date of licensure renewal, no current licensee may operate or receive a license from the Department to operate, no person may be employed by, and no adult person may reside in a child care facility licensed by the Department who has been convicted of committing or attempting to commit any of the following offenses or an offense in any other jurisdiction the elements of which are similar and bear a substantial relationship to any of the following offenses:

(I) BODILY HARM

- (1) Felony aggravated assault.
- (2) Vehicular endangerment.
- (3) Felony domestic battery.
- (4) Aggravated battery.
- (5) Heinous battery.
- (6) Aggravated battery with a firearm.
- (7) Aggravated battery of an unborn child.
- (8) Aggravated battery of a senior citizen.
- (9) Intimidation.
- (10) Compelling organization membership of persons.

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- (11) Abuse and gross neglect of a long term care facility resident.
- (12) Felony violation of an order of protection.

(II) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- (1) Felony unlawful use of weapons.
- (2) Aggravated discharge of a firearm.
- (3) Reckless discharge of a firearm.
- (4) Unlawful use of metal piercing bullets.
- (5) Unlawful sale or delivery of firearms on the premises of any school.
- (6) Disarming a police officer.
- (7) Obstructing justice.
- (8) Concealing or aiding a fugitive.
- (9) Armed violence.
- (10) Felony contributing to the criminal delinquency of a juvenile.

(III) DRUG OFFENSES

- (1) Possession of more than 30 grams of cannabis.
  - (2) Manufacture of more than 10 grams of cannabis.
  - (3) Cannabis trafficking.
  - (4) Delivery of cannabis on school grounds.
  - (5) Unauthorized production of more than 5 cannabis sativa plants.
  - (6) Calculated criminal cannabis conspiracy.
  - (7) Unauthorized manufacture or delivery of controlled substances.
  - (8) Controlled substance trafficking.
  - (9) Manufacture, distribution, or advertisement of look-alike substances.
  - (10) Calculated criminal drug conspiracy.
  - (11) Street gang criminal drug conspiracy.
  - (12) Permitting unlawful use of a building.
  - (13) Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property.
  - (14) Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances.
  - (15) Delivery of controlled substances.
  - (16) Sale or delivery of drug paraphernalia.
  - (17) Felony possession, sale, or exchange of instruments adapted for use of a controlled substance, methamphetamine, or cannabis by subcutaneous injection.
  - (18) Felony possession of a controlled substance.
  - (19) Any violation of the Methamphetamine Control and Community Protection Act.
- (b-2) For child care facilities other than foster family homes, the Department may issue a new child care facility license to or renew the existing child care facility license of an applicant, a person employed by a child care facility, or an applicant who has an adult residing in a home child care facility who was convicted of an offense described in subsection (b-1), provided that all of the following requirements are met:
- (1) The relevant criminal offense occurred more than 5 years prior to the date of application or renewal, except for drug offenses. The relevant drug offense must have occurred more than 10 years prior to the date of application or renewal, unless the applicant passed a drug test, arranged and paid for by the child care facility, no less than 5 years after the offense.
  - (2) The Department must conduct a background check and assess all convictions and recommendations of the child care facility to determine if waiver shall apply in accordance with Department administrative rules and procedures.
  - (3) The applicant meets all other requirements and qualifications to be licensed as the pertinent type of child care facility under this Act and the Department's administrative rules.
- (c) In addition to the other provisions of this Section, no applicant may receive a license from the Department to operate a foster family home, and no adult person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the following offenses stipulated under the Criminal Code of 1961, the Cannabis Control Act, the Methamphetamine Control and Community Protection Act, and the Illinois Controlled Substances Act:

(I) OFFENSES DIRECTED AGAINST THE PERSON

## (A) KIDNAPPING AND RELATED OFFENSES

(1) Unlawful restraint.

## (B) BODILY HARM

(2) Felony aggravated assault.

(3) Vehicular endangerment.

(4) Felony domestic battery.

(5) Aggravated battery.

(6) Heinous battery.

(7) Aggravated battery with a firearm.

(8) Aggravated battery of an unborn child.

(9) Aggravated battery of a senior citizen.

(10) Intimidation.

(11) Compelling organization membership of persons.

(12) Abuse and gross neglect of a long term care facility resident.

(13) Felony violation of an order of protection.

## (II) OFFENSES DIRECTED AGAINST PROPERTY

(14) Felony theft.

(15) Robbery.

(16) Armed robbery.

(17) Aggravated robbery.

(18) Vehicular hijacking.

(19) Aggravated vehicular hijacking.

(20) Burglary.

(21) Possession of burglary tools.

(22) Residential burglary.

(23) Criminal fortification of a residence or building.

(24) Arson.

(25) Aggravated arson.

(26) Possession of explosive or explosive incendiary devices.

## (III) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

(27) Felony unlawful use of weapons.

(28) Aggravated discharge of a firearm.

(29) Reckless discharge of a firearm.

(30) Unlawful use of metal piercing bullets.

(31) Unlawful sale or delivery of firearms on the premises of any school.

(32) Disarming a police officer.

(33) Obstructing justice.

(34) Concealing or aiding a fugitive.

(35) Armed violence.

(36) Felony contributing to the criminal delinquency of a juvenile.

## (IV) DRUG OFFENSES

(37) Possession of more than 30 grams of cannabis.

(38) Manufacture of more than 10 grams of cannabis.

(39) Cannabis trafficking.

(40) Delivery of cannabis on school grounds.

(41) Unauthorized production of more than 5 cannabis sativa plants.

(42) Calculated criminal cannabis conspiracy.

(43) Unauthorized manufacture or delivery of controlled substances.

(44) Controlled substance trafficking.

(45) Manufacture, distribution, or advertisement of look-alike substances.

(46) Calculated criminal drug conspiracy.

(46.5) Streetgang criminal drug conspiracy.

(47) Permitting unlawful use of a building.

(48) Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property.

- (49) Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances.
- (50) Delivery of controlled substances.
- (51) Sale or delivery of drug paraphernalia.
- (52) Felony possession, sale, or exchange of instruments adapted for use of a controlled substance, methamphetamine, or cannabis by subcutaneous injection.
- (53) Any violation of the Methamphetamine Control and Community Protection Act.
- (d) Notwithstanding subsection (c), the Department may issue a new foster family home license or may renew an existing foster family home license of an applicant who was convicted of an offense described in subsection (c), provided all of the following requirements are met:
- (1) The relevant criminal offense or offenses occurred more than 10 years prior to the date of application or renewal.
  - (2) The applicant had previously disclosed the conviction or convictions to the Department for purposes of a background check.
  - (3) After the disclosure, the Department either placed a child in the home or the foster family home license was issued.
  - (4) During the background check, the Department had assessed and waived the conviction in compliance with the existing statutes and rules in effect at the time of the waiver.
  - (5) The applicant meets all other requirements and qualifications to be licensed as a foster family home under this Act and the Department's administrative rules.
  - (6) The applicant has a history of providing a safe, stable home environment and appears able to continue to provide a safe, stable home environment.
- (Source: P.A. 93-151, eff. 7-10-03; 94-556, eff. 9-11-05.)

Section 995. The Health Care Worker Background Check Act is amended by changing Section 25 as follows:

(225 ILCS 46/25)

Sec. 25. Persons ineligible to be hired by health care employers and long-term care facilities.

(a) In the discretion of the Director of Public Health, as soon after January 1, 1996, January 1, 1997, January 1, 2006, or October 1, 2007, as applicable, and as is reasonably practical, no health care employer shall knowingly hire, employ, or retain any individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility shall knowingly hire, employ, or retain any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has been convicted of committing or attempting to commit one or more of the following offenses: those defined in Sections 8-1(b), 8-1.1, 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1, 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9.1, 11-9.5, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-19, 12-21, 12-21.6, 12-32, 12-33, 16-1, 16-1.3, 16A-3, 17-3, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3, 19-4, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, or 33A-2, or subdivision (a)(4) of Section 11-14.4, of the Criminal Code of 1961; those provided in Section 4 of the Wrongs to Children Act; those provided in Section 53 of the Criminal Jurisprudence Act; those defined in Section 5, 5.1, 5.2, 7, or 9 of the Cannabis Control Act; those defined in the Methamphetamine Control and Community Protection Act; or those defined in Sections 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois Controlled Substances Act, unless the applicant or employee obtains a waiver pursuant to Section 40.

(a-1) In the discretion of the Director of Public Health, as soon after January 1, 2004 or October 1, 2007, as applicable, and as is reasonably practical, no health care employer shall knowingly hire any individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility shall knowingly hire any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has (i) been convicted of committing or attempting to commit one or more of the offenses defined in Section 12-3.3, 12-4.2-5, 16-2, 16G-15, 16G-20, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6, 24-3.2, or 24-3.3 of the Criminal Code of 1961; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card and Debit Card Act; or Section 11-9.1A of the Criminal Code of 1961 or Section 5.1 of the Wrongs to Children Act; or (ii) violated Section 50-50 of the Nurse Practice Act, unless the applicant or employee obtains a waiver pursuant to Section 40 of this Act.

A health care employer is not required to retain an individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility is required to retain an individual in

a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has been convicted of committing or attempting to commit one or more of the offenses enumerated in this subsection.

(b) A health care employer shall not hire, employ, or retain any individual in a position with duties involving direct care of clients, patients, or residents, and no long-term care facility shall knowingly hire, employ, or retain any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, if the health care employer becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsection (a) or (a-1), as verified by court records, records from a state agency, or an FBI criminal history record check, unless the applicant or employee obtains a waiver pursuant to Section 40 of this Act. This shall not be construed to mean that a health care employer has an obligation to conduct a criminal history records check in other states in which an employee has resided.

(Source: P.A. 95-120, eff. 8-13-07; 95-639, eff. 10-5-07; 95-876, eff. 8-21-08; 96-710, eff. 1-1-10.)

Section 1000. The Liquor Control Act of 1934 is amended by changing Section 6-2 as follows:  
(235 ILCS 5/6-2) (from Ch. 43, par. 120)

Sec. 6-2. Issuance of licenses to certain persons prohibited.

(a) Except as otherwise provided in subsection (b) of this Section and in paragraph (1) of subsection (a) of Section 3-12, no license of any kind issued by the State Commission or any local commission shall be issued to:

(1) A person who is not a resident of any city, village or county in which the premises covered by the license are located; except in case of railroad or boat licenses.

(2) A person who is not of good character and reputation in the community in which he resides.

(3) A person who is not a citizen of the United States.

(4) A person who has been convicted of a felony under any Federal or State law, unless the Commission determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the Commission's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant.

(5) A person who has been convicted of keeping a place of prostitution or keeping a place of juvenile prostitution, promoting prostitution that involves keeping a place of prostitution, or promoting juvenile prostitution that involves keeping a place of juvenile prostitution ~~being the keeper or is keeping a house of ill fame.~~

(6) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.

(7) A person whose license issued under this Act has been revoked for cause.

(8) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.

(9) A copartnership, if any general partnership thereof, or any limited partnership thereof, owning more than 5% of the aggregate limited partner interest in such copartnership would not be eligible to receive a license hereunder for any reason other than residence within the political subdivision, unless residency is required by local ordinance.

(10) A corporation or limited liability company, if any member, officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision.

(10a) A corporation or limited liability company unless it is incorporated or organized in Illinois, or unless it is a foreign corporation or foreign limited liability company which is qualified under the Business Corporation Act of 1983 or the Limited Liability Company Act to transact business in Illinois. The Commission shall permit and accept from an applicant for a license under this Act proof prepared from the Secretary of State's website that the corporation or limited liability company is in good standing and is qualified under the Business Corporation Act of 1983 or the Limited Liability Company Act to transact business in Illinois.

(11) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required by the licensee.

(12) A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this Act or has forfeited his bond to appear in court to answer charges for any such violation.

(13) A person who does not beneficially own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued.

(14) Any law enforcing public official, including members of local liquor control commissions, any mayor, alderman, or member of the city council or commission, any president of the village board of trustees, any member of a village board of trustees, or any president or member of a county board; and no such official shall have a direct interest in the manufacture, sale, or distribution of alcoholic liquor, except that a license may be granted to such official in relation to premises that are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor Control Commission and except that a license may be granted, in a city or village with a population of 50,000 or less, to any alderman, member of a city council, or member of a village board of trustees in relation to premises that are located within the territory subject to the jurisdiction of that official if (i) the sale of alcoholic liquor pursuant to the license is incidental to the selling of food, (ii) the issuance of the license is approved by the State Commission, (iii) the issuance of the license is in accordance with all applicable local ordinances in effect where the premises are located, and (iv) the official granted a license does not vote on alcoholic liquor issues pending before the board or council to which the license holder is elected. Notwithstanding any provision of this paragraph (14) to the contrary, an alderman or member of a city council or commission, a member of a village board of trustees other than the president of the village board of trustees, or a member of a county board other than the president of a county board may have a direct interest in the manufacture, sale, or distribution of alcoholic liquor as long as he or she is not a law enforcing public official, a mayor, a village board president, or president of a county board. To prevent any conflict of interest, the elected official with the direct interest in the manufacture, sale, or distribution of alcoholic liquor cannot participate in any meetings, hearings, or decisions on matters impacting the manufacture, sale, or distribution of alcoholic liquor.

(15) A person who is not a beneficial owner of the business to be operated by the licensee.

(16) A person who has been convicted of a gambling offense as proscribed by any of subsections (a) (3) through (a) (11) of Section 28-1 of, or as proscribed by Section 28-1.1 or 28-3 of, the Criminal Code of 1961, or as proscribed by a statute replaced by any of the aforesaid statutory provisions.

(17) A person or entity to whom a federal wagering stamp has been issued by the federal government, unless the person or entity is eligible to be issued a license under the Raffles Act or the Illinois Pull Tabs and Jar Games Act.

(18) A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in subsection (a) of Section 6-21.

(b) A criminal conviction of a corporation is not grounds for the denial, suspension, or revocation of a license applied for or held by the corporation if the criminal conviction was not the result of a violation of any federal or State law concerning the manufacture, possession or sale of alcoholic liquor, the offense that led to the conviction did not result in any financial gain to the corporation and the corporation has terminated its relationship with each director, officer, employee, or controlling shareholder whose actions directly contributed to the conviction of the corporation. The Commission shall determine if all provisions of this subsection (b) have been met before any action on the corporation's license is initiated.

(Source: P.A. 94-5, eff. 6-3-05; 94-289, eff. 1-1-06; 94-381, eff. 7-29-05; 95-331, eff. 8-21-07.)

Section 1005. The Illinois Public Aid Code is amended by changing Section 4-1.7 as follows:  
(305 ILCS 5/4-1.7) (from Ch. 23, par. 4-1.7)

Sec. 4-1.7. Enforcement of Parental Child Support Obligation. If the parent or parents of the child are failing to meet or are delinquent in their legal obligation to support the child, the parent or other person having custody of the child or the Department of Healthcare and Family Services may request the law enforcement officer authorized or directed by law to so act to file action for the enforcement of such remedies as the law provides for the fulfillment of the child support obligation.

If a parent has a judicial remedy against the other parent to compel child support, or if, as the result of an action initiated by or in behalf of one parent against the other, a child support order has been entered in respect to which there is noncompliance or delinquency, or where the order so entered may be changed upon petition to the court to provide additional support, the parent or other person having custody of the child or the Department of Healthcare and Family Services may request the appropriate

law enforcement officer to seek enforcement of the remedy, or of the support order, or a change therein to provide additional support. If the law enforcement officer is not authorized by law to so act in these instances, the parent, or if so authorized by law the other person having custody of the child, or the Department of Healthcare and Family Services may initiate an action to enforce these remedies.

A parent or other person having custody of the child must comply with the requirements of Title IV of the federal Social Security Act, and the regulations duly promulgated thereunder, and any rules promulgated by the Illinois Department regarding enforcement of the child support obligation. The Department of Healthcare and Family Services and the Department of Human Services may provide by rule for the grant or continuation of aid to the person for a temporary period if he or she accepts counseling or other services designed to increase his or her motivation to seek enforcement of the child support obligation.

In addition to any other definition of failure or refusal to comply with the requirements of Title IV of the federal Social Security Act, or Illinois Department rule, in the case of failure to attend court hearings, the parent or other person can show cooperation by attending a court hearing or, if a court hearing cannot be scheduled within 14 days following the court hearing that was missed, by signing a statement that the parent or other person is now willing to cooperate in the child support enforcement process and will appear at any later scheduled court date. The parent or other person can show cooperation by signing such a statement only once. If failure to attend the court hearing or other failure to cooperate results in the case being dismissed, such a statement may be signed after 2 months.

No denial or termination of medical assistance pursuant to this Section shall commence during pregnancy of the parent or other person having custody of the child or for 30 days after the termination of such pregnancy. The termination of medical assistance may commence thereafter if the Department of Healthcare and Family Services determines that the failure or refusal to comply with this Section persists. Postponement of denial or termination of medical assistance during pregnancy under this paragraph shall be effective only to the extent it does not conflict with federal law or regulation.

Any evidence a parent or other person having custody of the child gives in order to comply with the requirements of this Section shall not render him or her liable to prosecution under Section 11-35 or 11-40 Sections 11-7 or 11-8 of the "Criminal Code of 1961", approved July 28, 1961, as amended.

When so requested, the Department of Healthcare and Family Services and the Department of Human Services shall provide such services and assistance as the law enforcement officer may require in connection with the filing of any action hereunder.

The Department of Healthcare and Family Services and the Department of Human Services, as an expense of administration, may also provide applicants for and recipients of aid with such services and assistance, including assumption of the reasonable costs of prosecuting any action or proceeding, as may be necessary to enable them to enforce the child support liability required hereunder.

Nothing in this Section shall be construed as a requirement that an applicant or recipient file an action for dissolution of marriage against his or her spouse.

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

Section 1008. The Abused and Neglected Child Reporting Act is amended by changing Section 4.5 as follows:

(325 ILCS 5/4.5)

Sec. 4.5. Electronic and information technology workers; reporting child pornography.

(a) In this Section:

"Child pornography" means child pornography as described in Section 11-20.1 of the Criminal Code of 1961 or aggravated child pornography as described in Section ~~11-20.1B 11-20.3~~ of the Criminal Code of 1961.

"Electronic and information technology equipment" means equipment used in the creation, manipulation, storage, display, or transmission of data, including internet and intranet systems, software applications, operating systems, video and multimedia, telecommunications products, kiosks, information transaction machines, copiers, printers, and desktop and portable computers.

"Electronic and information technology equipment worker" means a person who in the scope and course of his or her employment or business installs, repairs, or otherwise services electronic and information technology equipment for a fee but does not include (i) an employee, independent contractor, or other agent of a telecommunications carrier or telephone or telecommunications cooperative, as those terms are defined in the Public Utilities Act, or (ii) an employee, independent contractor, or other agent of a provider of commercial mobile radio service, as defined in 47 C.F.R. 20.3.

(b) If an electronic and information technology equipment worker discovers any depiction of child pornography while installing, repairing, or otherwise servicing an item of electronic and information

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technology equipment, that worker or the worker's employer shall immediately report the discovery to the local law enforcement agency or to the Cyber Tipline at the National Center for Missing & Exploited Children.

(c) If a report is filed in accordance with the requirements of 42 U.S.C. 13032, the requirements of this Section 4.5 will be deemed to have been met.

(d) An electronic and information technology equipment worker or electronic and information technology equipment worker's employer who reports a discovery of child pornography as required under this Section is immune from any criminal, civil, or administrative liability in connection with making the report, except for willful or wanton misconduct.

(e) Failure to report a discovery of child pornography as required under this Section is a business offense subject to a fine of \$1,001.

(Source: P.A. 95-944, eff. 8-29-08.)

Section 1010. The Intergovernmental Missing Child Recovery Act of 1984 is amended by changing Section 2 as follows:

(325 ILCS 40/2) (from Ch. 23, par. 2252)

Sec. 2. As used in this Act: (a) "Department" means the Department of State Police.

(b) "Director" means the Director of the Department of State Police.

(c) "Unit of Local Government" is defined as in Article VII, Section 1 of the Illinois Constitution and includes both home rule units and units which are not home rule units. The term is also defined to include all public school districts subject to the provisions of The School Code.

(d) "Child" means a person under 21 years of age.

(e) A "LEADS terminal" is an interactive computerized communication and processing unit which permits a direct on-line communication with the Department of State Police's central data repository, the Law Enforcement Agencies Data System (LEADS).

(f) A "Primary contact agency" means a law enforcement agency which maintains a LEADS terminal, or has immediate access to one on a 24-hour-per-day, 7-day-per-week basis by written agreement with another law enforcement agency, and is designated by the I SEARCH policy board to be the agency responsible for coordinating the joint efforts between the Department of State Police and the I SEARCH program participants.

(g) "Illinois State Enforcement Agencies to Recover Children Unit" or "I SEARCH Unit" means a combination of units of local government within a contiguous geographical area served by one or more LEADS terminals and established to collectively address the missing and exploited children problem in their respective geographical areas.

(h) "Missing child" means any person under 21 years of age whose whereabouts are unknown to his or her parents or legal guardian.

(i) "Exploitation" means activities and actions which include, but are not limited to, child pornography, aggravated child pornography, child prostitution, child sexual abuse, drug and substance abuse by children, and child suicide.

(j) "Participating agency" means a law enforcement agency that does not receive State funding, but signs an agreement of intergovernmental cooperation with the Department to perform the duties of an I SEARCH Unit.

(Source: P.A. 85-1209.)

Section 1015. The Sexual Assault Survivors Emergency Treatment Act is amended by changing Section 1a as follows:

(410 ILCS 70/1a) (from Ch. 111 1/2, par. 87-1a)

Sec. 1a. Definitions. In this Act:

"Ambulance provider" means an individual or entity that owns and operates a business or service using ambulances or emergency medical services vehicles to transport emergency patients.

"Areawide sexual assault treatment plan" means a plan, developed by the hospitals in the community or area to be served, which provides for hospital emergency services to sexual assault survivors that shall be made available by each of the participating hospitals.

"Department" means the Department of Public Health.

"Emergency contraception" means medication as approved by the federal Food and Drug Administration (FDA) that can significantly reduce the risk of pregnancy if taken within 72 hours after sexual assault.

"Follow-up healthcare" means healthcare services related to a sexual assault, including laboratory services and pharmacy services, rendered within 90 days of the initial visit for hospital emergency

services.

"Forensic services" means the collection of evidence pursuant to a statewide sexual assault evidence collection program administered by the Department of State Police, using the Illinois State Police Sexual Assault Evidence Collection Kit.

"Health care professional" means a physician, a physician assistant, or an advanced practice nurse.

"Hospital" has the meaning given to that term in the Hospital Licensing Act.

"Hospital emergency services" means healthcare delivered to outpatients within or under the care and supervision of personnel working in a designated emergency department of a hospital, including, but not limited to, care ordered by such personnel for a sexual assault survivor in the emergency department.

"Illinois State Police Sexual Assault Evidence Collection Kit" means a prepackaged set of materials and forms to be used for the collection of evidence relating to sexual assault. The standardized evidence collection kit for the State of Illinois shall be the Illinois State Police Sexual Assault Evidence Collection Kit.

"Nurse" means a nurse licensed under the Nurse Practice Act.

"Physician" means a person licensed to practice medicine in all its branches.

"Sexual assault" means an act of nonconsensual sexual conduct or sexual penetration, as defined in Section ~~11-0.1~~ ~~42-42~~ of the Criminal Code of 1961, including, without limitation, acts prohibited under Sections ~~11-1.20 through 11-1.60~~ ~~42-43 through 42-46~~ of the Criminal Code of 1961.

"Sexual assault survivor" means a person who presents for hospital emergency services in relation to injuries or trauma resulting from a sexual assault.

"Sexual assault transfer plan" means a written plan developed by a hospital and approved by the Department, which describes the hospital's procedures for transferring sexual assault survivors to another hospital in order to receive emergency treatment.

"Sexual assault treatment plan" means a written plan developed by a hospital that describes the hospital's procedures and protocols for providing hospital emergency services and forensic services to sexual assault survivors who present themselves for such services, either directly or through transfer from another hospital.

"Transfer services" means the appropriate medical screening examination and necessary stabilizing treatment prior to the transfer of a sexual assault survivor to a hospital that provides hospital emergency services and forensic services to sexual assault survivors pursuant to a sexual assault treatment plan or areawide sexual assault treatment plan.

(Source: P.A. 95-432, eff. 1-1-08; 96-328, eff. 8-11-09.)

Section 1020. The Consent by Minors to Medical Procedures Act is amended by changing Section 3 as follows:

(410 ILCS 210/3) (from Ch. 111, par. 4503)

Sec. 3. (a) Where a hospital, a physician licensed to practice medicine or surgery, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes provision of services for minors, or a physician assistant who has been delegated authority to provide services for minors renders emergency treatment or first aid or a licensed dentist renders emergency dental treatment to a minor, consent of the minor's parent or legal guardian need not be obtained if, in the sole opinion of the physician, advanced practice nurse, physician assistant, dentist, or hospital, the obtaining of consent is not reasonably feasible under the circumstances without adversely affecting the condition of such minor's health.

(b) Where a minor is the victim of a predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse or criminal sexual abuse, as provided in Sections ~~11-1.20 through 11-1.60~~ ~~42-43 through 42-46~~ of the Criminal Code of 1961, as now or hereafter amended, the consent of the minor's parent or legal guardian need not be obtained to authorize a hospital, physician, advanced practice nurse, physician assistant, or other medical personnel to furnish medical care or counseling related to the diagnosis or treatment of any disease or injury arising from such offense. The minor may consent to such counseling, diagnosis or treatment as if the minor had reached his or her age of majority. Such consent shall not be voidable, nor subject to later disaffirmance, because of minority.

(Source: P.A. 93-962, eff. 8-20-04.)

Section 1025. The Illinois Vehicle Code is amended by changing Sections 6-106.1, 6-206, and 6-508 as follows:

(625 ILCS 5/6-106.1) (from Ch. 95 1/2, par. 6-106.1)

Sec. 6-106.1. School bus driver permit.

[May 3, 2010]

(a) The Secretary of State shall issue a school bus driver permit to those applicants who have met all the requirements of the application and screening process under this Section to insure the welfare and safety of children who are transported on school buses throughout the State of Illinois. Applicants shall obtain the proper application required by the Secretary of State from their prospective or current employer and submit the completed application to the prospective or current employer along with the necessary fingerprint submission as required by the Department of State Police to conduct fingerprint based criminal background checks on current and future information available in the state system and current information available through the Federal Bureau of Investigation's system. Applicants who have completed the fingerprinting requirements shall not be subjected to the fingerprinting process when applying for subsequent permits or submitting proof of successful completion of the annual refresher course. Individuals who on the effective date of this Act possess a valid school bus driver permit that has been previously issued by the appropriate Regional School Superintendent are not subject to the fingerprinting provisions of this Section as long as the permit remains valid and does not lapse. The applicant shall be required to pay all related application and fingerprinting fees as established by rule including, but not limited to, the amounts established by the Department of State Police and the Federal Bureau of Investigation to process fingerprint based criminal background investigations. All fees paid for fingerprint processing services under this Section shall be deposited into the State Police Services Fund for the cost incurred in processing the fingerprint based criminal background investigations. All other fees paid under this Section shall be deposited into the Road Fund for the purpose of defraying the costs of the Secretary of State in administering this Section. All applicants must:

1. be 21 years of age or older;
2. possess a valid and properly classified driver's license issued by the Secretary of State;
3. possess a valid driver's license, which has not been revoked, suspended, or canceled for 3 years immediately prior to the date of application, or have not had his or her commercial motor vehicle driving privileges disqualified within the 3 years immediately prior to the date of application;
4. successfully pass a written test, administered by the Secretary of State, on school bus operation, school bus safety, and special traffic laws relating to school buses and submit to a review of the applicant's driving habits by the Secretary of State at the time the written test is given;
5. demonstrate ability to exercise reasonable care in the operation of school buses in accordance with rules promulgated by the Secretary of State;
6. demonstrate physical fitness to operate school buses by submitting the results of a medical examination, including tests for drug use for each applicant not subject to such testing pursuant to federal law, conducted by a licensed physician, an advanced practice nurse who has a written collaborative agreement with a collaborating physician which authorizes him or her to perform medical examinations, or a physician assistant who has been delegated the performance of medical examinations by his or her supervising physician within 90 days of the date of application according to standards promulgated by the Secretary of State;
7. affirm under penalties of perjury that he or she has not made a false statement or knowingly concealed a material fact in any application for permit;
8. have completed an initial classroom course, including first aid procedures, in school bus driver safety as promulgated by the Secretary of State; and after satisfactory completion of said initial course an annual refresher course; such courses and the agency or organization conducting such courses shall be approved by the Secretary of State; failure to complete the annual refresher course, shall result in cancellation of the permit until such course is completed;
9. not have been convicted of 2 or more serious traffic offenses, as defined by rule, within one year prior to the date of application that may endanger the life or safety of any of the driver's passengers within the duration of the permit period;
10. not have been convicted of reckless driving, driving while intoxicated, or reckless homicide resulting from the operation of a motor vehicle within 3 years of the date of application;
11. not have been convicted of committing or attempting to commit any one or more of the following offenses: (i) those offenses defined in Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-6, 10-7, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9, 11-9.1, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-20.1B, 11-20.3, 11-21, 11-22, 11-30, 12-3.1, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-6, 12-6.2, 12-7.1, 12-7.3, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.2, 12-21.5, 12-21.6, 12-33, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1, 20-1.1, 20-2, 24-1, 24-1.1, 24-1.2, 24-3.3, 31A-1, 31A-1.1, and 33A-2, and in subsection (a) and subsection (b), clause (1), of Section 12-4 of the Criminal Code of 1961; (ii) those offenses defined in the Cannabis Control Act except those offenses defined in

subsections (a) and (b) of Section 4, and subsection (a) of Section 5 of the Cannabis Control Act; (iii) those offenses defined in the Illinois Controlled Substances Act; (iv) those offenses defined in the Methamphetamine Control and Community Protection Act; (v) any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State would be punishable as one or more of the foregoing offenses; (vi) the offenses defined in Section 4.1 and 5.1 of the Wrongs to Children Act or Section 11-9.1A of the Criminal Code of 1961; and (vii) those offenses defined in Section 6-16 of the Liquor Control Act of 1934;

12. not have been repeatedly involved as a driver in motor vehicle collisions or been repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic, to a degree which indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway;

13. not have, through the unlawful operation of a motor vehicle, caused an accident resulting in the death of any person; and

14. not have, within the last 5 years, been adjudged to be afflicted with or suffering from any mental disability or disease.

(b) A school bus driver permit shall be valid for a period specified by the Secretary of State as set forth by rule. It shall be renewable upon compliance with subsection (a) of this Section.

(c) A school bus driver permit shall contain the holder's driver's license number, legal name, residence address, zip code, social security number and date of birth, a brief description of the holder and a space for signature. The Secretary of State may require a suitable photograph of the holder.

(d) The employer shall be responsible for conducting a pre-employment interview with prospective school bus driver candidates, distributing school bus driver applications and medical forms to be completed by the applicant, and submitting the applicant's fingerprint cards to the Department of State Police that are required for the criminal background investigations. The employer shall certify in writing to the Secretary of State that all pre-employment conditions have been successfully completed including the successful completion of an Illinois specific criminal background investigation through the Department of State Police and the submission of necessary fingerprints to the Federal Bureau of Investigation for criminal history information available through the Federal Bureau of Investigation system. The applicant shall present the certification to the Secretary of State at the time of submitting the school bus driver permit application.

(e) Permits shall initially be provisional upon receiving certification from the employer that all pre-employment conditions have been successfully completed, and upon successful completion of all training and examination requirements for the classification of the vehicle to be operated, the Secretary of State shall provisionally issue a School Bus Driver Permit. The permit shall remain in a provisional status pending the completion of the Federal Bureau of Investigation's criminal background investigation based upon fingerprinting specimens submitted to the Federal Bureau of Investigation by the Department of State Police. The Federal Bureau of Investigation shall report the findings directly to the Secretary of State. The Secretary of State shall remove the bus driver permit from provisional status upon the applicant's successful completion of the Federal Bureau of Investigation's criminal background investigation.

(f) A school bus driver permit holder shall notify the employer and the Secretary of State if he or she is convicted in another state of an offense that would make him or her ineligible for a permit under subsection (a) of this Section. The written notification shall be made within 5 days of the entry of the conviction. Failure of the permit holder to provide the notification is punishable as a petty offense for a first violation and a Class B misdemeanor for a second or subsequent violation.

(g) Cancellation; suspension; notice and procedure.

(1) The Secretary of State shall cancel a school bus driver permit of an applicant whose criminal background investigation discloses that he or she is not in compliance with the provisions of subsection (a) of this Section.

(2) The Secretary of State shall cancel a school bus driver permit when he or she receives notice that the permit holder fails to comply with any provision of this Section or any rule promulgated for the administration of this Section.

(3) The Secretary of State shall cancel a school bus driver permit if the permit holder's restricted commercial or commercial driving privileges are withdrawn or otherwise invalidated.

(4) The Secretary of State may not issue a school bus driver permit for a period of 3 years to an applicant who fails to obtain a negative result on a drug test as required in item 6 of subsection (a) of this Section or under federal law.

(5) The Secretary of State shall forthwith suspend a school bus driver permit for a

period of 3 years upon receiving notice that the holder has failed to obtain a negative result on a drug test as required in item 6 of subsection (a) of this Section or under federal law.

(6) The Secretary of State shall suspend a school bus driver permit for a period of 3 years upon receiving notice from the employer that the holder failed to perform the inspection procedure set forth in subsection (a) or (b) of Section 12-816 of this Code.

The Secretary of State shall notify the State Superintendent of Education and the permit holder's prospective or current employer that the applicant has (1) failed a criminal background investigation or (2) is no longer eligible for a school bus driver permit; and of the related cancellation of the applicant's provisional school bus driver permit. The cancellation shall remain in effect pending the outcome of a hearing pursuant to Section 2-118 of this Code. The scope of the hearing shall be limited to the issuance criteria contained in subsection (a) of this Section. A petition requesting a hearing shall be submitted to the Secretary of State and shall contain the reason the individual feels he or she is entitled to a school bus driver permit. The permit holder's employer shall notify in writing to the Secretary of State that the employer has certified the removal of the offending school bus driver from service prior to the start of that school bus driver's next workshift. An employing school board that fails to remove the offending school bus driver from service is subject to the penalties defined in Section 3-14.23 of the School Code. A school bus contractor who violates a provision of this Section is subject to the penalties defined in Section 6-106.11.

All valid school bus driver permits issued under this Section prior to January 1, 1995, shall remain effective until their expiration date unless otherwise invalidated.

(h) When a school bus driver permit holder who is a service member is called to active duty, the employer of the permit holder shall notify the Secretary of State, within 30 days of notification from the permit holder, that the permit holder has been called to active duty. Upon notification pursuant to this subsection, (i) the Secretary of State shall characterize the permit as inactive until a permit holder renews the permit as provided in subsection (i) of this Section, and (ii) if a permit holder fails to comply with the requirements of this Section while called to active duty, the Secretary of State shall not characterize the permit as invalid.

(i) A school bus driver permit holder who is a service member returning from active duty must, within 90 days, renew a permit characterized as inactive pursuant to subsection (h) of this Section by complying with the renewal requirements of subsection (b) of this Section.

(j) For purposes of subsections (h) and (i) of this Section:

"Active duty" means active duty pursuant to an executive order of the President of the United States, an act of the Congress of the United States, or an order of the Governor.

"Service member" means a member of the Armed Services or reserve forces of the United States or a member of the Illinois National Guard.

(Source: P.A. 96-89, eff. 7-27-09; 96-818, eff. 11-17-09; revised 12-1-09.)

(625 ILCS 5/6-206) (from Ch. 95 1/2, par. 6-206)

Sec. 6-206. Discretionary authority to suspend or revoke license or permit; Right to a hearing.

(a) The Secretary of State is authorized to suspend or revoke the driving privileges of any person without preliminary hearing upon a showing of the person's records or other sufficient evidence that the person:

1. Has committed an offense for which mandatory revocation of a driver's license or permit is required upon conviction;
2. Has been convicted of not less than 3 offenses against traffic regulations governing the movement of vehicles committed within any 12 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;
3. Has been repeatedly involved as a driver in motor vehicle collisions or has been repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic, to a degree that indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway;
4. Has by the unlawful operation of a motor vehicle caused or contributed to an accident resulting in death or injury requiring immediate professional treatment in a medical facility or doctor's office to any person, except that any suspension or revocation imposed by the Secretary of State under the provisions of this subsection shall start no later than 6 months after being convicted of violating a law or ordinance regulating the movement of traffic, which violation is related to the accident, or shall start not more than one year after the date of the accident, whichever date occurs later;
5. Has permitted an unlawful or fraudulent use of a driver's license, identification card, or permit;

6. Has been lawfully convicted of an offense or offenses in another state, including the authorization contained in Section 6-203.1, which if committed within this State would be grounds for suspension or revocation;
7. Has refused or failed to submit to an examination provided for by Section 6-207 or has failed to pass the examination;
8. Is ineligible for a driver's license or permit under the provisions of Section 6-103;
9. Has made a false statement or knowingly concealed a material fact or has used false information or identification in any application for a license, identification card, or permit;
10. Has possessed, displayed, or attempted to fraudulently use any license, identification card, or permit not issued to the person;
11. Has operated a motor vehicle upon a highway of this State when the person's driving privilege or privilege to obtain a driver's license or permit was revoked or suspended unless the operation was authorized by a monitoring device driving permit, judicial driving permit issued prior to January 1, 2009, probationary license to drive, or a restricted driving permit issued under this Code;
12. Has submitted to any portion of the application process for another person or has obtained the services of another person to submit to any portion of the application process for the purpose of obtaining a license, identification card, or permit for some other person;
13. Has operated a motor vehicle upon a highway of this State when the person's driver's license or permit was invalid under the provisions of Sections 6-107.1 and 6-110;
14. Has committed a violation of Section 6-301, 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B of the Illinois Identification Card Act;
15. Has been convicted of violating Section 21-2 of the Criminal Code of 1961 relating to criminal trespass to vehicles in which case, the suspension shall be for one year;
16. Has been convicted of violating Section 11-204 of this Code relating to fleeing from a peace officer;
17. Has refused to submit to a test, or tests, as required under Section 11-501.1 of this Code and the person has not sought a hearing as provided for in Section 11-501.1;
18. Has, since issuance of a driver's license or permit, been adjudged to be afflicted with or suffering from any mental disability or disease;
19. Has committed a violation of paragraph (a) or (b) of Section 6-101 relating to driving without a driver's license;
20. Has been convicted of violating Section 6-104 relating to classification of driver's license;
21. Has been convicted of violating Section 11-402 of this Code relating to leaving the scene of an accident resulting in damage to a vehicle in excess of \$1,000, in which case the suspension shall be for one year;
22. Has used a motor vehicle in violating paragraph (3), (4), (7), or (9) of subsection (a) of Section 24-1 of the Criminal Code of 1961 relating to unlawful use of weapons, in which case the suspension shall be for one year;
23. Has, as a driver, been convicted of committing a violation of paragraph (a) of Section 11-502 of this Code for a second or subsequent time within one year of a similar violation;
24. Has been convicted by a court-martial or punished by non-judicial punishment by military authorities of the United States at a military installation in Illinois of or for a traffic related offense that is the same as or similar to an offense specified under Section 6-205 or 6-206 of this Code;
25. Has permitted any form of identification to be used by another in the application process in order to obtain or attempt to obtain a license, identification card, or permit;
26. Has altered or attempted to alter a license or has possessed an altered license, identification card, or permit;
27. Has violated Section 6-16 of the Liquor Control Act of 1934;
28. Has been convicted of the illegal possession, while operating or in actual physical control, as a driver, of a motor vehicle, of any controlled substance prohibited under the Illinois Controlled Substances Act, any cannabis prohibited under the Cannabis Control Act, or any methamphetamine prohibited under the Methamphetamine Control and Community Protection Act, in which case the person's driving privileges shall be suspended for one year, and any driver who is convicted of a second or subsequent offense, within 5 years of a previous conviction, for the illegal possession, while operating or in actual physical control, as a driver, of a motor vehicle, of any controlled substance prohibited under the Illinois Controlled Substances Act, any cannabis prohibited under the Cannabis Control Act, or any methamphetamine prohibited under the Methamphetamine

Control and Community Protection Act shall be suspended for 5 years. Any defendant found guilty of this offense while operating a motor vehicle, shall have an entry made in the court record by the presiding judge that this offense did occur while the defendant was operating a motor vehicle and order the clerk of the court to report the violation to the Secretary of State;

29. Has been convicted of the following offenses that were committed while the person was operating or in actual physical control, as a driver, of a motor vehicle: criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, juvenile pimping, soliciting for a juvenile prostitute, promoting juvenile prostitution as described in subdivision (a)(1), (a)(2), or (a)(3) of Section 11-14.4 of the Criminal Code of 1961, and the manufacture, sale or delivery of controlled substances or instruments used for illegal drug use or abuse in which case the driver's driving privileges shall be suspended for one year;

30. Has been convicted a second or subsequent time for any combination of the offenses named in paragraph 29 of this subsection, in which case the person's driving privileges shall be suspended for 5 years;

31. Has refused to submit to a test as required by Section 11-501.6 or has submitted to a test resulting in an alcohol concentration of 0.08 or more or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as listed in the Cannabis Control Act, a controlled substance as listed in the Illinois Controlled Substances Act, an intoxicating compound as listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, in which case the penalty shall be as prescribed in Section 6-208.1;

32. Has been convicted of Section 24-1.2 of the Criminal Code of 1961 relating to the aggravated discharge of a firearm if the offender was located in a motor vehicle at the time the firearm was discharged, in which case the suspension shall be for 3 years;

33. Has as a driver, who was less than 21 years of age on the date of the offense, been convicted a first time of a violation of paragraph (a) of Section 11-502 of this Code or a similar provision of a local ordinance;

34. Has committed a violation of Section 11-1301.5 of this Code;

35. Has committed a violation of Section 11-1301.6 of this Code;

36. Is under the age of 21 years at the time of arrest and has been convicted of not less than 2 offenses against traffic regulations governing the movement of vehicles committed within any 24 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;

37. Has committed a violation of subsection (c) of Section 11-907 of this Code that resulted in damage to the property of another or the death or injury of another;

38. Has been convicted of a violation of Section 6-20 of the Liquor Control Act of 1934 or a similar provision of a local ordinance;

39. Has committed a second or subsequent violation of Section 11-1201 of this Code;

40. Has committed a violation of subsection (a-1) of Section 11-908 of this Code;

41. Has committed a second or subsequent violation of Section 11-605.1 of this Code within 2 years of the date of the previous violation, in which case the suspension shall be for 90 days;

42. Has committed a violation of subsection (a-1) of Section 11-1301.3 of this Code;

43. Has received a disposition of court supervision for a violation of subsection (a), (d), or (e) of Section 6-20 of the Liquor Control Act of 1934 or a similar provision of a local ordinance, in which case the suspension shall be for a period of 3 months;

44. Is under the age of 21 years at the time of arrest and has been convicted of an offense against traffic regulations governing the movement of vehicles after having previously had his or her driving privileges suspended or revoked pursuant to subparagraph 36 of this Section; or

45. Has, in connection with or during the course of a formal hearing conducted under Section 2-118 of this Code: (i) committed perjury; (ii) submitted fraudulent or falsified documents; (iii) submitted documents that have been materially altered; or (iv) submitted, as his or her own, documents that were in fact prepared or composed for another person.

For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26, and 27 of this subsection, license means any driver's license, any traffic ticket issued when the person's driver's license is deposited in lieu of bail, a suspension notice issued by the Secretary of State, a duplicate or corrected driver's license, a probationary driver's license or a temporary driver's license.

(b) If any conviction forming the basis of a suspension or revocation authorized under this Section is appealed, the Secretary of State may rescind or withhold the entry of the order of suspension or

revocation, as the case may be, provided that a certified copy of a stay order of a court is filed with the Secretary of State. If the conviction is affirmed on appeal, the date of the conviction shall relate back to the time the original judgment of conviction was entered and the 6 month limitation prescribed shall not apply.

(c) 1. Upon suspending or revoking the driver's license or permit of any person as authorized in this Section, the Secretary of State shall immediately notify the person in writing of the revocation or suspension. The notice to be deposited in the United States mail, postage prepaid, to the last known address of the person.

2. If the Secretary of State suspends the driver's license of a person under subsection 2 of paragraph (a) of this Section, a person's privilege to operate a vehicle as an occupation shall not be suspended, provided an affidavit is properly completed, the appropriate fee received, and a permit issued prior to the effective date of the suspension, unless 5 offenses were committed, at least 2 of which occurred while operating a commercial vehicle in connection with the driver's regular occupation. All other driving privileges shall be suspended by the Secretary of State. Any driver prior to operating a vehicle for occupational purposes only must submit the affidavit on forms to be provided by the Secretary of State setting forth the facts of the person's occupation. The affidavit shall also state the number of offenses committed while operating a vehicle in connection with the driver's regular occupation. The affidavit shall be accompanied by the driver's license. Upon receipt of a properly completed affidavit, the Secretary of State shall issue the driver a permit to operate a vehicle in connection with the driver's regular occupation only. Unless the permit is issued by the Secretary of State prior to the date of suspension, the privilege to drive any motor vehicle shall be suspended as set forth in the notice that was mailed under this Section. If an affidavit is received subsequent to the effective date of this suspension, a permit may be issued for the remainder of the suspension period.

The provisions of this subparagraph shall not apply to any driver required to possess a CDL for the purpose of operating a commercial motor vehicle.

Any person who falsely states any fact in the affidavit required herein shall be guilty of perjury under Section 6-302 and upon conviction thereof shall have all driving privileges revoked without further rights.

3. At the conclusion of a hearing under Section 2-118 of this Code, the Secretary of State shall either rescind or continue an order of revocation or shall substitute an order of suspension; or, good cause appearing therefor, rescind, continue, change, or extend the order of suspension. If the Secretary of State does not rescind the order, the Secretary may upon application, to relieve undue hardship (as defined by the rules of the Secretary of State), issue a restricted driving permit granting the privilege of driving a motor vehicle between the petitioner's residence and petitioner's place of employment or within the scope of the petitioner's employment related duties, or to allow the petitioner to transport himself or herself, or a family member of the petitioner's household to a medical facility, to receive necessary medical care, to allow the petitioner to transport himself or herself to and from alcohol or drug remedial or rehabilitative activity recommended by a licensed service provider, or to allow the petitioner to transport himself or herself or a family member of the petitioner's household to classes, as a student, at an accredited educational institution, or to allow the petitioner to transport children living in the petitioner's household to and from daycare. The petitioner must demonstrate that no alternative means of transportation is reasonably available and that the petitioner will not endanger the public safety or welfare. Those multiple offenders identified in subdivision (b)4 of Section 6-208 of this Code, however, shall not be eligible for the issuance of a restricted driving permit.

(A) If a person's license or permit is revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense, or a combination of these offenses, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(B) If a person's license or permit is revoked or suspended 2 or more times within a 10 year period due to any combination of:

- (i) a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense; or
- (ii) a statutory summary suspension under Section 11-501.1; or

(iii) a suspension under Section 6-203.1; arising out of separate occurrences; that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(C) The person issued a permit conditioned upon the use of an ignition interlock device must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$30 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees.

(D) If the restricted driving permit is issued for employment purposes, then the prohibition against operating a motor vehicle that is not equipped with an ignition interlock device does not apply to the operation of an occupational vehicle owned or leased by that person's employer when used solely for employment purposes.

(E) In each case the Secretary may issue a restricted driving permit for a period deemed appropriate, except that all permits shall expire within one year from the date of issuance. The Secretary may not, however, issue a restricted driving permit to any person whose current revocation is the result of a second or subsequent conviction for a violation of Section 11-501 of this Code or a similar provision of a local ordinance or any similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or any similar out-of-state offense, or any combination of those offenses, until the expiration of at least one year from the date of the revocation. A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the applicant to participate in a designated driver remedial or rehabilitative program. The Secretary of State is authorized to cancel a restricted driving permit if the permit holder does not successfully complete the program.

(c-3) In the case of a suspension under paragraph 43 of subsection (a), reports received by the Secretary of State under this Section shall, except during the actual time the suspension is in effect, be privileged information and for use only by the courts, police officers, prosecuting authorities, the driver licensing administrator of any other state, the Secretary of State, or the parent or legal guardian of a driver under the age of 18. However, beginning January 1, 2008, if the person is a CDL holder, the suspension shall also be made available to the driver licensing administrator of any other state, the U.S. Department of Transportation, and the affected driver or motor carrier or prospective motor carrier upon request.

(c-4) In the case of a suspension under paragraph 43 of subsection (a), the Secretary of State shall notify the person by mail that his or her driving privileges and driver's license will be suspended one month after the date of the mailing of the notice.

(c-5) The Secretary of State may, as a condition of the reissuance of a driver's license or permit to an applicant whose driver's license or permit has been suspended before he or she reached the age of 21 years pursuant to any of the provisions of this Section, require the applicant to participate in a driver remedial education course and be retested under Section 6-109 of this Code.

(d) This Section is subject to the provisions of the Drivers License Compact.

(e) The Secretary of State shall not issue a restricted driving permit to a person under the age of 16 years whose driving privileges have been suspended or revoked under any provisions of this Code.

(f) In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been suspended, revoked, cancelled, or disqualified under any provisions of this Code.

(Source: P.A. 95-166, eff. 1-1-08; 95-310, eff. 1-1-08; 95-382, eff. 8-23-07; 95-400, eff. 1-1-09; 95-627, eff. 6-1-08; 95-848, eff. 1-1-09; 95-876, eff. 8-21-08; 95-894, eff. 1-1-09; 96-328, eff. 8-11-09; 96-607, eff. 8-24-09.)

(625 ILCS 5/6-508) (from Ch. 95 1/2, par. 6-508)

Sec. 6-508. Commercial Driver's License (CDL) - qualification standards.

(a) Testing.

(1) General. No person shall be issued an original or renewal CDL unless that person is domiciled in this State. The Secretary shall cause to be administered such tests as the Secretary deems necessary to meet the requirements of 49 C.F.R. Part 383, subparts F, G, H, and J.

(2) Third party testing. The Secretary of state may authorize a "third party tester",

pursuant to 49 C.F.R. Part 383.75, to administer the skills test or tests specified by Federal Motor Carrier Safety Administration pursuant to the Commercial Motor Vehicle Safety Act of 1986 and any appropriate federal rule.

(b) Waiver of Skills Test. The Secretary of State may waive the skills test specified in this Section for a driver applicant for a commercial driver license who meets the requirements of 49 C.F.R. Part 383.77 and Part 383.123.

(c) Limitations on issuance of a CDL. A CDL, or a commercial driver instruction permit, shall not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or unless otherwise permitted by this Code, while the person's driver's license is suspended, revoked or cancelled in any state, or any territory or province of Canada; nor may a CDL be issued to a person who has a CDL issued by any other state, or foreign jurisdiction, unless the person first surrenders all such licenses. No CDL shall be issued to or renewed for a person who does not meet the requirement of 49 CFR 391.41(b)(11). The requirement may be met with the aid of a hearing aid.

(c-1) The Secretary may issue a CDL with a school bus driver endorsement to allow a person to drive the type of bus described in subsection (d-5) of Section 6-104 of this Code. The CDL with a school bus driver endorsement may be issued only to a person meeting the following requirements:

(1) the person has submitted his or her fingerprints to the Department of State Police in the form and manner prescribed by the Department of State Police. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Department of State Police and Federal Bureau of Investigation criminal history records databases;

(2) the person has passed a written test, administered by the Secretary of State, on charter bus operation, charter bus safety, and certain special traffic laws relating to school buses determined by the Secretary of State to be relevant to charter buses, and submitted to a review of the driver applicant's driving habits by the Secretary of State at the time the written test is given;

(3) the person has demonstrated physical fitness to operate school buses by submitting the results of a medical examination, including tests for drug use; and

(4) the person has not been convicted of committing or attempting to commit any one or more of the following offenses: (i) those offenses defined in Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-6, 10-7, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9, 11-9.1, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-20.1B, 11-20.3, 11-21, 11-22, 11-30, 12-3.1, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-6, 12-6.2, 12-7.1, 12-7.3, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.2, 12-21.5, 12-21.6, 12-33, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1, 20-1.1, 20-2, 24-1, 24-1.1, 24-1.2, 24-3.3, 31A-1, 31A-1.1, and 33A-2, and subsection (a) and subsection (b), clause (1), of Section 12-4 of the Criminal Code of 1961; (ii) those offenses defined in the Cannabis Control Act except those offenses defined in subsections (a) and (b) of Section 4, and subsection (a) of Section 5 of the Cannabis Control Act; (iii) those offenses defined in the Illinois Controlled Substances Act; (iv) those offenses defined in the Methamphetamine Control and Community Protection Act; (v) any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State would be punishable as one or more of the foregoing offenses; (vi) the offenses defined in Sections 4.1 and 5.1 of the Wrongs to Children Act or Section 11-9.1A of the Criminal Code of 1961; and (vii) those offenses defined in Section 6-16 of the Liquor Control Act of 1934.

The Department of State Police shall charge a fee for conducting the criminal history records check, which shall be deposited into the State Police Services Fund and may not exceed the actual cost of the records check.

(c-2) The Secretary shall issue a CDL with a school bus endorsement to allow a person to drive a school bus as defined in this Section. The CDL shall be issued according to the requirements outlined in 49 C.F.R. 383. A person may not operate a school bus as defined in this Section without a school bus endorsement. The Secretary of State may adopt rules consistent with Federal guidelines to implement this subsection (c-2).

(d) Commercial driver instruction permit. A commercial driver instruction permit may be issued to any person holding a valid Illinois driver's license if such person successfully passes such tests as the Secretary determines to be necessary. A commercial driver instruction permit shall not be issued to a person who does not meet the requirements of 49 CFR 391.41 (b)(11), except for the renewal of a commercial driver instruction permit for a person who possesses a commercial instruction permit prior to the effective date of this amendatory Act of 1999.

(Source: P.A. 94-307, eff. 9-30-05; 94-556, eff. 9-11-05; 95-331, eff. 8-21-07; 95-382, eff. 8-23-07.)

Section 1030. The Juvenile Court Act of 1987 is amended by changing Sections 1-8, 2-17, 2-25, 3-19,

[May 3, 2010]

3-26, 4-16, 4-23, 5-170, and 5-730 as follows:

(705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

Sec. 1-8. Confidentiality and accessibility of juvenile court records.

(A) Inspection and copying of juvenile court records relating to a minor who is the subject of a proceeding under this Act shall be restricted to the following:

(1) The minor who is the subject of record, his parents, guardian and counsel.

(2) Law enforcement officers and law enforcement agencies when such information is essential to executing an arrest or search warrant or other compulsory process, or to conducting an ongoing investigation or relating to a minor who has been adjudicated delinquent and there has been a previous finding that the act which constitutes the previous offense was committed in furtherance of criminal activities by a criminal street gang.

Before July 1, 1994, for the purposes of this Section, "criminal street gang" means any ongoing organization, association, or group of 3 or more persons, whether formal or informal, having as one of its primary activities the commission of one or more criminal acts and that has a common name or common identifying sign, symbol or specific color apparel displayed, and whose members individually or collectively engage in or have engaged in a pattern of criminal activity.

Beginning July 1, 1994, for purposes of this Section, "criminal street gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(3) Judges, hearing officers, prosecutors, probation officers, social workers or other individuals assigned by the court to conduct a pre-adjudication or predisposition investigation, and individuals responsible for supervising or providing temporary or permanent care and custody for minors pursuant to the order of the juvenile court when essential to performing their responsibilities.

(4) Judges, prosecutors and probation officers:

(a) in the course of a trial when institution of criminal proceedings has been permitted or required under Section 5-805; or

(b) when criminal proceedings have been permitted or required under Section 5-805 and a minor is the subject of a proceeding to determine the amount of bail; or

(c) when criminal proceedings have been permitted or required under Section 5-805 and a minor is the subject of a pre-trial investigation, pre-sentence investigation or fitness hearing, or proceedings on an application for probation; or

(d) when a minor becomes 17 years of age or older, and is the subject of criminal proceedings, including a hearing to determine the amount of bail, a pre-trial investigation, a pre-sentence investigation, a fitness hearing, or proceedings on an application for probation.

(5) Adult and Juvenile Prisoner Review Boards.

(6) Authorized military personnel.

(7) Victims, their subrogees and legal representatives; however, such persons shall have access only to the name and address of the minor and information pertaining to the disposition or alternative adjustment plan of the juvenile court.

(8) Persons engaged in bona fide research, with the permission of the presiding judge of the juvenile court and the chief executive of the agency that prepared the particular records; provided that publication of such research results in no disclosure of a minor's identity and protects the confidentiality of the record.

(9) The Secretary of State to whom the Clerk of the Court shall report the disposition of all cases, as required in Section 6-204 of the Illinois Vehicle Code. However, information reported relative to these offenses shall be privileged and available only to the Secretary of State, courts, and police officers.

(10) The administrator of a bonafide substance abuse student assistance program with the permission of the presiding judge of the juvenile court.

(11) Mental health professionals on behalf of the Illinois Department of Corrections or the Department of Human Services or prosecutors who are evaluating, prosecuting, or investigating a potential or actual petition brought under the Sexually Persons Commitment Act relating to a person who is the subject of juvenile court records or the respondent to a petition brought under the Sexually Violent Persons Commitment Act, who is the subject of juvenile court records sought. Any records and any information obtained from those records under this paragraph (11) may be used only in sexually violent persons commitment proceedings.

(A-1) Findings and exclusions of paternity entered in proceedings occurring under Article II of this Act shall be disclosed, in a manner and form approved by the Presiding Judge of the Juvenile Court, to the Department of Healthcare and Family Services when necessary to discharge the duties of the Department of Healthcare and Family Services under Article X of the Illinois Public Aid Code.

(B) A minor who is the victim in a juvenile proceeding shall be provided the same confidentiality regarding disclosure of identity as the minor who is the subject of record.

(C) Except as otherwise provided in this subsection (C), juvenile court records shall not be made available to the general public but may be inspected by representatives of agencies, associations and news media or other properly interested persons by general or special order of the court presiding over matters pursuant to this Act.

(0.1) In cases where the records concern a pending juvenile court case, the party seeking to inspect the juvenile court records shall provide actual notice to the attorney or guardian ad litem of the minor whose records are sought.

(0.2) In cases where the records concern a juvenile court case that is no longer pending, the party seeking to inspect the juvenile court records shall provide actual notice to the minor or the minor's parent or legal guardian, and the matter shall be referred to the chief judge presiding over matters pursuant to this Act.

(0.3) In determining whether the records should be available for inspection, the court shall consider the minor's interest in confidentiality and rehabilitation over the moving party's interest in obtaining the information. The State's Attorney, the minor, and the minor's parents, guardian, and counsel shall at all times have the right to examine court files and records. For purposes of obtaining documents pursuant to this Section, a civil subpoena is not an order of the court.

(0.4) Any records obtained in violation of this subsection (C) shall not be admissible in any criminal or civil proceeding, or operate to disqualify a minor from subsequently holding public office, or operate as a forfeiture of any public benefit, right, privilege, or right to receive any license granted by public authority.

(1) The court shall allow the general public to have access to the name, address, and offense of a minor who is adjudicated a delinquent minor under this Act under either of the following circumstances:

(A) The adjudication of delinquency was based upon the minor's commission of first degree murder, attempt to commit first degree murder, aggravated criminal sexual assault, or criminal sexual assault; or

(B) The court has made a finding that the minor was at least 13 years of age at the time the act was committed and the adjudication of delinquency was based upon the minor's commission of: (i) an act in furtherance of the commission of a felony as a member of or on behalf of a criminal street gang, (ii) an act involving the use of a firearm in the commission of a felony, (iii) an act that would be a Class X felony offense under or the minor's second or subsequent Class 2 or greater felony offense under the Cannabis Control Act if committed by an adult, (iv) an act that would be a second or subsequent offense under Section 402 of the Illinois Controlled Substances Act if committed by an adult, (v) an act that would be an offense under Section 401 of the Illinois Controlled Substances Act if committed by an adult, (vi) an act that would be a second or subsequent offense under Section 60 of the Methamphetamine Control and Community Protection Act, or (vii) an act that would be an offense under another Section of the Methamphetamine Control and Community Protection Act.

(2) The court shall allow the general public to have access to the name, address, and offense of a minor who is at least 13 years of age at the time the offense is committed and who is convicted, in criminal proceedings permitted or required under Section 5-4, under either of the following circumstances:

(A) The minor has been convicted of first degree murder, attempt to commit first degree murder, aggravated criminal sexual assault, or criminal sexual assault,

(B) The court has made a finding that the minor was at least 13 years of age at the time the offense was committed and the conviction was based upon the minor's commission of: (i) an offense in furtherance of the commission of a felony as a member of or on behalf of a criminal street gang, (ii) an offense involving the use of a firearm in the commission of a felony, (iii) a Class X felony offense under or a second or subsequent Class 2 or greater felony offense under the Cannabis Control Act, (iv) a second or subsequent offense under Section 402 of the Illinois Controlled Substances Act, (v) an offense under Section 401 of the Illinois Controlled Substances Act, (vi) an act that would be a second or subsequent offense under Section 60 of the Methamphetamine Control and Community Protection Act, or (vii) an act that would be an offense under another Section of the Methamphetamine Control and Community Protection Act.

(D) Pending or following any adjudication of delinquency for any offense defined in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, the victim of any such offense shall receive the rights set out in Sections 4 and 6 of the Bill of Rights for Victims and Witnesses of

Violent Crime Act; and the juvenile who is the subject of the adjudication, notwithstanding any other provision of this Act, shall be treated as an adult for the purpose of affording such rights to the victim.

(E) Nothing in this Section shall affect the right of a Civil Service Commission or appointing authority of any state, county or municipality examining the character and fitness of an applicant for employment with a law enforcement agency, correctional institution, or fire department to ascertain whether that applicant was ever adjudicated to be a delinquent minor and, if so, to examine the records of disposition or evidence which were made in proceedings under this Act.

(F) Following any adjudication of delinquency for a crime which would be a felony if committed by an adult, or following any adjudication of delinquency for a violation of Section 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the State's Attorney shall ascertain whether the minor respondent is enrolled in school and, if so, shall provide a copy of the dispositional order to the principal or chief administrative officer of the school. Access to such juvenile records shall be limited to the principal or chief administrative officer of the school and any guidance counselor designated by him.

(G) Nothing contained in this Act prevents the sharing or disclosure of information or records relating or pertaining to juveniles subject to the provisions of the Serious Habitual Offender Comprehensive Action Program when that information is used to assist in the early identification and treatment of habitual juvenile offenders.

(H) When a Court hearing a proceeding under Article II of this Act becomes aware that an earlier proceeding under Article II had been heard in a different county, that Court shall request, and the Court in which the earlier proceedings were initiated shall transmit, an authenticated copy of the Court record, including all documents, petitions, and orders filed therein and the minute orders, transcript of proceedings, and docket entries of the Court.

(I) The Clerk of the Circuit Court shall report to the Department of State Police, in the form and manner required by the Department of State Police, the final disposition of each minor who has been arrested or taken into custody before his or her 17th birthday for those offenses required to be reported under Section 5 of the Criminal Identification Act. Information reported to the Department under this Section may be maintained with records that the Department files under Section 2.1 of the Criminal Identification Act.

(Source: P.A. 95-123, eff. 8-13-07; 96-212, eff. 8-10-09.)

(705 ILCS 405/2-17) (from Ch. 37, par. 802-17)

Sec. 2-17. Guardian ad litem.

(1) Immediately upon the filing of a petition alleging that the minor is a person described in Sections 2-3 or 2-4 of this Article, the court shall appoint a guardian ad litem for the minor if:

(a) such petition alleges that the minor is an abused or neglected child; or

(b) such petition alleges that charges alleging the commission of any of the sex offenses defined in Article 11 or in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, as amended, have been filed against a defendant in any court and that such minor is the alleged victim of the acts of defendant in the commission of such offense.

Unless the guardian ad litem appointed pursuant to this paragraph (1) is an attorney at law he shall be represented in the performance of his duties by counsel. The guardian ad litem shall represent the best interests of the minor and shall present recommendations to the court consistent with that duty.

(2) Before proceeding with the hearing, the court shall appoint a guardian ad litem for the minor if

(a) no parent, guardian, custodian or relative of the minor appears at the first or any subsequent hearing of the case;

(b) the petition prays for the appointment of a guardian with power to consent to adoption; or

(c) the petition for which the minor is before the court resulted from a report made pursuant to the Abused and Neglected Child Reporting Act.

(3) The court may appoint a guardian ad litem for the minor whenever it finds that there may be a conflict of interest between the minor and his parents or other custodian or that it is otherwise in the minor's best interest to do so.

(4) Unless the guardian ad litem is an attorney, he shall be represented by counsel.

(5) The reasonable fees of a guardian ad litem appointed under this Section shall be fixed by the court and charged to the parents of the minor, to the extent they are able to pay. If the parents are unable to pay those fees, they shall be paid from the general fund of the county.

(6) A guardian ad litem appointed under this Section, shall receive copies of any and all classified reports of child abuse and neglect made under the Abused and Neglected Child Reporting Act in which the minor who is the subject of a report under the Abused and Neglected Child Reporting Act, is also the

minor for whom the guardian ad litem is appointed under this Section.

(7) The appointed guardian ad litem shall remain the child's guardian ad litem throughout the entire juvenile trial court proceedings, including permanency hearings and termination of parental rights proceedings, unless there is a substitution entered by order of the court.

(8) The guardian ad litem or an agent of the guardian ad litem shall have a minimum of one in-person contact with the minor and one contact with one of the current foster parents or caregivers prior to the adjudicatory hearing, and at least one additional in-person contact with the child and one contact with one of the current foster parents or caregivers after the adjudicatory hearing but prior to the first permanency hearing and one additional in-person contact with the child and one contact with one of the current foster parents or caregivers each subsequent year. For good cause shown, the judge may excuse face-to-face interviews required in this subsection.

(9) In counties with a population of 100,000 or more but less than 3,000,000, each guardian ad litem must successfully complete a training program approved by the Department of Children and Family Services. The Department of Children and Family Services shall provide training materials and documents to guardians ad litem who are not mandated to attend the training program. The Department of Children and Family Services shall develop and distribute to all guardians ad litem a bibliography containing information including but not limited to the juvenile court process, termination of parental rights, child development, medical aspects of child abuse, and the child's need for safety and permanence.

(Source: P.A. 89-462, eff. 5-29-96; 90-27, eff. 1-1-98; 90-28, eff. 1-1-98.)

(705 ILCS 405/2-25) (from Ch. 37, par. 802-25)

Sec. 2-25. Order of protection.

(1) The court may make an order of protection in assistance of or as a condition of any other order authorized by this Act. The order of protection shall be based on the health, safety and best interests of the minor and may set forth reasonable conditions of behavior to be observed for a specified period. Such an order may require a person:

- (a) to stay away from the home or the minor;
- (b) to permit a parent to visit the minor at stated periods;
- (c) to abstain from offensive conduct against the minor, his parent or any person to whom custody of the minor is awarded;
- (d) to give proper attention to the care of the home;
- (e) to cooperate in good faith with an agency to which custody of a minor is entrusted by the court or with an agency or association to which the minor is referred by the court;
- (f) to prohibit and prevent any contact whatsoever with the respondent minor by a specified individual or individuals who are alleged in either a criminal or juvenile proceeding to have caused injury to a respondent minor or a sibling of a respondent minor;
- (g) to refrain from acts of commission or omission that tend to make the home not a proper place for the minor;
- (h) to refrain from contacting the minor and the foster parents in any manner that is not specified in writing in the case plan.

(2) The court shall enter an order of protection to prohibit and prevent any contact between a respondent minor or a sibling of a respondent minor and any person named in a petition seeking an order of protection who has been convicted of heinous battery ~~under Section 12-4.1~~, aggravated battery of a child ~~under Section 12-4.3~~, criminal sexual assault ~~under Section 12-13~~, aggravated criminal sexual assault ~~under Section 12-14~~, predatory criminal sexual assault of a child ~~under Section 12-14.1~~, criminal sexual abuse ~~under Section 12-15~~, or aggravated criminal sexual abuse ~~as described in under Section 12-16~~ of the Criminal Code of 1961, or has been convicted of an offense that resulted in the death of a child, or has violated a previous order of protection under this Section.

(3) When the court issues an order of protection against any person as provided by this Section, the court shall direct a copy of such order to the Sheriff of that county. The Sheriff shall furnish a copy of the order of protection to the Department of State Police within 24 hours of receipt, in the form and manner required by the Department. The Department of State Police shall maintain a complete record and index of such orders of protection and make this data available to all local law enforcement agencies.

(4) After notice and opportunity for hearing afforded to a person subject to an order of protection, the order may be modified or extended for a further specified period or both or may be terminated if the court finds that the health, safety, and best interests of the minor and the public will be served thereby.

(5) An order of protection may be sought at any time during the course of any proceeding conducted pursuant to this Act if such an order is consistent with the health, safety, and best interests of the minor.

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Any person against whom an order of protection is sought may retain counsel to represent him at a hearing, and has rights to be present at the hearing, to be informed prior to the hearing in writing of the contents of the petition seeking a protective order and of the date, place and time of such hearing, and to cross examine witnesses called by the petitioner and to present witnesses and argument in opposition to the relief sought in the petition.

(6) Diligent efforts shall be made by the petitioner to serve any person or persons against whom any order of protection is sought with written notice of the contents of the petition seeking a protective order and of the date, place and time at which the hearing on the petition is to be held. When a protective order is being sought in conjunction with a temporary custody hearing, if the court finds that the person against whom the protective order is being sought has been notified of the hearing or that diligent efforts have been made to notify such person, the court may conduct a hearing. If a protective order is sought at any time other than in conjunction with a temporary custody hearing, the court may not conduct a hearing on the petition in the absence of the person against whom the order is sought unless the petitioner has notified such person by personal service at least 3 days before the hearing or has sent written notice by first class mail to such person's last known address at least 5 days before the hearing.

(7) A person against whom an order of protection is being sought who is neither a parent, guardian, legal custodian or responsible relative as described in Section 1-5 is not a party or respondent as defined in that Section and shall not be entitled to the rights provided therein. Such person does not have a right to appointed counsel or to be present at any hearing other than the hearing in which the order of protection is being sought or a hearing directly pertaining to that order. Unless the court orders otherwise, such person does not have a right to inspect the court file.

(8) All protective orders entered under this Section shall be in writing. Unless the person against whom the order was obtained was present in court when the order was issued, the sheriff, other law enforcement official or special process server shall promptly serve that order upon that person and file proof of such service, in the manner provided for service of process in civil proceedings. The person against whom the protective order was obtained may seek a modification of the order by filing a written motion to modify the order within 7 days after actual receipt by the person of a copy of the order. Any modification of the order granted by the court must be determined to be consistent with the best interests of the minor.

(9) If a petition is filed charging a violation of a condition contained in the protective order and if the court determines that this violation is of a critical service necessary to the safety and welfare of the minor, the court may proceed to findings and an order for temporary custody.

(Source: P.A. 95-405, eff. 6-1-08.)

(705 ILCS 405/3-19) (from Ch. 37, par. 803-19)  
Sec. 3-19. Guardian ad litem.

(1) Immediately upon the filing of a petition alleging that the minor requires authoritative intervention, the court may appoint a guardian ad litem for the minor if

(a) such petition alleges that the minor is the victim of sexual abuse or misconduct; or

(b) such petition alleges that charges alleging the commission of any of the sex offenses defined in Article 11 or in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, as amended, have been filed against a defendant in any court and that such minor is the alleged victim of the acts of the defendant in the commission of such offense.

(2) Unless the guardian ad litem appointed pursuant to paragraph (1) is an attorney at law he shall be represented in the performance of his duties by counsel.

(3) Before proceeding with the hearing, the court shall appoint a guardian ad litem for the minor if

(a) no parent, guardian, custodian or relative of the minor appears at the first or any subsequent hearing of the case;

(b) the petition prays for the appointment of a guardian with power to consent to adoption; or

(c) the petition for which the minor is before the court resulted from a report made pursuant to the Abused and Neglected Child Reporting Act.

(4) The court may appoint a guardian ad litem for the minor whenever it finds that there may be a conflict of interest between the minor and his parents or other custodian or that it is otherwise in the minor's interest to do so.

(5) The reasonable fees of a guardian ad litem appointed under this Section shall be fixed by the court and charged to the parents of the minor, to the extent they are able to pay. If the parents are unable to pay those fees, they shall be paid from the general fund of the county.

(Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

(705 ILCS 405/3-26) (from Ch. 37, par. 803-26)  
 Sec. 3-26. Order of protection.

(1) The court may make an order of protection in assistance of or as a condition of any other order authorized by this Act. The order of protection may set forth reasonable conditions of behavior to be observed for a specified period. Such an order may require a person:

- (a) To stay away from the home or the minor;
- (b) To permit a parent to visit the minor at stated periods;
- (c) To abstain from offensive conduct against the minor, his parent or any person to whom custody of the minor is awarded;
- (d) To give proper attention to the care of the home;
- (e) To cooperate in good faith with an agency to which custody of a minor is entrusted by the court or with an agency or association to which the minor is referred by the court;
- (f) To prohibit and prevent any contact whatsoever with the respondent minor by a specified individual or individuals who are alleged in either a criminal or juvenile proceeding to have caused injury to a respondent minor or a sibling of a respondent minor;
- (g) To refrain from acts of commission or omission that tend to make the home not a proper place for the minor.

(2) The court shall enter an order of protection to prohibit and prevent any contact between a respondent minor or a sibling of a respondent minor and any person named in a petition seeking an order of protection who has been convicted of heinous battery ~~under Section 12-4-1~~, aggravated battery of a child ~~under Section 12-4-3~~, criminal sexual assault ~~under Section 12-13~~, aggravated criminal sexual assault ~~under Section 12-14~~, predatory criminal sexual assault of a child ~~under Section 12-14.1~~, criminal sexual abuse ~~under Section 12-15~~, or aggravated criminal sexual abuse ~~as described in under Section 12-16~~ of the Criminal Code of 1961, or has been convicted of an offense that resulted in the death of a child, or has violated a previous order of protection under this Section.

(3) When the court issues an order of protection against any person as provided by this Section, the court shall direct a copy of such order to the Sheriff of that county. The Sheriff shall furnish a copy of the order of protection to the Department of State Police within 24 hours of receipt, in the form and manner required by the Department. The Department of State Police shall maintain a complete record and index of such orders of protection and make this data available to all local law enforcement agencies.

(4) After notice and opportunity for hearing afforded to a person subject to an order of protection, the order may be modified or extended for a further specified period or both or may be terminated if the court finds that the best interests of the minor and the public will be served thereby.

(5) An order of protection may be sought at any time during the course of any proceeding conducted pursuant to this Act. Any person against whom an order of protection is sought may retain counsel to represent him at a hearing, and has rights to be present at the hearing, to be informed prior to the hearing in writing of the contents of the petition seeking a protective order and of the date, place and time of such hearing, and to cross examine witnesses called by the petitioner and to present witnesses and argument in opposition to the relief sought in the petition.

(6) Diligent efforts shall be made by the petitioner to serve any person or persons against whom any order of protection is sought with written notice of the contents of the petition seeking a protective order and of the date, place and time at which the hearing on the petition is to be held. When a protective order is being sought in conjunction with a shelter care hearing, if the court finds that the person against whom the protective order is being sought has been notified of the hearing or that diligent efforts have been made to notify such person, the court may conduct a hearing. If a protective order is sought at any time other than in conjunction with a shelter care hearing, the court may not conduct a hearing on the petition in the absence of the person against whom the order is sought unless the petitioner has notified such person by personal service at least 3 days before the hearing or has sent written notice by first class mail to such person's last known address at least 5 days before the hearing.

(7) A person against whom an order of protection is being sought who is neither a parent, guardian, legal custodian or responsible relative as described in Section 1-5 is not a party or respondent as defined in that Section and shall not be entitled to the rights provided therein. Such person does not have a right to appointed counsel or to be present at any hearing other than the hearing in which the order of protection is being sought or a hearing directly pertaining to that order. Unless the court orders otherwise, such person does not have a right to inspect the court file.

(8) All protective orders entered under this Section shall be in writing. Unless the person against whom the order was obtained was present in court when the order was issued, the sheriff, other law enforcement official or special process server shall promptly serve that order upon that person and file

proof of such service, in the manner provided for service of process in civil proceedings. The person against whom the protective order was obtained may seek a modification of the order by filing a written motion to modify the order within 7 days after actual receipt by the person of a copy of the order. (Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96; 90-655, eff. 7-30-98.)

(705 ILCS 405/4-16) (from Ch. 37, par. 804-16)

Sec. 4-16. Guardian ad litem.

(1) Immediately upon the filing of a petition alleging that the minor is a person described in Section 4-3 of this Act, the court may appoint a guardian ad litem for the minor if:

- (a) such petition alleges that the minor is the victim of sexual abuse or misconduct; or
- (b) such petition alleges that charges alleging the commission of any of the sex offenses defined in Article 11 or in Sections ~~11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60,~~ 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, as amended, have been filed against a defendant in any court and that such minor is the alleged victim of the acts of the defendant in the commission of such offense.

Unless the guardian ad litem appointed pursuant to this paragraph (1) is an attorney at law he shall be represented in the performance of his duties by counsel.

(2) Before proceeding with the hearing, the court shall appoint a guardian ad litem for the minor if

- (a) no parent, guardian, custodian or relative of the minor appears at the first or any subsequent hearing of the case;
- (b) the petition prays for the appointment of a guardian with power to consent to adoption; or
- (c) the petition for which the minor is before the court resulted from a report made pursuant to the Abused and Neglected Child Reporting Act.

(3) The court may appoint a guardian ad litem for the minor whenever it finds that there may be a conflict of interest between the minor and his parents or other custodian or that it is otherwise in the minor's interest to do so.

(4) Unless the guardian ad litem is an attorney, he shall be represented by counsel.

(5) The reasonable fees of a guardian ad litem appointed under this Section shall be fixed by the court and charged to the parents of the minor, to the extent they are able to pay. If the parents are unable to pay those fees, they shall be paid from the general fund of the county.

(Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

(705 ILCS 405/4-23) (from Ch. 37, par. 804-23)

Sec. 4-23. Order of protection.

(1) The court may make an order of protection in assistance of or as a condition of any other order authorized by this Act. The order of protection may set forth reasonable conditions of behavior to be observed for a specified period. Such an order may require a person:

- (a) To stay away from the home or the minor;
- (b) To permit a parent to visit the minor at stated periods;
- (c) To abstain from offensive conduct against the minor, his parent or any person to whom custody of the minor is awarded;
- (d) To give proper attention to the care of the home;
- (e) To cooperate in good faith with an agency to which custody of a minor is entrusted by the court or with an agency or association to which the minor is referred by the court;
- (f) To prohibit and prevent any contact whatsoever with the respondent minor by a specified individual or individuals who are alleged in either a criminal or juvenile proceeding to have caused injury to a respondent minor or a sibling of a respondent minor;
- (g) To refrain from acts of commission or omission that tend to make the home not a proper place for the minor.

(2) The court shall enter an order of protection to prohibit and prevent any contact between a respondent minor or a sibling of a respondent minor and any person named in a petition seeking an order of protection who has been convicted of heinous battery ~~under Section 12-4.1,~~ aggravated battery of a child ~~under Section 12-4.3,~~ criminal sexual assault ~~under Section 12-13,~~ aggravated criminal sexual assault ~~under Section 12-14,~~ predatory criminal sexual assault of a child ~~under Section 12-14.1,~~ criminal sexual abuse ~~under Section 12-15,~~ or aggravated criminal sexual abuse ~~as described in under Section 12-16~~ of the Criminal Code of 1961, or has been convicted of an offense that resulted in the death of a child, or has violated a previous order of protection under this Section.

(3) When the court issues an order of protection against any person as provided by this Section, the court shall direct a copy of such order to the Sheriff of that county. The Sheriff shall furnish a copy of the order of protection to the Department of State Police within 24 hours of receipt, in the form and

manner required by the Department. The Department of State Police shall maintain a complete record and index of such orders of protection and make this data available to all local law enforcement agencies.

(4) After notice and opportunity for hearing afforded to a person subject to an order of protection, the order may be modified or extended for a further specified period or both or may be terminated if the court finds that the best interests of the minor and the public will be served thereby.

(5) An order of protection may be sought at any time during the course of any proceeding conducted pursuant to this Act. Any person against whom an order of protection is sought may retain counsel to represent him at a hearing, and has rights to be present at the hearing, to be informed prior to the hearing in writing of the contents of the petition seeking a protective order and of the date, place and time of such hearing, and to cross examine witnesses called by the petitioner and to present witnesses and argument in opposition to the relief sought in the petition.

(6) Diligent efforts shall be made by the petitioner to serve any person or persons against whom any order of protection is sought with written notice of the contents of the petition seeking a protective order and of the date, place and time at which the hearing on the petition is to be held. When a protective order is being sought in conjunction with a shelter care hearing, if the court finds that the person against whom the protective order is being sought has been notified of the hearing or that diligent efforts have been made to notify such person, the court may conduct a hearing. If a protective order is sought at any time other than in conjunction with a shelter care hearing, the court may not conduct a hearing on the petition in the absence of the person against whom the order is sought unless the petitioner has notified such person by personal service at least 3 days before the hearing or has sent written notice by first class mail to such person's last known address at least 5 days before the hearing.

(7) A person against whom an order of protection is being sought who is neither a parent, guardian, legal custodian or responsible relative as described in Section 1-5 is not a party or respondent as defined in that Section and shall not be entitled to the rights provided therein. Such person does not have a right to appointed counsel or to be present at any hearing other than the hearing in which the order of protection is being sought or a hearing directly pertaining to that order. Unless the court orders otherwise, such person does not have a right to inspect the court file.

(8) All protective orders entered under this Section shall be in writing. Unless the person against whom the order was obtained was present in court when the order was issued, the sheriff, other law enforcement official or special process server shall promptly serve that order upon that person and file proof of such service, in the manner provided for service of process in civil proceedings. The person against whom the protective order was obtained may seek a modification of the order by filing a written motion to modify the order within 7 days after actual receipt by the person of a copy of the order.

(Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96; 90-655, eff. 7-30-98.)

(705 ILCS 405/5-170)

Sec. 5-170. Representation by counsel.

(a) In a proceeding under this Article, a minor who was under 13 years of age at the time of the commission of an act that if committed by an adult would be a violation of Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 must be represented by counsel during the entire custodial interrogation of the minor.

(b) In a judicial proceeding under this Article, a minor may not waive the right to the assistance of counsel in his or her defense.

(Source: P.A. 94-345, eff. 7-26-05.)

(705 ILCS 405/5-730)

Sec. 5-730. Order of protection.

(1) The court may make an order of protection in assistance of or as a condition of any other order authorized by this Act. The order of protection may set forth reasonable conditions of behavior to be observed for a specified period. The order may require a person:

(a) to stay away from the home or the minor;

(b) to permit a parent to visit the minor at stated periods;

(c) to abstain from offensive conduct against the minor, his or her parent or any person to whom custody of the minor is awarded;

(d) to give proper attention to the care of the home;

(e) to cooperate in good faith with an agency to which custody of a minor is entrusted by the court or with an agency or association to which the minor is referred by the court;

(f) to prohibit and prevent any contact whatsoever with the respondent minor by a specified individual or individuals who are alleged in either a criminal or juvenile proceeding to have

caused injury to a respondent minor or a sibling of a respondent minor;

(g) to refrain from acts of commission or omission that tend to make the home not a proper place for the minor.

(2) The court shall enter an order of protection to prohibit and prevent any contact between a respondent minor or a sibling of a respondent minor and any person named in a petition seeking an order of protection who has been convicted of heinous battery ~~under Section 12-4.1~~, aggravated battery of a child ~~under Section 12-4.3~~, criminal sexual assault ~~under Section 12-13~~, aggravated criminal sexual assault ~~under Section 12-14~~, predatory criminal sexual assault of a child ~~under Section 12-14.1~~, criminal sexual abuse ~~under Section 12-15~~, or aggravated criminal sexual abuse ~~as described in under Section 12-16~~ of the Criminal Code of 1961, or has been convicted of an offense that resulted in the death of a child, or has violated a previous order of protection under this Section.

(3) When the court issues an order of protection against any person as provided by this Section, the court shall direct a copy of such order to the sheriff of that county. The sheriff shall furnish a copy of the order of protection to the Department of State Police within 24 hours of receipt, in the form and manner required by the Department. The Department of State Police shall maintain a complete record and index of the orders of protection and make this data available to all local law enforcement agencies.

(4) After notice and opportunity for hearing afforded to a person subject to an order of protection, the order may be modified or extended for a further specified period or both or may be terminated if the court finds that the best interests of the minor and the public will be served by the modification, extension, or termination.

(5) An order of protection may be sought at any time during the course of any proceeding conducted under this Act. Any person against whom an order of protection is sought may retain counsel to represent him or her at a hearing, and has rights to be present at the hearing, to be informed prior to the hearing in writing of the contents of the petition seeking a protective order and of the date, place, and time of the hearing, and to cross-examine witnesses called by the petitioner and to present witnesses and argument in opposition to the relief sought in the petition.

(6) Diligent efforts shall be made by the petitioner to serve any person or persons against whom any order of protection is sought with written notice of the contents of the petition seeking a protective order and of the date, place and time at which the hearing on the petition is to be held. When a protective order is being sought in conjunction with a shelter care or detention hearing, if the court finds that the person against whom the protective order is being sought has been notified of the hearing or that diligent efforts have been made to notify the person, the court may conduct a hearing. If a protective order is sought at any time other than in conjunction with a shelter care or detention hearing, the court may not conduct a hearing on the petition in the absence of the person against whom the order is sought unless the petitioner has notified the person by personal service at least 3 days before the hearing or has sent written notice by first class mail to the person's last known address at least 5 days before the hearing.

(7) A person against whom an order of protection is being sought who is neither a parent, guardian, or legal custodian or responsible relative as described in Section 1-5 of this Act or is not a party or respondent as defined in that Section shall not be entitled to the rights provided in that Section. The person does not have a right to appointed counsel or to be present at any hearing other than the hearing in which the order of protection is being sought or a hearing directly pertaining to that order. Unless the court orders otherwise, the person does not have a right to inspect the court file.

(8) All protective orders entered under this Section shall be in writing. Unless the person against whom the order was obtained was present in court when the order was issued, the sheriff, other law enforcement official, or special process server shall promptly serve that order upon that person and file proof of that service, in the manner provided for service of process in civil proceedings. The person against whom the protective order was obtained may seek a modification of the order by filing a written motion to modify the order within 7 days after actual receipt by the person of a copy of the order.

(Source: P.A. 90-590, eff. 1-1-99.)

Section 1035. The Criminal Code of 1961 is amended by changing Sections 1-6, 2-10.1, 3-5, 3-6, 8-2, 12-3.2, 12-11, 12-18.1, 12-30, 36-1, and 37-1 as follows:

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

Sec. 1-6. Place of trial.

(a) Generally.

Criminal actions shall be tried in the county where the offense was committed, except as otherwise provided by law. The State is not required to prove during trial that the alleged offense occurred in any particular county in this State. When a defendant contests the place of trial under this Section, all proceedings regarding this issue shall be conducted under Section 114-1 of the Code of Criminal

Procedure of 1963. All objections of improper place of trial are waived by a defendant unless made before trial.

(b) Assailant and Victim in Different Counties.

If a person committing an offense upon the person of another is located in one county and his victim is located in another county at the time of the commission of the offense, trial may be had in either of said counties.

(c) Death and Cause of Death in Different Places or Undetermined.

If cause of death is inflicted in one county and death ensues in another county, the offender may be tried in either county. If neither the county in which the cause of death was inflicted nor the county in which death ensued are known before trial, the offender may be tried in the county where the body was found.

(d) Offense Commenced Outside the State.

If the commission of an offense commenced outside the State is consummated within this State, the offender shall be tried in the county where the offense is consummated.

(e) Offenses Committed in Bordering Navigable Waters.

If an offense is committed on any of the navigable waters bordering on this State, the offender may be tried in any county adjacent to such navigable water.

(f) Offenses Committed while in Transit.

If an offense is committed upon any railroad car, vehicle, watercraft or aircraft passing within this State, and it cannot readily be determined in which county the offense was committed, the offender may be tried in any county through which such railroad car, vehicle, watercraft or aircraft has passed.

(g) Theft.

A person who commits theft of property may be tried in any county in which he exerted control over such property.

(h) Bigamy.

A person who commits the offense of bigamy may be tried in any county where the bigamous marriage or bigamous cohabitation has occurred.

(i) Kidnaping.

A person who commits the offense of kidnaping may be tried in any county in which his victim has traveled or has been confined during the course of the offense.

(j) Pandering.

A person who commits the offense of pandering as set forth in Section 11-14.3 may be tried in any county in which the prostitution was practiced or in any county in which any act in furtherance of the offense shall have been committed.

(k) Treason.

A person who commits the offense of treason may be tried in any county.

(l) Criminal Defamation.

If criminal defamation is spoken, printed or written in one county and is received or circulated in another or other counties, the offender shall be tried in the county where the defamation is spoken, printed or written. If the defamation is spoken, printed or written outside this state, or the offender resides outside this state, the offender may be tried in any county in this state in which the defamation was circulated or received.

(m) Inchoate Offenses.

A person who commits an inchoate offense may be tried in any county in which any act which is an element of the offense, including the agreement in conspiracy, is committed.

(n) Accountability for Conduct of Another.

Where a person in one county solicits, aids, abets, agrees, or attempts to aid another in the planning or commission of an offense in another county, he may be tried for the offense in either county.

(o) Child Abduction.

A person who commits the offense of child abduction may be tried in any county in which his victim has traveled, been detained, concealed or removed to during the course of the offense. Notwithstanding the foregoing, unless for good cause shown, the preferred place of trial shall be the county of the residence of the lawful custodian.

(p) A person who commits the offense of narcotics racketeering may be tried in any county where cannabis or a controlled substance which is the basis for the charge of narcotics racketeering was used; acquired; transferred or distributed to, from or through; or any county where any act was performed to further the use; acquisition, transfer or distribution of said cannabis or controlled substance; any money, property, property interest, or any other asset generated by narcotics activities was acquired, used, sold, transferred or distributed to, from or through; or, any enterprise interest obtained as a result of narcotics

racketeering was acquired, used, transferred or distributed to, from or through, or where any activity was conducted by the enterprise or any conduct to further the interests of such an enterprise.

(q) A person who commits the offense of money laundering may be tried in any county where any part of a financial transaction in criminally derived property took place or in any county where any money or monetary instrument which is the basis for the offense was acquired, used, sold, transferred or distributed to, from or through.

(r) A person who commits the offense of cannabis trafficking or controlled substance trafficking may be tried in any county.

(s) A person who commits the offense of online sale of stolen property, online theft by deception, or electronic fencing may be tried in any county where any one or more elements of the offense took place, regardless of whether the element of the offense was the result of acts by the accused, the victim or by another person, and regardless of whether the defendant was ever physically present within the boundaries of the county.

(t) A person who commits the offense of identity theft or aggravated identity theft may be tried in any one of the following counties in which: (1) the offense occurred; (2) the information used to commit the offense was illegally used; or (3) the victim resides.

If a violation is charged with more than one violation of identity theft or aggravated identity theft and those violations may be tried in more than one county, any of those counties is a proper venue for all of the violations.

(Source: P.A. 94-51, eff. 1-1-06; 94-179, eff. 7-12-05; 95-331, eff. 8-21-07.)

(720 ILCS 5/2-10.1) (from Ch. 38, par. 2-10.1)

Sec. 2-10.1. "Severely or profoundly mentally retarded person" means a person (i) whose intelligence quotient does not exceed 40 or (ii) whose intelligence quotient does not exceed 55 and who suffers from significant mental illness to the extent that the person's ability to exercise rational judgment is impaired. In any proceeding in which the defendant is charged with committing a violation of Section 10-2, 10-5, 11-1.30, 11-1.60, 11-14.4, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-4.3, 12-14, or 12-16 of this Code against a victim who is alleged to be a severely or profoundly mentally retarded person, any findings concerning the victim's status as a severely or profoundly mentally retarded person, made by a court after a judicial admission hearing concerning the victim under Articles V and VI of Chapter 4 of the Mental Health and Developmental Disabilities Code shall be admissible.

(Source: P.A. 92-434, eff. 1-1-02.)

(720 ILCS 5/3-5) (from Ch. 38, par. 3-5)

Sec. 3-5. General Limitations.

(a) A prosecution for: (1) first degree murder, attempt to commit first degree murder, second degree murder, involuntary manslaughter, reckless homicide, leaving the scene of a motor vehicle accident involving death or personal injuries under Section 11-401 of the Illinois Vehicle Code, failing to give information and render aid under Section 11-403 of the Illinois Vehicle Code, concealment of homicidal death, treason, arson, aggravated arson, forgery, child pornography under paragraph (1) of subsection (a) of Section 11-20.1, aggravated child pornography under paragraph (1) of subsection (a) of Section 11-20.1B ~~11-20.3~~, or (2) any offense involving sexual conduct or sexual penetration, as defined by Section ~~11-0.1~~ ~~12-12~~ of this Code in which the DNA profile of the offender is obtained and entered into a DNA database within 10 years after the commission of the offense, may be commenced at any time. Clause (2) of this subsection (a) applies if either: (i) the victim reported the offense to law enforcement authorities within 3 years after the commission of the offense unless a longer period for reporting the offense to law enforcement authorities is provided in Section 3-6 or (ii) the victim is murdered during the course of the offense or within 2 years after the commission of the offense.

(b) Unless the statute describing the offense provides otherwise, or the period of limitation is extended by Section 3-6, a prosecution for any offense not designated in Subsection (a) must be commenced within 3 years after the commission of the offense if it is a felony, or within one year and 6 months after its commission if it is a misdemeanor.

(Source: P.A. 95-899, eff. 1-1-09; 96-292, eff. 1-1-10.)

(720 ILCS 5/3-6) (from Ch. 38, par. 3-6)

Sec. 3-6. Extended limitations. The period within which a prosecution must be commenced under the provisions of Section 3-5 or other applicable statute is extended under the following conditions:

(a) A prosecution for theft involving a breach of a fiduciary obligation to the aggrieved person may be commenced as follows:

- (1) If the aggrieved person is a minor or a person under legal disability, then during the minority or legal disability or within one year after the termination thereof.
- (2) In any other instance, within one year after the discovery of the offense by an

aggrieved person, or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense, and is not himself or herself a party to the offense; or in the absence of such discovery, within one year after the proper prosecuting officer becomes aware of the offense. However, in no such case is the period of limitation so extended more than 3 years beyond the expiration of the period otherwise applicable.

(b) A prosecution for any offense based upon misconduct in office by a public officer or employee may be commenced within one year after discovery of the offense by a person having a legal duty to report such offense, or in the absence of such discovery, within one year after the proper prosecuting officer becomes aware of the offense. However, in no such case is the period of limitation so extended more than 3 years beyond the expiration of the period otherwise applicable.

(c) (Blank).

(d) A prosecution for child pornography, aggravated child pornography, indecent solicitation of a child, soliciting for a juvenile prostitute, juvenile pimping, ~~or~~ exploitation of a child, or promoting juvenile prostitution except for keeping a place of juvenile prostitution may be commenced within one year of the victim attaining the age of 18 years. However, in no such case shall the time period for prosecution expire sooner than 3 years after the commission of the offense. When the victim is under 18 years of age, a prosecution for criminal sexual abuse may be commenced within one year of the victim attaining the age of 18 years. However, in no such case shall the time period for prosecution expire sooner than 3 years after the commission of the offense.

(e) Except as otherwise provided in subdivision (j), a prosecution for any offense involving sexual conduct or sexual penetration, as defined in Section ~~11-0.1~~ ~~12-12~~ of this Code, where the defendant was within a professional or fiduciary relationship or a purported professional or fiduciary relationship with the victim at the time of the commission of the offense may be commenced within one year after the discovery of the offense by the victim.

(f) A prosecution for any offense set forth in Section 44 of the "Environmental Protection Act", approved June 29, 1970, as amended, may be commenced within 5 years after the discovery of such an offense by a person or agency having the legal duty to report the offense or in the absence of such discovery, within 5 years after the proper prosecuting officer becomes aware of the offense.

(f-5) A prosecution for any offense set forth in Section 16G-15 or 16G-20 of this Code may be commenced within 5 years after the discovery of the offense by the victim of that offense.

(g) (Blank).

(h) (Blank).

(i) Except as otherwise provided in subdivision (j), a prosecution for criminal sexual assault, aggravated criminal sexual assault, or aggravated criminal sexual abuse may be commenced within 10 years of the commission of the offense if the victim reported the offense to law enforcement authorities within 3 years after the commission of the offense.

Nothing in this subdivision (i) shall be construed to shorten a period within which a prosecution must be commenced under any other provision of this Section.

(j) When the victim is under 18 years of age at the time of the offense, a prosecution for criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual abuse, or felony criminal sexual abuse, or a prosecution for failure of a person who is required to report an alleged or suspected commission of any of these offenses under the Abused and Neglected Child Reporting Act may be commenced within 20 years after the child victim attains 18 years of age. When the victim is under 18 years of age at the time of the offense, a prosecution for misdemeanor criminal sexual abuse may be commenced within 10 years after the child victim attains 18 years of age.

Nothing in this subdivision (j) shall be construed to shorten a period within which a prosecution must be commenced under any other provision of this Section.

(k) A prosecution for theft involving real property exceeding \$100,000 in value under Section 16-1, identity theft under Section 16G-15, aggravated identity theft under Section 16G-20, or any offense set forth in Article 16H may be commenced within 7 years of the last act committed in furtherance of the crime.

(Source: P.A. 95-548, eff. 8-30-07; 96-233, eff. 1-1-10.)

(720 ILCS 5/8-2) (from Ch. 38, par. 8-2)

Sec. 8-2. Conspiracy.

(a) Elements of the offense. A person commits the offense of conspiracy when, with intent that an offense be committed, he or she agrees with another to the commission of that offense. No person may be convicted of conspiracy to commit an offense unless an act in furtherance of that agreement is alleged and proved to have been committed by him or her or by a co-conspirator.

[May 3, 2010]

(b) Co-conspirators. It is not a defense to conspiracy that the person or persons with whom the accused is alleged to have conspired:

- (1) have not been prosecuted or convicted,
- (2) have been convicted of a different offense,
- (3) are not amenable to justice,
- (4) have been acquitted, or
- (5) lacked the capacity to commit an offense.

(c) Sentence.

- (1) Except as otherwise provided in this subsection or Code, a person convicted of conspiracy to commit:
  - (A) a Class X felony shall be sentenced for a Class 1 felony;
  - (B) a Class 1 felony shall be sentenced for a Class 2 felony;
  - (C) a Class 2 felony shall be sentenced for a Class 3 felony;
  - (D) a Class 3 felony shall be sentenced for a Class 4 felony;
  - (E) a Class 4 felony shall be sentenced for a Class 4 felony; and
  - (F) a misdemeanor may be fined or imprisoned or both not to exceed the maximum provided for the offense that is the object of the conspiracy.
- (2) A person convicted of conspiracy to commit any of the following offenses shall be sentenced for a Class X felony:
  - (A) aggravated insurance fraud conspiracy when the person is an organizer of the conspiracy (720 ILCS 5/46-4); or
  - (B) aggravated governmental entity insurance fraud conspiracy when the person is an organizer of the conspiracy (720 ILCS 5/46-4).
- (3) A person convicted of conspiracy to commit any of the following offenses shall be sentenced for a Class 1 felony:
  - (A) first degree murder (720 ILCS 5/9-1); or
  - (B) aggravated insurance fraud (720 ILCS 5/46-3) or aggravated governmental insurance fraud (720 ILCS 5/46-3).
- (4) A person convicted of conspiracy to commit insurance fraud (720 ILCS 5/46-3) or governmental entity insurance fraud (720 ILCS 5/46-3) shall be sentenced for a Class 2 felony.
- (5) A person convicted of conspiracy to commit any of the following offenses shall be sentenced for a Class 3 felony:
  - (A) soliciting for a prostitute (720 ILCS ~~5/11-14.3(a)(1)~~ ~~5/11-15~~);
  - (B) pandering (720 ILCS ~~5/11-14.3(a)(2)(A)~~ or ~~5/11-14.3(a)(2)(B)~~ ~~5/11-16~~);
  - (C) keeping a place of prostitution (720 ILCS ~~5/11-14.3(a)(1)~~ ~~5/11-17~~);
  - (D) pimping (720 ILCS ~~5/11-14.3(a)(2)(C)~~ ~~5/11-19~~);
  - (E) unlawful use of weapons under Section 24-1(a)(1) (720 ILCS 5/24-1(a)(1));
  - (F) unlawful use of weapons under Section 24-1(a)(7) (720 ILCS 5/24-1(a)(7));
  - (G) gambling (720 ILCS 5/28-1);
  - (H) keeping a gambling place (720 ILCS 5/28-3);
  - (I) registration of federal gambling stamps violation (720 ILCS 5/28-4);
  - (J) look-alike substances violation (720 ILCS 570/404);
  - (K) miscellaneous controlled substance violation under Section 406(b) (720 ILCS 570/406(b)); or
  - (L) an inchoate offense related to any of the principal offenses set forth in this item (5).

(Source: P.A. 96-710, eff. 1-1-10.)

(720 ILCS 5/12-3.2) (from Ch. 38, par. 12-3.2)

Sec. 12-3.2. Domestic Battery.

(a) A person commits domestic battery if he intentionally or knowingly without legal justification by any means:

(1) Causes bodily harm to any family or household member as defined in subsection (3) of Section 112A-3 of the Code of Criminal Procedure of 1963, as amended;

(2) Makes physical contact of an insulting or provoking nature with any family or household member as defined in subsection (3) of Section 112A-3 of the Code of Criminal Procedure of 1963, as amended.

(b) Sentence. Domestic battery is a Class A misdemeanor. Domestic battery is a Class 4 felony if the defendant has any prior conviction under this Code for domestic battery (Section 12-3.2) or violation of an order of protection (Section 12-30), or any prior conviction under the law of another jurisdiction for

an offense which is substantially similar. Domestic battery is a Class 4 felony if the defendant has any prior conviction under this Code for first degree murder (Section 9-1), attempt to commit first degree murder (Section 8-4), aggravated domestic battery (Section 12-3.3), aggravated battery (Section 12-4), heinous battery (Section 12-4.1), aggravated battery with a firearm (Section 12-4.2), aggravated battery of a child (Section 12-4.3), aggravated battery of an unborn child (Section 12-4.4), aggravated battery of a senior citizen (Section 12-4.6), stalking (Section 12-7.3), aggravated stalking (Section 12-7.4), criminal sexual assault (Section 11-1.20 or 12-13), aggravated criminal sexual assault (Section 11-1.30 or 12-14), kidnapping (Section 10-1), aggravated kidnapping (Section 10-2), predatory criminal sexual assault of a child (Section 11-1.40 or 12-14.1), aggravated criminal sexual abuse (Section 11-1.60 or 12-16), unlawful restraint (Section 10-3), aggravated unlawful restraint (Section 10-3.1), aggravated arson (Section 20-1.1), or aggravated discharge of a firearm (Section 24-1.2), or any prior conviction under the law of another jurisdiction for any offense that is substantially similar to the offenses listed in this Section, when any of these offenses have been committed against a family or household member as defined in Section 112A-3 of the Code of Criminal Procedure of 1963. In addition to any other sentencing alternatives, for any second or subsequent conviction of violating this Section, the offender shall be mandatorily sentenced to a minimum of 72 consecutive hours of imprisonment. The imprisonment shall not be subject to suspension, nor shall the person be eligible for probation in order to reduce the sentence.

(c) Domestic battery committed in the presence of a child. In addition to any other sentencing alternatives, a defendant who commits, in the presence of a child, a felony domestic battery (enhanced under subsection (b)), aggravated domestic battery (Section 12-3.3), aggravated battery (Section 12-4), unlawful restraint (Section 10-3), or aggravated unlawful restraint (Section 10-3.1) against a family or household member, as defined in Section 112A-3 of the Code of Criminal Procedure of 1963, shall be required to serve a mandatory minimum imprisonment of 10 days or perform 300 hours of community service, or both. The defendant shall further be liable for the cost of any counseling required for the child at the discretion of the court in accordance with subsection (b) of Section 5-5-6 of the Unified Code of Corrections. For purposes of this Section, "child" means a person under 18 years of age who is the defendant's or victim's child or step-child or who is a minor child residing within or visiting the household of the defendant or victim. For purposes of this Section, "in the presence of a child" means in the physical presence of a child or knowing or having reason to know that a child is present and may see or hear an act constituting one of the offenses listed in this subsection.

(d) Upon conviction of domestic battery, the court shall advise the defendant orally or in writing, substantially as follows: "An individual convicted of domestic battery may be subject to federal criminal penalties for possessing, transporting, shipping, or receiving any firearm or ammunition in violation of the federal Gun Control Act of 1968 (18 U.S.C. 922(g)(8) and (9))." A notation shall be made in the court file that the admonition was given.

(Source: P.A. 96-287, eff. 8-11-09.)

(720 ILCS 5/12-11) (from Ch. 38, par. 12-11)

Sec. 12-11. Home Invasion.

(a) A person who is not a peace officer acting in the line of duty commits home invasion when without authority he or she knowingly enters the dwelling place of another when he or she knows or has reason to know that one or more persons is present or he or she knowingly enters the dwelling place of another and remains in such dwelling place until he or she knows or has reason to know that one or more persons is present and

(1) While armed with a dangerous weapon, other than a firearm, uses force or threatens the imminent use of force upon any person or persons within such dwelling place whether or not injury occurs, or

(2) Intentionally causes any injury, except as provided in subsection (a)(5), to any person or persons within such dwelling place, or

(3) While armed with a firearm uses force or threatens the imminent use of force upon any person or persons within such dwelling place whether or not injury occurs, or

(4) Uses force or threatens the imminent use of force upon any person or persons within such dwelling place whether or not injury occurs and during the commission of the offense personally discharges a firearm, or

(5) Personally discharges a firearm that proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person within such dwelling place, or

(6) Commits, against any person or persons within that dwelling place, a violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the

Criminal Code of 1961.

(b) It is an affirmative defense to a charge of home invasion that the accused who knowingly enters the dwelling place of another and remains in such dwelling place until he or she knows or has reason to know that one or more persons is present either immediately leaves such premises or surrenders to the person or persons lawfully present therein without either attempting to cause or causing serious bodily injury to any person present therein.

(c) Sentence. Home invasion in violation of subsection (a)(1), (a)(2) or (a)(6) is a Class X felony. A violation of subsection (a)(3) is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(4) is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(5) is a Class X felony for which 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.

(d) For purposes of this Section, "dwelling place of another" includes a dwelling place where the defendant maintains a tenancy interest but from which the defendant has been barred by a divorce decree, judgment of dissolution of marriage, order of protection, or other court order.

(Source: P.A. 90-787, eff. 8-14-98; 91-404, eff. 1-1-00; 91-928, eff. 6-1-01.)

(720 ILCS 5/12-18.1) (from Ch. 38, par. 12-18.1)

Sec. 12-18.1. Civil Liability. (a) If any person has been convicted of any offense defined in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-15, or 12-16 of this Act, a victim of such offense has a cause of action for damages against any person or entity who, by the manufacture, production, or wholesale distribution of any obscene material which was possessed or viewed by the person convicted of the offense, proximately caused such person, through his or her reading or viewing of the obscene material, to commit the violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-15, or 12-16. No victim may recover in any such action unless he or she proves by a preponderance of the evidence that: (1) the reading or viewing of the specific obscene material manufactured, produced, or distributed wholesale by the defendant proximately caused the person convicted of the violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-15, or 12-16 to commit such violation and (2) the defendant knew or had reason to know that the manufacture, production, or wholesale distribution of such material was likely to cause a violation of an offense substantially of the type enumerated.

(b) The manufacturer, producer or wholesale distributor shall be liable to the victim for:

- (1) actual damages incurred by the victim, including medical costs;
- (2) court costs and reasonable attorneys fees;
- (3) infliction of emotional distress;
- (4) pain and suffering; and
- (5) loss of consortium.

(c) Every action under this Section shall be commenced within 3 years after the conviction of the defendant for a violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-15 or 12-16 of this Code. However, if the victim was under the age of 18 years at the time of the conviction of the defendant for a violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-15 or 12-16 of this Code, an action under this Section shall be commenced within 3 years after the victim attains the age of 18 years.

(d) For the purposes of this Section:

- (1) "obscene" has the meaning ascribed to it in subsection (b) of Section 11-20 of this Code;
- (2) "wholesale distributor" means any individual, partnership, corporation, association, or other legal entity which stands between the manufacturer and the retail seller in purchases, consignments, contracts for sale or rental of the obscene material;
- (3) "producer" means any individual, partnership, corporation, association, or other legal entity which finances or supervises, to any extent, the production or making of obscene material;
- (4) "manufacturer" means any individual, partnership, corporation, association, or other legal entity which manufactures, assembles or produces obscene material.

(Source: P.A. 86-857.)

(720 ILCS 5/12-30) (from Ch. 38, par. 12-30)

Sec. 12-30. Violation of an order of protection.

(a) A person commits violation of an order of protection if:

- (1) He or she commits an act which was prohibited by a court or fails to commit an act which was ordered by a court in violation of:
  - (i) a remedy in a valid order of protection authorized under paragraphs (1), (2), (3), (14), or (14.5) of subsection (b) of Section 214 of the Illinois Domestic Violence Act of 1986,

(ii) a remedy, which is substantially similar to the remedies authorized under paragraphs (1), (2), (3), (14) or (14.5) of subsection (b) of Section 214 of the Illinois Domestic Violence Act of 1986, in a valid order of protection, which is authorized under the laws of another state, tribe or United States territory,

(iii) any other remedy when the act constitutes a crime against the protected parties as the term protected parties is defined in Section 112A-4 of the Code of Criminal Procedure of 1963; and

(2) Such violation occurs after the offender has been served notice of the contents of the order, pursuant to the Illinois Domestic Violence Act of 1986 or any substantially similar statute of another state, tribe or United States territory, or otherwise has acquired actual knowledge of the contents of the order.

An order of protection issued by a state, tribal or territorial court related to domestic or family violence shall be deemed valid if the issuing court had jurisdiction over the parties and matter under the law of the state, tribe or territory. There shall be a presumption of validity where an order is certified and appears authentic on its face.

(a-5) Failure to provide reasonable notice and opportunity to be heard shall be an affirmative defense to any charge or process filed seeking enforcement of a foreign order of protection.

(b) For purposes of this Section, an "order of protection" may have been issued in a criminal or civil proceeding.

(c) Nothing in this Section shall be construed to diminish the inherent authority of the courts to enforce their lawful orders through civil or criminal contempt proceedings.

(d) Violation of an order of protection under subsection (a) of this Section is a Class A misdemeanor. Violation of an order of protection under subsection (a) of this Section is a Class 4 felony if the defendant has any prior conviction under this Code for domestic battery (Section 12-3.2) or violation of an order of protection (Section 12-30). Violation of an order of protection is a Class 4 felony if the defendant has any prior conviction under this Code for first degree murder (Section 9-1), attempt to commit first degree murder (Section 8-4), aggravated domestic battery (Section 12-3.3), aggravated battery (Section 12-4), heinous battery (Section 12-4.1), aggravated battery with a firearm (Section 12-4.2), aggravated battery of a child (Section 12-4.3), aggravated battery of an unborn child (Section 12-4.4), aggravated battery of a senior citizen (Section 12-4.6), stalking (Section 12-7.3), aggravated stalking (Section 12-7.4), criminal sexual assault (Section 11-1.20 or 12-13), aggravated criminal sexual assault (Section 11-1.30 or 12-14), kidnapping (Section 10-1), aggravated kidnapping (Section 10-2), predatory criminal sexual assault of a child (Section 11-1.40 or 12-14.1), aggravated criminal sexual abuse (Section 11-1.60 or 12-16), unlawful restraint (Section 10-3), aggravated unlawful restraint (Section 10-3.1), aggravated arson (Section 20-1.1), or aggravated discharge of a firearm (Section 24-1.2), when any of these offenses have been committed against a family or household member as defined in Section 112A-3 of the Code of Criminal Procedure of 1963. The court shall impose a minimum penalty of 24 hours imprisonment for defendant's second or subsequent violation of any order of protection; unless the court explicitly finds that an increased penalty or such period of imprisonment would be manifestly unjust. In addition to any other penalties, the court may order the defendant to pay a fine as authorized under Section 5-9-1 of the Unified Code of Corrections or to make restitution to the victim under Section 5-5-6 of the Unified Code of Corrections. In addition to any other penalties, including those imposed by Section 5-9-1.5 of the Unified Code of Corrections, the court shall impose an additional fine of \$20 as authorized by Section 5-9-1.11 of the Unified Code of Corrections upon any person convicted of or placed on supervision for a violation of this Section. The additional fine shall be imposed for each violation of this Section.

(e) The limitations placed on law enforcement liability by Section 305 of the Illinois Domestic Violence Act of 1986 apply to actions taken under this Section.

(Source: P.A. 91-112, eff. 10-1-99; 91-357, eff. 7-29-99; 92-827, eff. 8-22-02.)

(720 ILCS 5/36-1) (from Ch. 38, par. 36-1)

Sec. 36-1. Seizure. Any vessel, vehicle or aircraft used with the knowledge and consent of the owner in the commission of, or in the attempt to commit as defined in Section 8-4 of this Code, an offense prohibited by (a) Section 9-1, 9-3, 10-2, 11-1.20, 11-1.30, 11-1.40, 11-6, 11-14.4 except for keeping a place of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-4.1, 12-4.2, 12-4.2-5, 12-4.3, 12-4.6, 12-7.3, 12-7.4, 12-13, 12-14, 16-1 if the theft is of precious metal or of scrap metal, 18-2, 19-1, 19-2, 19-3, 20-1, 20-2, ~~20D-15.2~~, 24-1.2, 24-1.2-5, 24-1.5, ~~or 28-1~~, or 29D-15.2 of this Code, paragraph (a) of Section 12-4 of this Code, paragraph (a) of Section 11-1.50, paragraph (a) of Section 12-15, paragraph (a), (c), or (d) of Section 11-1.60, or paragraphs (a), (c) or (d) of Section 12-16 of this Code, or paragraph (a)(6) or (a)(7) of Section 24-1 of this Code; (b) Section 21, 22, 23, 24 or 26

of the Cigarette Tax Act if the vessel, vehicle or aircraft contains more than 10 cartons of such cigarettes; (c) Section 28, 29 or 30 of the Cigarette Use Tax Act if the vessel, vehicle or aircraft contains more than 10 cartons of such cigarettes; (d) Section 44 of the Environmental Protection Act; (e) 11-204.1 of the Illinois Vehicle Code; (f) the offenses described in the following provisions of the Illinois Vehicle Code: Section 11-501 subdivisions (c-1)(1), (c-1)(2), (c-1)(3), (d)(1)(A), (d)(1)(D), (d)(1)(G), or (d)(1)(H); (g) an offense described in subsection (g) of Section 6-303 of the Illinois Vehicle Code; or (h) an offense described in subsection (e) of Section 6-101 of the Illinois Vehicle Code; may be seized and delivered forthwith to the sheriff of the county of seizure.

Within 15 days after such delivery the sheriff shall give notice of seizure to each person according to the following method: Upon each such person whose right, title or interest is of record in the office of the Secretary of State, the Secretary of Transportation, the Administrator of the Federal Aviation Agency, or any other Department of this State, or any other state of the United States if such vessel, vehicle or aircraft is required to be so registered, as the case may be, by mailing a copy of the notice by certified mail to the address as given upon the records of the Secretary of State, the Department of Aeronautics, Department of Public Works and Buildings or any other Department of this State or the United States if such vessel, vehicle or aircraft is required to be so registered. Within that 15 day period the sheriff shall also notify the State's Attorney of the county of seizure about the seizure.

In addition, any mobile or portable equipment used in the commission of an act which is in violation of Section 7g of the Metropolitan Water Reclamation District Act shall be subject to seizure and forfeiture under the same procedures provided in this Article for the seizure and forfeiture of vessels, vehicles and aircraft, and any such equipment shall be deemed a vessel, vehicle or aircraft for purposes of this Article.

When a person discharges a firearm at another individual from a vehicle with the knowledge and consent of the owner of the vehicle and with the intent to cause death or great bodily harm to that individual and as a result causes death or great bodily harm to that individual, the vehicle shall be subject to seizure and forfeiture under the same procedures provided in this Article for the seizure and forfeiture of vehicles used in violations of clauses (a), (b), (c), or (d) of this Section.

If the spouse of the owner of a vehicle seized for an offense described in subsection (g) of Section 6-303 of the Illinois Vehicle Code, a violation of subdivision (c-1)(1), (c-1)(2), (c-1)(3), (d)(1)(A), or (d)(1)(D) of Section 11-501 of the Illinois Vehicle Code, or Section 9-3 of this Code makes a showing that the seized vehicle is the only source of transportation and it is determined that the financial hardship to the family as a result of the seizure outweighs the benefit to the State from the seizure, the vehicle may be forfeited to the spouse or family member and the title to the vehicle shall be transferred to the spouse or family member who is properly licensed and who requires the use of the vehicle for employment or family transportation purposes. A written declaration of forfeiture of a vehicle under this Section shall be sufficient cause for the title to be transferred to the spouse or family member. The provisions of this paragraph shall apply only to one forfeiture per vehicle. If the vehicle is the subject of a subsequent forfeiture proceeding by virtue of a subsequent conviction of either spouse or the family member, the spouse or family member to whom the vehicle was forfeited under the first forfeiture proceeding may not utilize the provisions of this paragraph in another forfeiture proceeding. If the owner of the vehicle seized owns more than one vehicle, the procedure set out in this paragraph may be used for only one vehicle.

Property declared contraband under Section 40 of the Illinois Streetgang Terrorism Omnibus Prevention Act may be seized and forfeited under this Article.

(Source: P.A. 96-313, eff. 1-1-10; 96-710, eff. 1-1-10; revised 10-9-09.)

(720 ILCS 5/37-1) (from Ch. 38, par. 37-1)

Sec. 37-1. Maintaining Public Nuisance. Any building used in the commission of offenses prohibited by Sections 9-1, 10-1, 10-2, 11-14, 11-15, 11-16, 11-17, 11-20, 11-20.1, 11-20.1B, 11-20.3, 11-21, 11-22, 12-5.1, 16-1, 20-2, 23-1, 23-1(a)(1), 24-1(a)(7), 24-3, 28-1, 28-3, 31-5 or 39A-1, or subdivision (a)(1), (a)(2)(A), or (a)(2)(B) of Section 11-14.3, of the Criminal Code of 1961, or prohibited by the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or the Cannabis Control Act, or used in the commission of an inchoate offense relative to any of the aforesaid principal offenses, or any real property erected, established, maintained, owned, leased, or used by a streetgang for the purpose of conducting streetgang related activity as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act is a public nuisance.

(b) Sentence. A person convicted of knowingly maintaining such a public nuisance commits a Class A misdemeanor. Each subsequent offense under this Section is a Class 4 felony.

(Source: P.A. 94-556, eff. 9-11-05.)

Section 1040. The Code of Criminal Procedure of 1963 is amended by changing Sections 110-6.3, 110-10, 111-8, 114-4, 115-7, 115-7.2, 115-7.3, 115-10, 115-10.3, 115-11, 115-11.1, 115-13, 115-16, 116-4, 124B-10, 124B-100, 124B-420, and 124B-500 as follows:  
(725 ILCS 5/110-6.3) (from Ch. 38, par. 110-6.3)

Sec. 110-6.3. Denial of bail in stalking and aggravated stalking offenses.

(a) Upon verified petition by the State, the court shall hold a hearing to determine whether bail should be denied to a defendant who is charged with stalking or aggravated stalking, when it is alleged that the defendant's admission to bail poses a real and present threat to the physical safety of the alleged victim of the offense, and denial of release on bail or personal recognizance is necessary to prevent fulfillment of the threat upon which the charge is based.

(1) A petition may be filed without prior notice to the defendant at the first appearance before a judge, or within 21 calendar days, except as provided in Section 110-6, after arrest and release of the defendant upon reasonable notice to defendant; provided that while the petition is pending before the court, the defendant if previously released shall not be detained.

(2) The hearing shall be held immediately upon the defendant's appearance before the court, unless for good cause shown the defendant or the State seeks a continuance. A continuance on motion of the defendant may not exceed 5 calendar days, and the defendant may be held in custody during the continuance. A continuance on the motion of the State may not exceed 3 calendar days; however, the defendant may be held in custody during the continuance under this provision if the defendant has been previously found to have violated an order of protection or has been previously convicted of, or granted court supervision for, any of the offenses set forth in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-2, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-7.3, 12-7.4, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, against the same person as the alleged victim of the stalking or aggravated stalking offense.

(b) The court may deny bail to the defendant when, after the hearing, it is determined that:

(1) the proof is evident or the presumption great that the defendant has committed the offense of stalking or aggravated stalking; and

(2) the defendant poses a real and present threat to the physical safety of the alleged victim of the offense; and

(3) the denial of release on bail or personal recognizance is necessary to prevent fulfillment of the threat upon which the charge is based; and

(4) the court finds that no condition or combination of conditions set forth in subsection (b) of Section 110-10 of this Code, including mental health treatment at a community mental health center, hospital, or facility of the Department of Human Services, can reasonably assure the physical safety of the alleged victim of the offense.

(c) Conduct of the hearings.

(1) The hearing on the defendant's culpability and threat to the alleged victim of the offense shall be conducted in accordance with the following provisions:

(A) Information used by the court in its findings or stated in or offered at the

hearing may be by way of proffer based upon reliable information offered by the State or by defendant. Defendant has the right to be represented by counsel, and if he is indigent, to have counsel appointed for him. Defendant shall have the opportunity to testify, to present witnesses in his own behalf, and to cross-examine witnesses if any are called by the State. The defendant has the right to present witnesses in his favor. When the ends of justice so require, the court may exercise its discretion and compel the appearance of a complaining witness. The court shall state on the record reasons for granting a defense request to compel the presence of a complaining witness. Cross-examination of a complaining witness at the pretrial detention hearing for the purpose of impeaching the witness' credibility is insufficient reason to compel the presence of the witness. In deciding whether to compel the appearance of a complaining witness, the court shall be considerate of the emotional and physical well-being of the witness. The pretrial detention hearing is not to be used for the purposes of discovery, and the post arraignment rules of discovery do not apply. The State shall tender to the defendant, prior to the hearing, copies of defendant's criminal history, if any, if available, and any written or recorded statements and the substance of any oral statements made by any person, if relied upon by the State. The rules concerning the admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. At the trial concerning the offense for which the hearing was conducted neither the finding of the court nor any transcript or other record of the hearing shall be admissible in the State's case in chief, but shall be admissible for impeachment, or as provided in Section 115-10.1 of this Code, or in a perjury proceeding.

(B) A motion by the defendant to suppress evidence or to suppress a confession shall not be entertained. Evidence that proof may have been obtained as the result of an unlawful search and seizure or through improper interrogation is not relevant to this state of the prosecution.

(2) The facts relied upon by the court to support a finding that:

(A) the defendant poses a real and present threat to the physical safety of the alleged victim of the offense; and

(B) the denial of release on bail or personal recognizance is necessary to prevent fulfillment of the threat upon which the charge is based;

shall be supported by clear and convincing evidence presented by the State.

(d) Factors to be considered in making a determination of the threat to the alleged victim of the offense. The court may, in determining whether the defendant poses, at the time of the hearing, a real and present threat to the physical safety of the alleged victim of the offense, consider but shall not be limited to evidence or testimony concerning:

(1) The nature and circumstances of the offense charged;

(2) The history and characteristics of the defendant including:

(A) Any evidence of the defendant's prior criminal history indicative of violent, abusive or assaultive behavior, or lack of that behavior. The evidence may include testimony or documents received in juvenile proceedings, criminal, quasi-criminal, civil commitment, domestic relations or other proceedings;

(B) Any evidence of the defendant's psychological, psychiatric or other similar social history that tends to indicate a violent, abusive, or assaultive nature, or lack of any such history.

(3) The nature of the threat which is the basis of the charge against the defendant;

(4) Any statements made by, or attributed to the defendant, together with the circumstances surrounding them;

(5) The age and physical condition of any person assaulted by the defendant;

(6) Whether the defendant is known to possess or have access to any weapon or weapons;

(7) Whether, at the time of the current offense or any other offense or arrest, the defendant was on probation, parole, mandatory supervised release or other release from custody pending trial, sentencing, appeal or completion of sentence for an offense under federal or state law;

(8) Any other factors, including those listed in Section 110-5 of this Code, deemed by the court to have a reasonable bearing upon the defendant's propensity or reputation for violent, abusive or assaultive behavior, or lack of that behavior.

(e) The court shall, in any order denying bail to a person charged with stalking or aggravated stalking:

(1) briefly summarize the evidence of the defendant's culpability and its reasons for concluding that the defendant should be held without bail;

(2) direct that the defendant be committed to the custody of the sheriff for confinement in the county jail pending trial;

(3) direct that the defendant be given a reasonable opportunity for private consultation with counsel, and for communication with others of his choice by visitation, mail and telephone; and

(4) direct that the sheriff deliver the defendant as required for appearances in connection with court proceedings.

(f) If the court enters an order for the detention of the defendant under subsection (e) of this Section, the defendant shall be brought to trial on the offense for which he is detained within 90 days after the date on which the order for detention was entered. If the defendant is not brought to trial within the 90 day period required by this subsection (f), he shall not be held longer without bail. In computing the 90 day period, the court shall omit any period of delay resulting from a continuance granted at the request of the defendant. The court shall immediately notify the alleged victim of the offense that the defendant has been admitted to bail under this subsection.

(g) Any person shall be entitled to appeal any order entered under this Section denying bail to the defendant.

(h) The State may appeal any order entered under this Section denying any motion for denial of bail.

(i) Nothing in this Section shall be construed as modifying or limiting in any way the defendant's presumption of innocence in further criminal proceedings.

(Source: P.A. 90-14, eff. 7-1-97; 91-445, eff. 1-1-00.)

(725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

Sec. 110-10. Conditions of bail bond.

(a) If a person is released prior to conviction, either upon payment of bail security or on his or her own

recognizance, the conditions of the bail bond shall be that he or she will:

- (1) Appear to answer the charge in the court having jurisdiction on a day certain and thereafter as ordered by the court until discharged or final order of the court;
- (2) Submit himself or herself to the orders and process of the court;
- (3) Not depart this State without leave of the court;
- (4) Not violate any criminal statute of any jurisdiction;
- (5) At a time and place designated by the court, surrender all firearms in his or her

possession to a law enforcement officer designated by the court to take custody of and impound the firearms and physically surrender his or her Firearm Owner's Identification Card to the clerk of the circuit court when the offense the person has been charged with is a forcible felony, stalking, aggravated stalking, domestic battery, any violation of the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or the Cannabis Control Act that is classified as a Class 2 or greater felony, or any felony violation of Article 24 of the Criminal Code of 1961; the court may, however, forgo the imposition of this condition when the circumstances of the case clearly do not warrant it or when its imposition would be impractical; all legally possessed firearms shall be returned to the person upon the charges being dismissed, or if the person is found not guilty, unless the finding of not guilty is by reason of insanity; and

(6) At a time and place designated by the court, submit to a psychological evaluation when the person has been charged with a violation of item (4) of subsection (a) of Section 24-1 of the Criminal Code of 1961 and that violation occurred in a school or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity, or on any public way within 1,000 feet of real property comprising any school.

Psychological evaluations ordered pursuant to this Section shall be completed promptly and made available to the State, the defendant, and the court. As a further condition of bail under these circumstances, the court shall order the defendant to refrain from entering upon the property of the school, including any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity, or on any public way within 1,000 feet of real property comprising any school. Upon receipt of the psychological evaluation, either the State or the defendant may request a change in the conditions of bail, pursuant to Section 110-6 of this Code. The court may change the conditions of bail to include a requirement that the defendant follow the recommendations of the psychological evaluation, including undergoing psychiatric treatment. The conclusions of the psychological evaluation and any statements elicited from the defendant during its administration are not admissible as evidence of guilt during the course of any trial on the charged offense, unless the defendant places his or her mental competency in issue.

(b) The court may impose other conditions, such as the following, if the court finds that such conditions are reasonably necessary to assure the defendant's appearance in court, protect the public from the defendant, or prevent the defendant's unlawful interference with the orderly administration of justice:

- (1) Report to or appear in person before such person or agency as the court may direct;
- (2) Refrain from possessing a firearm or other dangerous weapon;
- (3) Refrain from approaching or communicating with particular persons or classes of persons;
- (4) Refrain from going to certain described geographical areas or premises;
- (5) Refrain from engaging in certain activities or indulging in intoxicating liquors or in certain drugs;
- (6) Undergo treatment for drug addiction or alcoholism;
- (7) Undergo medical or psychiatric treatment;
- (8) Work or pursue a course of study or vocational training;
- (9) Attend or reside in a facility designated by the court;
- (10) Support his or her dependents;
- (11) If a minor resides with his or her parents or in a foster home, attend school,

attend a non-residential program for youths, and contribute to his or her own support at home or in a foster home;

(12) Observe any curfew ordered by the court;

(13) Remain in the custody of such designated person or organization agreeing to supervise his release. Such third party custodian shall be responsible for notifying the court if the defendant fails to observe the conditions of release which the custodian has agreed to monitor, and shall be subject to contempt of court for failure so to notify the court;

(14) Be placed under direct supervision of the Pretrial Services Agency, Probation

Department or Court Services Department in a pretrial bond home supervision capacity with or without the use of an approved electronic monitoring device subject to Article 8A of Chapter V of the Unified Code of Corrections;

(14.1) The court shall impose upon a defendant who is charged with any alcohol, cannabis, methamphetamine, or controlled substance violation and is placed under direct supervision of the Pretrial Services Agency, Probation Department or Court Services Department in a pretrial bond home supervision capacity with the use of an approved monitoring device, as a condition of such bail bond, a fee that represents costs incidental to the electronic monitoring for each day of such bail supervision ordered by the court, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the substance abuse services fund under Section 5-1086.1 of the Counties Code;

(14.2) The court shall impose upon all defendants, including those defendants subject to paragraph (14.1) above, placed under direct supervision of the Pretrial Services Agency, Probation Department or Court Services Department in a pretrial bond home supervision capacity with the use of an approved monitoring device, as a condition of such bail bond, a fee which shall represent costs incidental to such electronic monitoring for each day of such bail supervision ordered by the court, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall deposit the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be;

(14.3) The Chief Judge of the Judicial Circuit may establish reasonable fees to be paid by a person receiving pretrial services while under supervision of a pretrial services agency, probation department, or court services department. Reasonable fees may be charged for pretrial services including, but not limited to, pretrial supervision, diversion programs, electronic monitoring, victim impact services, drug and alcohol testing, DNA testing, GPS electronic monitoring, assessments and evaluations related to domestic violence and other victims, and victim mediation services. The person receiving pretrial services may be ordered to pay all costs incidental to pretrial services in accordance with his or her ability to pay those costs;

(14.4) For persons charged with violating Section 11-501 of the Illinois Vehicle Code, refrain from operating a motor vehicle not equipped with an ignition interlock device, as defined in Section 1-129.1 of the Illinois Vehicle Code, pursuant to the rules promulgated by the Secretary of State for the installation of ignition interlock devices. Under this condition the court may allow a defendant who is not self-employed to operate a vehicle owned by the defendant's employer that is not equipped with an ignition interlock device in the course and scope of the defendant's employment;

(15) Comply with the terms and conditions of an order of protection issued by the court under the Illinois Domestic Violence Act of 1986 or an order of protection issued by the court of another state, tribe, or United States territory;

(16) Under Section 110-6.5 comply with the conditions of the drug testing program; and

(17) Such other reasonable conditions as the court may impose.

(c) When a person is charged with an offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of 1961", involving a victim who is a minor under 18 years of age living in the same household with the defendant at the time of the offense, in granting bail or releasing the defendant on his own recognizance, the judge shall impose conditions to restrict the defendant's access to the victim which may include, but are not limited to conditions that he will:

1. Vacate the Household.
2. Make payment of temporary support to his dependents.
3. Refrain from contact or communication with the child victim, except as ordered by the court.

(d) When a person is charged with a criminal offense and the victim is a family or household member as defined in Article 112A, conditions shall be imposed at the time of the defendant's release on bond that restrict the defendant's access to the victim. Unless provided otherwise by the court, the restrictions shall include requirements that the defendant do the following:

- (1) refrain from contact or communication with the victim for a minimum period of 72 hours following the defendant's release; and

(2) refrain from entering or remaining at the victim's residence for a minimum period of 72 hours following the defendant's release.

(e) Local law enforcement agencies shall develop standardized bond forms for use in cases involving family or household members as defined in Article 112A, including specific conditions of bond as provided in subsection (d). Failure of any law enforcement department to develop or use those forms shall in no way limit the applicability and enforcement of subsections (d) and (f).

(f) If the defendant is admitted to bail after conviction the conditions of the bail bond shall be that he will, in addition to the conditions set forth in subsections (a) and (b) hereof:

- (1) Duly prosecute his appeal;
- (2) Appear at such time and place as the court may direct;
- (3) Not depart this State without leave of the court;
- (4) Comply with such other reasonable conditions as the court may impose; and
- (5) If the judgment is affirmed or the cause reversed and remanded for a new trial, forthwith surrender to the officer from whose custody he was bailed.

(g) Upon a finding of guilty for any felony offense, the defendant shall physically surrender, at a time and place designated by the court, any and all firearms in his or her possession and his or her Firearm Owner's Identification Card as a condition of remaining on bond pending sentencing.

(Source: P.A. 95-331, eff. 8-21-07; 96-340, eff. 8-11-09.)

(725 ILCS 5/111-8) (from Ch. 38, par. 111-8)

Sec. 111-8. Orders of protection to prohibit domestic violence.

(a) Whenever a violation of Section 9-1, 9-2, 9-3, 10-3, 10-3.1, 10-4, 10-5, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14.3 that involves soliciting for a prostitute, 11-14.4 that involves soliciting for a juvenile prostitute, 11-15, 11-15.1, 11-20.1, 11-20.1B, 11-20.3, 11-20a, 12-1, 12-2, 12-3, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.3, 12-4.6, 12-5, 12-6, 12-6.3, 12-7.3, 12-7.4, 12-7.5, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 19-4, 21-1, 21-2, or 21-3 of the Criminal Code of 1961 or Section 1-1 of the Harassing and Obscene Communications Act is alleged in an information, complaint or indictment on file, and the alleged offender and victim are family or household members, as defined in the Illinois Domestic Violence Act, as now or hereafter amended, the People through the respective State's Attorneys may by separate petition and upon notice to the defendant, except as provided in subsection (c) herein, request the court to issue an order of protection.

(b) In addition to any other remedies specified in Section 208 of the Illinois Domestic Violence Act, as now or hereafter amended, the order may direct the defendant to initiate no contact with the alleged victim or victims who are family or household members and to refrain from entering the residence, school or place of business of the alleged victim or victims.

(c) The court may grant emergency relief without notice upon a showing of immediate and present danger of abuse to the victim or minor children of the victim and may enter a temporary order pending notice and full hearing on the matter.

(Source: P.A. 94-325, eff. 1-1-06.)

(725 ILCS 5/114-4) (from Ch. 38, par. 114-4)

Sec. 114-4. Motion for continuance.

(a) The defendant or the State may move for a continuance. If the motion is made more than 30 days after arraignment the court shall require that it be in writing and supported by affidavit.

(b) A written motion for continuance made by defendant more than 30 days after arraignment may be granted when:

- (1) Counsel for the defendant is ill, has died, or is held to trial in another cause; or
- (2) Counsel for the defendant has been unable to prepare for trial because of illness or because he has been held to trial in another cause; or
- (3) A material witness is unavailable and the defense will be prejudiced by the absence of his testimony; however, this shall not be a ground for continuance if the State will stipulate that the testimony of the witness would be as alleged; or
- (4) The defendant cannot stand trial because of physical or mental incompetency; or
- (5) Pre-trial publicity concerning the case has caused a prejudice against defendant on the part of the community; or
- (6) The amendment of a charge or a bill of particulars has taken the defendant by surprise and he cannot fairly defend against such an amendment without a continuance.

(c) A written motion for continuance made by the State more than 30 days after arraignment may be granted when:

- (1) The prosecutor assigned to the case is ill, has died, or is held to trial in another cause; or

(2) A material witness is unavailable and the prosecution will be prejudiced by the absence of his testimony; however this shall not be a ground for continuance if the defendant will stipulate that the testimony of the witness would be as alleged; or

(3) Pre-trial publicity concerning the case has caused a prejudice against the prosecution on the part of the community.

(d) The court may upon the written motion of either party or upon the court's own motion order a continuance for grounds not stated in subsections (b) and (c) of this Section if he finds that the interests of justice so require.

(e) All motions for continuance are addressed to the discretion of the trial court and shall be considered in the light of the diligence shown on the part of the movant. Where 1 year has expired since the filing of an information or indictments, filed after January 1, 1980, if the court finds that the State has failed to use due diligence in bringing the case to trial, the court may, after a hearing had on the cause, on its own motion, dismiss the information or indictment. Any demand that the defendant had made for a speedy trial under Section 103-5 of this code shall not abate if the State files a new information or the grand jury reindicts in the cause.

After a hearing has been held upon the issue of the State's diligence and the court has found that the State has failed to use due diligence in pursuing the prosecution, the court may not dismiss the indictment or information without granting the State one more court date upon which to proceed. Such date shall be not less than 14 nor more than 30 days from the date of the court's finding. If the State is not prepared to proceed upon that date, the court shall dismiss the indictment or information, as provided in this Section.

(f) After trial has begun a reasonably brief continuance may be granted to either side in the interests of justice.

(g) During the time the General Assembly is in session, the court shall, on motion of either party or on its own motion, grant a continuance where the party or his attorney is a member of either house of the General Assembly whose presence is necessary for the full, fair trial of the cause and, in the case of an attorney, where the attorney was retained by the party before the cause was set for trial.

(h) This Section shall be construed to the end that criminal cases are tried with due diligence consonant with the rights of the defendant and the State to a speedy, fair and impartial trial.

(i) Physical incapacity of a defendant may be grounds for a continuance at any time. If, upon written motion of the defendant or the State or upon the court's own motion, and after presentation of affidavits or evidence, the court determines that the defendant is physically unable to appear in court or to assist in his defense, or that such appearance would endanger his health or result in substantial prejudice, a continuance shall be granted. If such continuance precedes the appearance of counsel for such defendant the court shall simultaneously appoint counsel in the manner prescribed by Section 113-3 of this Act. Such continuance shall suspend the provisions of Section 103-5 of this Act, which periods of time limitation shall commence anew when the court, after presentation of additional affidavits or evidence, has determined that such physical incapacity has been substantially removed.

(j) In actions arising out of building code violations or violations of municipal ordinances caused by the failure of a building or structure to conform to the minimum standards of health and safety, the court shall grant a continuance only upon a written motion by the party seeking the continuance specifying the reason why such continuance should be granted.

(k) In prosecutions for violations of Section 10-1, 10-2, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of 1961" involving a victim or witness who is a minor under 18 years of age, the court shall, in ruling on any motion or other request for a delay or continuance of proceedings, consider and give weight to the adverse impact the delay or continuance may have on the well-being of a child or witness.

(l) The court shall consider the age of the victim and the condition of the victim's health when ruling on a motion for a continuance.

(Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

(725 ILCS 5/115-7) (from Ch. 38, par. 115-7)

Sec. 115-7. a. In prosecutions for predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, criminal sexual abuse, or criminal transmission of HIV; and in prosecutions for battery and aggravated battery, when the commission of the offense involves sexual penetration or sexual conduct as defined in Section 11-0.1 ~~12-12~~ of the Criminal Code of 1961; and with the trial or retrial of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, and aggravated indecent liberties with a child, the prior sexual activity or the reputation of the alleged victim or corroborating witness under Section 115-7.3 of this Code is inadmissible except (1) as evidence concerning the past sexual conduct of the

alleged victim or corroborating witness under Section 115-7.3 of this Code with the accused when this evidence is offered by the accused upon the issue of whether the alleged victim or corroborating witness under Section 115-7.3 of this Code consented to the sexual conduct with respect to which the offense is alleged; or (2) when constitutionally required to be admitted.

b. No evidence admissible under this Section shall be introduced unless ruled admissible by the trial judge after an offer of proof has been made at a hearing to be held in camera in order to determine whether the defense has evidence to impeach the witness in the event that prior sexual activity with the defendant is denied. Such offer of proof shall include reasonably specific information as to the date, time and place of the past sexual conduct between the alleged victim or corroborating witness under Section 115-7.3 of this Code and the defendant. Unless the court finds that reasonably specific information as to date, time or place, or some combination thereof, has been offered as to prior sexual activity with the defendant, counsel for the defendant shall be ordered to refrain from inquiring into prior sexual activity between the alleged victim or corroborating witness under Section 115-7.3 of this Code and the defendant. The court shall not admit evidence under this Section unless it determines at the hearing that the evidence is relevant and the probative value of the evidence outweighs the danger of unfair prejudice. The evidence shall be admissible at trial to the extent an order made by the court specifies the evidence that may be admitted and areas with respect to which the alleged victim or corroborating witness under Section 115-7.3 of this Code may be examined or cross examined. (Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96; 90-132, eff. 1-1-98.)

(725 ILCS 5/115-7.2) (from Ch. 38, par. 115-7.2)

Sec. 115-7.2. In a prosecution for an illegal sexual act perpetrated upon a victim, including but not limited to prosecutions for violations of Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, or ritualized abuse of a child under Section 12-33 of the Criminal Code of 1961, testimony by an expert, qualified by the court relating to any recognized and accepted form of post-traumatic stress syndrome shall be admissible as evidence.

(Source: P.A. 87-1167.)

(725 ILCS 5/115-10) (from Ch. 38, par. 115-10)

Sec. 115-10. Certain hearsay exceptions.

(a) In a prosecution for a physical or sexual act perpetrated upon or against a child under the age of 13, or a person who was a moderately, severely, or profoundly mentally retarded person as defined in this Code and in Section 2-10.1 of the Criminal Code of 1961 at the time the act was committed, including but not limited to prosecutions for violations of Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961 and prosecutions for violations of Sections 10-1 (kidnapping), 10-2 (aggravated kidnapping), 10-3 (unlawful restraint), 10-3.1 (aggravated unlawful restraint), 10-4 (forcible detention), 10-5 (child abduction), 10-6 (harboring a runaway), 10-7 (aiding or abetting child abduction), 11-9 (public indecency), 11-11 (sexual relations within families), 11-21 (harmful material), 12-1 (assault), 12-2 (aggravated assault), 12-3 (battery), 12-3.2 (domestic battery), 12-4 (aggravated battery), 12-4.1 (heinous battery), 12-4.2 (aggravated battery with a firearm), 12-4.3 (aggravated battery of a child), 12-4.7 (drug induced infliction of great bodily harm), 12-5 (reckless conduct), 12-6 (intimidation), 12-6.1 (compelling organization membership of persons), 12-7.1 (hate crime), 12-7.3 (stalking), 12-7.4 (aggravated stalking), 12-10 (tattooing body of minor), 12-11 (home invasion), 12-21.5 (child abandonment), 12-21.6 (endangering the life or health of a child) or 12-32 (ritual mutilation) of the Criminal Code of 1961 or any sex offense as defined in subsection (B) of Section 2 of the Sex Offender Registration Act, the following evidence shall be admitted as an exception to the hearsay rule:

(1) testimony by the victim of an out of court statement made by the victim that he or she complained of such act to another; and

(2) testimony of an out of court statement made by the victim describing any complaint of such act or matter or detail pertaining to any act which is an element of an offense which is the subject of a prosecution for a sexual or physical act against that victim.

(b) Such testimony shall only be admitted if:

(1) The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and

(2) The child or moderately, severely, or profoundly mentally retarded person either:

(A) testifies at the proceeding; or

(B) is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement; and

(3) In a case involving an offense perpetrated against a child under the age of 13, the out of court statement was made before the victim attained 13 years of age or within 3 months after

the commission of the offense, whichever occurs later, but the statement may be admitted regardless of the age of the victim at the time of the proceeding.

(c) If a statement is admitted pursuant to this Section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given the statement and that, in making the determination, it shall consider the age and maturity of the child, or the intellectual capabilities of the moderately, severely, or profoundly mentally retarded person, the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.

(d) The proponent of the statement shall give the adverse party reasonable notice of his intention to offer the statement and the particulars of the statement.

(e) Statements described in paragraphs (1) and (2) of subsection (a) shall not be excluded on the basis that they were obtained as a result of interviews conducted pursuant to a protocol adopted by a Child Advocacy Advisory Board as set forth in subsections (c), (d), and (e) of Section 3 of the Children's Advocacy Center Act or that an interviewer or witness to the interview was or is an employee, agent, or investigator of a State's Attorney's office.

(Source: P.A. 95-892, eff. 1-1-09; 96-710, eff. 1-1-10.)

(725 ILCS 5/115-10.3)

Sec. 115-10.3. Hearsay exception regarding elder adults.

(a) In a prosecution for a physical act, abuse, neglect, or financial exploitation perpetrated upon or against an eligible adult, as defined in the Elder Abuse and Neglect Act, who has been diagnosed by a physician to suffer from (i) any form of dementia, developmental disability, or other form of mental incapacity or (ii) any physical infirmity, including but not limited to prosecutions for violations of Sections 10-1, 10-2, 10-3, 10-3.1, 10-4, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-11, 12-1, 12-2, 12-3, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.5, 12-4.6, 12-4.7, 12-5, 12-6, 12-7.3, 12-7.4, 12-11, 12-11.1, 12-13, 12-14, 12-15, 12-16, 12-21, 16-1, 16-1.3, 17-1, 17-3, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1.1, 24-1.2, and 33A-2 of the Criminal Code of 1961, the following evidence shall be admitted as an exception to the hearsay rule:

(1) testimony by an eligible adult, of an out of court statement made by the eligible adult, that he or she complained of such act to another; and

(2) testimony of an out of court statement made by the eligible adult, describing any complaint of such act or matter or detail pertaining to any act which is an element of an offense which is the subject of a prosecution for a physical act, abuse, neglect, or financial exploitation perpetrated upon or against the eligible adult.

(b) Such testimony shall only be admitted if:

(1) The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and

(2) The eligible adult either:

(A) testifies at the proceeding; or

(B) is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement.

(c) If a statement is admitted pursuant to this Section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given the statement and that, in making the determination, it shall consider the condition of the eligible adult, the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.

(d) The proponent of the statement shall give the adverse party reasonable notice of his or her intention to offer the statement and the particulars of the statement.

(Source: P.A. 92-91, eff. 7-18-01; 93-301, eff. 1-1-04.)

(725 ILCS 5/115-11) (from Ch. 38, par. 115-11)

Sec. 115-11. In a prosecution for a criminal offense defined in Article 11 or in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of 1961", where the alleged victim of the offense is a minor under 18 years of age, the court may exclude from the proceedings while the victim is testifying, all persons, who, in the opinion of the court, do not have a direct interest in the case, except the media.

(Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

(725 ILCS 5/115-11.1) (from Ch. 38, par. 115-11.1)

Sec. 115-11.1. Use of "Rape". The use of the word "rape", "rapist", or any derivative of "rape" by any victim, witness, State's Attorney, defense attorney, judge or other court personnel in any prosecutions of offenses in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, as amended, is not inadmissible.

(Source: P.A. 83-1117.)

(725 ILCS 5/115-13) (from Ch. 38, par. 115-13)

Sec. 115-13. In a prosecution for violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of 1961", statements made by the victim to medical personnel for purposes of medical diagnosis or treatment including descriptions of the cause of symptom, pain or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment shall be admitted as an exception to the hearsay rule.

(Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

(725 ILCS 5/115-16)

Sec. 115-16. Witness disqualification. No person shall be disqualified as a witness in a criminal case or proceeding by reason of his or her interest in the event of the case or proceeding, as a party or otherwise, or by reason of his or her having been convicted of a crime; but the interest or conviction may be shown for the purpose of affecting the credibility of the witness. A defendant in a criminal case or proceeding shall only at his or her own request be deemed a competent witness, and the person's neglect to testify shall not create a presumption against the person, nor shall the court permit a reference or comment to be made to or upon that neglect.

In criminal cases, husband and wife may testify for or against each other. Neither, however, may testify as to any communication or admission made by either of them to the other or as to any conversation between them during marriage, except in cases in which either is charged with an offense against the person or property of the other, in case of spouse abandonment, when the interests of their child or children or of any child or children in either spouse's care, custody, or control are directly involved, when either is charged under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 and the victim is a minor under 18 years of age in either spouse's care, custody, or control at the time of the offense, or as to matters in which either has acted as agent of the other.

(Source: P.A. 89-234, eff. 1-1-96; 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

(725 ILCS 5/116-4)

Sec. 116-4. Preservation of evidence for forensic testing.

(a) Before or after the trial in a prosecution for a violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or in a prosecution for an offense defined in Article 9 of that Code, or in a prosecution for an attempt in violation of Section 8-4 of that Code of any of the above-enumerated offenses, unless otherwise provided herein under subsection (b) or (c), a law enforcement agency or an agent acting on behalf of the law enforcement agency shall preserve, subject to a continuous chain of custody, any physical evidence in their possession or control that is reasonably likely to contain forensic evidence, including, but not limited to, fingerprints or biological material secured in relation to a trial and with sufficient documentation to locate that evidence.

(b) After a judgment of conviction is entered, the evidence shall either be impounded with the Clerk of the Circuit Court or shall be securely retained by a law enforcement agency. Retention shall be permanent in cases where a sentence of death is imposed. Retention shall be until the completion of the sentence, including the period of mandatory supervised release for the offense, or January 1, 2006, whichever is later, for any conviction for an offense or an attempt of an offense defined in Article 9 of the Criminal Code of 1961 or in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or for 7 years following any conviction for any other felony for which the defendant's genetic profile may be taken by a law enforcement agency and submitted for comparison in a forensic DNA database for unsolved offenses.

(c) After a judgment of conviction is entered, the law enforcement agency required to retain evidence described in subsection (a) may petition the court with notice to the defendant or, in cases where the defendant has died, his estate, his attorney of record, or an attorney appointed for that purpose by the court for entry of an order allowing it to dispose of evidence if, after a hearing, the court determines by a preponderance of the evidence that:

- (1) it has no significant value for forensic science analysis and should be returned to its rightful owner, destroyed, used for training purposes, or as otherwise provided by law; or
- (2) it has no significant value for forensic science analysis and is of a size, bulk, or physical character not usually retained by the law enforcement agency and cannot practicably be retained by the law enforcement agency; or
- (3) there no longer exists a reasonable basis to require the preservation of the evidence because of the death of the defendant; however, this paragraph (3) does not apply if a sentence of death was imposed.

(d) The court may order the disposition of the evidence if the defendant is allowed the opportunity to take reasonable measures to remove or preserve portions of the evidence in question for future testing.

(d-5) Any order allowing the disposition of evidence pursuant to subsection (c) or (d) shall be a final and appealable order. No evidence shall be disposed of until 30 days after the order is entered, and if a notice of appeal is filed, no evidence shall be disposed of until the mandate has been received by the circuit court from the appellate court.

(d-10) All records documenting the possession, control, storage, and destruction of evidence and all police reports, evidence control or inventory records, and other reports cited in this Section, including computer records, must be retained for as long as the evidence exists and may not be disposed of without the approval of the Local Records Commission.

(e) In this Section, "law enforcement agency" includes any of the following or an agent acting on behalf of any of the following: a municipal police department, county sheriff's office, any prosecuting authority, the Department of State Police, or any other State, university, county, federal, or municipal police unit or police force.

"Biological material" includes, but is not limited to, any blood, hair, saliva, or semen from which genetic marker groupings may be obtained.

(Source: P.A. 91-871, eff. 1-1-01; 92-459, eff. 8-22-01.)

(725 ILCS 5/124B-10)

Sec. 124B-10. Applicability; offenses. This Article applies to forfeiture of property in connection with the following:

(1) A violation of Section 10A-10 of the Criminal Code of 1961 (involuntary servitude; involuntary servitude of a minor; trafficking of persons for forced labor or services).

(2) A violation of subdivision (a)(1) of Section 11-14.4 of the Criminal Code of 1961 (promoting juvenile prostitution) or a violation of Section 11-17.1 of the Criminal Code of 1961 (keeping a place of juvenile prostitution).

(3) A violation of subdivision (a)(4) of Section 11-14.4 of the Criminal Code of 1961 (promoting juvenile prostitution) or a violation of Section 11-19.2 of the Criminal Code of 1961 (exploitation of a child).

(4) A violation of Section 11-20 of the Criminal Code of 1961 (obscenity).

(5) A second or subsequent violation of Section 11-20.1 of the Criminal Code of 1961 (child pornography).

(6) A violation of Section 11-20.1B or 11-20.3 of the Criminal Code of 1961 (aggravated child pornography).

(7) A violation of Section 16D-5 of the Criminal Code of 1961 (computer fraud).

(8) A felony violation of Article 17B of the Criminal Code of 1961 (WIC fraud).

(9) A felony violation of Section 26-5 of the Criminal Code of 1961 (dog fighting).

(10) A violation of Article 29D of the Criminal Code of 1961 (terrorism).

(11) A felony violation of Section 4.01 of the Humane Care for Animals Act (animals in entertainment).

(Source: P.A. 96-712, eff. 1-1-10.)

(725 ILCS 5/124B-100)

Sec. 124B-100. Definition; "offense". For purposes of this Article, "offense" is defined as follows:

(1) In the case of forfeiture authorized under Section 10A-15 of the Criminal Code of 1961, "offense" means the offense of involuntary servitude, involuntary servitude of a minor, or trafficking of persons for forced labor or services in violation of Section 10A-10 of that Code.

(2) In the case of forfeiture authorized under subdivision (a)(1) of Section 11-14.4, or Section 11-17.1<sub>2</sub> of the Criminal Code of

1961, "offense" means the offense of promoting juvenile prostitution or keeping a place of juvenile prostitution in violation of subdivision (a)(1) of Section 11-14.4, or Section 11-17.1<sub>2</sub> of that Code.

(3) In the case of forfeiture authorized under subdivision (a)(4) of Section 11-14.4, or Section 11-19.2<sub>2</sub> of the Criminal Code of

1961, "offense" means the offense of promoting juvenile prostitution or exploitation of a child in violation of subdivision (a)(4) of Section 11-14.4, or Section 11-19.2<sub>2</sub> of that Code.

(4) In the case of forfeiture authorized under Section 11-20 of the Criminal Code of 1961, "offense" means the offense of obscenity in violation of that Section.

(5) In the case of forfeiture authorized under Section 11-20.1 of the Criminal Code of 1961, "offense" means the offense of child pornography in violation of Section 11-20.1 of that Code.

(6) In the case of forfeiture authorized under Section 11-20.1B or 11-20.3 of the Criminal Code of 1961, "offense" means the offense of aggravated child pornography in violation of Section 11-20.1B

or 11-20.3 of that Code.

(7) In the case of forfeiture authorized under Section 16D-6 of the Criminal Code of 1961, "offense" means the offense of computer fraud in violation of Section 16D-5 of that Code.

(8) In the case of forfeiture authorized under Section 17B-25 of the Criminal Code of 1961, "offense" means any felony violation of Article 17B of that Code.

(9) In the case of forfeiture authorized under Section 29D-65 of the Criminal Code of 1961, "offense" means any offense under Article 29D of that Code.

(10) In the case of forfeiture authorized under Section 4.01 of the Humane Care for Animals Act or Section 26-5 of the Criminal Code of 1961, "offense" means any felony offense under either of those Sections.

(Source: P.A. 96-712, eff. 1-1-10.)

(725 ILCS 5/124B-420)

Sec. 124B-420. Distribution of property and sale proceeds.

(a) All moneys and the sale proceeds of all other property forfeited and seized under this Part 400 shall be distributed as follows:

(1) 50% shall be distributed to the unit of local government whose officers or employees conducted the investigation into the offense and caused the arrest or arrests and prosecution leading to the forfeiture, except that if the investigation, arrest or arrests, and prosecution leading to the forfeiture were undertaken by the sheriff, this portion shall be distributed to the county for deposit into a special fund in the county treasury appropriated to the sheriff. Amounts distributed to the county for the sheriff or to units of local government under this paragraph shall be used for enforcement of laws or ordinances governing obscenity and child pornography. If the investigation, arrest or arrests, and prosecution leading to the forfeiture were undertaken solely by a State agency, however, the portion designated in this paragraph shall be paid into the State treasury to be used for enforcement of laws governing obscenity and child pornography.

(2) 25% shall be distributed to the county in which the prosecution resulting in the forfeiture was instituted, deposited into a special fund in the county treasury, and appropriated to the State's Attorney for use in the enforcement of laws governing obscenity and child pornography.

(3) 25% shall be distributed to the Office of the State's Attorneys Appellate Prosecutor and deposited into the Obscenity Profits Forfeiture Fund, which is hereby created in the State treasury, to be used by the Office of the State's Attorneys Appellate Prosecutor for additional expenses incurred in prosecuting appeals arising under Sections 11-20, 11-20.1, 11-20.1B, and 11-20.3 of the Criminal Code of 1961. Any amounts remaining in the Fund after all additional expenses have been paid shall be used by the Office to reduce the participating county contributions to the Office on a pro-rated basis as determined by the board of governors of the Office of the State's Attorneys Appellate Prosecutor based on the populations of the participating counties.

(b) Before any distribution under subsection (a), the Attorney General or State's Attorney shall retain from the forfeited moneys or sale proceeds, or both, sufficient moneys to cover expenses related to the administration and sale of the forfeited property.

(Source: P.A. 96-712, eff. 1-1-10.)

(725 ILCS 5/124B-500)

Sec. 124B-500. Persons and property subject to forfeiture. A person who commits the offense of promoting juvenile prostitution, keeping a place of juvenile prostitution, exploitation of a child, child pornography, or aggravated child pornography under subdivision (a)(1) or (a)(4) of Section 11-14.4 or under Section 11-17.1, 11-19.2, 11-20.1, 11-20.1B, or 11-20.3 of the Criminal Code of 1961 shall forfeit the following property to the State of Illinois:

(1) Any profits or proceeds and any property the person has acquired or maintained in violation of subdivision (a)(1) or (a)(4) of Section 11-14.4 or in violation of Section 11-17.1, 11-19.2, 11-20.1, 11-20.1B, or 11-20.3 of the Criminal Code of 1961 that the sentencing court determines, after a forfeiture hearing under this Article, to have been acquired or maintained as a result of keeping a place of juvenile prostitution, exploitation of a child, child pornography, or aggravated child pornography.

(2) Any interest in, securities of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise that the person has established, operated, controlled, or conducted in violation of subdivision (a)(1) or (a)(4) of Section 11-14.4 or in violation of Section 11-17.1, 11-19.2, 11-20.1, 11-20.1B, or 11-20.3 of the Criminal Code of 1961 that the sentencing court determines, after a forfeiture hearing under this Article, to have been acquired or maintained as a result of keeping a place of juvenile prostitution, exploitation of a child, child pornography, or aggravated child pornography.

(3) Any computer that contains a depiction of child pornography in any encoded or decoded format in violation of Section 11-20.1, 11-20.1B, or 11-20.3 of the Criminal Code of 1961. For purposes of this paragraph (3), "computer" has the meaning ascribed to it in Section 16D-2 of the Criminal Code of 1961.  
(Source: P.A. 96-712, eff. 1-1-10.)

Section 1045. The Bill of Rights for Children is amended by changing Section 3 as follows:  
(725 ILCS 115/3) (from Ch. 38, par. 1353)

Sec. 3. Rights to present child impact statement.

(a) In any case where a defendant has been convicted of a violent crime involving a child or a juvenile has been adjudicated a delinquent for any offense defined in Sections 11-6, 11-20.1, 11-20.1B, and 11-20.3 and in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, except those in which both parties have agreed to the imposition of a specific sentence, and a parent or legal guardian of the child involved is present in the courtroom at the time of the sentencing or the disposition hearing, the parent or legal guardian upon his or her request shall have the right to address the court regarding the impact which the defendant's criminal conduct or the juvenile's delinquent conduct has had upon the child. If the parent or legal guardian chooses to exercise this right, the impact statement must have been prepared in writing in conjunction with the Office of the State's Attorney prior to the initial hearing or sentencing, before it can be presented orally at the sentencing hearing. The court shall consider any statements made by the parent or legal guardian, along with all other appropriate factors in determining the sentence of the defendant or disposition of such juvenile.

(b) The crime victim has the right to prepare a victim impact statement and present it to the office of the State's Attorney at any time during the proceedings.

(c) This Section shall apply to any child victims of any offense defined in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961 during any dispositional hearing under Section 5-705 of the Juvenile Court Act of 1987 which takes place pursuant to an adjudication of delinquency for any such offense.  
(Source: P.A. 96-292, eff. 1-1-10.)

Section 1047. The Rights of Crime Victims and Witnesses Act is amended by changing Section 3 as follows:

(725 ILCS 120/3) (from Ch. 38, par. 1403)

Sec. 3. The terms used in this Act, unless the context clearly requires otherwise, shall have the following meanings:

(a) "Crime victim" and "victim" mean (1) a person physically injured in this State as a result of a violent crime perpetrated or attempted against that person or (2) a person who suffers injury to or loss of property as a result of a violent crime perpetrated or attempted against that person or (3) a single representative who may be the spouse, parent, child or sibling of a person killed as a result of a violent crime perpetrated against the person killed or the spouse, parent, child or sibling of any person granted rights under this Act who is physically or mentally incapable of exercising such rights, except where the spouse, parent, child or sibling is also the defendant or prisoner or (4) any person against whom a violent crime has been committed or (5) any person who has suffered personal injury as a result of a violation of Section 11-501 of the Illinois Vehicle Code, or of a similar provision of a local ordinance, or of Section 9-3 of the Criminal Code of 1961, as amended or (6) in proceedings under the Juvenile Court Act of 1987, both parents, legal guardians, foster parents, or a single adult representative of a minor or disabled person who is a crime victim.

(b) "Witness" means any person who personally observed the commission of a violent crime and who will testify on behalf of the State of Illinois in the criminal prosecution of the violent crime.

(c) "Violent Crime" means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual penetration, or a violation of Section 11-20.1, 11-20.1B, or 11-20.3 of the Criminal Code of 1961, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the Criminal Code of 1961, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death, and includes any action committed by a juvenile that would be a violent crime if committed by an adult. For the purposes of this paragraph, "personal injury" shall include any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene.

(d) "Sentencing Hearing" means any hearing where a sentence is imposed by the court on a convicted defendant and includes hearings conducted pursuant to Sections 5-6-4, 5-6-4.1, 5-7-2 and 5-7-7 of the Unified Code of Corrections except those cases in which both parties have agreed to the imposition of a specific sentence.

(e) "Court proceedings" includes the preliminary hearing, any hearing the effect of which may be the release of the defendant from custody or to alter the conditions of bond, the trial, sentencing hearing, notice of appeal, any modification of sentence, probation revocation hearings or parole hearings.

(f) "Concerned citizen" includes relatives of the victim, friends of the victim, witnesses to the crime, or any other person associated with the victim or prisoner.

(Source: P.A. 95-591, eff. 6-1-08; 95-876, eff. 8-21-08; 96-292, eff. 1-1-10; 96-875, eff. 1-22-10.)

Section 1050. The Sex Offense Victim Polygraph Act is amended by changing Section 1 as follows:  
(725 ILCS 200/1) (from Ch. 38, par. 1551)

Sec. 1. Lie Detector Tests. (a) No law enforcement officer, State's Attorney or other official shall require an alleged victim of an offense described in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, as amended, to submit to a polygraph examination or any form of a mechanical or electrical lie detector test as a condition for proceeding with the investigation, charging or prosecution of such offense, and such test shall be administered to such victim solely at the victim's request.

(b) A victim's refusal to submit to a polygraph or any form of a mechanical or electrical lie detector test shall not mitigate against the investigation, charging or prosecution of the pending case as originally charged.

(Source: P.A. 85-664.)

Section 1055. The Sexually Violent Persons Commitment Act is amended by changing Section 5 as follows:

(725 ILCS 207/5)

Sec. 5. Definitions. As used in this Act, the term:

(a) "Department" means the Department of Human Services.

(b) "Mental disorder" means a congenital or acquired condition affecting the emotional or volitional capacity that predisposes a person to engage in acts of sexual violence.

(c) "Secretary" means the Secretary of Human Services.

(d) "Sexually motivated" means that one of the purposes for an act is for the actor's sexual arousal or gratification.

(e) "Sexually violent offense" means any of the following:

(1) Any crime specified in Section 11-1.20, 11-1.30, 11-1.40, 11-1.60, 11-6, 11-20.1, 11-20.3, 12-13, 12-14, 12-14.1, or

12-16 of the Criminal Code of 1961; or

(1.5) Any former law of this State specified in Section 11-1 (rape), 11-3 (deviate sexual assault), 11-4 (indecent liberties with a child) or 11-4.1 (aggravated indecent liberties with a child) of the Criminal Code of 1961; or

(2) First degree murder, if it is determined by the agency with jurisdiction to have been sexually motivated; or

(3) Any solicitation, conspiracy or attempt to commit a crime under paragraph (e)(1) or (e)(2) of this Section.

(f) "Sexually violent person" means a person who has been convicted of a sexually violent offense, has been adjudicated delinquent for a sexually violent offense, or has been found not guilty of a sexually violent offense by reason of insanity and who is dangerous because he or she suffers from a mental disorder that makes it substantially probable that the person will engage in acts of sexual violence.

(Source: P.A. 96-292, eff. 1-1-10; 96-328, eff. 8-11-09.)

Section 1060. The Statewide Grand Jury Act is amended by changing Sections 2 and 3 as follows:  
(725 ILCS 215/2) (from Ch. 38, par. 1702)

Sec. 2. (a) County grand juries and State's Attorneys have always had and shall continue to have primary responsibility for investigating, indicting, and prosecuting persons who violate the criminal laws of the State of Illinois. However, in recent years organized terrorist activity directed against innocent civilians and certain criminal enterprises have developed that require investigation, indictment, and prosecution on a statewide or multicounty level. The criminal enterprises exist as a result of the allure of profitability present in narcotic activity, the unlawful sale and transfer of firearms, and streetgang related

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felonies and organized terrorist activity is supported by the contribution of money and expert assistance from geographically diverse sources. In order to shut off the life blood of terrorism and weaken or eliminate the criminal enterprises, assets, and property used to further these offenses must be frozen, and any profit must be removed. State statutes exist that can accomplish that goal. Among them are the offense of money laundering, the Cannabis and Controlled Substances Tax Act, violations of Article 29D of the Criminal Code of 1961, the Narcotics Profit Forfeiture Act, and gunrunning. Local prosecutors need investigative personnel and specialized training to attack and eliminate these profits. In light of the transitory and complex nature of conduct that constitutes these criminal activities, the many diverse property interests that may be used, acquired directly or indirectly as a result of these criminal activities, and the many places that illegally obtained property may be located, it is the purpose of this Act to create a limited, multicounty Statewide Grand Jury with authority to investigate, indict, and prosecute: narcotic activity, including cannabis and controlled substance trafficking, narcotics racketeering, money laundering, violations of the Cannabis and Controlled Substances Tax Act, and violations of Article 29D of the Criminal Code of 1961; the unlawful sale and transfer of firearms; gunrunning; and streetgang related felonies.

(b) A Statewide Grand Jury may also investigate, indict, and prosecute violations facilitated by the use of a computer of any of the following offenses: indecent solicitation of a child, sexual exploitation of a child, soliciting for a juvenile prostitute, keeping a place of juvenile prostitution, juvenile pimping, ~~or child pornography~~, aggravated child pornography, or promoting juvenile prostitution except as described in subdivision (a)(4) of Section 11-14.4 of the Criminal Code of 1961.

(Source: P.A. 91-225, eff. 1-1-00; 92-854, eff. 12-5-02.)

(725 ILCS 215/3) (from Ch. 38, par. 1703)

Sec. 3. Written application for the appointment of a Circuit Judge to convene and preside over a Statewide Grand Jury, with jurisdiction extending throughout the State, shall be made to the Chief Justice of the Supreme Court. Upon such written application, the Chief Justice of the Supreme Court shall appoint a Circuit Judge from the circuit where the Statewide Grand Jury is being sought to be convened, who shall make a determination that the convening of a Statewide Grand Jury is necessary.

In such application the Attorney General shall state that the convening of a Statewide Grand Jury is necessary because of an alleged offense or offenses set forth in this Section involving more than one county of the State and identifying any such offense alleged; and

(a) that he or she believes that the grand jury function for the investigation and indictment of the offense or offenses cannot effectively be performed by a county grand jury together with the reasons for such belief, and

(b)(1) that each State's Attorney with jurisdiction over an offense or offenses to be investigated has consented to the impaneling of the Statewide Grand Jury, or

(2) if one or more of the State's Attorneys having jurisdiction over an offense or offenses to be investigated fails to consent to the impaneling of the Statewide Grand Jury, the Attorney General shall set forth good cause for impaneling the Statewide Grand Jury.

If the Circuit Judge determines that the convening of a Statewide Grand Jury is necessary, he or she shall convene and impanel the Statewide Grand Jury with jurisdiction extending throughout the State to investigate and return indictments:

(a) For violations of any of the following or for any other criminal offense committed in the course of violating any of the following: Article 29D of the Criminal Code of 1961, the Illinois Controlled Substances Act, the Cannabis Control Act, the Methamphetamine Control and Community Protection Act, the Narcotics Profit Forfeiture Act, or the Cannabis and Controlled Substances Tax Act; a streetgang related felony offense; Section 24-2.1, 24-2.2, 24-3, 24-3A, 24-3.1, 24-3.3, 24-3.4, 24-4, or 24-5 or subsection 24-1(a)(4), 24-1(a)(6), 24-1(a)(7), 24-1(a)(9), 24-1(a)(10), or 24-1(c) of the Criminal Code of 1961; or a money laundering offense; provided that the violation or offense involves acts occurring in more than one county of this State; and

(a-5) For violations facilitated by the use of a computer, including the use of the Internet, the World Wide Web, electronic mail, message board, newsgroup, or any other commercial or noncommercial on-line service, of any of the following offenses: indecent solicitation of a child, sexual exploitation of a child, soliciting for a juvenile prostitute, keeping a place of juvenile prostitution, juvenile pimping, ~~or child pornography~~, aggravated child pornography, or promoting juvenile prostitution except as described in subdivision (a)(4) of Section 11-14.4 of the Criminal Code of 1961; and

(b) For the offenses of perjury, subornation of perjury, communicating with jurors and witnesses, and harassment of jurors and witnesses, as they relate to matters before the Statewide Grand Jury.

"Streetgang related" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

Upon written application by the Attorney General for the convening of an additional Statewide Grand Jury, the Chief Justice of the Supreme Court shall appoint a Circuit Judge from the circuit for which the additional Statewide Grand Jury is sought. The Circuit Judge shall determine the necessity for an additional Statewide Grand Jury in accordance with the provisions of this Section. No more than 2 Statewide Grand Juries may be empaneled at any time.  
(Source: P.A. 94-556, eff. 9-11-05.)

Section 1065. The Unified Code of Corrections is amended by changing Sections 3-1-2, 3-3-7, 5-3-2, 5-4-1, 5-4-3, 5-4-3.2, 5-5-3, 5-5-3.2, 5-5-6, 5-6-1, 5-6-3, 5-6-3.1, 5-8-1, 5-8-4, and 5-9-1.7 as follows:

(730 ILCS 5/3-1-2) (from Ch. 38, par. 1003-1-2)

Sec. 3-1-2. Definitions.

(a) "Chief Administrative Officer" means the person designated by the Director to exercise the powers and duties of the Department of Corrections in regard to committed persons within a correctional institution or facility, and includes the superintendent of any juvenile institution or facility.

(a-5) "Sex offense" for the purposes of paragraph (16) of subsection (a) of Section 3-3-7, paragraph (10) of subsection (a) of Section 5-6-3, and paragraph (18) of subsection (c) of Section 5-6-3.1 only means:

(i) A violation of any of the following Sections of the Criminal Code of 1961: 10-7

(aiding or abetting child abduction under Section 10-5(b)(10)), 10-5(b)(10) (child luring), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-14.4 (promoting juvenile prostitution), 11-15.1 (soliciting for a juvenile prostitute), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a juvenile prostitute), 11-19.1 (juvenile pimping), 11-19.2 (exploitation of a child), 11-20.1 (child pornography), 11-20.1B or 11-20.3 (aggravated child pornography), 11-1.40 or 12-14.1 (predatory criminal sexual assault of a child), or 12-33 (ritualized abuse of a child). An attempt to commit any of these offenses.

(ii) A violation of any of the following Sections of the Criminal Code of 1961: 11-1.20 or 12-13

(criminal sexual assault), 11-1.30 or 12-14 (aggravated criminal sexual assault), 11-1.60 or 12-16 (aggravated criminal sexual abuse), and subsection (a) of Section 11-1.50 or subsection (a) of Section 12-15 (criminal sexual abuse). An attempt to commit any of these offenses.

(iii) A violation of any of the following Sections of the Criminal Code of 1961 when the defendant is not a parent of the victim:

10-1 (kidnapping),

10-2 (aggravated kidnapping),

10-3 (unlawful restraint),

10-3.1 (aggravated unlawful restraint).

An attempt to commit any of these offenses.

(iv) A violation of any former law of this State substantially equivalent to any offense listed in this subsection (a-5).

An offense violating federal law or the law of another state that is substantially

equivalent to any offense listed in this subsection (a-5) shall constitute a sex offense for the purpose of this subsection (a-5). A finding or adjudication as a sexually dangerous person under any federal law or law of another state that is substantially equivalent to the Sexually Dangerous Persons Act shall constitute an adjudication for a sex offense for the purposes of this subsection (a-5).

(b) "Commitment" means a judicially determined placement in the custody of the Department of Corrections on the basis of delinquency or conviction.

(c) "Committed Person" is a person committed to the Department, however a committed person shall not be considered to be an employee of the Department of Corrections for any purpose, including eligibility for a pension, benefits, or any other compensation or rights or privileges which may be provided to employees of the Department.

(c-5) "Computer scrub software" means any third-party added software, designed to delete information from the computer unit, the hard drive, or other software, which would eliminate and prevent discovery of browser activity, including but not limited to Internet history, address bar or bars, cache or caches, and/or cookies, and which would over-write files in a way so as to make previous computer activity, including but not limited to website access, more difficult to discover.

(d) "Correctional Institution or Facility" means any building or part of a building where committed persons are kept in a secured manner.

(e) In the case of functions performed before the effective date of this amendatory Act of the 94th

General Assembly, "Department" means the Department of Corrections of this State. In the case of functions performed on or after the effective date of this amendatory Act of the 94th General Assembly, "Department" has the meaning ascribed to it in subsection (f-5).

(f) In the case of functions performed before the effective date of this amendatory Act of the 94th General Assembly, "Director" means the Director of the Department of Corrections. In the case of functions performed on or after the effective date of this amendatory Act of the 94th General Assembly, "Director" has the meaning ascribed to it in subsection (f-5).

(f-5) In the case of functions performed on or after the effective date of this amendatory Act of the 94th General Assembly, references to "Department" or "Director" refer to either the Department of Corrections or the Director of Corrections or to the Department of Juvenile Justice or the Director of Juvenile Justice unless the context is specific to the Department of Juvenile Justice or the Director of Juvenile Justice.

(g) "Discharge" means the final termination of a commitment to the Department of Corrections.

(h) "Discipline" means the rules and regulations for the maintenance of order and the protection of persons and property within the institutions and facilities of the Department and their enforcement.

(i) "Escape" means the intentional and unauthorized absence of a committed person from the custody of the Department.

(j) "Furlough" means an authorized leave of absence from the Department of Corrections for a designated purpose and period of time.

(k) "Parole" means the conditional and revocable release of a committed person under the supervision of a parole officer.

(l) "Prisoner Review Board" means the Board established in Section 3-3-1(a), independent of the Department, to review rules and regulations with respect to good time credits, to hear charges brought by the Department against certain prisoners alleged to have violated Department rules with respect to good time credits, to set release dates for certain prisoners sentenced under the law in effect prior to the effective date of this Amendatory Act of 1977, to hear requests and make recommendations to the Governor with respect to pardon, reprieve or commutation, to set conditions for parole and mandatory supervised release and determine whether violations of those conditions justify revocation of parole or release, and to assume all other functions previously exercised by the Illinois Parole and Pardon Board.

(m) Whenever medical treatment, service, counseling, or care is referred to in this Unified Code of Corrections, such term may be construed by the Department or Court, within its discretion, to include treatment, service or counseling by a Christian Science practitioner or nursing care appropriate therewith whenever request therefor is made by a person subject to the provisions of this Act.

(n) "Victim" shall have the meaning ascribed to it in subsection (a) of Section 3 of the Bill of Rights for Victims and Witnesses of Violent Crime Act.

(Source: P.A. 96-362, eff. 1-1-10; 96-710, eff. 1-1-10; revised 10-9-09.)

(730 ILCS 5/3-3-7) (from Ch. 38, par. 1003-3-7)

Sec. 3-3-7. Conditions of Parole or Mandatory Supervised Release.

(a) The conditions of parole or mandatory supervised release shall be such as the Prisoner Review Board deems necessary to assist the subject in leading a law-abiding life. The conditions of every parole and mandatory supervised release are that the subject:

(1) not violate any criminal statute of any jurisdiction during the parole or release term;

(2) refrain from possessing a firearm or other dangerous weapon;

(3) report to an agent of the Department of Corrections;

(4) permit the agent to visit him or her at his or her home, employment, or elsewhere to the extent necessary for the agent to discharge his or her duties;

(5) attend or reside in a facility established for the instruction or residence of persons on parole or mandatory supervised release;

(6) secure permission before visiting or writing a committed person in an Illinois Department of Corrections facility;

(7) report all arrests to an agent of the Department of Corrections as soon as permitted by the arresting authority but in no event later than 24 hours after release from custody;

(7.5) if convicted of a sex offense as defined in the Sex Offender Management Board Act, the individual shall undergo and successfully complete sex offender treatment conducted in conformance with the standards developed by the Sex Offender Management Board Act by a treatment provider approved by the Board;

(7.6) if convicted of a sex offense as defined in the Sex Offender Management Board Act, refrain from residing at the same address or in the same condominium unit or apartment unit or in the

same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been placed on supervision for a sex offense; the provisions of this paragraph do not apply to a person convicted of a sex offense who is placed in a Department of Corrections licensed transitional housing facility for sex offenders, or is in any facility operated or licensed by the Department of Children and Family Services or by the Department of Human Services, or is in any licensed medical facility;

(7.7) if convicted for an offense that would qualify the accused as a sexual predator under the Sex Offender Registration Act on or after the effective date of this amendatory Act of the 94th General Assembly, wear an approved electronic monitoring device as defined in Section 5-8A-2 for the duration of the person's parole, mandatory supervised release term, or extended mandatory supervised release term and if convicted for an offense of criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, aggravated criminal sexual abuse, or ritualized abuse of a child committed on or after August 11, 2009 (the effective date of Public Act 96-236) ~~this amendatory Act of the 96th General Assembly~~ when the victim was under 18 years of age at the time of the commission of the offense and the defendant used force or the threat of force in the commission of the offense wear an approved electronic monitoring device as defined in Section 5-8A-2 that has Global Positioning System (GPS) capability for the duration of the person's parole, mandatory supervised release term, or extended mandatory supervised release term;

(7.8) if convicted for an offense committed on or after the effective date of this amendatory Act of the 95th General Assembly that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is not related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (7.8), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961; and a person is not related to the accused if the person is not: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused;

(7.9) if convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961, consent to search of computers, PDAs, cellular phones, and other devices under his or her control that are capable of accessing the Internet or storing electronic files, in order to confirm Internet protocol addresses reported in accordance with the Sex Offender Registration Act and compliance with conditions in this Act;

(7.10) if convicted for an offense that would qualify the accused as a sex offender or sexual predator under the Sex Offender Registration Act on or after the effective date of this amendatory Act of the 95th General Assembly, not possess prescription drugs for erectile dysfunction;

(7.11) if convicted for an offense under Section 11-6, 11-9.1, 11-14.4 that involves soliciting for a juvenile prostitute, 11-15.1, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961, or any attempt to commit any of these offenses, committed on or after June 1, 2009 (the effective date of Public Act 95-983):

(i) not access or use a computer or any other device with Internet capability without the prior written approval of the Department;

(ii) submit to periodic unannounced examinations of the offender's computer or any other device with Internet capability by the offender's supervising agent, a law enforcement officer, or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment, or device to conduct a more thorough inspection;

(iii) submit to the installation on the offender's computer or device with Internet capability, at the offender's expense, of one or more hardware or software systems to monitor the Internet use; and

(iv) submit to any other appropriate restrictions concerning the offender's use of or access to a computer or any other device with Internet capability imposed by the Board, the Department or the offender's supervising agent;

(7.12) if convicted of a sex offense as defined in the Sex Offender Registration Act committed on or after January 1, 2010 (the effective date of Public Act 96-262) ~~this amendatory Act of the 96th General Assembly~~, refrain from accessing or using a social networking website as defined in Section 16D-2 of the Criminal Code of 1961;

~~(7.13)~~ (7.12) if convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act committed on or after January 1, 2010 (the effective date of Public Act 96-362) ~~this amendatory Act of the 96th General Assembly~~ that requires the person to register as a sex offender

under that Act, may not knowingly use any computer scrub software on any computer that the sex offender uses;

- (8) obtain permission of an agent of the Department of Corrections before leaving the State of Illinois;
  - (9) obtain permission of an agent of the Department of Corrections before changing his or her residence or employment;
  - (10) consent to a search of his or her person, property, or residence under his or her control;
  - (11) refrain from the use or possession of narcotics or other controlled substances in any form, or both, or any paraphernalia related to those substances and submit to a urinalysis test as instructed by a parole agent of the Department of Corrections;
  - (12) not frequent places where controlled substances are illegally sold, used, distributed, or administered;
  - (13) not knowingly associate with other persons on parole or mandatory supervised release without prior written permission of his or her parole agent and not associate with persons who are members of an organized gang as that term is defined in the Illinois Streetgang Terrorism Omnibus Prevention Act;
  - (14) provide true and accurate information, as it relates to his or her adjustment in the community while on parole or mandatory supervised release or to his or her conduct while incarcerated, in response to inquiries by his or her parole agent or of the Department of Corrections;
  - (15) follow any specific instructions provided by the parole agent that are consistent with furthering conditions set and approved by the Prisoner Review Board or by law, exclusive of placement on electronic detention, to achieve the goals and objectives of his or her parole or mandatory supervised release or to protect the public. These instructions by the parole agent may be modified at any time, as the agent deems appropriate;
  - (16) if convicted of a sex offense as defined in subsection (a-5) of Section 3-1-2 of this Code, unless the offender is a parent or guardian of the person under 18 years of age present in the home and no non-familial minors are present, not participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter; and
  - (17) if convicted of a violation of an order of protection under Section 12-30 of the Criminal Code of 1961, be placed under electronic surveillance as provided in Section 5-8A-7 of this Code.
- (b) The Board may in addition to other conditions require that the subject:
- (1) work or pursue a course of study or vocational training;
  - (2) undergo medical or psychiatric treatment, or treatment for drug addiction or alcoholism;
  - (3) attend or reside in a facility established for the instruction or residence of persons on probation or parole;
  - (4) support his dependents;
  - (5) (blank);
  - (6) (blank);
  - (7) comply with the terms and conditions of an order of protection issued pursuant to the Illinois Domestic Violence Act of 1986, enacted by the 84th General Assembly, or an order of protection issued by the court of another state, tribe, or United States territory;
- (7.5) if convicted for an offense committed on or after the effective date of this amendatory Act of the 95th General Assembly that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (7.5), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961; and a person is related to the accused if the person is: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused;
- (7.6) if convicted for an offense committed on or after June 1, 2009 (the effective date of Public Act 95-983) that would qualify as a sex offense as defined in the Sex Offender Registration Act:
- (i) not access or use a computer or any other device with Internet capability

without the prior written approval of the Department;

(ii) submit to periodic unannounced examinations of the offender's computer or any other device with Internet capability by the offender's supervising agent, a law enforcement officer, or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment, or device to conduct a more thorough inspection;

(iii) submit to the installation on the offender's computer or device with Internet capability, at the offender's expense, of one or more hardware or software systems to monitor the Internet use; and

(iv) submit to any other appropriate restrictions concerning the offender's use of or access to a computer or any other device with Internet capability imposed by the Board, the Department or the offender's supervising agent; and

(8) in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth; or

(iv) contribute to his own support at home or in a foster home.

(b-1) In addition to the conditions set forth in subsections (a) and (b), persons required to register as sex offenders pursuant to the Sex Offender Registration Act, upon release from the custody of the Illinois Department of Corrections, may be required by the Board to comply with the following specific conditions of release:

(1) reside only at a Department approved location;

(2) comply with all requirements of the Sex Offender Registration Act;

(3) notify third parties of the risks that may be occasioned by his or her criminal record;

(4) obtain the approval of an agent of the Department of Corrections prior to accepting employment or pursuing a course of study or vocational training and notify the Department prior to any change in employment, study, or training;

(5) not be employed or participate in any volunteer activity that involves contact with children, except under circumstances approved in advance and in writing by an agent of the Department of Corrections;

(6) be electronically monitored for a minimum of 12 months from the date of release as determined by the Board;

(7) refrain from entering into a designated geographic area except upon terms approved in advance by an agent of the Department of Corrections. The terms may include consideration of the purpose of the entry, the time of day, and others accompanying the person;

(8) refrain from having any contact, including written or oral communications, directly or indirectly, personally or by telephone, letter, or through a third party with certain specified persons including, but not limited to, the victim or the victim's family without the prior written approval of an agent of the Department of Corrections;

(9) refrain from all contact, directly or indirectly, personally, by telephone, letter, or through a third party, with minor children without prior identification and approval of an agent of the Department of Corrections;

(10) neither possess or have under his or her control any material that is sexually oriented, sexually stimulating, or that shows male or female sex organs or any pictures depicting children under 18 years of age nude or any written or audio material describing sexual intercourse or that depicts or alludes to sexual activity, including but not limited to visual, auditory, telephonic, or electronic media, or any matter obtained through access to any computer or material linked to computer access use;

(11) not patronize any business providing sexually stimulating or sexually oriented entertainment nor utilize "900" or adult telephone numbers;

(12) not reside near, visit, or be in or about parks, schools, day care centers, swimming pools, beaches, theaters, or any other places where minor children congregate without advance approval of an agent of the Department of Corrections and immediately report any incidental contact with minor children to the Department;

(13) not possess or have under his or her control certain specified items of contraband related to the incidence of sexually offending as determined by an agent of the Department of Corrections;

(14) may be required to provide a written daily log of activities if directed

- by an agent of the Department of Corrections;
- (15) comply with all other special conditions that the Department may impose that restrict the person from high-risk situations and limit access to potential victims;
- (16) take an annual polygraph exam;
- (17) maintain a log of his or her travel; or
- (18) obtain prior approval of his or her parole officer before driving alone in a motor vehicle.

(c) The conditions under which the parole or mandatory supervised release is to be served shall be communicated to the person in writing prior to his release, and he shall sign the same before release. A signed copy of these conditions, including a copy of an order of protection where one had been issued by the criminal court, shall be retained by the person and another copy forwarded to the officer in charge of his supervision.

(d) After a hearing under Section 3-3-9, the Prisoner Review Board may modify or enlarge the conditions of parole or mandatory supervised release.

(e) The Department shall inform all offenders committed to the Department of the optional services available to them upon release and shall assist inmates in availing themselves of such optional services upon their release on a voluntary basis.

(f) When the subject is in compliance with all conditions of his or her parole or mandatory supervised release, the subject shall receive a reduction of the period of his or her parole or mandatory supervised release of 90 days upon passage of the high school level Test of General Educational Development during the period of his or her parole or mandatory supervised release. This reduction in the period of a subject's term of parole or mandatory supervised release shall be available only to subjects who have not previously earned a high school diploma or who have not previously passed the high school level Test of General Educational Development.

(Source: P.A. 95-464, eff. 6-1-08; 95-539, eff. 1-1-08; 95-579, eff. 6-1-08; 95-640, eff. 6-1-08; 95-773, eff. 1-1-09; 95-876, eff. 8-21-08; 95-983, eff. 6-1-09; 96-236, eff. 8-11-09; 96-262, eff. 1-1-10; 96-328, eff. 8-11-09; 96-362, eff. 1-1-10; revised 9-25-09.)

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

Sec. 5-3-2. Presentence Report.

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

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

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

(3) the effect the offense committed has had upon the victim or victims thereof, and any compensatory benefit that various sentencing alternatives would confer on such victim or victims;

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

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

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

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

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

(b-5) In cases involving felony sex offenses in which the offender is being considered for probation only or any felony offense that is sexually motivated as defined in the Sex Offender Management Board Act in which the offender is being considered for probation only, the investigation shall include a sex

offender evaluation by an evaluator approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act. In cases in which the offender is being considered for any mandatory prison sentence, the investigation shall not include a sex offender evaluation.

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

(d) In cases under Sections 11-1.50, Section 12-15, and Section 12-30 of the Criminal Code of 1961, as amended, the presentence report shall set forth information about alcohol, drug abuse, psychiatric, and marriage counseling or other treatment programs and facilities, information on the defendant's history of delinquency or criminality, and shall contain those additional matters listed in any of paragraphs (1) through (6) of subsection (a) or in subsection (b) of this Section as are specified by the court.

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

(Source: P.A. 96-322, eff. 1-1-10.)

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

Sec. 5-4-1. Sentencing Hearing.

(a) Except when the death penalty is sought under hearing procedures otherwise specified, after a determination of guilt, a hearing shall be held to impose the sentence. However, prior to the imposition of sentence on an individual being sentenced for an offense based upon a charge for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance, the individual must undergo a professional evaluation to determine if an alcohol or other drug abuse problem exists and the extent of such a problem. Programs conducting these evaluations shall be licensed by the Department of Human Services. However, if the individual is not a resident of Illinois, the court may, in its discretion, accept an evaluation from a program in the state of such individual's residence. The court may in its sentencing order approve an eligible defendant for placement in a Department of Corrections impact incarceration program as provided in Section 5-8-1.1 or 5-8-1.3. The court may in its sentencing order recommend a defendant for placement in a Department of Corrections substance abuse treatment program as provided in paragraph (a) of subsection (1) of Section 3-2-2 conditioned upon the defendant being accepted in a program by the Department of Corrections. At the hearing the court shall:

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

(2) consider any presentence reports;

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

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

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

(5) hear arguments as to sentencing alternatives;

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

(7) afford the victim of a violent crime or a violation of Section 11-501 of the

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

organized State, county, or municipal peace unit assigned to the territorial jurisdiction where the offense took place when the offense took place;

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

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

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

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

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

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

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

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

When the sentence is imposed for one of the offenses enumerated in paragraph (a)(3) of Section 3-6-3, other than when the sentence is imposed for one of the offenses enumerated in paragraph (a)(2) of Section 3-6-3 committed on or after June 19, 1998, and other than when the sentence is imposed for reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 if the offense was committed on or after January 1, 1999, and other than when the sentence is imposed for aggravated arson if the offense was committed on or after July 27, 2001 (the effective date of Public Act 92-176), the judge's statement, to be given after pronouncing the sentence, shall include the following:

"The purpose of this statement is to inform the public of the actual period of time this defendant is likely to spend in prison as a result of this sentence. The actual period of prison time served is determined by the statutes of Illinois as applied to this sentence by the Illinois Department of Corrections and the Illinois Prisoner Review Board. In this case, assuming the defendant receives all of his or her good conduct credit, the period of estimated actual custody is ... years and ... months, less up to 90 days additional good conduct credit for meritorious service. If the defendant, because of his or her own misconduct or failure to comply with the institutional regulations, does not receive those credits, the

actual time served in prison will be longer. The defendant may also receive an additional one-half day good conduct credit for each day of participation in vocational, industry, substance abuse, and educational programs as provided for by Illinois statute."

When the sentence is imposed for one of the offenses enumerated in paragraph (a)(2) of Section 3-6-3, other than first degree murder, and the offense was committed on or after June 19, 1998, and when the sentence is imposed for reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 if the offense was committed on or after January 1, 1999, and when the sentence is imposed for aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, and when the sentence is imposed for aggravated arson if the offense was committed on or after July 27, 2001 (the effective date of Public Act 92-176), the judge's statement, to be given after pronouncing the sentence, shall include the following:

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

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

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

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

"The purpose of this statement is to inform the public of the actual period of time this defendant is likely to spend in prison as a result of this sentence. The actual period of prison time served is determined by the statutes of Illinois as applied to this sentence by the Illinois Department of Corrections and the Illinois Prisoner Review Board. In this case, the defendant shall receive no good conduct credit under clause (3) of subsection (a) of Section 3-6-3 until he or she participates in and completes a substance abuse treatment program or receives a waiver from the Director of Corrections pursuant to clause (4.5) of subsection (a) of Section 3-6-3."

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

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

(2) consider the treatment recommendations of any diagnosing or treating mental health professionals together with the treatment options available to the defendant in imposing sentence.

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

(d) When the defendant is committed to the Department of Corrections, the State's Attorney shall and counsel for the defendant may file a statement with the clerk of the court to be transmitted to the department, agency or institution to which the defendant is committed to furnish such department,

agency or institution with the facts and circumstances of the offense for which the person was committed together with all other factual information accessible to them in regard to the person prior to his commitment relative to his habits, associates, disposition and reputation and any other facts and circumstances which may aid such department, agency or institution during its custody of such person. The clerk shall within 10 days after receiving any such statements transmit a copy to such department, agency or institution and a copy to the other party, provided, however, that this shall not be cause for delay in conveying the person to the department, agency or institution to which he has been committed.

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

- (1) the sentence imposed;
- (2) any statement by the court of the basis for imposing the sentence;
- (3) any presentence reports;
- (3.5) any sex offender evaluations;
- (3.6) any substance abuse treatment eligibility screening and assessment of the defendant by an agent designated by the State of Illinois to provide assessment services for the Illinois courts;

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

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

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

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

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

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

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

(Source: P.A. 95-331, eff. 8-21-07; 96-86, eff. 1-1-10.)

(730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

Sec. 5-4-3. Persons convicted of, or found delinquent for, certain offenses or institutionalized as sexually dangerous; specimens; genetic marker groups.

(a) Any person convicted of, found guilty under the Juvenile Court Act of 1987 for, or who received a disposition of court supervision for, a qualifying offense or attempt of a qualifying offense, convicted or found guilty of any offense classified as a felony under Illinois law, convicted or found guilty of any offense requiring registration under the Sex Offender Registration Act, found guilty or given supervision for any offense classified as a felony under the Juvenile Court Act of 1987, convicted or found guilty of, under the Juvenile Court Act of 1987, any offense requiring registration under the Sex Offender Registration Act, or institutionalized as a sexually dangerous person under the Sexually Dangerous Persons Act, or committed as a sexually violent person under the Sexually Violent Persons Commitment Act shall, regardless of the sentence or disposition imposed, be required to submit specimens of blood, saliva, or tissue to the Illinois Department of State Police in accordance with the provisions of this Section, provided such person is:

(1) convicted of a qualifying offense or attempt of a qualifying offense on or after July 1, 1990 and sentenced to a term of imprisonment, periodic imprisonment, fine, probation, conditional discharge or any other form of sentence, or given a disposition of court supervision for the offense;

(1.5) found guilty or given supervision under the Juvenile Court Act of 1987 for a qualifying offense or attempt of a qualifying offense on or after January 1, 1997;

(2) ordered institutionalized as a sexually dangerous person on or after July 1, 1990;

(3) convicted of a qualifying offense or attempt of a qualifying offense before July 1, 1990 and is presently confined as a result of such conviction in any State correctional facility or county jail or is presently serving a sentence of probation, conditional discharge or periodic imprisonment as a result of such conviction;

(3.5) convicted or found guilty of any offense classified as a felony under Illinois law or found guilty or given supervision for such an offense under the Juvenile Court Act of 1987 on or after August 22, 2002;

(4) presently institutionalized as a sexually dangerous person or presently institutionalized as a person found guilty but mentally ill of a sexual offense or attempt to commit a

sexual offense;

(4.5) ordered committed as a sexually violent person on or after the effective date of the Sexually Violent Persons Commitment Act; or

(5) seeking transfer to or residency in Illinois under Sections 3-3-11.05 through 3-3-11.5 of the Unified Code of Corrections and the Interstate Compact for Adult Offender Supervision or the Interstate Agreements on Sexually Dangerous Persons Act.

Notwithstanding other provisions of this Section, any person incarcerated in a facility of the Illinois Department of Corrections or the Illinois Department of Juvenile Justice on or after August 22, 2002, whether for a term of years, natural life, or a sentence of death, who has not yet submitted a sample of blood, saliva, or tissue shall be required to submit a specimen of blood, saliva, or tissue prior to his or her final discharge, or release on parole or mandatory supervised release, as a condition of his or her parole or mandatory supervised release, or within 6 months from August 13, 2009 (the effective date of Public Act 96-426) the effective date of this amendatory Act of the 96th General Assembly, whichever is sooner. A person Persons incarcerated on or after August 13, 2009 (the effective date of Public Act 96-426) the effective date of this amendatory Act of the 96th General Assembly shall be required to submit a sample within 45 days of incarceration, or prior to his or her final discharge, or release on parole or mandatory supervised release, as a condition of his or her parole or mandatory supervised release, whichever is sooner. These specimens shall be placed into the State or national DNA database, to be used in accordance with other provisions of this Section, by the Illinois State Police.

Notwithstanding other provisions of this Section, any person sentenced to life imprisonment in a facility of the Illinois Department of Corrections after the effective date of this amendatory Act of the 94th General Assembly or sentenced to death after the effective date of this amendatory Act of the 94th General Assembly shall be required to provide a specimen of blood, saliva, or tissue within 45 days after sentencing or disposition at a collection site designated by the Illinois Department of State Police. Any person serving a sentence of life imprisonment in a facility of the Illinois Department of Corrections on the effective date of this amendatory Act of the 94th General Assembly or any person who is under a sentence of death on the effective date of this amendatory Act of the 94th General Assembly shall be required to provide a specimen of blood, saliva, or tissue upon request at a collection site designated by the Illinois Department of State Police.

(a-5) Any person who was otherwise convicted of or received a disposition of court supervision for any other offense under the Criminal Code of 1961 or who was found guilty or given supervision for such a violation under the Juvenile Court Act of 1987, may, regardless of the sentence imposed, be required by an order of the court to submit specimens of blood, saliva, or tissue to the Illinois Department of State Police in accordance with the provisions of this Section.

(b) Any person required by paragraphs (a)(1), (a)(1.5), (a)(2), (a)(3.5), and (a-5) to provide specimens of blood, saliva, or tissue shall provide specimens of blood, saliva, or tissue within 45 days after sentencing or disposition at a collection site designated by the Illinois Department of State Police.

(c) Any person required by paragraphs (a)(3), (a)(4), and (a)(4.5) to provide specimens of blood, saliva, or tissue shall be required to provide such samples prior to final discharge or within 6 months from August 13, 2009 (the effective date of Public Act 96-426) the effective date of this amendatory Act of the 96th General Assembly, whichever is sooner. These specimens shall be placed into the State or national DNA database, to be used in accordance with other provisions of this Act, by the Illinois State Police.

(c-5) Any person required by paragraph (a)(5) to provide specimens of blood, saliva, or tissue shall, where feasible, be required to provide the specimens before being accepted for conditioned residency in Illinois under the interstate compact or agreement, but no later than 45 days after arrival in this State.

(c-6) The Illinois Department of State Police may determine which type of specimen or specimens, blood, saliva, or tissue, is acceptable for submission to the Division of Forensic Services for analysis.

(d) The Illinois Department of State Police shall provide all equipment and instructions necessary for the collection of blood samples. The collection of samples shall be performed in a medically approved manner. Only a physician authorized to practice medicine, a registered nurse or other qualified person trained in venipuncture may withdraw blood for the purposes of this Act. The samples shall thereafter be forwarded to the Illinois Department of State Police, Division of Forensic Services, for analysis and categorizing into genetic marker groupings.

(d-1) The Illinois Department of State Police shall provide all equipment and instructions necessary for the collection of saliva samples. The collection of saliva samples shall be performed in a medically approved manner. Only a person trained in the instructions promulgated by the Illinois State Police on collecting saliva may collect saliva for the purposes of this Section. The samples shall thereafter be forwarded to the Illinois Department of State Police, Division of Forensic Services, for analysis and

categorizing into genetic marker groupings.

(d-2) The Illinois Department of State Police shall provide all equipment and instructions necessary for the collection of tissue samples. The collection of tissue samples shall be performed in a medically approved manner. Only a person trained in the instructions promulgated by the Illinois State Police on collecting tissue may collect tissue for the purposes of this Section. The samples shall thereafter be forwarded to the Illinois Department of State Police, Division of Forensic Services, for analysis and categorizing into genetic marker groupings.

(d-5) To the extent that funds are available, the Illinois Department of State Police shall contract with qualified personnel and certified laboratories for the collection, analysis, and categorization of known samples, except as provided in subsection (n) of this Section.

(d-6) Agencies designated by the Illinois Department of State Police and the Illinois Department of State Police may contract with third parties to provide for the collection or analysis of DNA, or both, of an offender's blood, saliva, and tissue samples, except as provided in subsection (n) of this Section.

(e) The genetic marker groupings shall be maintained by the Illinois Department of State Police, Division of Forensic Services.

(f) The genetic marker grouping analysis information obtained pursuant to this Act shall be confidential and shall be released only to peace officers of the United States, of other states or territories, of the insular possessions of the United States, of foreign countries duly authorized to receive the same, to all peace officers of the State of Illinois and to all prosecutorial agencies, and to defense counsel as provided by Section 116-5 of the Code of Criminal Procedure of 1963. The genetic marker grouping analysis information obtained pursuant to this Act shall be used only for (i) valid law enforcement identification purposes and as required by the Federal Bureau of Investigation for participation in the National DNA database, (ii) technology validation purposes, (iii) a population statistics database, (iv) quality assurance purposes if personally identifying information is removed, (v) assisting in the defense of the criminally accused pursuant to Section 116-5 of the Code of Criminal Procedure of 1963, or (vi) identifying and assisting in the prosecution of a person who is suspected of committing a sexual assault as defined in Section 1a of the Sexual Assault Survivors Emergency Treatment Act. Notwithstanding any other statutory provision to the contrary, all information obtained under this Section shall be maintained in a single State data base, which may be uploaded into a national database, and which information may be subject to expungement only as set forth in subsection (f-1).

(f-1) Upon receipt of notification of a reversal of a conviction based on actual innocence, or of the granting of a pardon pursuant to Section 12 of Article V of the Illinois Constitution, if that pardon document specifically states that the reason for the pardon is the actual innocence of an individual whose DNA record has been stored in the State or national DNA identification index in accordance with this Section by the Illinois Department of State Police, the DNA record shall be expunged from the DNA identification index, and the Department shall by rule prescribe procedures to ensure that the record and any samples, analyses, or other documents relating to such record, whether in the possession of the Department or any law enforcement or police agency, or any forensic DNA laboratory, including any duplicates or copies thereof, are destroyed and a letter is sent to the court verifying the expungement is completed.

(f-5) Any person who intentionally uses genetic marker grouping analysis information, or any other information derived from a DNA sample, beyond the authorized uses as provided under this Section, or any other Illinois law, is guilty of a Class 4 felony, and shall be subject to a fine of not less than \$5,000.

(f-6) The Illinois Department of State Police may contract with third parties for the purposes of implementing this amendatory Act of the 93rd General Assembly, except as provided in subsection (n) of this Section. Any other party contracting to carry out the functions of this Section shall be subject to the same restrictions and requirements of this Section insofar as applicable, as the Illinois Department of State Police, and to any additional restrictions imposed by the Illinois Department of State Police.

(g) For the purposes of this Section, "qualifying offense" means any of the following:

(1) any violation or inchoate violation of Section 11-1.50, 11-1.60, 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the Criminal Code of 1961;

(1.1) any violation or inchoate violation of Section 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3, 18-4, 19-1, or 19-2 of the Criminal Code of 1961 for which persons are convicted on or after July 1, 2001;

(2) any former statute of this State which defined a felony sexual offense;

(3) (blank);

(4) any inchoate violation of Section 9-3.1, 11-9.3, 12-7.3, or 12-7.4 of the Criminal Code of 1961; or

(5) any violation or inchoate violation of Article 29D of the Criminal Code of 1961.

(g-5) (Blank).

(h) The Illinois Department of State Police shall be the State central repository for all genetic marker grouping analysis information obtained pursuant to this Act. The Illinois Department of State Police may promulgate rules for the form and manner of the collection of blood, saliva, or tissue samples and other procedures for the operation of this Act. The provisions of the Administrative Review Law shall apply to all actions taken under the rules so promulgated.

(i) (1) A person required to provide a blood, saliva, or tissue specimen shall cooperate with the collection of the specimen and any deliberate act by that person intended to impede, delay or stop the collection of the blood, saliva, or tissue specimen is a Class A misdemeanor.

(2) In the event that a person's DNA sample is not adequate for any reason, the person shall provide another DNA sample for analysis. Duly authorized law enforcement and corrections personnel may employ reasonable force in cases in which an individual refuses to provide a DNA sample required under this Act.

(j) Any person required by subsection (a) to submit specimens of blood, saliva, or tissue to the Illinois Department of State Police for analysis and categorization into genetic marker grouping, in addition to any other disposition, penalty, or fine imposed, shall pay an analysis fee of \$200. If the analysis fee is not paid at the time of sentencing, the court shall establish a fee schedule by which the entire amount of the analysis fee shall be paid in full, such schedule not to exceed 24 months from the time of conviction. The inability to pay this analysis fee shall not be the sole ground to incarcerate the person.

(k) All analysis and categorization fees provided for by subsection (j) shall be regulated as follows:

(1) The State Offender DNA Identification System Fund is hereby created as a special fund in the State Treasury.

(2) All fees shall be collected by the clerk of the court and forwarded to the State Offender DNA Identification System Fund for deposit. The clerk of the circuit court may retain the amount of \$10 from each collected analysis fee to offset administrative costs incurred in carrying out the clerk's responsibilities under this Section.

(3) Fees deposited into the State Offender DNA Identification System Fund shall be used by Illinois State Police crime laboratories as designated by the Director of State Police. These funds shall be in addition to any allocations made pursuant to existing laws and shall be designated for the exclusive use of State crime laboratories. These uses may include, but are not limited to, the following:

(A) Costs incurred in providing analysis and genetic marker categorization as required by subsection (d).

(B) Costs incurred in maintaining genetic marker groupings as required by subsection (e).

(C) Costs incurred in the purchase and maintenance of equipment for use in performing analyses.

(D) Costs incurred in continuing research and development of new techniques for analysis and genetic marker categorization.

(E) Costs incurred in continuing education, training, and professional development of forensic scientists regularly employed by these laboratories.

(l) The failure of a person to provide a specimen, or of any person or agency to collect a specimen, within the 45 day period shall in no way alter the obligation of the person to submit such specimen, or the authority of the Illinois Department of State Police or persons designated by the Department to collect the specimen, or the authority of the Illinois Department of State Police to accept, analyze and maintain the specimen or to maintain or upload results of genetic marker grouping analysis information into a State or national database.

(m) If any provision of this amendatory Act of the 93rd General Assembly is held unconstitutional or otherwise invalid, the remainder of this amendatory Act of the 93rd General Assembly is not affected.

(n) Neither the Department of State Police, the Division of Forensic Services, nor any laboratory of the Division of Forensic Services may contract out forensic testing for the purpose of an active investigation or a matter pending before a court of competent jurisdiction without the written consent of the prosecuting agency. For the purposes of this subsection (n), "forensic testing" includes the analysis of physical evidence in an investigation or other proceeding for the prosecution of a violation of the Criminal Code of 1961 or for matters adjudicated under the Juvenile Court Act of 1987, and includes the use of forensic databases and databanks, including DNA, firearm, and fingerprint databases, and expert testimony.

(Source: P.A. 96-426, eff. 8-13-09; 96-642, eff. 8-24-09; revised 9-15-09.)

(730 ILCS 5/5-4-3.2)

[May 3, 2010]

Sec. 5-4-3.2. Collection and storage of Internet protocol addresses.

(a) Cyber-crimes Location Database. The Attorney General is hereby authorized to establish and maintain the "Illinois Cyber-crimes Location Database" (ICLD) to collect, store, and use Internet protocol (IP) addresses for purposes of investigating and prosecuting child exploitation crimes on the Internet.

(b) "Internet protocol address" means the string of numbers by which a location on the Internet is identified by routers or other computers connected to the Internet.

(c) Collection of Internet Protocol addresses.

(1) Collection upon commitment under the Sexually Dangerous Persons Act. Upon motion for a defendant's confinement under the Sexually Dangerous Persons Act for criminal charges under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961, the State's Attorney or Attorney General shall record all Internet protocol (IP) addresses which the defendant may access from his or her residence or place of employment, registered in his or her name, or otherwise has under his or her control or custody.

(2) Collection upon conviction. Upon conviction for crimes under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961, a State's Attorney shall record from defendants all Internet protocol (IP) addresses which the defendant may access from his or her residence or place of employment, registered in his or her name, or otherwise has under his or her control or custody, regardless of the sentence or disposition imposed.

(d) Storage and use of the Database. Internet protocol (IP) addresses recorded pursuant to this Section shall be submitted to the Attorney General for storage and use in the Illinois Cyber-crimes Location Database. The Attorney General and its designated agents may access the database for the purpose of investigation and prosecution of crimes listed in this Section. In addition, the Attorney General is authorized to share information stored in the database with the National Center for Missing and Exploited Children (NCMEC) and any federal, state, or local law enforcement agencies for the investigation or prosecution of child exploitation crimes.

(Source: P.A. 95-579, eff. 8-31-07.)

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

Sec. 5-5-3. Disposition.

(a) (Blank).

(b) (Blank).

(c) (1) (Blank).

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

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

(B) Attempted first degree murder.

(C) A Class X felony.

(D) A violation of Section 401.1 or 407 of the Illinois Controlled Substances Act, or a violation of subdivision (c)(1), (c)(1.5), or (c)(2) of Section 401 of that Act which relates to more than 5 grams of a substance containing heroin, cocaine, fentanyl, or an analog thereof.

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

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

(F-5) A violation of Section 24-1, 24-1.1, or 24-1.6 of the Criminal Code of 1961 for which imprisonment is prescribed in those Sections.

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

(H) Criminal sexual assault.

(I) Aggravated battery of a senior citizen.

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

Before July 1, 1994, for the purposes of this paragraph, "organized gang" means an

association of 5 or more persons, with an established hierarchy, that encourages members of the association to perpetrate crimes or provides support to the members of the association who do commit crimes.

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

(K) Vehicular hijacking.

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

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

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

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

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

(Q) A violation of Section 20-1.2 or 20-1.3 of the Criminal Code of 1961.

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

(S) (Blank).

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

(U) A second or subsequent violation of Section 6-303 of the Illinois Vehicle Code committed while his or her driver's license, permit, or privilege was revoked because of a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar provision of a law of another state.

(V) A violation of paragraph (4) of subsection (c) of Section 11-20.1B or paragraph (4) of subsection (c) of Section 11-20.3 of the Criminal Code of 1961.

(W) A violation of Section 24-3.5 of the Criminal Code of 1961.

(X) A violation of subsection (a) of Section 31-1a of the Criminal Code of 1961.

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

(3) (Blank).

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

(4.1) (Blank).

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

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

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

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

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

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

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

his or her release from prison.

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

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

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

(A) a period of conditional discharge;

(B) a fine;

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

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

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

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

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

(5.5) In addition to any other penalties imposed, a person convicted of violating Section 3-707 of the Illinois Vehicle Code during a period in which his or her driver's license, permit, or privileges were suspended for a previous violation of that Section shall have his or her driver's license, permit, or privileges suspended for an additional 6 months after the expiration of the original 3-month suspension and until he or she has paid a reinstatement fee of \$100.

(6) (Blank).

(7) (Blank).

(8) (Blank).

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

(10) (Blank).

(11) The court shall impose a minimum fine of \$1,000 for a first offense and \$2,000 for a second or subsequent offense upon a person convicted of or placed on supervision for battery when the individual harmed was a sports official or coach at any level of competition and the act causing harm to the sports official or coach occurred within an athletic facility or within the immediate vicinity of the athletic facility at which the sports official or coach was an active participant of the athletic contest held at the athletic facility. For the purposes of this paragraph (11), "sports official" means a person at an athletic contest who enforces the rules of the contest, such as an umpire or referee; "athletic facility" means an indoor or outdoor playing field or recreational area where sports activities are conducted; and "coach" means a person recognized as a coach by the sanctioning authority that conducted the sporting event.

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

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

(d) In any case in which a sentence originally imposed is vacated, the case shall be remanded to the

trial court. The trial court shall hold a hearing under Section 5-4-1 of the Unified Code of Corrections which may include evidence of the defendant's life, moral character and occupation during the time since the original sentence was passed. The trial court shall then impose sentence upon the defendant. The trial court may impose any sentence which could have been imposed at the original trial subject to Section 5-5-4 of the Unified Code of Corrections. If a sentence is vacated on appeal or on collateral attack due to the failure of the trier of fact at trial to determine beyond a reasonable doubt the existence of a fact (other than a prior conviction) necessary to increase the punishment for the offense beyond the statutory maximum otherwise applicable, either the defendant may be re-sentenced to a term within the range otherwise provided or, if the State files notice of its intention to again seek the extended sentence, the defendant shall be afforded a new trial.

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

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

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

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

(i) removal from the household;

(ii) restricted contact with the victim;

(iii) continued financial support of the family;

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

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

(2) the court orders the defendant to pay for the victim's counseling services, to the

extent that the court finds, after considering the defendant's income and assets, that the defendant is financially capable of paying for such services, if the victim was under 18 years of age at the time the offense was committed and requires counseling as a result of the offense.

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

For the purposes of this Section, "family member" and "victim" shall have the meanings ascribed to them in Section 11-0.1 ~~12-12~~ of the Criminal Code of 1961.

(f) (Blank).

(g) Whenever a defendant is convicted of an offense under Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14, 11-14.3, 11-14.4 except for an offense that involves keeping a place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, the defendant shall undergo medical testing to determine whether the defendant has any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Any such medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the defendant's person. Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of the test results. The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or legal guardian of the test results. The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(g-5) When an inmate is tested for an airborne communicable disease, as determined by the Illinois

Department of Public Health including but not limited to tuberculosis, the results of the test shall be personally delivered by the warden or his or her designee in a sealed envelope to the judge of the court in which the inmate must appear for the judge's inspection in camera if requested by the judge. Acting in accordance with the best interests of those in the courtroom, the judge shall have the discretion to determine what if any precautions need to be taken to prevent transmission of the disease in the courtroom.

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

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

(j) In cases when prosecution for any violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9, 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961, any violation of the Illinois Controlled Substances Act, any violation of the Cannabis Control Act, or any violation of the Methamphetamine Control and Community Protection Act results in conviction, a disposition of court supervision, or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substance Act, or Section 70 of the Methamphetamine Control and Community Protection Act of a defendant, the court shall determine whether the defendant is employed by a facility or center as defined under the Child Care Act of 1969, a public or private elementary or secondary school, or otherwise works with children under 18 years of age on a daily basis. When a defendant is so employed, the court shall order the Clerk of the Court to send a copy of the judgment of conviction or order of supervision or probation to the defendant's employer by certified mail. If the employer of the defendant is a school, the Clerk of the Court shall direct the mailing of a copy of the judgment of conviction or order of supervision or probation to the appropriate regional superintendent of schools. The regional superintendent of schools shall notify the State Board of Education of any notification under this subsection.

(j-5) A defendant at least 17 years of age who is convicted of a felony and who has not been previously convicted of a misdemeanor or felony and who is sentenced to a term of imprisonment in the Illinois Department of Corrections shall as a condition of his or her sentence be required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program offered by the Department of Corrections. If a defendant fails to complete the educational training required by his or her sentence during the term of incarceration, the Prisoner Review Board shall, as a condition of mandatory supervised release, require the defendant, at his or her own expense, to pursue a course of study toward a high school diploma or passage of the GED test. The Prisoner Review Board shall revoke the mandatory supervised release of a defendant who wilfully fails to comply with this subsection (j-5) upon his or her release from confinement in a penal institution while serving a mandatory supervised release term; however, the inability of the defendant after making a good faith effort to obtain financial aid or pay for the educational training shall not be deemed a wilful failure to comply. The Prisoner Review Board shall recommit the defendant whose mandatory supervised release term has been revoked

under this subsection (j-5) as provided in Section 3-3-9. This subsection (j-5) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This subsection (j-5) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(k) (Blank).

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

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

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

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

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

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

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

(C) This subsection (l) does not apply to offenders who are subject to the provisions of paragraph (2) of subsection (a) of Section 3-6-3.

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

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

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

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

(Source: P.A. 95-188, eff. 8-16-07; 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-348, eff. 8-12-09; 96-400, eff. 8-13-09; 96-829, eff. 12-3-09.)

(730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

(Text of Section before amendment by P.A. 96-339)

Sec. 5-5-3.2. Factors in Aggravation.

(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1 or Article 4.5 of Chapter V:

(1) the defendant's conduct caused or threatened serious harm;

(2) the defendant received compensation for committing the offense;

(3) the defendant has a history of prior delinquency or criminal activity;

(4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;

- (5) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;
- (6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;
- (7) the sentence is necessary to deter others from committing the same crime;
- (8) the defendant committed the offense against a person 60 years of age or older or such person's property;
- (9) the defendant committed the offense against a person who is physically handicapped or such person's property;
- (10) by reason of another individual's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin, the defendant committed the offense against (i) the person or property of that individual; (ii) the person or property of a person who has an association with, is married to, or has a friendship with the other individual; or (iii) the person or property of a relative (by blood or marriage) of a person described in clause (i) or (ii). For the purposes of this Section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality;
- (11) the offense took place in a place of worship or on the grounds of a place of worship, immediately prior to, during or immediately following worship services. For purposes of this subparagraph, "place of worship" shall mean any church, synagogue or other building, structure or place used primarily for religious worship;
- (12) the defendant was convicted of a felony committed while he was released on bail or his own recognizance pending trial for a prior felony and was convicted of such prior felony, or the defendant was convicted of a felony committed while he was serving a period of probation, conditional discharge, or mandatory supervised release under subsection (d) of Section 5-8-1 for a prior felony;
- (13) the defendant committed or attempted to commit a felony while he was wearing a bulletproof vest. For the purposes of this paragraph (13), a bulletproof vest is any device which is designed for the purpose of protecting the wearer from bullets, shot or other lethal projectiles;
- (14) the defendant held a position of trust or supervision such as, but not limited to, family member as defined in Section 12-12 of the Criminal Code of 1961, teacher, scout leader, baby sitter, or day care worker, in relation to a victim under 18 years of age, and the defendant committed an offense in violation of Section 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 against that victim;
- (15) the defendant committed an offense related to the activities of an organized gang. For the purposes of this factor, "organized gang" has the meaning ascribed to it in Section 10 of the Streetgang Terrorism Omnibus Prevention Act;
- (16) the defendant committed an offense in violation of one of the following Sections while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;
- (16.5) the defendant committed an offense in violation of one of the following Sections while in a day care center, regardless of the time of day or time of year; on the real property of a day care center, regardless of the time of day or time of year; or on a public way within 1,000 feet of the real property comprising any day care center, regardless of the time of day or time of year: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;
- (17) the defendant committed the offense by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, "community policing volunteer" has the meaning ascribed to it in Section 2-3.5 of the Criminal Code of 1961;
- (18) the defendant committed the offense in a nursing home or on the real property comprising a nursing home. For the purposes of this paragraph (18), "nursing home" means a skilled nursing or intermediate long term care facility that is subject to license by the Illinois Department of Public Health under the Nursing Home Care Act;
- (19) the defendant was a federally licensed firearm dealer and was previously convicted of a violation of subsection (a) of Section 3 of the Firearm Owners Identification Card Act and has

now committed either a felony violation of the Firearm Owners Identification Card Act or an act of armed violence while armed with a firearm;

(20) the defendant (i) committed the offense of reckless homicide under Section 9-3 of the Criminal Code of 1961 or the offense of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof under Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(21) the defendant (i) committed the offense of reckless driving or aggravated reckless driving under Section 11-503 of the Illinois Vehicle Code and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(22) the defendant committed the offense against a person that the defendant knew, or reasonably should have known, was a member of the Armed Forces of the United States serving on active duty. For purposes of this clause (22), the term "Armed Forces" means any of the Armed Forces of the United States, including a member of any reserve component thereof or National Guard unit called to active duty;

(23) the defendant committed the offense against a person who was elderly, disabled, or infirm by taking advantage of a family or fiduciary relationship with the elderly, disabled, or infirm person; ~~or~~

(24) the defendant committed any offense under Section 11-20.1 of the Criminal Code of 1961 and possessed 100 or more images; ~~or~~

(25) the defendant committed the offense while the defendant or the victim was in a train, bus, or other vehicle used for public transportation; or -

(26) ~~(25)~~ the defendant committed the offense of child pornography or aggravated child pornography, specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context and specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.3 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context.

For the purposes of this Section:

"School" is defined as a public or private elementary or secondary school, community college, college, or university.

"Day care center" means a public or private State certified and licensed day care center as defined in Section 2.09 of the Child Care Act of 1969 that displays a sign in plain view stating that the property is a day care center.

"Public transportation" means the transportation or conveyance of persons by means available to the general public, and includes paratransit services.

(b) The following factors, related to all felonies, may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty; or

(3) When a defendant is convicted of any felony committed against:

(i) a person under 12 years of age at the time of the offense or such person's property;

(ii) a person 60 years of age or older at the time of the offense or such person's property; or

(iii) a person physically handicapped at the time of the offense or such person's property; or

(4) When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

(i) the brutalizing or torturing of humans or animals;

- (ii) the theft of human corpses;
- (iii) the kidnapping of humans;
- (iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or
- (v) ritualized abuse of a child; or

(5) When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang; or

(6) When a defendant is convicted of an offense committed while using a firearm with a laser sight attached to it. For purposes of this paragraph, "laser sight" has the meaning ascribed to it in Section 24.6-5 of the Criminal Code of 1961; or

(7) When a defendant who was at least 17 years of age at the time of the commission of the offense is convicted of a felony and has been previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a Class X or Class 1 felony when the conviction has occurred within 10 years after the previous adjudication, excluding time spent in custody; or

(8) When a defendant commits any felony and the defendant used, possessed, exercised control over, or otherwise directed an animal to assault a law enforcement officer engaged in the execution of his or her official duties or in furtherance of the criminal activities of an organized gang in which the defendant is engaged.

(c) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

(1) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and the charges are separately brought and tried and arise out of different series of acts.

(1.5) When a defendant is convicted of first degree murder, after having been previously convicted of domestic battery (720 ILCS 5/12-3.2) or aggravated domestic battery (720 ILCS 5/12-3.3) committed on the same victim or after having been previously convicted of violation of an order of protection (720 ILCS 5/12-30) in which the same victim was the protected person.

(2) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter, or reckless homicide in which the defendant has been convicted of causing the death of more than one individual.

(3) When a defendant is convicted of aggravated criminal sexual assault or criminal sexual assault, when there is a finding that aggravated criminal sexual assault or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective.

(4) If the victim was under 18 years of age at the time of the commission of the offense, when a defendant is convicted of aggravated criminal sexual assault or predatory criminal sexual assault of a child under subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 (720 ILCS 5/11-1.40 or 5/12-14.1).

(5) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) and there is a finding that the defendant is a member of an organized gang.

(6) When a defendant was convicted of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) for possessing a weapon that is not readily distinguishable as one of the weapons enumerated in Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1).

(7) When a defendant is convicted of an offense involving the illegal manufacture of a controlled substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), the illegal manufacture of methamphetamine under Section 25 of the Methamphetamine Control and Community Protection Act (720 ILCS 646/25), or the illegal possession of explosives and an emergency response officer in the performance of his or her duties is killed or injured at the scene of the offense while responding to the emergency caused by the commission of the offense. In this paragraph, "emergency" means a situation in which a person's life, health, or safety is in jeopardy; and

"emergency response officer" means a peace officer, community policing volunteer, fireman, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance driver, other medical assistance or first aid personnel, or hospital emergency room personnel.

(d) For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569, eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10; 96-328, eff. 8-11-09; revised 9-25-09.)

(Text of Section after amendment by P.A. 96-339)

Sec. 5-5-3.2. Factors in Aggravation.

(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1 or Article 4.5 of Chapter V:

- (1) the defendant's conduct caused or threatened serious harm;
- (2) the defendant received compensation for committing the offense;
- (3) the defendant has a history of prior delinquency or criminal activity;
- (4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;
- (5) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;
- (6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;
- (7) the sentence is necessary to deter others from committing the same crime;
- (8) the defendant committed the offense against a person 60 years of age or older or such person's property;
- (9) the defendant committed the offense against a person who is physically handicapped or such person's property;

(10) by reason of another individual's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin, the defendant committed the offense against (i) the person or property of that individual; (ii) the person or property of a person who has an association with, is married to, or has a friendship with the other individual; or (iii) the person or property of a relative (by blood or marriage) of a person described in clause (i) or (ii). For the purposes of this Section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality;

(11) the offense took place in a place of worship or on the grounds of a place of worship, immediately prior to, during or immediately following worship services. For purposes of this subparagraph, "place of worship" shall mean any church, synagogue or other building, structure or place used primarily for religious worship;

(12) the defendant was convicted of a felony committed while he was released on bail or his own recognizance pending trial for a prior felony and was convicted of such prior felony, or the defendant was convicted of a felony committed while he was serving a period of probation, conditional discharge, or mandatory supervised release under subsection (d) of Section 5-8-1 for a prior felony;

(13) the defendant committed or attempted to commit a felony while he was wearing a bulletproof vest. For the purposes of this paragraph (13), a bulletproof vest is any device which is designed for the purpose of protecting the wearer from bullets, shot or other lethal projectiles;

(14) the defendant held a position of trust or supervision such as, but not limited to, family member as defined in Section ~~11-0.1~~ ~~12-42~~ of the Criminal Code of 1961, teacher, scout leader, baby sitter, or day care worker, in relation to a victim under 18 years of age, and the defendant committed an offense in violation of Section ~~11-1.20~~, ~~11-1.30~~, ~~11-1.40~~, ~~11-1.50~~, ~~11-1.60~~, 11-6, 11-11, ~~11-14.4~~ except for an offense that involves keeping a place of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2, 11-20.1, ~~11-20.1B~~, ~~11-20.3~~, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 against that victim;

(15) the defendant committed an offense related to the activities of an organized gang. For the purposes of this factor, "organized gang" has the meaning ascribed to it in Section 10 of the Streetgang Terrorism Omnibus Prevention Act;

(16) the defendant committed an offense in violation of one of the following Sections

while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(16.5) the defendant committed an offense in violation of one of the following Sections while in a day care center, regardless of the time of day or time of year; on the real property of a day care center, regardless of the time of day or time of year; or on a public way within 1,000 feet of the real property comprising any day care center, regardless of the time of day or time of year: Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(17) the defendant committed the offense by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, "community policing volunteer" has the meaning ascribed to it in Section 2-3.5 of the Criminal Code of 1961;

(18) the defendant committed the offense in a nursing home or on the real property comprising a nursing home. For the purposes of this paragraph (18), "nursing home" means a skilled nursing or intermediate long term care facility that is subject to license by the Illinois Department of Public Health under the Nursing Home Care Act or the MR/DD Community Care Act;

(19) the defendant was a federally licensed firearm dealer and was previously convicted of a violation of subsection (a) of Section 3 of the Firearm Owners Identification Card Act and has now committed either a felony violation of the Firearm Owners Identification Card Act or an act of armed violence while armed with a firearm;

(20) the defendant (i) committed the offense of reckless homicide under Section 9-3 of the Criminal Code of 1961 or the offense of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof under Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(21) the defendant (i) committed the offense of reckless driving or aggravated reckless driving under Section 11-503 of the Illinois Vehicle Code and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(22) the defendant committed the offense against a person that the defendant knew, or reasonably should have known, was a member of the Armed Forces of the United States serving on active duty. For purposes of this clause (22), the term "Armed Forces" means any of the Armed Forces of the United States, including a member of any reserve component thereof or National Guard unit called to active duty;

(23) the defendant committed the offense against a person who was elderly, disabled, or infirm by taking advantage of a family or fiduciary relationship with the elderly, disabled, or infirm person; ~~or~~

(24) the defendant committed any offense under Section 11-20.1 of the Criminal Code of 1961 and possessed 100 or more images; ~~or~~

(25) the defendant committed the offense while the defendant or the victim was in a train, bus, or other vehicle used for public transportation; or -

~~(26)~~ (25) the defendant committed the offense of child pornography or aggravated child pornography, specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context and specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.3 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context.

For the purposes of this Section:

"School" is defined as a public or private elementary or secondary school, community college, college, or university.

"Day care center" means a public or private State certified and licensed day care center as defined in

Section 2.09 of the Child Care Act of 1969 that displays a sign in plain view stating that the property is a day care center.

"Public transportation" means the transportation or conveyance of persons by means available to the general public, and includes paratransit services.

(b) The following factors, related to all felonies, may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty; or

(3) When a defendant is convicted of any felony committed against:

(i) a person under 12 years of age at the time of the offense or such person's property;

(ii) a person 60 years of age or older at the time of the offense or such person's property; or

(iii) a person physically handicapped at the time of the offense or such person's property; or

(4) When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

(i) the brutalizing or torturing of humans or animals;

(ii) the theft of human corpses;

(iii) the kidnapping of humans;

(iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or

(v) ritualized abuse of a child; or

(5) When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang; or

(6) When a defendant is convicted of an offense committed while using a firearm with a laser sight attached to it. For purposes of this paragraph, "laser sight" has the meaning ascribed to it in Section 24.6-5 of the Criminal Code of 1961; or

(7) When a defendant who was at least 17 years of age at the time of the commission of the offense is convicted of a felony and has been previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a Class X or Class 1 felony when the conviction has occurred within 10 years after the previous adjudication, excluding time spent in custody; or

(8) When a defendant commits any felony and the defendant used, possessed, exercised control over, or otherwise directed an animal to assault a law enforcement officer engaged in the execution of his or her official duties or in furtherance of the criminal activities of an organized gang in which the defendant is engaged.

(c) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

(1) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and the charges are separately brought and tried and arise out of different series of acts.

(1.5) When a defendant is convicted of first degree murder, after having been previously convicted of domestic battery (720 ILCS 5/12-3.2) or aggravated domestic battery (720 ILCS 5/12-3.3) committed on the same victim or after having been previously convicted of violation of an order of protection (720 ILCS 5/12-30) in which the same victim was the protected person.

(2) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter, or reckless homicide in which the defendant has been convicted of causing the death of more than one individual.

(3) When a defendant is convicted of aggravated criminal sexual assault or criminal sexual assault, when there is a finding that aggravated criminal sexual assault or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective.

(4) If the victim was under 18 years of age at the time of the commission of the offense, when a defendant is convicted of aggravated criminal sexual assault or predatory criminal sexual assault of a child under subsection (a)(1) of Section 11-1.40 or subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 (720 ILCS 5/11-1.40 or 5/12-14.1).

(5) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) and there is a finding that the defendant is a member of an organized gang.

(6) When a defendant was convicted of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) for possessing a weapon that is not readily distinguishable as one of the weapons enumerated in Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1).

(7) When a defendant is convicted of an offense involving the illegal manufacture of a controlled substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), the illegal manufacture of methamphetamine under Section 25 of the Methamphetamine Control and Community Protection Act (720 ILCS 646/25), or the illegal possession of explosives and an emergency response officer in the performance of his or her duties is killed or injured at the scene of the offense while responding to the emergency caused by the commission of the offense. In this paragraph, "emergency" means a situation in which a person's life, health, or safety is in jeopardy; and "emergency response officer" means a peace officer, community policing volunteer, fireman, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance driver, other medical assistance or first aid personnel, or hospital emergency room personnel.

(d) For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569, eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10; 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; revised 9-25-09.)

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

Sec. 5-5-6. In all convictions for offenses in violation of the Criminal Code of 1961 or of Section 11-501 of the Illinois Vehicle Code in which the person received any injury to his or her person or damage to his or her real or personal property as a result of the criminal act of the defendant, the court shall order restitution as provided in this Section. In all other cases, except cases in which restitution is required under this Section, the court must at the sentence hearing determine whether restitution is an appropriate sentence to be imposed on each defendant convicted of an offense. If the court determines that an order directing the offender to make restitution is appropriate, the offender may be sentenced to make restitution. The court may consider restitution an appropriate sentence to be imposed on each defendant convicted of an offense in addition to a sentence of imprisonment. The sentence of the defendant to a term of imprisonment is not a mitigating factor that prevents the court from ordering the defendant to pay restitution. If the offender is sentenced to make restitution the Court shall determine the restitution as hereinafter set forth:

(a) At the sentence hearing, the court shall determine whether the property may be restored in kind to the possession of the owner or the person entitled to possession thereof; or whether the defendant is possessed of sufficient skill to repair and restore property damaged; or whether the defendant should be required to make restitution in cash, for out-of-pocket expenses, damages, losses, or injuries found to have been proximately caused by the conduct of the defendant or another for whom the defendant is legally accountable under the provisions of Article V of the Criminal Code of 1961.

(b) In fixing the amount of restitution to be paid in cash, the court shall allow credit for property returned in kind, for property damages ordered to be repaired by the defendant, and for property ordered to be restored by the defendant; and after granting the credit, the court shall assess the actual out-of-pocket expenses, losses, damages, and injuries suffered by the victim named in the charge and any other victims who may also have suffered out-of-pocket expenses, losses, damages, and injuries proximately caused by the same criminal conduct of the defendant, and insurance carriers who have indemnified the named victim or other victims for the out-of-pocket expenses, losses,

damages, or injuries, provided that in no event shall restitution be ordered to be paid on account of pain and suffering. If a defendant is placed on supervision for, or convicted of, domestic battery, the defendant shall be required to pay restitution to any domestic violence shelter in which the victim and any other family or household members lived because of the domestic battery. The amount of the restitution shall equal the actual expenses of the domestic violence shelter in providing housing and any other services for the victim and any other family or household members living at the shelter. If a defendant fails to pay restitution in the manner or within the time period specified by the court, the court may enter an order directing the sheriff to seize any real or personal property of a defendant to the extent necessary to satisfy the order of restitution and dispose of the property by public sale. All proceeds from such sale in excess of the amount of restitution plus court costs and the costs of the sheriff in conducting the sale shall be paid to the defendant. The defendant convicted of domestic battery, if a person under 18 years of age was present and witnessed the domestic battery of the victim, is liable to pay restitution for the cost of any counseling required for the child at the discretion of the court.

(c) In cases where more than one defendant is accountable for the same criminal conduct that results in out-of-pocket expenses, losses, damages, or injuries, each defendant shall be ordered to pay restitution in the amount of the total actual out-of-pocket expenses, losses, damages, or injuries to the victim proximately caused by the conduct of all of the defendants who are legally accountable for the offense.

(1) In no event shall the victim be entitled to recover restitution in excess of the actual out-of-pocket expenses, losses, damages, or injuries, proximately caused by the conduct of all of the defendants.

(2) As between the defendants, the court may apportion the restitution that is payable in proportion to each co-defendant's culpability in the commission of the offense.

(3) In the absence of a specific order apportioning the restitution, each defendant shall bear his pro rata share of the restitution.

(4) As between the defendants, each defendant shall be entitled to a pro rata reduction in the total restitution required to be paid to the victim for amounts of restitution actually paid by co-defendants, and defendants who shall have paid more than their pro rata share shall be entitled to refunds to be computed by the court as additional amounts are paid by co-defendants.

(d) In instances where a defendant has more than one criminal charge pending against him in a single case, or more than one case, and the defendant stands convicted of one or more charges, a plea agreement negotiated by the State's Attorney and the defendants may require the defendant to make restitution to victims of charges that have been dismissed or which it is contemplated will be dismissed under the terms of the plea agreement, and under the agreement, the court may impose a sentence of restitution on the charge or charges of which the defendant has been convicted that would require the defendant to make restitution to victims of other offenses as provided in the plea agreement.

(e) The court may require the defendant to apply the balance of the cash bond, after payment of court costs, and any fine that may be imposed to the payment of restitution.

(f) Taking into consideration the ability of the defendant to pay, including any real or personal property or any other assets of the defendant, the court shall determine whether restitution shall be paid in a single payment or in installments, and shall fix a period of time not in excess of 5 years or the period of time specified in subsection (f-1), not including periods of incarceration, within which payment of restitution is to be paid in full. Complete restitution shall be paid in as short a time period as possible. However, if the court deems it necessary and in the best interest of the victim, the court may extend beyond 5 years the period of time within which the payment of restitution is to be paid. If the defendant is ordered to pay restitution and the court orders that restitution is to be paid over a period greater than 6 months, the court shall order that the defendant make monthly payments; the court may waive this requirement of monthly payments only if there is a specific finding of good cause for waiver.

(f-1)(1) In addition to any other penalty prescribed by law and any restitution ordered under this Section that did not include long-term physical health care costs, the court may, upon conviction of any misdemeanor or felony, order a defendant to pay restitution to a victim in accordance with the provisions of this subsection (f-1) if the victim has suffered physical injury as a result of the offense that is reasonably probable to require or has required long-term physical health care for more than 3 months. As used in this subsection (f-1) "long-term physical health care" includes mental health care.

(2) The victim's estimate of long-term physical health care costs may be made as part

of a victim impact statement under Section 6 of the Rights of Crime Victims and Witnesses Act or made separately. The court shall enter the long-term physical health care restitution order at the time of sentencing. An order of restitution made under this subsection (f-1) shall fix a monthly amount to be paid by the defendant for as long as long-term physical health care of the victim is required as a result of the offense. The order may exceed the length of any sentence imposed upon the defendant for the criminal activity. The court shall include as a special finding in the judgment of conviction its determination of the monthly cost of long-term physical health care.

(3) After a sentencing order has been entered, the court may from time to time, on the petition of either the defendant or the victim, or upon its own motion, enter an order for restitution for long-term physical care or modify the existing order for restitution for long-term physical care as to the amount of monthly payments. Any modification of the order shall be based only upon a substantial change of circumstances relating to the cost of long-term physical health care or the financial condition of either the defendant or the victim. The petition shall be filed as part of the original criminal docket.

(g) In addition to the sentences provided for in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-13,

12-14, 12-14.1, 12-15, and 12-16, and subdivision (a)(4) of Section 11-14.4, of the Criminal Code of 1961, the court may order any person who is convicted of violating any of those Sections or who was charged with any of those offenses and which charge was reduced to another charge as a result of a plea agreement under subsection (d) of this Section to meet all or any portion of the financial obligations of treatment, including but not limited to medical, psychiatric, or rehabilitative treatment or psychological counseling, prescribed for the victim or victims of the offense.

The payments shall be made by the defendant to the clerk of the circuit court and transmitted by the clerk to the appropriate person or agency as directed by the court. Except as otherwise provided in subsection (f-1), the order may require such payments to be made for a period not to exceed 5 years after sentencing, not including periods of incarceration.

(h) The judge may enter an order of withholding to collect the amount of restitution owed in accordance with Part 8 of Article XII of the Code of Civil Procedure.

(i) A sentence of restitution may be modified or revoked by the court if the offender commits another offense, or the offender fails to make restitution as ordered by the court, but no sentence to make restitution shall be revoked unless the court shall find that the offender has had the financial ability to make restitution, and he has wilfully refused to do so. When the offender's ability to pay restitution was established at the time an order of restitution was entered or modified, or when the offender's ability to pay was based on the offender's willingness to make restitution as part of a plea agreement made at the time the order of restitution was entered or modified, there is a rebuttable presumption that the facts and circumstances considered by the court at the hearing at which the order of restitution was entered or modified regarding the offender's ability or willingness to pay restitution have not materially changed. If the court shall find that the defendant has failed to make restitution and that the failure is not wilful, the court may impose an additional period of time within which to make restitution. The length of the additional period shall not be more than 2 years. The court shall retain all of the incidents of the original sentence, including the authority to modify or enlarge the conditions, and to revoke or further modify the sentence if the conditions of payment are violated during the additional period.

(j) The procedure upon the filing of a Petition to Revoke a sentence to make restitution shall be the same as the procedures set forth in Section 5-6-4 of this Code governing violation, modification, or revocation of Probation, of Conditional Discharge, or of Supervision.

(k) Nothing contained in this Section shall preclude the right of any party to proceed in a civil action to recover for any damages incurred due to the criminal misconduct of the defendant.

(l) Restitution ordered under this Section shall not be subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act.

(m) A restitution order under this Section is a judgment lien in favor of the victim that:

(1) Attaches to the property of the person subject to the order;

(2) May be perfected in the same manner as provided in Part 3 of Article 9 of the Uniform Commercial Code;

(3) May be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and

(4) Expires in the same manner as a judgment lien created in a civil proceeding.

When a restitution order is issued under this Section, the issuing court shall send a

certified copy of the order to the clerk of the circuit court in the county where the charge was filed. Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket.

(n) An order of restitution under this Section does not bar a civil action for:

(1) Damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damages that is the basis of restitution ordered by the court; and

(2) Other damages suffered by the victim.

The restitution order is not discharged by the completion of the sentence imposed for the offense.

A restitution order under this Section is not discharged by the liquidation of a person's estate by a receiver. A restitution order under this Section may be enforced in the same manner as judgment liens are enforced under Article XII of the Code of Civil Procedure.

The provisions of Section 2-1303 of the Code of Civil Procedure, providing for interest on judgments, apply to judgments for restitution entered under this Section.

(Source: P.A. 95-331, eff. 8-21-07; 96-290, eff. 8-11-09.)

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

Sec. 5-6-1. Sentences of Probation and of Conditional Discharge and Disposition of Supervision. The General Assembly finds that in order to protect the public, the criminal justice system must compel compliance with the conditions of probation by responding to violations with swift, certain and fair punishments and intermediate sanctions. The Chief Judge of each circuit shall adopt a system of structured, intermediate sanctions for violations of the terms and conditions of a sentence of probation, conditional discharge or disposition of supervision.

(a) Except where specifically prohibited by other provisions of this Code, the court shall impose a sentence of probation or conditional discharge upon an offender unless, having regard to the nature and circumstance of the offense, and to the history, character and condition of the offender, the court is of the opinion that:

(1) his imprisonment or periodic imprisonment is necessary for the protection of the public; or

(2) probation or conditional discharge would deprecate the seriousness of the offender's conduct and would be inconsistent with the ends of justice; or

(3) a combination of imprisonment with concurrent or consecutive probation when an offender has been admitted into a drug court program under Section 20 of the Drug Court Treatment Act is necessary for the protection of the public and for the rehabilitation of the offender.

The court shall impose as a condition of a sentence of probation, conditional discharge, or supervision, that the probation agency may invoke any sanction from the list of intermediate sanctions adopted by the chief judge of the circuit court for violations of the terms and conditions of the sentence of probation, conditional discharge, or supervision, subject to the provisions of Section 5-6-4 of this Act.

(b) The court may impose a sentence of conditional discharge for an offense if the court is of the opinion that neither a sentence of imprisonment nor of periodic imprisonment nor of probation supervision is appropriate.

(b-1) Subsections (a) and (b) of this Section do not apply to a defendant charged with a misdemeanor or felony under the Illinois Vehicle Code or reckless homicide under Section 9-3 of the Criminal Code of 1961 if the defendant within the past 12 months has been convicted of or pleaded guilty to a misdemeanor or felony under the Illinois Vehicle Code or reckless homicide under Section 9-3 of the Criminal Code of 1961.

(c) The court may, upon a plea of guilty or a stipulation by the defendant of the facts supporting the charge or a finding of guilt, defer further proceedings and the imposition of a sentence, and enter an order for supervision of the defendant, if the defendant is not charged with: (i) a Class A misdemeanor, as defined by the following provisions of the Criminal Code of 1961: Sections 11-9.1; 12-3.2; 11-1.50 or 12-15; 26-5; 31-1; 31-6; 31-7; subsections (b) and (c) of Section 21-1; paragraph (1) through (5), (8), (10), and (11) of subsection (a) of Section 24-1; (ii) a Class A misdemeanor violation of Section 3.01, 3.03-1, or 4.01 of the Humane Care for Animals Act; or (iii) a felony. If the defendant is not barred from receiving an order for supervision as provided in this subsection, the court may enter an order for supervision after considering the circumstances of the offense, and the history, character and condition of the offender, if the court is of the opinion that:

(1) the offender is not likely to commit further crimes;

(2) the defendant and the public would be best served if the defendant were not to receive a criminal record; and

(3) in the best interests of justice an order of supervision is more appropriate than a

sentence otherwise permitted under this Code.

(c-5) Subsections (a), (b), and (c) of this Section do not apply to a defendant charged with a second or subsequent violation of Section 6-303 of the Illinois Vehicle Code committed while his or her driver's license, permit or privileges were revoked because of a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar provision of a law of another state.

(d) The provisions of paragraph (c) shall not apply to a defendant charged with violating Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance when the defendant has previously been:

- (1) convicted for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance or any similar law or ordinance of another state; or
- (2) assigned supervision for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance or any similar law or ordinance of another state; or
- (3) pleaded guilty to or stipulated to the facts supporting a charge or a finding of guilty to a violation of Section 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance or any similar law or ordinance of another state, and the plea or stipulation was the result of a plea agreement.

The court shall consider the statement of the prosecuting authority with regard to the standards set forth in this Section.

(e) The provisions of paragraph (c) shall not apply to a defendant charged with violating Section 16A-3 of the Criminal Code of 1961 if said defendant has within the last 5 years been:

- (1) convicted for a violation of Section 16A-3 of the Criminal Code of 1961; or
- (2) assigned supervision for a violation of Section 16A-3 of the Criminal Code of 1961.

The court shall consider the statement of the prosecuting authority with regard to the standards set forth in this Section.

(f) The provisions of paragraph (c) shall not apply to a defendant charged with violating Sections 15-111, 15-112, 15-301, paragraph (b) of Section 6-104, Section 11-605, Section 11-1002.5, or Section 11-1414 of the Illinois Vehicle Code or a similar provision of a local ordinance.

(g) Except as otherwise provided in paragraph (i) of this Section, the provisions of paragraph (c) shall not apply to a defendant charged with violating Section 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar provision of a local ordinance if the defendant has within the last 5 years been:

- (1) convicted for a violation of Section 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar provision of a local ordinance; or
- (2) assigned supervision for a violation of Section 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar provision of a local ordinance.

The court shall consider the statement of the prosecuting authority with regard to the standards set forth in this Section.

(h) The provisions of paragraph (c) shall not apply to a defendant under the age of 21 years charged with violating a serious traffic offense as defined in Section 1-187.001 of the Illinois Vehicle Code:

- (1) unless the defendant, upon payment of the fines, penalties, and costs provided by law, agrees to attend and successfully complete a traffic safety program approved by the court under standards set by the Conference of Chief Circuit Judges. The accused shall be responsible for payment of any traffic safety program fees. If the accused fails to file a certificate of successful completion on or before the termination date of the supervision order, the supervision shall be summarily revoked and conviction entered. The provisions of Supreme Court Rule 402 relating to pleas of guilty do not apply in cases when a defendant enters a guilty plea under this provision; or
- (2) if the defendant has previously been sentenced under the provisions of paragraph

(c) on or after January 1, 1998 for any serious traffic offense as defined in Section 1-187.001 of the Illinois Vehicle Code.

(h-1) The provisions of paragraph (c) shall not apply to a defendant under the age of 21 years charged with an offense against traffic regulations governing the movement of vehicles or any violation of Section 6-107 or Section 12-603.1 of the Illinois Vehicle Code, unless the defendant, upon payment of the fines, penalties, and costs provided by law, agrees to attend and successfully complete a traffic safety program approved by the court under standards set by the Conference of Chief Circuit Judges. The accused shall be responsible for payment of any traffic safety program fees. If the accused fails to file a certificate of successful completion on or before the termination date of the supervision order, the supervision shall be summarily revoked and conviction entered. The provisions of Supreme Court Rule 402 relating to pleas of guilty do not apply in cases when a defendant enters a guilty plea under this provision.

(i) The provisions of paragraph (c) shall not apply to a defendant charged with violating Section 3-707

of the Illinois Vehicle Code or a similar provision of a local ordinance if the defendant has been assigned supervision for a violation of Section 3-707 of the Illinois Vehicle Code or a similar provision of a local ordinance.

(j) The provisions of paragraph (c) shall not apply to a defendant charged with violating Section 6-303 of the Illinois Vehicle Code or a similar provision of a local ordinance when the revocation or suspension was for a violation of Section 11-501 or a similar provision of a local ordinance or a violation of Section 11-501.1 or paragraph (b) of Section 11-401 of the Illinois Vehicle Code if the defendant has within the last 10 years been:

- (1) convicted for a violation of Section 6-303 of the Illinois Vehicle Code or a similar provision of a local ordinance; or
- (2) assigned supervision for a violation of Section 6-303 of the Illinois Vehicle Code or a similar provision of a local ordinance.

(k) The provisions of paragraph (c) shall not apply to a defendant charged with violating any provision of the Illinois Vehicle Code or a similar provision of a local ordinance that governs the movement of vehicles if, within the 12 months preceding the date of the defendant's arrest, the defendant has been assigned court supervision on 2 occasions for a violation that governs the movement of vehicles under the Illinois Vehicle Code or a similar provision of a local ordinance. The provisions of this paragraph (k) do not apply to a defendant charged with violating Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance.

(l) A defendant charged with violating any provision of the Illinois Vehicle Code or a similar provision of a local ordinance who receives a disposition of supervision under subsection (c) shall pay an additional fee of \$29, to be collected as provided in Sections 27.5 and 27.6 of the Clerks of Courts Act. In addition to the \$29 fee, the person shall also pay a fee of \$6, which, if not waived by the court, shall be collected as provided in Sections 27.5 and 27.6 of the Clerks of Courts Act. The \$29 fee shall be disbursed as provided in Section 16-104c of the Illinois Vehicle Code. If the \$6 fee is collected, \$5.50 of the fee shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court and 50 cents of the fee shall be deposited into the Prisoner Review Board Vehicle and Equipment Fund in the State treasury.

(m) Any person convicted of, pleading guilty to, or placed on supervision for a serious traffic violation, as defined in Section 1-187.001 of the Illinois Vehicle Code, a violation of Section 11-501 of the Illinois Vehicle Code, or a violation of a similar provision of a local ordinance shall pay an additional fee of \$20, to be disbursed as provided in Section 16-104d of that Code.

This subsection (m) becomes inoperative 7 years after October 13, 2007 (the effective date of Public Act 95-154).

(n) The provisions of paragraph (c) shall not apply to any person under the age of 18 who commits an offense against traffic regulations governing the movement of vehicles or any violation of Section 6-107 or Section 12-603.1 of the Illinois Vehicle Code, except upon personal appearance of the defendant in court and upon the written consent of the defendant's parent or legal guardian, executed before the presiding judge. The presiding judge shall have the authority to waive this requirement upon the showing of good cause by the defendant.

(o) The provisions of paragraph (c) shall not apply to a defendant charged with violating Section 6-303 of the Illinois Vehicle Code or a similar provision of a local ordinance when the suspension was for a violation of Section 11-501.1 of the Illinois Vehicle Code and when:

- (1) at the time of the violation of Section 11-501.1 of the Illinois Vehicle Code, the defendant was a first offender pursuant to Section 11-500 of the Illinois Vehicle Code and the defendant failed to obtain a monitoring device driving permit; or
- (2) at the time of the violation of Section 11-501.1 of the Illinois Vehicle Code, the defendant was a first offender pursuant to Section 11-500 of the Illinois Vehicle Code, had subsequently obtained a monitoring device driving permit, but was driving a vehicle not equipped with a breath alcohol ignition interlock device as defined in Section 1-129.1 of the Illinois Vehicle Code.

(Source: P.A. 95-154, eff. 10-13-07; 95-302, eff. 1-1-08; 95-310, eff. 1-1-08; 95-377, eff. 1-1-08; 95-400, eff. 1-1-09; 95-428, 8-24-07; 95-876, eff. 8-21-08; 96-253, eff. 8-11-09; 96-286, eff. 8-11-09; 96-328, eff. 8-11-09; 96-625, eff. 1-1-10; revised 10-1-09.)

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

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

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

- (1) not violate any criminal statute of any jurisdiction;
- (2) report to or appear in person before such person or agency as directed by the court;

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(3) refrain from possessing a firearm or other dangerous weapon where the offense is a felony or, if a misdemeanor, the offense involved the intentional or knowing infliction of bodily harm or threat of bodily harm;

(4) not leave the State without the consent of the court or, in circumstances in which the reason for the absence is of such an emergency nature that prior consent by the court is not possible, without the prior notification and approval of the person's probation officer. Transfer of a person's probation or conditional discharge supervision to another state is subject to acceptance by the other state pursuant to the Interstate Compact for Adult Offender Supervision;

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

(6) perform no less than 30 hours of community service and not more than 120 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, where the offense was related to or in furtherance of the criminal activities of an organized gang and was motivated by the offender's membership in or allegiance to an organized gang. The community service shall include, but not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located within the municipality or county in which the violation occurred. When possible and reasonable, the community service should be performed in the offender's neighborhood. For purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act;

(7) if he or she is at least 17 years of age and has been sentenced to probation or conditional discharge for a misdemeanor or felony in a county of 3,000,000 or more inhabitants and has not been previously convicted of a misdemeanor or felony, may be required by the sentencing court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program approved by the court. The person on probation or conditional discharge must attend a public institution of education to obtain the educational or vocational training required by this clause (7). The court shall revoke the probation or conditional discharge of a person who wilfully fails to comply with this clause (7). The person on probation or conditional discharge shall be required to pay for the cost of the educational courses or GED test, if a fee is charged for those courses or test. The court shall resentence the offender whose probation or conditional discharge has been revoked as provided in Section 5-6-4. This clause (7) does not apply to a person who has a high school diploma or has successfully passed the GED test. This clause (7) does not apply to a person who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program;

(8) if convicted of possession of a substance prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act or after a sentence of probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act and upon a finding by the court that the person is addicted, undergo treatment at a substance abuse program approved by the court;

(8.5) if convicted of a felony sex offense as defined in the Sex Offender Management Board Act, the person shall undergo and successfully complete sex offender treatment by a treatment provider approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act;

(8.6) if convicted of a sex offense as defined in the Sex Offender Management Board Act, refrain from residing at the same address or in the same condominium unit or apartment unit or in the same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been placed on supervision for a sex offense; the provisions of this paragraph do not apply to a person convicted of a sex offense who is placed in a Department of Corrections licensed transitional housing facility for sex offenders;

(8.7) if convicted for an offense committed on or after June 1, 2008 (the effective date of Public Act 95-464) that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is not related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (8.7), "Internet" has the meaning

ascribed to it in Section 16J-5 of the Criminal Code of 1961; and a person is not related to the accused if the person is not: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused;

(8.8) if convicted for an offense under Section 11-6, 11-9.1, 11-14.4 that involves soliciting for a juvenile prostitute, 11-15.1, 11-20.1, 11-20.1B,

11-20.3, or 11-21 of the Criminal Code of 1961, or any attempt to commit any of these offenses, committed on or after June 1, 2009 (the effective date of Public Act 95-983):

(i) not access or use a computer or any other device with Internet capability without the prior written approval of the offender's probation officer, except in connection with the offender's employment or search for employment with the prior approval of the offender's probation officer;

(ii) submit to periodic unannounced examinations of the offender's computer or any other device with Internet capability by the offender's probation officer, a law enforcement officer, or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment, or device to conduct a more thorough inspection;

(iii) submit to the installation of the offender's computer or device with Internet capability, at the offender's expense, of one or more hardware or software systems to monitor the Internet use; and

(iv) submit to any other appropriate restrictions concerning the offender's use of or access to a computer or any other device with Internet capability imposed by the offender's probation officer;

(8.9) if convicted of a sex offense as defined in the Sex Offender Registration Act committed on or after January 1, 2010 (the effective date of Public Act 96-262) ~~this amendatory Act of the 96th General Assembly~~, refrain from accessing or using a social networking website as defined in Section 16D-2 of the Criminal Code of 1961;

(9) if convicted of a felony, physically surrender at a time and place designated by the court, his or her Firearm Owner's Identification Card and any and all firearms in his or her possession;

(10) if convicted of a sex offense as defined in subsection (a-5) of Section 3-1-2 of this Code, unless the offender is a parent or guardian of the person under 18 years of age present in the home and no non-familial minors are present, not participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter; and

(11) if convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act committed on or after January 1, 2010 (the effective date of Public Act 96-362) ~~this amendatory Act of the 96th General Assembly~~ that requires the person to register as a sex offender under that Act, may not knowingly use any computer scrub software on any computer that the sex offender uses.

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

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

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(7) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home;

(v) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she is convicted of a crime of violence as defined in Section 2 of the Crime Victims Compensation Act

committed in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;

(8) make restitution as provided in Section 5-5-6 of this Code;

(9) perform some reasonable public or community service;

(10) serve a term of home confinement. In addition to any other applicable condition of probation or conditional discharge, the conditions of home confinement shall be that the offender:

(i) remain within the interior premises of the place designated for his confinement during the hours designated by the court;

(ii) admit any person or agent designated by the court into the offender's place of confinement at any time for purposes of verifying the offender's compliance with the conditions of his confinement; and

(iii) if further deemed necessary by the court or the Probation or Court Services Department, be placed on an approved electronic monitoring device, subject to Article 8A of Chapter V;

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

(v) for persons convicted of offenses other than those referenced in clause (iv) above and who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall deposit the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

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

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

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, (i) to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act, or (ii) for offenses under the jurisdiction of the Department of Natural Resources, to the fund established by the Department of Natural Resources for the purchase of evidence for investigation purposes and to conduct investigations as outlined in Section 805-105 of the Department of Natural Resources (Conservation) Law;

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

(15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of persons, including but not limited to members of street gangs and drug users or dealers;

(16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control

and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(17) if convicted for an offense committed on or after June 1, 2008 (the effective date of Public Act 95-464) that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (17), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961; and a person is related to the accused if the person is: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused;

(18) if convicted for an offense committed on or after June 1, 2009 (the effective date of Public Act 95-983) that would qualify as a sex offense as defined in the Sex Offender Registration Act:

(i) not access or use a computer or any other device with Internet capability without the prior written approval of the offender's probation officer, except in connection with the offender's employment or search for employment with the prior approval of the offender's probation officer;

(ii) submit to periodic unannounced examinations of the offender's computer or any other device with Internet capability by the offender's probation officer, a law enforcement officer, or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment, or device to conduct a more thorough inspection;

(iii) submit to the installation on the offender's computer or device with Internet capability, at the subject's expense, of one or more hardware or software systems to monitor the Internet use; and

(iv) submit to any other appropriate restrictions concerning the offender's use of or access to a computer or any other device with Internet capability imposed by the offender's probation officer; and

(19) refrain from possessing a firearm or other dangerous weapon where the offense is a misdemeanor that did not involve the intentional or knowing infliction of bodily harm or threat of bodily harm.

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

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

(e) Except where the offender has committed a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code, the court shall not require as a condition of the sentence of probation or conditional discharge that the offender be committed to a period of imprisonment in excess of 6 months. This 6 month limit shall not include periods of confinement given pursuant to a sentence of county impact incarceration under Section 5-8-1.2.

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

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

(g) An offender sentenced to probation or to conditional discharge and who during the term of either undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, shall be ordered to pay all costs incidental to such mandatory drug or alcohol testing, or both, and all costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, involved in a successful probation program for the county. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys

collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(h) Jurisdiction over an offender may be transferred from the sentencing court to the court of another circuit with the concurrence of both courts. Further transfers or retransfers of jurisdiction are also authorized in the same manner. The court to which jurisdiction has been transferred shall have the same powers as the sentencing court.

(i) The court shall impose upon an offender sentenced to probation after January 1, 1989 or to conditional discharge after January 1, 1992 or to community service under the supervision of a probation or court services department after January 1, 2004, as a condition of such probation or conditional discharge or supervised community service, a fee of \$50 for each month of probation or conditional discharge supervision or supervised community service ordered by the court, unless after determining the inability of the person sentenced to probation or conditional discharge or supervised community service to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is made a ward of the State under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only upon an offender who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund under Section 15.1 of the Probation and Probation Officers Act.

A circuit court may not impose a probation fee under this subsection (i) in excess of \$25 per month unless: (1) the circuit court has adopted, by administrative order issued by the chief judge, a standard probation fee guide determining an offender's ability to pay, under guidelines developed by the Administrative Office of the Illinois Courts; and (2) the circuit court has authorized, by administrative order issued by the chief judge, the creation of a Crime Victim's Services Fund, to be administered by the Chief Judge or his or her designee, for services to crime victims and their families. Of the amount collected as a probation fee, up to \$5 of that fee collected per month may be used to provide services to crime victims and their families.

This amendatory Act of the 93rd General Assembly deletes the \$10 increase in the fee under this subsection that was imposed by Public Act 93-616. This deletion is intended to control over any other Act of the 93rd General Assembly that retains or incorporates that fee increase.

(i-5) In addition to the fees imposed under subsection (i) of this Section, in the case of an offender convicted of a felony sex offense (as defined in the Sex Offender Management Board Act) or an offense that the court or probation department has determined to be sexually motivated (as defined in the Sex Offender Management Board Act), the court or the probation department shall assess additional fees to pay for all costs of treatment, assessment, evaluation for risk and treatment, and monitoring the offender, based on that offender's ability to pay those costs either as they occur or under a payment plan.

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

(k) Any offender who is sentenced to probation or conditional discharge for a felony sex offense as defined in the Sex Offender Management Board Act or any offense that the court or probation department has determined to be sexually motivated as defined in the Sex Offender Management Board Act shall be required to refrain from any contact, directly or indirectly, with any persons specified by the court and shall be available for all evaluations and treatment programs required by the court or the probation department.

(l) The court may order an offender who is sentenced to probation or conditional discharge for a violation of an order of protection be placed under electronic surveillance as provided in Section 5-8A-7 of this Code.

(Source: P.A. 95-331, eff. 8-21-07; 95-464, eff. 6-1-08; 95-578, eff. 6-1-08; 95-696, eff. 6-1-08; 95-773, eff. 1-1-09; 95-876, eff. 8-21-08; 95-983, eff. 6-1-09; 96-262, eff. 1-1-10; 96-328, eff. 8-11-09; 96-362, eff. 1-1-10; 96-695, eff. 8-25-09; revised 9-25-09.)

(730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

Sec. 5-6-3.1. Incidents and Conditions of Supervision.

(a) When a defendant is placed on supervision, the court shall enter an order for supervision specifying the period of such supervision, and shall defer further proceedings in the case until the conclusion of the period.

(b) The period of supervision shall be reasonable under all of the circumstances of the case, but may

not be longer than 2 years, unless the defendant has failed to pay the assessment required by Section 10.3 of the Cannabis Control Act, Section 411.2 of the Illinois Controlled Substances Act, or Section 80 of the Methamphetamine Control and Community Protection Act, in which case the court may extend supervision beyond 2 years. Additionally, the court shall order the defendant to perform no less than 30 hours of community service and not more than 120 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, when the offense (1) was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's membership in or allegiance to an organized gang; or (2) is a violation of any Section of Article 24 of the Criminal Code of 1961 where a disposition of supervision is not prohibited by Section 5-6-1 of this Code. The community service shall include, but not be limited to, the cleanup and repair of any damage caused by violation of Section 21-1.3 of the Criminal Code of 1961 and similar damages to property located within the municipality or county in which the violation occurred. Where possible and reasonable, the community service should be performed in the offender's neighborhood.

For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(c) The court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the court require that the person:

(1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of supervision;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(7) refrain from possessing a firearm or other dangerous weapon;

(8) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home; or

(v) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she is placed on supervision for a crime of violence as defined in Section 2 of the Crime Victims Compensation Act committed in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;

(9) make restitution or reparation in an amount not to exceed actual loss or damage to property and pecuniary loss or make restitution under Section 5-5-6 to a domestic violence shelter. The court shall determine the amount and conditions of payment;

(10) perform some reasonable public or community service;

(11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986 or an order of protection issued by the court of another state, tribe, or United States territory. If the court has ordered the defendant to make a report and appear in person under paragraph (1) of this subsection, a copy of the order of protection shall be transmitted to the person or agency so designated by the court;

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

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, (i) to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act, or (ii) for offenses under the jurisdiction of the Department of Natural Resources, to the fund established by the Department of Natural Resources for the purchase of evidence for investigation purposes and to conduct investigations as outlined in Section 805-105 of the Department of Natural Resources (Conservation) Law;

(14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer;

(15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of person, including but not limited to members of street gangs and drug users or dealers;

(16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(17) refrain from operating any motor vehicle not equipped with an ignition interlock device as defined in Section 1-129.1 of the Illinois Vehicle Code; under this condition the court may allow a defendant who is not self-employed to operate a vehicle owned by the defendant's employer that is not equipped with an ignition interlock device in the course and scope of the defendant's employment; and

(18) if placed on supervision for a sex offense as defined in subsection (a-5) of Section 3-1-2 of this Code, unless the offender is a parent or guardian of the person under 18 years of age present in the home and no non-familial minors are present, not participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter.

(d) The court shall defer entering any judgment on the charges until the conclusion of the supervision.

(e) At the conclusion of the period of supervision, if the court determines that the defendant has successfully complied with all of the conditions of supervision, the court shall discharge the defendant and enter a judgment dismissing the charges.

(f) Discharge and dismissal upon a successful conclusion of a disposition of supervision shall be deemed without adjudication of guilt and shall not be termed a conviction for purposes of disqualification or disabilities imposed by law upon conviction of a crime. Two years after the discharge and dismissal under this Section, unless the disposition of supervision was for a violation of Sections 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance, or for a violation of Sections 12-3.2 or 16A-3 of the Criminal Code of 1961, in which case it shall be 5 years after discharge and dismissal, a person may have his record of arrest sealed or expunged as may be provided by law. However, any defendant placed on supervision before January 1, 1980, may move for sealing or expungement of his arrest record, as provided by law, at any time after discharge and dismissal under this Section. A person placed on supervision for a sexual offense committed against a minor as defined in clause (a)(1)(L) of Section 5.2 of the Criminal Identification Act or for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance shall not have his or her record of arrest sealed or expunged.

(g) A defendant placed on supervision and who during the period of supervision undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, shall be ordered to pay the costs incidental to such mandatory drug or alcohol testing, or both, and costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, of all defendants placed on supervision. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(h) A disposition of supervision is a final order for the purposes of appeal.

(i) The court shall impose upon a defendant placed on supervision after January 1, 1992 or to community service under the supervision of a probation or court services department after January 1, 2004, as a condition of supervision or supervised community service, a fee of \$50 for each month of supervision or supervised community service ordered by the court, unless after determining the inability of the person placed on supervision or supervised community service to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is made a ward of the State under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only upon a

defendant who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund pursuant to Section 15.1 of the Probation and Probation Officers Act.

A circuit court may not impose a probation fee in excess of \$25 per month unless: (1) the circuit court has adopted, by administrative order issued by the chief judge, a standard probation fee guide determining an offender's ability to pay, under guidelines developed by the Administrative Office of the Illinois Courts; and (2) the circuit court has authorized, by administrative order issued by the chief judge, the creation of a Crime Victim's Services Fund, to be administered by the Chief Judge or his or her designee, for services to crime victims and their families. Of the amount collected as a probation fee, not to exceed \$5 of that fee collected per month may be used to provide services to crime victims and their families.

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

(k) A defendant at least 17 years of age who is placed on supervision for a misdemeanor in a county of 3,000,000 or more inhabitants and who has not been previously convicted of a misdemeanor or felony may as a condition of his or her supervision be required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program approved by the court. The defendant placed on supervision must attend a public institution of education to obtain the educational or vocational training required by this subsection (k). The defendant placed on supervision shall be required to pay for the cost of the educational courses or GED test, if a fee is charged for those courses or test. The court shall revoke the supervision of a person who wilfully fails to comply with this subsection (k). The court shall resentence the defendant upon revocation of supervision as provided in Section 5-6-4. This subsection (k) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This subsection (k) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(l) The court shall require a defendant placed on supervision for possession of a substance prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act or a sentence of probation under Section 10 of the Cannabis Control Act or Section 410 of the Illinois Controlled Substances Act and after a finding by the court that the person is addicted, to undergo treatment at a substance abuse program approved by the court.

(m) The Secretary of State shall require anyone placed on court supervision for a violation of Section 3-707 of the Illinois Vehicle Code or a similar provision of a local ordinance to give proof of his or her financial responsibility as defined in Section 7-315 of the Illinois Vehicle Code. The proof shall be maintained by the individual in a manner satisfactory to the Secretary of State for a minimum period of 3 years after the date the proof is first filed. The proof shall be limited to a single action per arrest and may not be affected by any post-sentence disposition. The Secretary of State shall suspend the driver's license of any person determined by the Secretary to be in violation of this subsection.

(n) Any offender placed on supervision for any offense that the court or probation department has determined to be sexually motivated as defined in the Sex Offender Management Board Act shall be required to refrain from any contact, directly or indirectly, with any persons specified by the court and shall be available for all evaluations and treatment programs required by the court or the probation department.

(o) An offender placed on supervision for a sex offense as defined in the Sex Offender Management Board Act shall refrain from residing at the same address or in the same condominium unit or apartment unit or in the same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been placed on supervision for a sex offense. The provisions of this subsection (o) do not apply to a person convicted of a sex offense who is placed in a Department of Corrections licensed transitional housing facility for sex offenders.

(p) An offender placed on supervision for an offense committed on or after June 1, 2008

(the effective date of Public Act 95-464) that would qualify the accused as a child sex offender as

defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961 shall refrain from communicating with or contacting, by means of the Internet, a person who is not related to the accused and whom the accused reasonably believes to be under 18 years of age. For purposes of this subsection (p), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961; and a person is not related to the accused if the person is not: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused.

(q) An offender placed on supervision for an offense committed on or after June 1, 2008

(the effective date of Public Act 95-464) that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961 shall, if so ordered by the court, refrain from communicating with or contacting, by means of the Internet, a person who is related to the accused and whom the accused reasonably believes to be under 18 years of age. For purposes of this subsection (q), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961; and a person is related to the accused if the person is: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused.

(r) An offender placed on supervision for an offense under Section 11-6, 11-9.1, 11-14.4 that involves soliciting for a juvenile prostitute, 11-15.1, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961, or any attempt to commit any of these offenses, committed on or after the effective date of this amendatory Act of the 95th General Assembly shall:

(i) not access or use a computer or any other device with Internet capability without the prior written approval of the court, except in connection with the offender's employment or search for employment with the prior approval of the court;

(ii) submit to periodic unannounced examinations of the offender's computer or any other device with Internet capability by the offender's probation officer, a law enforcement officer, or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment, or device to conduct a more thorough inspection;

(iii) submit to the installation on the offender's computer or device with Internet capability, at the offender's expense, of one or more hardware or software systems to monitor the Internet use; and

(iv) submit to any other appropriate restrictions concerning the offender's use of or access to a computer or any other device with Internet capability imposed by the court.

(s) An offender placed on supervision for an offense that is a sex offense as defined in Section 2 of the Sex Offender Registration Act that is committed on or after January 1, 2010 (the effective date of Public Act 96-362) ~~this amendatory Act of the 96th General Assembly~~ that requires the person to register as a sex offender under that Act, may not knowingly use any computer scrub software on any computer that the sex offender uses.

~~(t) (s)~~ An offender placed on supervision for a sex offense as defined in the Sex Offender Registration Act committed on or after January 1, 2010 (the effective date of Public Act 96-262) ~~this amendatory Act of the 96th General Assembly~~ shall refrain from accessing or using a social networking website as defined in Section 16D-2 of the Criminal Code of 1961.

(Source: P.A. 95-211, eff. 1-1-08; 95-331, eff. 8-21-07; 95-464, eff. 6-1-08; 95-696, eff. 6-1-08; 95-876, eff. 8-21-08; 95-983, eff. 6-1-09; 96-262, eff. 1-1-10; 96-362, eff. 1-1-10; 96-409, eff. 1-1-10; revised 9-25-09.)

(730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

Sec. 5-8-1. Natural life imprisonment; mandatory supervised release.

(a) Except as otherwise provided in the statute defining the offense or in Article 4.5 of Chapter V, a sentence of imprisonment for a felony shall be a determinate sentence set by the court under this Section, according to the following limitations:

(1) for first degree murder,

(a) (blank),

(b) if a trier of fact finds beyond a reasonable doubt that the murder was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty or, except as set forth in subsection (a)(1)(c) of this Section, that any of the aggravating factors listed in subsection (b) of Section 9-1 of the Criminal Code of 1961 are present, the court may sentence the defendant to a term of natural life imprisonment, or

(c) the court shall sentence the defendant to a term of natural life imprisonment when the death penalty is not imposed if the defendant,

- (i) has previously been convicted of first degree murder under any state or federal law, or
- (ii) is a person who, at the time of the commission of the murder, had attained the age of 17 or more and is found guilty of murdering an individual under 12 years of age; or, irrespective of the defendant's age at the time of the commission of the offense, is found guilty of murdering more than one victim, or
- (iii) is found guilty of murdering a peace officer, fireman, or emergency management worker when the peace officer, fireman, or emergency management worker was killed in the course of performing his official duties, or to prevent the peace officer or fireman from performing his official duties, or in retaliation for the peace officer, fireman, or emergency management worker from performing his official duties, and the defendant knew or should have known that the murdered individual was a peace officer, fireman, or emergency management worker, or
- (iv) is found guilty of murdering an employee of an institution or facility of the Department of Corrections, or any similar local correctional agency, when the employee was killed in the course of performing his official duties, or to prevent the employee from performing his official duties, or in retaliation for the employee performing his official duties, or
- (v) is found guilty of murdering an emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver or other medical assistance or first aid person while employed by a municipality or other governmental unit when the person was killed in the course of performing official duties or to prevent the person from performing official duties or in retaliation for performing official duties and the defendant knew or should have known that the murdered individual was an emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistant or first aid personnel, or
- (vi) is a person who, at the time of the commission of the murder, had not attained the age of 17, and is found guilty of murdering a person under 12 years of age and the murder is committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnapping, or
- (vii) is found guilty of first degree murder and the murder was committed by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, "community policing volunteer" has the meaning ascribed to it in Section 2-3.5 of the Criminal Code of 1961.

For purposes of clause (v), "emergency medical technician - ambulance", "emergency medical technician - intermediate", "emergency medical technician - paramedic", have the meanings ascribed to them in the Emergency Medical Services (EMS) Systems Act.

- (d) (i) if the person committed the offense while armed with a firearm, 15 years shall be added to the term of imprisonment imposed by the court;
  - (ii) if, during the commission of the offense, the person personally discharged a firearm, 20 years shall be added to the term of imprisonment imposed by the court;
  - (iii) if, during the commission of the offense, the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person, 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.
- (2) (blank);
- (2.5) for a person convicted under the circumstances described in subdivision (b)(1)(B) of Section 11-1.20 or paragraph (3) of subsection (b) of Section 12-13, subdivision (d)(2) of Section 11-1.30 or paragraph (2) of subsection (d) of Section 12-14, subdivision (b)(1.2) of Section 11-1.40 or paragraph (1.2) of subsection (b) of Section 12-14.1, subdivision (b)(2) of Section 11-1.40 or paragraph (2) of subsection (b) of Section 12-14.1 of the Criminal Code of 1961, the sentence shall be a term of natural life imprisonment.
- (b) (Blank)- \_
  - (c) (Blank)- \_
  - (d) Subject to earlier termination under Section 3-3-8, the parole or mandatory supervised release term shall be as follows:

(1) for first degree murder or a Class X felony except for the offenses of predatory criminal sexual assault of a child, aggravated criminal sexual assault, and criminal sexual assault if

committed on or after the effective date of this amendatory Act of the 94th General Assembly and except for the offense of aggravated child pornography under Section 11-20.1B or 11-20.3 of the Criminal Code of 1961, if committed on or after January 1, 2009, 3 years;

(2) for a Class 1 felony or a Class 2 felony except for the offense of criminal sexual assault if committed on or after the effective date of this amendatory Act of the 94th General Assembly and except for the offenses of manufacture and dissemination of child pornography under clauses (a)(1) and (a)(2) of Section 11-20.1 of the Criminal Code of 1961, if committed on or after January 1, 2009, 2 years;

(3) for a Class 3 felony or a Class 4 felony, 1 year;

(4) for defendants who commit the offense of predatory criminal sexual assault of a child, aggravated criminal sexual assault, or criminal sexual assault, on or after the effective date of this amendatory Act of the 94th General Assembly, or who commit the offense of aggravated child pornography, manufacture of child pornography, or dissemination of child pornography after January 1, 2009, the term of mandatory supervised release shall range from a minimum of 3 years to a maximum of the natural life of the defendant;

(5) if the victim is under 18 years of age, for a second or subsequent offense of aggravated criminal sexual abuse or felony criminal sexual abuse, 4 years, at least the first 2 years of which the defendant shall serve in an electronic home detention program under Article 8A of Chapter V of this Code;

(6) for a felony domestic battery, aggravated domestic battery, stalking, aggravated stalking, and a felony violation of an order of protection, 4 years.

(e) (Blank-) \_

(f) (Blank-) \_

(Source: P.A. 95-983, eff. 6-1-09; 95-1052, eff. 7-1-09; 96-282, eff. 1-1-10; revised 9-4-09.)

(730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

Sec. 5-8-4. Concurrent and consecutive terms of imprisonment.

(a) Concurrent terms; multiple or additional sentences. When an Illinois court (i) imposes multiple sentences of imprisonment on a defendant at the same time or (ii) imposes a sentence of imprisonment on a defendant who is already subject to a sentence of imprisonment imposed by an Illinois court, a court of another state, or a federal court, then the sentences shall run concurrently unless otherwise determined by the Illinois court under this Section.

(b) Concurrent terms; misdemeanor and felony. A defendant serving a sentence for a misdemeanor who is convicted of a felony and sentenced to imprisonment shall be transferred to the Department of Corrections, and the misdemeanor sentence shall be merged in and run concurrently with the felony sentence.

(c) Consecutive terms; permissive. The court may impose consecutive sentences in any of the following circumstances:

(1) If, having regard to the nature and circumstances of the offense and the history and character of the defendant, it is the opinion of the court that consecutive sentences are required to protect the public from further criminal conduct by the defendant, the basis for which the court shall set forth in the record.

(2) If one of the offenses for which a defendant was convicted was a violation of Section 32-5.2 (aggravated false personation of a peace officer) of the Criminal Code of 1961 (720 ILCS 5/32-5.2) and the offense was committed in attempting or committing a forcible felony.

(d) Consecutive terms; mandatory. The court shall impose consecutive sentences in each of the following circumstances:

(1) One of the offenses for which the defendant was convicted was first degree murder or a Class X or Class 1 felony and the defendant inflicted severe bodily injury.

(2) The defendant was convicted of a violation of Section 11-1.20 or 12-13 (criminal sexual assault), 11-1.30 or 12-14 (aggravated criminal sexual assault), or 11-1.40 or 12-14.1 (predatory criminal sexual assault of a child) of the Criminal Code of 1961 (720 ILCS 5/11-1.20, 5/12-13, 5/11-1.30, 5/12-14, 5/11-1.40, or 5/12-14.1).

(3) The defendant was convicted of armed violence based upon the predicate offense of any of the following: solicitation of murder, solicitation of murder for hire, heinous battery, aggravated battery of a senior citizen, criminal sexual assault, a violation of subsection (g) of Section 5 of the Cannabis Control Act (720 ILCS 550/5), cannabis trafficking, a violation of subsection (a) of Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), controlled substance trafficking involving a Class X felony amount of controlled substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), a violation of the Methamphetamine Control

and Community Protection Act (720 ILCS 646/), calculated criminal drug conspiracy, or streetgang criminal drug conspiracy.

(4) The defendant was convicted of the offense of leaving the scene of a motor vehicle accident involving death or personal injuries under Section 11-401 of the Illinois Vehicle Code (625 ILCS 5/11-401) and either: (A) aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof under Section 11-501 of the Illinois Vehicle Code (625 ILCS 5/11-501), (B) reckless homicide under Section 9-3 of the Criminal Code of 1961 (720 ILCS 5/9-3), or (C) both an offense described in item (A) and an offense described in item (B).

(5) The defendant was convicted of a violation of Section 9-3.1 (concealment of homicidal death) or Section 12-20.5 (dismembering a human body) of the Criminal Code of 1961 (720 ILCS 5/9-3.1 or 5/12-20.5). ~~or~~

(5.5) The ~~(vi) the~~ defendant was convicted of a violation of Section 24-3.7 (use of a stolen firearm in the commission of an offense) of the Criminal Code of 1961.

(6) If the defendant was in the custody of the Department of Corrections at the time of the commission of the offense, the sentence shall be served consecutive to the sentence under which the defendant is held by the Department of Corrections. If, however, the defendant is sentenced to punishment by death, the sentence shall be executed at such time as the court may fix without regard to the sentence under which the defendant may be held by the Department.

(7) A sentence under Section 3-6-4 (730 ILCS 5/3-6-4) for escape or attempted escape shall be served consecutive to the terms under which the offender is held by the Department of Corrections.

(8) If a person charged with a felony commits a separate felony while on pretrial release or in pretrial detention in a county jail facility or county detention facility, then the sentences imposed upon conviction of these felonies shall be served consecutively regardless of the order in which the judgments of conviction are entered.

(8.5) If a person commits a battery against a county correctional officer or sheriff's employee while serving a sentence or in pretrial detention in a county jail facility, then the sentence imposed upon conviction of the battery shall be served consecutively with the sentence imposed upon conviction of the earlier misdemeanor or felony, regardless of the order in which the judgments of conviction are entered.

(9) If a person admitted to bail following conviction of a felony commits a separate felony while free on bond or if a person detained in a county jail facility or county detention facility following conviction of a felony commits a separate felony while in detention, then any sentence following conviction of the separate felony shall be consecutive to that of the original sentence for which the defendant was on bond or detained.

(10) If a person is found to be in possession of an item of contraband, as defined in clause (c)(2) of Section 31A-1.1 of the Criminal Code of 1961, while serving a sentence in a county jail or while in pre-trial detention in a county jail, the sentence imposed upon conviction for the offense of possessing contraband in a penal institution shall be served consecutively to the sentence imposed for the offense in which the person is serving sentence in the county jail or serving pretrial detention, regardless of the order in which the judgments of conviction are entered.

(e) Consecutive terms; subsequent non-Illinois term. If an Illinois court has imposed a sentence of imprisonment on a defendant and the defendant is subsequently sentenced to a term of imprisonment by a court of another state or a federal court, then the Illinois sentence shall run consecutively to the sentence imposed by the court of the other state or the federal court. That same Illinois court, however, may order that the Illinois sentence run concurrently with the sentence imposed by the court of the other state or the federal court, but only if the defendant applies to that same Illinois court within 30 days after the sentence imposed by the court of the other state or the federal court is finalized.

(f) Consecutive terms; aggregate maximums and minimums. The aggregate maximum and aggregate minimum of consecutive sentences shall be determined as follows:

(1) For sentences imposed under law in effect prior to February 1, 1978, the aggregate maximum of consecutive sentences shall not exceed the maximum term authorized under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V for the 2 most serious felonies involved. The aggregate minimum period of consecutive sentences shall not exceed the highest minimum term authorized under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V for the 2 most serious felonies involved. When sentenced only for misdemeanors, a defendant shall not be consecutively sentenced to more than the maximum for one Class A misdemeanor.

(2) For sentences imposed under the law in effect on or after February 1, 1978, the aggregate of consecutive sentences for offenses that were committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective shall not exceed the sum of the maximum terms authorized under Section 5-8-2 (730 ILCS 5/5-8-2) for the 2 most serious felonies involved, but no such limitation shall apply for offenses that were not committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective. When sentenced only for misdemeanors, a defendant shall not be consecutively sentenced to more than the maximum for one Class A misdemeanor.

(g) Consecutive terms; manner served. In determining the manner in which consecutive sentences of imprisonment, one or more of which is for a felony, will be served, the Department of Corrections shall treat the defendant as though he or she had been committed for a single term subject to each of the following:

(1) The maximum period of a term of imprisonment shall consist of the aggregate of the maximums of the imposed indeterminate terms, if any, plus the aggregate of the imposed determinate sentences for felonies, plus the aggregate of the imposed determinate sentences for misdemeanors, subject to subsection (f) of this Section.

(2) The parole or mandatory supervised release term shall be as provided in paragraph (e) of Section 5-4.5-50 (730 ILCS 5/5-4.5-50) for the most serious of the offenses involved.

(3) The minimum period of imprisonment shall be the aggregate of the minimum and determinate periods of imprisonment imposed by the court, subject to subsection (f) of this Section.

(4) The defendant shall be awarded credit against the aggregate maximum term and the aggregate minimum term of imprisonment for all time served in an institution since the commission of the offense or offenses and as a consequence thereof at the rate specified in Section 3-6-3 (730 ILCS 5/3-6-3).

(Source: P.A. 95-379, eff. 8-23-07; 95-766, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-190, eff. 1-1-10; revised 8-20-09.)

(730 ILCS 5/5-9-1.7) (from Ch. 38, par. 1005-9-1.7)

Sec. 5-9-1.7. Sexual assault fines.

(a) Definitions. The terms used in this Section shall have the following meanings ascribed to them:

(1) "Sexual assault" means the commission or attempted commission of the following: sexual exploitation of a child, criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, indecent solicitation of a child, public indecency, sexual relations within families, promoting juvenile prostitution, soliciting for a juvenile prostitute, keeping a place of juvenile prostitution, patronizing a juvenile prostitute, juvenile pimping, exploitation of a child, obscenity, child pornography, aggravated child pornography, harmful material, or ritualized abuse of a child, as those offenses are defined in the Criminal Code of 1961.

(2) "Family member" shall have the meaning ascribed to it in Section 12-12 of the Criminal Code of 1961.

(3) "Sexual assault organization" means any not-for-profit organization providing comprehensive, community-based services to victims of sexual assault. "Community-based services" include, but are not limited to, direct crisis intervention through a 24-hour response, medical and legal advocacy, counseling, information and referral services, training, and community education.

(b) Sexual assault fine; collection by clerk.

(1) In addition to any other penalty imposed, a fine of \$200 shall be imposed upon any person who pleads guilty or who is convicted of, or who receives a disposition of court supervision for, a sexual assault or attempt of a sexual assault. Upon request of the victim or the victim's representative, the court shall determine whether the fine will impose an undue burden on the victim of the offense. For purposes of this paragraph, the defendant may not be considered the victim's representative. If the court finds that the fine would impose an undue burden on the victim, the court may reduce or waive the fine. The court shall order that the defendant may not use funds belonging solely to the victim of the offense for payment of the fine.

(2) Sexual assault fines shall be assessed by the court imposing the sentence and shall be collected by the circuit clerk. The circuit clerk shall retain 10% of the penalty to cover the costs involved in administering and enforcing this Section. The circuit clerk shall remit the remainder of each fine within one month of its receipt to the State Treasurer for deposit as follows:

- (i) for family member offenders, one-half to the Sexual Assault Services Fund, and one-half to the Domestic Violence Shelter and Service Fund; and
- (ii) for other than family member offenders, the full amount to the Sexual Assault

## Services Fund.

(c) Sexual Assault Services Fund; administration. There is created a Sexual Assault Services Fund. Moneys deposited into the Fund under this Section shall be appropriated to the Department of Public Health. Upon appropriation of moneys from the Sexual Assault Services Fund, the Department of Public Health shall make grants of these moneys from the Fund to sexual assault organizations with whom the Department has contracts for the purpose of providing community-based services to victims of sexual assault. Grants made under this Section are in addition to, and are not substitutes for, other grants authorized and made by the Department.

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

Section 1070. The County Jail Good Behavior Allowance Act is amended by changing Section 3 as follows:

(730 ILCS 130/3) (from Ch. 75, par. 32)

Sec. 3. The good behavior of any person who commences a sentence of confinement in a county jail for a fixed term of imprisonment after January 1, 1987 shall entitle such person to a good behavior allowance, except that: (1) a person who inflicted physical harm upon another person in committing the offense for which he is confined shall receive no good behavior allowance; and (2) a person sentenced for an offense for which the law provides a mandatory minimum sentence shall not receive any portion of a good behavior allowance that would reduce the sentence below the mandatory minimum; and (3) a person sentenced to a county impact incarceration program; and (4) a person who is convicted of criminal sexual assault under subdivision (a)(3) of Section 11-1.20 or paragraph (a)(3) of Section 12-13 of the Criminal Code of 1961, criminal sexual abuse, or aggravated criminal sexual abuse shall receive no good behavior allowance. The good behavior allowance provided for in this Section shall not apply to individuals sentenced for a felony to probation or conditional discharge where a condition of such probation or conditional discharge is that the individual serve a sentence of periodic imprisonment or to individuals sentenced under an order of court for civil contempt.

Such good behavior allowance shall be cumulative and awarded as provided in this Section.

The good behavior allowance rate shall be cumulative and awarded on the following basis:

The prisoner shall receive one day of good behavior allowance for each day of service of sentence in the county jail, and one day of good behavior allowance for each day of incarceration in the county jail before sentencing for the offense that he or she is currently serving sentence but was unable to post bail before sentencing, except that a prisoner serving a sentence of periodic imprisonment under Section 5-7-1 of the Unified Code of Corrections shall only be eligible to receive good behavior allowance if authorized by the sentencing judge. Each day of good behavior allowance shall reduce by one day the prisoner's period of incarceration set by the court. For the purpose of calculating a prisoner's good behavior allowance, a fractional part of a day shall not be calculated as a day of service of sentence in the county jail unless the fractional part of the day is over 12 hours in which case a whole day shall be credited on the good behavior allowance.

If consecutive sentences are served and the time served amounts to a total of one year or more, the good behavior allowance shall be calculated on a continuous basis throughout the entire time served beginning on the first date of sentence or incarceration, as the case may be.

(Source: P.A. 91-117, eff. 7-15-99.)

Section 1075. The Sex Offender Registration Act is amended by changing Sections 2 and 3 as follows:

(730 ILCS 150/2) (from Ch. 38, par. 222)

Sec. 2. Definitions.

(A) As used in this Article, "sex offender" means any person who is:

- (1) charged pursuant to Illinois law, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, with a sex offense set forth in subsection (B) of this Section or the attempt to commit an included sex offense; and:
  - (a) is convicted of such offense or an attempt to commit such offense; or
  - (b) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or
  - (c) is found not guilty by reason of insanity pursuant to Section 104-25(c) of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or
  - (d) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or

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(e) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to Section 104-25(c) of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such offense; or

(f) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(2) certified as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(3) subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act; or

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(5) adjudicated a juvenile delinquent as the result of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, or found guilty under Article V of the Juvenile Court Act of 1987 of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Article as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Article.

For purposes of this Section, "convicted" shall have the same meaning as "adjudicated".

(B) As used in this Article, "sex offense" means:

(1) A violation of any of the following Sections of the Criminal Code of 1961:

- 11-20.1 (child pornography),
- 11-20.1B or 11-20.3 (aggravated child pornography),
- 11-6 (indecent solicitation of a child),
- 11-9.1 (sexual exploitation of a child),
- 11-9.2 (custodial sexual misconduct),
- 11-9.5 (sexual misconduct with a person with a disability),
- 11-14.4 (promoting juvenile prostitution),
- 11-15.1 (soliciting for a juvenile prostitute),
- 11-18.1 (patronizing a juvenile prostitute),
- 11-17.1 (keeping a place of juvenile prostitution),
- 11-19.1 (juvenile pimping),
- 11-19.2 (exploitation of a child),
- 11-25 (grooming),
- 11-26 (traveling to meet a minor),
- 11-1.20 or 12-13 (criminal sexual assault),
- 11-1.30 or 12-14 (aggravated criminal sexual assault),
- 11-1.40 or 12-14.1 (predatory criminal sexual assault of a child),
- 11-1.50 or 12-15 (criminal sexual abuse),
- 11-1.60 or 12-16 (aggravated criminal sexual abuse),
- 12-33 (ritualized abuse of a child).

An attempt to commit any of these offenses.

(1.5) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age, the defendant is not a parent of the victim, the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act, and the offense was committed on or after January 1, 1996:

- 10-1 (kidnapping),
- 10-2 (aggravated kidnapping),
- 10-3 (unlawful restraint),
- 10-3.1 (aggravated unlawful restraint).

(1.6) First degree murder under Section 9-1 of the Criminal Code of 1961, when the victim was a person under 18 years of age and the defendant was at least 17 years of age at the time of the commission of the offense, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act.

(1.7) (Blank).

(1.8) A violation or attempted violation of Section 11-11 (sexual relations within families) of the Criminal Code of 1961, and the offense was committed on or after June 1, 1997.

(1.9) Child abduction under paragraph (10) of subsection (b) of Section 10-5 of the Criminal Code of 1961 committed by luring or attempting to lure a child under the age of 16 into a motor vehicle, building, house trailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose and the offense was committed on or after January 1, 1998, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act.

(1.10) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 when the offense was committed on or after July 1, 1999:

10-4 (forcible detention, if the victim is under 18 years of age), provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act,

11-6.5 (indecent solicitation of an adult),

11-14.3 that involves soliciting for a prostitute, or 11-15 (soliciting for a prostitute, if the victim is under 18 years of age),

subdivision (a)(2)(A) or (a)(2)(B) of Section 11-14.3, or Section 11-16 (pandering, if the victim is under 18 years of age),

11-18 (patronizing a prostitute, if the victim is under 18 years of age),

subdivision (a)(2)(C) of Section 11-14.3, or Section 11-19 (pimping, if the victim is under 18 years of age).

(1.11) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 when the offense was committed on or after August 22, 2002:

11-9 or 11-30 (public indecency for a third or subsequent conviction).

(1.12) A violation or attempted violation of Section 5.1 of the Wrongs to Children Act or Section 11-9.1A of the Criminal Code of 1961

(permitting sexual abuse) when the offense was committed on or after August 22, 2002.

(2) A violation of any former law of this State substantially equivalent to any offense listed in subsection (B) of this Section.

(C) A conviction for an offense of federal law, Uniform Code of Military Justice, or the law of another state or a foreign country that is substantially equivalent to any offense listed in subsections (B), (C), and (E) of this Section shall constitute a conviction for the purpose of this Article. A finding or adjudication as a sexually dangerous person or a sexually violent person under any federal law, Uniform Code of Military Justice, or the law of another state or foreign country that is substantially equivalent to the Sexually Dangerous Persons Act or the Sexually Violent Persons Commitment Act shall constitute an adjudication for the purposes of this Article.

(C-5) A person at least 17 years of age at the time of the commission of the offense who is convicted of first degree murder under Section 9-1 of the Criminal Code of 1961, against a person under 18 years of age, shall be required to register for natural life. A conviction for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (C-5) of this Section shall constitute a conviction for the purpose of this Article. This subsection (C-5) applies to a person who committed the offense before June 1, 1996 only if the person is incarcerated in an Illinois Department of Corrections facility on August 20, 2004 (the effective date of Public Act 93-977).

(D) As used in this Article, "law enforcement agency having jurisdiction" means the Chief of Police in each of the municipalities in which the sex offender expects to reside, work, or attend school (1) upon his or her discharge, parole or release or (2) during the service of his or her sentence of probation or conditional discharge, or the Sheriff of the county, in the event no Police Chief exists or if the offender intends to reside, work, or attend school in an unincorporated area. "Law enforcement agency having jurisdiction" includes the location where out-of-state students attend school and where out-of-state employees are employed or are otherwise required to register.

(D-1) As used in this Article, "supervising officer" means the assigned Illinois Department of Corrections parole agent or county probation officer.

(E) As used in this Article, "sexual predator" means any person who, after July 1, 1999, is:

(1) Convicted for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (E) of this Section shall constitute a conviction for the purpose of this Article. Convicted of a violation or attempted violation of any of the following Sections of the Criminal Code of 1961, if the conviction occurred after July 1, 1999:

11-14.4 that involves keeping a place of juvenile prostitution, or 11-17.1 (keeping a place of juvenile prostitution),

subdivision (a)(2) or (a)(3) of Section 11-14.4, or Section 11-19.1 (juvenile pimping),

subdivision (a)(4) of Section 11-14.4, or Section 11-19.2 (exploitation of a child),

11-20.1 (child pornography),

11-20.1B or 11-20.3 (aggravated child pornography),

11-1.20 or 12-13 (criminal sexual assault),

11-1.30 or 12-14 (aggravated criminal sexual assault),

11-1.40 or 12-14.1 (predatory criminal sexual assault of a child),

11-1.60 or 12-16 (aggravated criminal sexual abuse),

12-33 (ritualized abuse of a child);

(2) (blank);

(3) certified as a sexually dangerous person pursuant to the Sexually Dangerous Persons Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law;

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law;

(5) convicted of a second or subsequent offense which requires registration pursuant to this Act. The conviction for the second or subsequent offense must have occurred after July 1, 1999. For purposes of this paragraph (5), "convicted" shall include a conviction under any substantially similar Illinois, federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(6) convicted of a second or subsequent offense of luring a minor under Section 10-5.1 of the Criminal Code of 1961.

(F) As used in this Article, "out-of-state student" means any sex offender, as defined in this Section, or sexual predator who is enrolled in Illinois, on a full-time or part-time basis, in any public or private educational institution, including, but not limited to, any secondary school, trade or professional institution, or institution of higher learning.

(G) As used in this Article, "out-of-state employee" means any sex offender, as defined in this Section, or sexual predator who works in Illinois, regardless of whether the individual receives payment for services performed, for a period of time of 10 or more days or for an aggregate period of time of 30 or more days during any calendar year. Persons who operate motor vehicles in the State accrue one day of employment time for any portion of a day spent in Illinois.

(H) As used in this Article, "school" means any public or private educational institution, including, but not limited to, any elementary or secondary school, trade or professional institution, or institution of higher education.

(I) As used in this Article, "fixed residence" means any and all places that a sex offender resides for an aggregate period of time of 5 or more days in a calendar year.

(J) As used in this Article, "Internet protocol address" means the string of numbers by which a location on the Internet is identified by routers or other computers connected to the Internet.

(Source: P.A. 95-331, eff. 8-21-07; 95-579, eff. 6-1-08; 95-625, eff. 6-1-08; 95-658, eff. 10-11-07; 95-876, eff. 8-21-08; 96-301, eff. 8-11-09.)

(730 ILCS 150/3)

Sec. 3. Duty to register.

(a) A sex offender, as defined in Section 2 of this Act, or sexual predator shall, within the time period prescribed in subsections (b) and (c), register in person and provide accurate information as required by the Department of State Police. Such information shall include a current photograph, current address, current place of employment, the employer's telephone number, school attended, all e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities that the sex offender uses or plans to use, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, extensions of the time period for registering as provided in this Article and, if an extension was granted, the reason why the extension was granted and the date the sex offender was notified of the extension. The information shall also include

the county of conviction, license plate numbers for every vehicle registered in the name of the sex offender, the age of the sex offender at the time of the commission of the offense, the age of the victim at the time of the commission of the offense, and any distinguishing marks located on the body of the sex offender. A sex offender convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 shall provide all Internet protocol (IP) addresses in his or her residence, registered in his or her name, accessible at his or her place of employment, or otherwise under his or her control or custody. The sex offender or sexual predator shall register:

(1) with the chief of police in the municipality in which he or she resides or is temporarily domiciled for a period of time of 5 or more days, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(2) with the sheriff in the county in which he or she resides or is temporarily domiciled for a period of time of 5 or more days in an unincorporated area or, if incorporated, no police chief exists.

If the sex offender or sexual predator is employed at or attends an institution of higher education, he or she shall register:

(i) with the chief of police in the municipality in which he or she is employed at or attends an institution of higher education, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(ii) with the sheriff in the county in which he or she is employed or attends an institution of higher education located in an unincorporated area, or if incorporated, no police chief exists.

For purposes of this Article, the place of residence or temporary domicile is defined as any and all places where the sex offender resides for an aggregate period of time of 5 or more days during any calendar year. Any person required to register under this Article who lacks a fixed address or temporary domicile must notify, in person, the agency of jurisdiction of his or her last known address within 3 days after ceasing to have a fixed residence.

Any person who lacks a fixed residence must report weekly, in person, with the sheriff's office of the county in which he or she is located in an unincorporated area, or with the chief of police in the municipality in which he or she is located. The agency of jurisdiction will document each weekly registration to include all the locations where the person has stayed during the past 7 days.

The sex offender or sexual predator shall provide accurate information as required by the Department of State Police. That information shall include the sex offender's or sexual predator's current place of employment.

(a-5) An out-of-state student or out-of-state employee shall, within 3 days after beginning school or employment in this State, register in person and provide accurate information as required by the Department of State Police. Such information will include current place of employment, school attended, and address in state of residence. A sex offender convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 shall provide all Internet protocol (IP) addresses in his or her residence, registered in his or her name, accessible at his or her place of employment, or otherwise under his or her control or custody. The out-of-state student or out-of-state employee shall register:

(1) with the chief of police in the municipality in which he or she attends school or is employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(2) with the sheriff in the county in which he or she attends school or is employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year in an unincorporated area or, if incorporated, no police chief exists.

The out-of-state student or out-of-state employee shall provide accurate information as required by the Department of State Police. That information shall include the out-of-state student's current place of school attendance or the out-of-state employee's current place of employment.

(a-10) Any law enforcement agency registering sex offenders or sexual predators in accordance with subsections (a) or (a-5) of this Section shall forward to the Attorney General a copy of sex offender registration forms from persons convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961, including periodic and annual registrations under Section 6 of this Act.

(b) Any sex offender, as defined in Section 2 of this Act, or sexual predator, regardless of any initial, prior, or other registration, shall, within 3 days of beginning school, or establishing a residence, place of employment, or temporary domicile in any county, register in person as set forth in subsection (a) or (a-5).

(c) The registration for any person required to register under this Article shall be as follows:

[May 3, 2010]

(1) Any person registered under the Habitual Child Sex Offender Registration Act or the Child Sex Offender Registration Act prior to January 1, 1996, shall be deemed initially registered as of January 1, 1996; however, this shall not be construed to extend the duration of registration set forth in Section 7.

(2) Except as provided in subsection (c)(4), any person convicted or adjudicated prior to January 1, 1996, whose liability for registration under Section 7 has not expired, shall register in person prior to January 31, 1996.

(2.5) Except as provided in subsection (c)(4), any person who has not been notified of his or her responsibility to register shall be notified by a criminal justice entity of his or her responsibility to register. Upon notification the person must then register within 3 days of notification of his or her requirement to register. If notification is not made within the offender's 10 year registration requirement, and the Department of State Police determines no evidence exists or indicates the offender attempted to avoid registration, the offender will no longer be required to register under this Act.

(3) Except as provided in subsection (c)(4), any person convicted on or after January 1, 1996, shall register in person within 3 days after the entry of the sentencing order based upon his or her conviction.

(4) Any person unable to comply with the registration requirements of this Article because he or she is confined, institutionalized, or imprisoned in Illinois on or after January 1, 1996, shall register in person within 3 days of discharge, parole or release.

(5) The person shall provide positive identification and documentation that substantiates proof of residence at the registering address.

(6) The person shall pay a \$20 initial registration fee and a \$10 annual renewal fee.

The fees shall be used by the registering agency for official purposes. The agency shall establish procedures to document receipt and use of the funds. The law enforcement agency having jurisdiction may waive the registration fee if it determines that the person is indigent and unable to pay the registration fee. Ten dollars for the initial registration fee and \$5 of the annual renewal fee shall be used by the registering agency for official purposes. Ten dollars of the initial registration fee and \$5 of the annual fee shall be deposited into the Sex Offender Management Board Fund under Section 19 of the Sex Offender Management Board Act. Money deposited into the Sex Offender Management Board Fund shall be administered by the Sex Offender Management Board and shall be used to fund practices endorsed or required by the Sex Offender Management Board Act including but not limited to sex offenders evaluation, treatment, or monitoring programs that are or may be developed, as well as for administrative costs, including staff, incurred by the Board.

(d) Within 3 days after obtaining or changing employment and, if employed on January 1, 2000, within 5 days after that date, a person required to register under this Section must report, in person to the law enforcement agency having jurisdiction, the business name and address where he or she is employed. If the person has multiple businesses or work locations, every business and work location must be reported to the law enforcement agency having jurisdiction.

(Source: P.A. 94-166, eff. 1-1-06; 94-168, eff. 1-1-06; 94-994, eff. 1-1-07; 95-229, eff. 8-16-07; 95-579, eff. 6-1-08; 95-640, eff. 6-1-08; 95-658, eff. 10-11-07; 95-876, eff. 8-21-08.)

Section 1080. The Secure Residential Youth Care Facility Licensing Act is amended by changing Section 45-30 as follows:

(730 ILCS 175/45-30)

Sec. 45-30. License or employment eligibility.

(a) No applicant may receive a license from the Department and no person may be employed by a licensed facility who refuses to authorize an investigation as required by Section 45-25.

(b) No applicant may receive a license from the Department and no person may be employed by a secure residential youth care facility licensed by the Department who has been declared a sexually dangerous person under the Sexually Dangerous Persons Act or convicted of committing or attempting to commit any of the following offenses under the Criminal Code of 1961:

- (1) First degree murder.
- (2) A sex offense under Article 11, except offenses described in Sections 11-7, 11-8, 11-12, 11-13, ~~and 11-18~~, 11-18, 11-35, 11-40, and 11-45.
- (3) Kidnapping.
- (4) Aggravated kidnapping.
- (5) Child abduction.
- (6) Aggravated battery of a child.

- (7) Criminal sexual assault.
- (8) Aggravated criminal sexual assault.
- (8.1) Predatory criminal sexual assault of a child.
- (9) Criminal sexual abuse.
- (10) Aggravated criminal sexual abuse.
- (11) A federal offense or an offense in any other state the elements of which are similar to any of the foregoing offenses.

(Source: P.A. 88-680, eff. 1-1-95; 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

Section 1085. The Code of Civil Procedure is amended by changing Sections 8-802.1, 13-202.2, and 13-202.3 as follows:

(735 ILCS 5/8-802.1) (from Ch. 110, par. 8-802.1)

Sec. 8-802.1. Confidentiality of Statements Made to Rape Crisis Personnel.

(a) Purpose. This Section is intended to protect victims of rape from public disclosure of statements they make in confidence to counselors of organizations established to help them. On or after July 1, 1984, "rape" means an act of forced sexual penetration or sexual conduct, as defined in Section 11-0.1 ~~12-12~~ of the Criminal Code of 1961, as amended, including acts prohibited under Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, as amended. Because of the fear and stigma that often results from those crimes, many victims hesitate to seek help even where it is available at no cost to them. As a result they not only fail to receive needed medical care and emergency counseling, but may lack the psychological support necessary to report the crime and aid police in preventing future crimes.

(b) Definitions. As used in this Act:

(1) "Rape crisis organization" means any organization or association the major purpose of which is providing information, counseling, and psychological support to victims of any or all of the crimes of aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual assault, sexual relations between siblings, criminal sexual abuse and aggravated criminal sexual abuse.

(2) "Rape crisis counselor" means a person who is a psychologist, social worker, employee, or volunteer in any organization or association defined as a rape crisis organization under this Section, who has undergone 40 hours of training and is under the control of a direct services supervisor of a rape crisis organization.

(3) "Victim" means a person who is the subject of, or who seeks information, counseling, or advocacy services as a result of an aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual assault, sexual relations within families, criminal sexual abuse, aggravated criminal sexual abuse, sexual exploitation of a child, indecent solicitation of a child, public indecency, exploitation of a child, promoting juvenile prostitution as described in subdivision (a)(4) of Section 11-14.4, or an attempt to commit any of these offenses.

(4) "Confidential communication" means any communication between a victim and a rape crisis counselor in the course of providing information, counseling, and advocacy. The term includes all records kept by the counselor or by the organization in the course of providing services to an alleged victim concerning the alleged victim and the services provided.

(c) Waiver of privilege.

(1) The confidential nature of the communication is not waived by: the presence of a third person who further expresses the interests of the victim at the time of the communication; group counseling; or disclosure to a third person with the consent of the victim when reasonably necessary to accomplish the purpose for which the counselor is consulted.

(2) The confidential nature of counseling records is not waived when: the victim inspects the records; or in the case of a minor child less than 12 years of age, a parent or guardian whose interests are not adverse to the minor inspects the records; or in the case of a minor victim 12 years or older, a parent or guardian whose interests are not adverse to the minor inspects the records with the victim's consent.

(3) When a victim is deceased or has been adjudged incompetent by a court of competent jurisdiction, the victim's guardian or the executor or administrator of the victim's estate may waive the privilege established by this Section, unless the guardian, executor, or administrator has an interest adverse to the victim.

(4) A minor victim 12 years of age or older may knowingly waive the privilege established in this Section. When a minor is, in the opinion of the Court, incapable of knowingly waiving the privilege, the parent or guardian of the minor may waive the privilege on behalf of the

minor, unless the parent or guardian has been charged with a violent crime against the victim or otherwise has any interest adverse to that of the minor with respect to the waiver of the privilege.

(d) Confidentiality. Except as provided in this Act, no rape crisis counselor shall disclose any confidential communication or be examined as a witness in any civil or criminal proceeding as to any confidential communication without the written consent of the victim or a representative of the victim as provided in subparagraph (c).

(e) A rape crisis counselor may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. Any rape crisis counselor or rape crisis organization participating in good faith in the disclosing of records and communications under this Act shall have immunity from any liability, civil, criminal, or otherwise that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this Section, the good faith of any rape crisis counselor or rape crisis organization who disclosed the confidential communication shall be presumed.

(f) Any rape crisis counselor who knowingly discloses any confidential communication in violation of this Act commits a Class C misdemeanor.

(Source: P.A. 88-33; 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

(735 ILCS 5/13-202.2) (from Ch. 110, par. 13-202.2)

Sec. 13-202.2. Childhood sexual abuse.

(a) In this Section:

"Childhood sexual abuse" means an act of sexual abuse that occurs when the person abused is under 18 years of age.

"Sexual abuse" includes but is not limited to sexual conduct and sexual penetration as defined in Section ~~11-0.1 42-42~~ of the Criminal Code of 1961.

(b) Notwithstanding any other provision of law, an action for damages for personal injury based on childhood sexual abuse must be commenced within 10 years of the date the limitation period begins to run under subsection (d) or within 5 years of the date the person abused discovers or through the use of reasonable diligence should discover both (i) that the act of childhood sexual abuse occurred and (ii) that the injury was caused by the childhood sexual abuse. The fact that the person abused discovers or through the use of reasonable diligence should discover that the act of childhood sexual abuse occurred is not, by itself, sufficient to start the discovery period under this subsection (b). Knowledge of the abuse does not constitute discovery of the injury or the causal relationship between any later-discovered injury and the abuse.

(c) If the injury is caused by 2 or more acts of childhood sexual abuse that are part of a continuing series of acts of childhood sexual abuse by the same abuser, then the discovery period under subsection (b) shall be computed from the date the person abused discovers or through the use of reasonable diligence should discover both (i) that the last act of childhood sexual abuse in the continuing series occurred and (ii) that the injury was caused by any act of childhood sexual abuse in the continuing series. The fact that the person abused discovers or through the use of reasonable diligence should discover that the last act of childhood sexual abuse in the continuing series occurred is not, by itself, sufficient to start the discovery period under subsection (b). Knowledge of the abuse does not constitute discovery of the injury or the causal relationship between any later-discovered injury and the abuse.

(d) The limitation periods under subsection (b) do not begin to run before the person abused attains the age of 18 years; and, if at the time the person abused attains the age of 18 years he or she is under other legal disability, the limitation periods under subsection (b) do not begin to run until the removal of the disability.

(d-1) The limitation periods in subsection (b) do not run during a time period when the person abused is subject to threats, intimidation, manipulation, or fraud perpetrated by the abuser or by any person acting in the interest of the abuser.

(e) This Section applies to actions pending on the effective date of this amendatory Act of 1990 as well as to actions commenced on or after that date. The changes made by this amendatory Act of 1993 shall apply only to actions commenced on or after the effective date of this amendatory Act of 1993. The changes made by this amendatory Act of the 93rd General Assembly apply to actions pending on the effective date of this amendatory Act of the 93rd General Assembly as well as actions commenced on or after that date.

(Source: P.A. 93-356, eff. 7-24-03.)

(735 ILCS 5/13-202.3)

Sec. 13-202.3. For an action arising out of an injury caused by "sexual conduct" or "sexual penetration" as defined in Section ~~11-0.1 42-42~~ of the Criminal Code of 1961, the limitation period in Section 13-202 does not run during a time period when the person injured is subject to threats,

intimidation, manipulation, or fraud perpetrated by the perpetrator or by a person the perpetrator knew or should have known was acting in the interest of the perpetrator. This Section applies to causes of action arising on or after the effective date of this amendatory Act of the 95th General Assembly or to causes of action for which the limitation period has not yet expired.  
(Source: P.A. 95-589, eff. 1-1-08.)

Section 1090. The Crime Victims Compensation Act is amended by changing Sections 2, 6.1, and 14.1 as follows:

(740 ILCS 45/2) (from Ch. 70, par. 72)

Sec. 2. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Applicant" means any person who applies for compensation under this Act or any person the Court of Claims finds is entitled to compensation, including the guardian of a minor or of a person under legal disability. It includes any person who was a dependent of a deceased victim of a crime of violence for his or her support at the time of the death of that victim.

(b) "Court of Claims" means the Court of Claims created by the Court of Claims Act.

(c) "Crime of violence" means and includes any offense defined in Sections 9-1, 9-2, 9-3, 10-1, 10-2, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-11, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1, 12-2, 12-3, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-5, 12-7.1, 12-7.3, 12-7.4, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-20.5, 12-30, 20-1 or 20-1.1, or subdivision (a)(4) of Section 11-14.4, of the Criminal Code of 1961, Sections 1(a) and 1(a-5) of the Cemetery Protection Act, driving under the influence of intoxicating liquor or narcotic drugs as defined in Section 11-501 of the Illinois Vehicle Code, and a violation of Section 11-401 of the Illinois Vehicle Code, provided the victim was a pedestrian or was operating a vehicle moved solely by human power or a mobility device at the time of contact; so long as the offense did not occur during a civil riot, insurrection or rebellion. "Crime of violence" does not include any other offense or accident involving a motor vehicle except those vehicle offenses specifically provided for in this paragraph. "Crime of violence" does include all of the offenses specifically provided for in this paragraph that occur within this State but are subject to federal jurisdiction and crimes involving terrorism as defined in 18 U.S.C. 2331.

(d) "Victim" means (1) a person killed or injured in this State as a result of a crime of violence perpetrated or attempted against him or her, (2) the parent of a person killed or injured in this State as a result of a crime of violence perpetrated or attempted against the person, (3) a person killed or injured in this State while attempting to assist a person against whom a crime of violence is being perpetrated or attempted, if that attempt of assistance would be expected of a reasonable person under the circumstances, (4) a person killed or injured in this State while assisting a law enforcement official apprehend a person who has perpetrated a crime of violence or prevent the perpetration of any such crime if that assistance was in response to the express request of the law enforcement official, (5) a person who personally witnessed a violent crime, (5.1) solely for the purpose of compensating for pecuniary loss incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime, any other person under the age of 18 who is the brother, sister, half brother, half sister, child, or stepchild of a person killed or injured in this State as a result of a crime of violence, (6) an Illinois resident who is a victim of a "crime of violence" as defined in this Act except, if the crime occurred outside this State, the resident has the same rights under this Act as if the crime had occurred in this State upon a showing that the state, territory, country, or political subdivision of a country in which the crime occurred does not have a compensation of victims of crimes law for which that Illinois resident is eligible, (7) a deceased person whose body is dismembered or whose remains are desecrated as the result of a crime of violence, or (8) solely for the purpose of compensating for pecuniary loss incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime, any parent, spouse, or child under the age of 18 of a deceased person whose body is dismembered or whose remains are desecrated as the result of a crime of violence.

(e) "Dependent" means a relative of a deceased victim who was wholly or partially dependent upon the victim's income at the time of his or her death and shall include the child of a victim born after his or her death.

(f) "Relative" means a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, brother-in-law, sister, sister-in-law, half brother, half sister, spouse's parent, nephew, niece, uncle or aunt.

(g) "Child" means an unmarried son or daughter who is under 18 years of age and includes a stepchild, an adopted child or a child born out of wedlock.

(h) "Pecuniary loss" means, in the case of injury, appropriate medical expenses and hospital expenses including expenses of medical examinations, rehabilitation, medically required nursing care expenses,

appropriate psychiatric care or psychiatric counseling expenses, expenses for care or counseling by a licensed clinical psychologist, licensed clinical social worker, or licensed clinical professional counselor and expenses for treatment by Christian Science practitioners and nursing care appropriate thereto; transportation expenses to and from medical and treatment facilities; prosthetic appliances, eyeglasses, and hearing aids necessary or damaged as a result of the crime; replacement costs for clothing and bedding used as evidence; costs associated with temporary lodging or relocation necessary as a result of the crime, including, but not limited to, the first month's rent and security deposit of the dwelling that the claimant relocated to and other reasonable relocation expenses incurred as a result of the violent crime; locks or windows necessary or damaged as a result of the crime; the purchase, lease, or rental of equipment necessary to create usability of and accessibility to the victim's real and personal property, or the real and personal property which is used by the victim, necessary as a result of the crime; the costs of appropriate crime scene clean-up; replacement services loss, to a maximum of \$1000 per month; dependents replacement services loss, to a maximum of \$1000 per month; loss of tuition paid to attend grammar school or high school when the victim had been enrolled as a student prior to the injury, or college or graduate school when the victim had been enrolled as a day or night student prior to the injury when the victim becomes unable to continue attendance at school as a result of the crime of violence perpetrated against him or her; loss of earnings, loss of future earnings because of disability resulting from the injury, and, in addition, in the case of death, expenses for funeral, burial, and travel and transport for survivors of homicide victims to secure bodies of deceased victims and to transport bodies for burial all of which may not exceed a maximum of \$5,000 and loss of support of the dependents of the victim; in the case of dismemberment or desecration of a body, expenses for funeral and burial, all of which may not exceed a maximum of \$5,000. Loss of future earnings shall be reduced by any income from substitute work actually performed by the victim or by income he or she would have earned in available appropriate substitute work he or she was capable of performing but unreasonably failed to undertake. Loss of earnings, loss of future earnings and loss of support shall be determined on the basis of the victim's average net monthly earnings for the 6 months immediately preceding the date of the injury or on \$1000 per month, whichever is less. If a divorced or legally separated applicant is claiming loss of support for a minor child of the deceased, the amount of support for each child shall be based either on the amount of support pursuant to the judgment prior to the date of the deceased victim's injury or death, or, if the subject of pending litigation filed by or on behalf of the divorced or legally separated applicant prior to the injury or death, on the result of that litigation. Real and personal property includes, but is not limited to, vehicles, houses, apartments, town houses, or condominiums. Pecuniary loss does not include pain and suffering or property loss or damage.

(i) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income, but for the benefit of himself or herself or his or her family, if he or she had not been injured.

(j) "Dependents replacement services loss" means loss reasonably incurred by dependents or private legal guardians of minor dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for their benefit, if he or she had not been fatally injured.

(k) "Survivor" means immediate family including a parent, step-father, step-mother, child, brother, sister, or spouse.

(Source: P.A. 96-267, eff. 8-11-09; 96-863, eff. 3-1-10.)

(740 ILCS 45/6.1) (from Ch. 70, par. 76.1)

Sec. 6.1. Right to compensation. A person is entitled to compensation under this Act if:

(a) Within 2 years of the occurrence of the crime, or within one year after a criminal indictment of a person for an offense, upon which the claim is based, he files an application, under oath, with the Court of Claims and on a form prescribed in accordance with Section 7.1 furnished by the Attorney General. If the person entitled to compensation is under 18 years of age or under other legal disability at the time of the occurrence or becomes legally disabled as a result of the occurrence, he may file the application required by this subsection within 2 years after he attains the age of 18 years or the disability is removed, as the case may be. Legal disability includes a diagnosis of posttraumatic stress disorder.

(b) For all crimes of violence, except those listed in subsection (b-1) of this Section, the appropriate law enforcement officials were notified within 72 hours of the perpetration of the crime allegedly causing the death or injury to the victim or, in the event such notification was made more than 72 hours after the perpetration of the crime, the applicant establishes that such notice was timely under the circumstances.

(b-1) For victims of offenses defined in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60,

12-13, 12-14, 12-14.1, 12-15, and

12-16 of the Criminal Code of 1961, the appropriate law enforcement officials were notified within 7 days of the perpetration of the crime allegedly causing death or injury to the victim or, in the event that the notification was made more than 7 days after the perpetration of the crime, the applicant establishes that the notice was timely under the circumstances. If the applicant has obtained an order of protection or a civil no contact order or has presented himself or herself to a hospital for sexual assault evidence collection and medical care, such action shall constitute appropriate notification under this subsection (b-1) or subsection (b) of this Section.

(c) The applicant has cooperated with law enforcement officials in the apprehension and prosecution of the assailant. If the applicant has obtained an order of protection or a civil no contact order or has presented himself or herself to a hospital for sexual assault evidence collection and medical care, such action shall constitute cooperation under this subsection (c).

(d) The applicant is not the offender or an accomplice of the offender and the award would not unjustly benefit the offender or his accomplice.

(e) The injury to or death of the victim was not substantially attributable to his own wrongful act and was not substantially provoked by the victim.

(Source: P.A. 94-192, eff. 1-1-06; 95-250, eff. 1-1-08; 95-331, eff. 8-21-07.)

(740 ILCS 45/14.1) (from Ch. 70, par. 84.1)

Sec. 14.1. (a) Hearings shall be open to the public unless the Court of Claims determines that a closed hearing should be held because:

(1) the alleged assailant has not been brought to trial and a public hearing would adversely affect either his apprehension or his trial;

(2) the offense allegedly perpetrated against the victim is one defined in Section 11-1.20, 11-1.30, 11-1.40,

12-13, 12-14, or 12-14.1 of the Criminal Code of 1961 and the interests of the victim or of persons dependent on his support require that the public be excluded from the hearing;

(3) the victim or the alleged assailant is a minor; or

(4) the interests of justice would be frustrated, rather than furthered, if the hearing were open to the public.

(b) A transcript shall be kept of the hearings held before the Court of Claims. No part of the transcript of any hearing before the Court of Claims may be used for any purpose in a criminal proceeding except in the prosecution of a person alleged to have perjured himself in his testimony before the Court of Claims. A copy of the transcript may be furnished to the applicant upon his written request to the court reporter, accompanied by payment of a charge established by the Court of Claims in accordance with the prevailing commercial charge for a duplicate transcript. Where the interests of justice require, the Court of Claims may refuse to disclose the names of victims or other material in the transcript by which the identity of the victim could be discovered.

(Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

Section 1095. The Predator Accountability Act is amended by changing Sections 10 and 15 as follows:

(740 ILCS 128/10)

Sec. 10. Definitions. As used in this Act:

"Sex trade" means any act, which if proven beyond a reasonable doubt could support a conviction for a violation or attempted violation of any of the following Sections of the Criminal Code of 1961: 11-14.3 (promoting prostitution); 11-14.4 (promoting juvenile prostitution); 11-15 (soliciting for a prostitute); 11-15.1 (soliciting for a juvenile prostitute); 11-16 (pandering); 11-17 (keeping a place of prostitution); 11-17.1 (keeping a place of juvenile prostitution); 11-19 (pimping); 11-19.1 (juvenile pimping and aggravated juvenile pimping); 11-19.2 (exploitation of a child); 11-20 (obscenity); ~~or 11-20.1 (child pornography); or 11-20.1B or 11-20.3 (aggravated child pornography);~~ or Section 10-9 of the Criminal Code of 1961 (trafficking of persons and involuntary servitude).

"Sex trade" activity may involve adults and youth of all genders and sexual orientations.

"Victim of the sex trade" means, for the following sex trade acts, the person or persons indicated:

(1) soliciting for a prostitute: the prostitute who is the object of the solicitation;

(2) soliciting for a juvenile prostitute: the juvenile prostitute, or severely or profoundly mentally retarded person, who is the object of the solicitation;

(3) promoting prostitution as described in subdivision (a)(2)(A) or (a)(2)(B) of Section 11-14.3 of the Criminal Code of 1961, or pandering: the person intended or compelled to act as a prostitute;

(4) keeping a place of prostitution: any person intended or compelled to act as a

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prostitute, while present at the place, during the time period in question;

(5) keeping a place of juvenile prostitution: any juvenile intended or compelled to act as a prostitute, while present at the place, during the time period in question;

(6) promoting prostitution as described in subdivision (a)(2)(C) of Section 11-14.3 of the Criminal Code of 1961, or pimping: the prostitute from whom anything of value is received;

(7) promoting juvenile prostitution as described in subdivision (a)(2) or (a)(3) of Section 11-14.4 of the Criminal Code of 1961, or juvenile pimping and aggravated juvenile pimping: the juvenile, or severely or

profoundly mentally retarded person, from whom anything of value is received for that person's act of prostitution;

(8) promoting juvenile prostitution as described in subdivision (a)(4) of Section 11-14.4 of the Criminal Code of 1961, or exploitation of a child: the juvenile, or severely or profoundly mentally retarded

person, intended or compelled to act as a prostitute or from whom anything of value is received for that person's act of prostitution;

(9) obscenity: any person who appears in or is described or depicted in the offending conduct or material;

(10) child pornography or aggravated child pornography: any child, or severely or profoundly mentally retarded person,

who appears in or is described or depicted in the offending conduct or material; or

(11) trafficking of persons or involuntary servitude: a "trafficking victim" as defined in Section 10-9 of the Criminal Code of 1961.

(Source: P.A. 96-710, eff. 1-1-10.)

(740 ILCS 128/15)

Sec. 15. Cause of action.

(a) Violations of this Act are actionable in civil court.

(b) A victim of the sex trade has a cause of action against a person or entity who:

(1) recruits, profits from, or maintains the victim in any sex trade act;

(2) intentionally abuses, as defined in Section 103 of the Illinois Domestic Violence Act of 1986, or causes bodily harm, as defined in Section ~~11-0.1~~ ~~12-12~~ of the Criminal Code of 1961, to the victim in any sex trade act; or

(3) knowingly advertises or publishes advertisements for purposes of recruitment into sex trade activity.

(c) This Section shall not be construed to create liability to any person or entity who provides goods or services to the general public, who also provides those goods or services to persons who would be liable under subsection (b) of this Section, absent a showing that the person or entity either:

(1) knowingly markets or provides its goods or services primarily to persons or entities liable under subsection (b) of this Section;

(2) knowingly receives a higher level of compensation from persons or entities liable under subsection (b) of this Section than it generally receives from customers; or

(3) supervises or exercises control over persons or entities liable under subsection (b) of this Section.

(Source: P.A. 94-998, eff. 7-3-06.)

Section 1100. The Illinois Marriage and Dissolution of Marriage Act is amended by changing Section 503 as follows:

(750 ILCS 5/503) (from Ch. 40, par. 503)

Sec. 503. Disposition of property.

(a) For purposes of this Act, "marital property" means all property acquired by either spouse subsequent to the marriage, except the following, which is known as "non-marital property":

(1) property acquired by gift, legacy or descent;

(2) property acquired in exchange for property acquired before the marriage or in exchange for property acquired by gift, legacy or descent;

(3) property acquired by a spouse after a judgment of legal separation;

(4) property excluded by valid agreement of the parties;

(5) any judgment or property obtained by judgment awarded to a spouse from the other spouse;

(6) property acquired before the marriage;

(7) the increase in value of property acquired by a method listed in paragraphs (1)

through (6) of this subsection, irrespective of whether the increase results from a contribution of marital property, non-marital property, the personal effort of a spouse, or otherwise, subject to the right of reimbursement provided in subsection (c) of this Section; and

(8) income from property acquired by a method listed in paragraphs (1) through (7) of this subsection if the income is not attributable to the personal effort of a spouse.

(b)(1) For purposes of distribution of property pursuant to this Section, all property acquired by either spouse after the marriage and before a judgment of dissolution of marriage or declaration of invalidity of marriage, including non-marital property transferred into some form of co-ownership between the spouses, is presumed to be marital property, regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, or community property. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection (a) of this Section.

(2) For purposes of distribution of property pursuant to this Section, all pension benefits (including pension benefits under the Illinois Pension Code) acquired by either spouse after the marriage and before a judgment of dissolution of marriage or declaration of invalidity of the marriage are presumed to be marital property, regardless of which spouse participates in the pension plan. The presumption that these pension benefits are marital property is overcome by a showing that the pension benefits were acquired by a method listed in subsection (a) of this Section. The right to a division of pension benefits in just proportions under this Section is enforceable under Section 1-119 of the Illinois Pension Code.

The value of pension benefits in a retirement system subject to the Illinois Pension Code shall be determined in accordance with the valuation procedures established by the retirement system.

The recognition of pension benefits as marital property and the division of those benefits pursuant to a Qualified Illinois Domestic Relations Order shall not be deemed to be a diminishment, alienation, or impairment of those benefits. The division of pension benefits is an allocation of property in which each spouse has a species of common ownership.

(3) For purposes of distribution of property under this Section, all stock options granted to either spouse after the marriage and before a judgment of dissolution of marriage or declaration of invalidity of marriage, whether vested or non-vested or whether their value is ascertainable, are presumed to be marital property. This presumption of marital property is overcome by a showing that the stock options were acquired by a method listed in subsection (a) of this Section. The court shall allocate stock options between the parties at the time of the judgment of dissolution of marriage or declaration of invalidity of marriage recognizing that the value of the stock options may not be then determinable and that the actual division of the options may not occur until a future date. In making the allocation between the parties, the court shall consider, in addition to the factors set forth in subsection (d) of this Section, the following:

(i) All circumstances underlying the grant of the stock option including but not limited to whether the grant was for past, present, or future efforts, or any combination thereof.

(ii) The length of time from the grant of the option to the time the option is exercisable.

(c) Commingled marital and non-marital property shall be treated in the following manner, unless otherwise agreed by the spouses:

(1) When marital and non-marital property are commingled by contributing one estate of property into another resulting in a loss of identity of the contributed property, the classification of the contributed property is transmuted to the estate receiving the contribution, subject to the provisions of paragraph (2) of this subsection; provided that if marital and non-marital property are commingled into newly acquired property resulting in a loss of identity of the contributing estates, the commingled property shall be deemed transmuted to marital property, subject to the provisions of paragraph (2) of this subsection.

(2) When one estate of property makes a contribution to another estate of property, or when a spouse contributes personal effort to non-marital property, the contributing estate shall be reimbursed from the estate receiving the contribution notwithstanding any transmutation; provided, that no such reimbursement shall be made with respect to a contribution which is not traceable by clear and convincing evidence, or was a gift, or, in the case of a contribution of personal effort of a spouse to non-marital property, unless the effort is significant and results in substantial appreciation of the non-marital property. Personal effort of a spouse shall be deemed a contribution by the marital estate. The court may provide for reimbursement out of the marital property to be divided or by imposing a lien against the non-marital property which received the contribution.

(d) In a proceeding for dissolution of marriage or declaration of invalidity of marriage, or in a proceeding for disposition of property following dissolution of marriage by a court which lacked

personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall assign each spouse's non-marital property to that spouse. It also shall divide the marital property without regard to marital misconduct in just proportions considering all relevant factors, including:

- (1) the contribution of each party to the acquisition, preservation, or increase or decrease in value of the marital or non-marital property, including (i) any such decrease attributable to a payment deemed to have been an advance from the parties' marital estate under subsection (c-1)(2) of Section 501 and (ii) the contribution of a spouse as a homemaker or to the family unit;
  - (2) the dissipation by each party of the marital or non-marital property;
  - (3) the value of the property assigned to each spouse;
  - (4) the duration of the marriage;
  - (5) the relevant economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home, or the right to live therein for reasonable periods, to the spouse having custody of the children;
  - (6) any obligations and rights arising from a prior marriage of either party;
  - (7) any antenuptial agreement of the parties;
  - (8) the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and needs of each of the parties;
  - (9) the custodial provisions for any children;
  - (10) whether the apportionment is in lieu of or in addition to maintenance;
  - (11) the reasonable opportunity of each spouse for future acquisition of capital assets and income; and
  - (12) the tax consequences of the property division upon the respective economic circumstances of the parties.
- (e) Each spouse has a species of common ownership in the marital property which vests at the time dissolution proceedings are commenced and continues only during the pendency of the action. Any such interest in marital property shall not encumber that property so as to restrict its transfer, assignment or conveyance by the title holder unless such title holder is specifically enjoined from making such transfer, assignment or conveyance.
- (f) In a proceeding for dissolution of marriage or declaration of invalidity of marriage or in a proceeding for disposition of property following dissolution of marriage by a court that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court, in determining the value of the marital and non-marital property for purposes of dividing the property, shall value the property as of the date of trial or some other date as close to the date of trial as is practicable.
- (g) The court if necessary to protect and promote the best interests of the children may set aside a portion of the jointly or separately held estates of the parties in a separate fund or trust for the support, maintenance, education, physical and mental health, and general welfare of any minor, dependent, or incompetent child of the parties. In making a determination under this subsection, the court may consider, among other things, the conviction of a party of any of the offenses set forth in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 if the victim is a child of one or both of the parties, and there is a need for, and cost of, care, healing and counseling for the child who is the victim of the crime.
- (h) Unless specifically directed by a reviewing court, or upon good cause shown, the court shall not on remand consider any increase or decrease in the value of any "marital" or "non-marital" property occurring since the assessment of such property at the original trial or hearing, but shall use only that assessment made at the original trial or hearing.
- (i) The court may make such judgments affecting the marital property as may be just and may enforce such judgments by ordering a sale of marital property, with proceeds therefrom to be applied as determined by the court.
- (j) After proofs have closed in the final hearing on all other issues between the parties (or in conjunction with the final hearing, if all parties so stipulate) and before judgment is entered, a party's petition for contribution to fees and costs incurred in the proceeding shall be heard and decided, in accordance with the following provisions:
- (1) A petition for contribution, if not filed before the final hearing on other issues between the parties, shall be filed no later than 30 days after the closing of proofs in the final hearing or within such other period as the court orders.
  - (2) Any award of contribution to one party from the other party shall be based on the criteria for division of marital property under this Section 503 and, if maintenance has been awarded, on the criteria for an award of maintenance under Section 504.
  - (3) The filing of a petition for contribution shall not be deemed to constitute a

waiver of the attorney-client privilege between the petitioning party and current or former counsel; and such a waiver shall not constitute a prerequisite to a hearing for contribution. If either party's presentation on contribution, however, includes evidence within the scope of the attorney-client privilege, the disclosure or disclosures shall be narrowly construed and shall not be deemed by the court to constitute a general waiver of the privilege as to matters beyond the scope of the presentation.

(4) No finding on which a contribution award is based or denied shall be asserted against counsel or former counsel for purposes of any hearing under subsection (c) or (e) of Section 508.

(5) A contribution award (payable to either the petitioning party or the party's counsel, or jointly, as the court determines) may be in the form of either a set dollar amount or a percentage of fees and costs (or a portion of fees and costs) to be subsequently agreed upon by the petitioning party and counsel or, alternatively, thereafter determined in a hearing pursuant to subsection (c) of Section 508 or previously or thereafter determined in an independent proceeding under subsection (e) of Section 508.

(6) The changes to this Section 503 made by this amendatory Act of 1996 apply to cases pending on or after June 1, 1997, except as otherwise provided in Section 508.  
(Source: P.A. 95-374, eff. 1-1-08; 96-583, eff. 1-1-10.)

Section 1105. The Illinois Parentage Act of 1984 is amended by changing Section 6.5 as follows:  
(750 ILCS 45/6.5)

Sec. 6.5. Custody or visitation by sex offender prohibited. A person found to be the father of a child under this Act, and who has been convicted of or who has pled guilty to a violation of Section 11-11 (sexual relations within families), Section 11-1.20 or 12-13 (criminal sexual assault), Section 11-1.30 or 12-14 (aggravated criminal sexual assault), Section 11-1.40 or 12-14.1 (predatory criminal sexual assault of a child), Section 11-1.50 or 12-15 (criminal sexual abuse), or Section 11-1.60 or 12-16 (aggravated criminal sexual abuse) of the Criminal Code of 1961 for his conduct in fathering that child, shall not be entitled to custody of or visitation with that child without the consent of the mother or guardian, other than the father of the child who has been convicted of or pled guilty to one of the offenses listed in this Section, or, in cases where the mother is a minor, the guardian of the mother of the child. Notwithstanding any other provision of this Act, nothing in this Section shall be construed to relieve the father of any support and maintenance obligations to the child under this Act.  
(Source: P.A. 94-928, eff. 6-26-06.)

Section 1110. The Adoption Act is amended by changing Section 1 as follows:  
(750 ILCS 50/1) (from Ch. 40, par. 1501)

Sec. 1. Definitions. When used in this Act, unless the context otherwise requires:

A. "Child" means a person under legal age subject to adoption under this Act.

B. "Related child" means a child subject to adoption where either or both of the adopting parents stands in any of the following relationships to the child by blood or marriage: parent, grand-parent, brother, sister, step-parent, step-grandparent, step-brother, step-sister, uncle, aunt, great-uncle, great-aunt, or cousin of first degree. A child whose parent has executed a final irrevocable consent to adoption or a final irrevocable surrender for purposes of adoption, or whose parent has had his or her parental rights terminated, is not a related child to that person, unless the consent is determined to be void or is void pursuant to subsection O of Section 10.

C. "Agency" for the purpose of this Act means a public child welfare agency or a licensed child welfare agency.

D. "Unfit person" means any person whom the court shall find to be unfit to have a child, without regard to the likelihood that the child will be placed for adoption. The grounds of unfitness are any one or more of the following, except that a person shall not be considered an unfit person for the sole reason that the person has relinquished a child in accordance with the Abandoned Newborn Infant Protection Act:

(a) Abandonment of the child.

(a-1) Abandonment of a newborn infant in a hospital.

(a-2) Abandonment of a newborn infant in any setting where the evidence suggests that the parent intended to relinquish his or her parental rights.

(b) Failure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare.

(c) Desertion of the child for more than 3 months next preceding the commencement of the Adoption proceeding.

(d) Substantial neglect of the child if continuous or repeated.

(d-1) Substantial neglect, if continuous or repeated, of any child residing in the household which resulted in the death of that child.

(e) Extreme or repeated cruelty to the child.

(f) There is a rebuttable presumption, which can be overcome only by clear and convincing evidence, that a parent is unfit if:

(1) Two or more findings of physical abuse have been entered regarding any children under Section 2-21 of the Juvenile Court Act of 1987, the most recent of which was determined by the juvenile court hearing the matter to be supported by clear and convincing evidence; or

(2) The parent has been convicted or found not guilty by reason of insanity and the conviction or finding resulted from the death of any child by physical abuse; or

(3) There is a finding of physical child abuse resulting from the death of any child under Section 2-21 of the Juvenile Court Act of 1987.

No conviction or finding of delinquency pursuant to Article 5 of the Juvenile Court Act of 1987 shall be considered a criminal conviction for the purpose of applying any presumption under this item (f).

(g) Failure to protect the child from conditions within his environment injurious to the child's welfare.

(h) Other neglect of, or misconduct toward the child; provided that in making a finding of unfitness the court hearing the adoption proceeding shall not be bound by any previous finding, order or judgment affecting or determining the rights of the parents toward the child sought to be adopted in any other proceeding except such proceedings terminating parental rights as shall be had under either this Act, the Juvenile Court Act or the Juvenile Court Act of 1987.

(i) Depravity. Conviction of any one of the following crimes shall create a presumption that a parent is deprived which can be overcome only by clear and convincing evidence: (1) first degree murder in violation of paragraph 1 or 2 of subsection (a) of Section 9-1 of the Criminal Code of 1961 or conviction of second degree murder in violation of subsection (a) of Section 9-2 of the Criminal Code of 1961 of a parent of the child to be adopted; (2) first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; (3) attempt or conspiracy to commit first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; (4) solicitation to commit murder of any child, solicitation to commit murder of any child for hire, or solicitation to commit second degree murder of any child in violation of the Criminal Code of 1961; (5) predatory criminal sexual assault of a child in violation of Section 11-1.40 or 12-14.1 of the Criminal Code of 1961; (6) heinous battery of any child in violation of the Criminal Code of 1961; or (7) aggravated battery of any child in violation of the Criminal Code of 1961.

There is a rebuttable presumption that a parent is deprived if the parent has been criminally convicted of at least 3 felonies under the laws of this State or any other state, or under federal law, or the criminal laws of any United States territory; and at least one of these convictions took place within 5 years of the filing of the petition or motion seeking termination of parental rights.

There is a rebuttable presumption that a parent is deprived if that parent has been criminally convicted of either first or second degree murder of any person as defined in the Criminal Code of 1961 within 10 years of the filing date of the petition or motion to terminate parental rights.

No conviction or finding of delinquency pursuant to Article 5 of the Juvenile Court Act of 1987 shall be considered a criminal conviction for the purpose of applying any presumption under this item (i).

(j) Open and notorious adultery or fornication.

(j-1) (Blank).

(k) Habitual drunkenness or addiction to drugs, other than those prescribed by a physician, for at least one year immediately prior to the commencement of the unfitness proceeding.

There is a rebuttable presumption that a parent is unfit under this subsection with respect to any child to which that parent gives birth where there is a confirmed test result that at birth the child's blood, urine, or meconium contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or metabolites of such substances, the presence of which in the newborn infant was not the result of medical treatment administered to the mother or the newborn infant; and the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987.

(l) Failure to demonstrate a reasonable degree of interest, concern or responsibility as to the welfare of a new born child during the first 30 days after its birth.

(m) Failure by a parent (i) to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent, or (ii) to make reasonable progress toward the return of the child to the parent within 9 months after an adjudication of neglected or abused minor under Section 2-3 of the Juvenile Court Act of 1987 or dependent minor under Section 2-4 of that Act, or (iii) to make reasonable progress toward the return of the child to the parent during any 9-month period after the end of the initial 9-month period following the adjudication of neglected or abused minor under Section 2-3 of the Juvenile Court Act of 1987 or dependent minor under Section 2-4 of that Act. If a service plan has been established as required under Section 8.2 of the Abused and Neglected Child Reporting Act to correct the conditions that were the basis for the removal of the child from the parent and if those services were available, then, for purposes of this Act, "failure to make reasonable progress toward the return of the child to the parent" includes (I) the parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care within 9 months after the adjudication under Section 2-3 or 2-4 of the Juvenile Court Act of 1987 and (II) the parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care during any 9-month period after the end of the initial 9-month period following the adjudication under Section 2-3 or 2-4 of the Juvenile Court Act of 1987. Notwithstanding any other provision, when a petition or motion seeks to terminate parental rights on the basis of item (iii) of this subsection (m), the petitioner shall file with the court and serve on the parties a pleading that specifies the 9-month period or periods relied on. The pleading shall be filed and served on the parties no later than 3 weeks before the date set by the court for closure of discovery, and the allegations in the pleading shall be treated as incorporated into the petition or motion. Failure of a respondent to file a written denial of the allegations in the pleading shall not be treated as an admission that the allegations are true.

(m-1) Pursuant to the Juvenile Court Act of 1987, a child has been in foster care for 15 months out of any 22 month period which begins on or after the effective date of this amendatory Act of 1998 unless the child's parent can prove by a preponderance of the evidence that it is more likely than not that it will be in the best interests of the child to be returned to the parent within 6 months of the date on which a petition for termination of parental rights is filed under the Juvenile Court Act of 1987. The 15 month time limit is tolled during any period for which there is a court finding that the appointed custodian or guardian failed to make reasonable efforts to reunify the child with his or her family, provided that (i) the finding of no reasonable efforts is made within 60 days of the period when reasonable efforts were not made or (ii) the parent filed a motion requesting a finding of no reasonable efforts within 60 days of the period when reasonable efforts were not made. For purposes of this subdivision (m-1), the date of entering foster care is the earlier of: (i) the date of a judicial finding at an adjudicatory hearing that the child is an abused, neglected, or dependent minor; or (ii) 60 days after the date on which the child is removed from his or her parent, guardian, or legal custodian.

(n) Evidence of intent to forgo his or her parental rights, whether or not the child is a ward of the court, (1) as manifested by his or her failure for a period of 12 months: (i) to visit the child, (ii) to communicate with the child or agency, although able to do so and not prevented from doing so by an agency or by court order, or (iii) to maintain contact with or plan for the future of the child, although physically able to do so, or (2) as manifested by the father's failure, where he and the mother of the child were unmarried to each other at the time of the child's birth, (i) to commence legal proceedings to establish his paternity under the Illinois Parentage Act of 1984 or the law of the jurisdiction of the child's birth within 30 days of being informed, pursuant to Section 12a of this Act, that he is the father or the likely father of the child or, after being so informed where the child is not yet born, within 30 days of the child's birth, or (ii) to make a good faith effort to pay a reasonable amount of the expenses related to the birth of the child and to provide a reasonable amount for the financial support of the child, the court to consider in its determination all relevant circumstances, including the financial condition of both parents; provided that the ground for termination provided in this subparagraph (n)(2)(ii) shall only be available where the petition is brought by the mother or the husband of the mother.

Contact or communication by a parent with his or her child that does not demonstrate affection and concern does not constitute reasonable contact and planning under subdivision (n). In the absence of evidence to the contrary, the ability to visit, communicate, maintain contact, pay expenses and plan for the future shall be presumed. The subjective intent of the parent, whether expressed or otherwise, unsupported by evidence of the foregoing parental acts manifesting that intent, shall not preclude a determination that the parent has intended to forgo his or her parental rights. In making this determination, the court may consider but shall not require a showing of diligent

efforts by an authorized agency to encourage the parent to perform the acts specified in subdivision (n).

It shall be an affirmative defense to any allegation under paragraph (2) of this subsection that the father's failure was due to circumstances beyond his control or to impediments created by the mother or any other person having legal custody. Proof of that fact need only be by a preponderance of the evidence.

(o) Repeated or continuous failure by the parents, although physically and financially able, to provide the child with adequate food, clothing, or shelter.

(p) Inability to discharge parental responsibilities supported by competent evidence from a psychiatrist, licensed clinical social worker, or clinical psychologist of mental impairment, mental illness or mental retardation as defined in Section 1-116 of the Mental Health and Developmental Disabilities Code, or developmental disability as defined in Section 1-106 of that Code, and there is sufficient justification to believe that the inability to discharge parental responsibilities shall extend beyond a reasonable time period. However, this subdivision (p) shall not be construed so as to permit a licensed clinical social worker to conduct any medical diagnosis to determine mental illness or mental impairment.

(q) (Blank).

(r) The child is in the temporary custody or guardianship of the Department of Children and Family Services, the parent is incarcerated as a result of criminal conviction at the time the petition or motion for termination of parental rights is filed, prior to incarceration the parent had little or no contact with the child or provided little or no support for the child, and the parent's incarceration will prevent the parent from discharging his or her parental responsibilities for the child for a period in excess of 2 years after the filing of the petition or motion for termination of parental rights.

(s) The child is in the temporary custody or guardianship of the Department of Children and Family Services, the parent is incarcerated at the time the petition or motion for termination of parental rights is filed, the parent has been repeatedly incarcerated as a result of criminal convictions, and the parent's repeated incarceration has prevented the parent from discharging his or her parental responsibilities for the child.

(t) A finding that at birth the child's blood, urine, or meconium contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act, or a metabolite of a controlled substance, with the exception of controlled substances or metabolites of such substances, the presence of which in the newborn infant was the result of medical treatment administered to the mother or the newborn infant, and that the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987, after which the biological mother had the opportunity to enroll in and participate in a clinically appropriate substance abuse counseling, treatment, and rehabilitation program.

E. "Parent" means the father or mother of a lawful child of the parties or child born out of wedlock. For the purpose of this Act, a person who has executed a final and irrevocable consent to adoption or a final and irrevocable surrender for purposes of adoption, or whose parental rights have been terminated by a court, is not a parent of the child who was the subject of the consent or surrender, unless the consent is void pursuant to subsection O of Section 10.

F. A person is available for adoption when the person is:

(a) a child who has been surrendered for adoption to an agency and to whose adoption the agency has thereafter consented;

(b) a child to whose adoption a person authorized by law, other than his parents, has consented, or to whose adoption no consent is required pursuant to Section 8 of this Act;

(c) a child who is in the custody of persons who intend to adopt him through placement made by his parents;

(c-1) a child for whom a parent has signed a specific consent pursuant to subsection O of Section 10;

(d) an adult who meets the conditions set forth in Section 3 of this Act; or

(e) a child who has been relinquished as defined in Section 10 of the Abandoned Newborn Infant Protection Act.

A person who would otherwise be available for adoption shall not be deemed unavailable for adoption solely by reason of his or her death.

G. The singular includes the plural and the plural includes the singular and the "male" includes the "female", as the context of this Act may require.

H. "Adoption disruption" occurs when an adoptive placement does not prove successful and it

becomes necessary for the child to be removed from placement before the adoption is finalized.

I. "Foreign placing agency" is an agency or individual operating in a country or territory outside the United States that is authorized by its country to place children for adoption either directly with families in the United States or through United States based international agencies.

J. "Immediate relatives" means the biological parents, the parents of the biological parents and siblings of the biological parents.

K. "Intercountry adoption" is a process by which a child from a country other than the United States is adopted.

L. "Intercountry Adoption Coordinator" is a staff person of the Department of Children and Family Services appointed by the Director to coordinate the provision of services by the public and private sector to prospective parents of foreign-born children.

M. "Interstate Compact on the Placement of Children" is a law enacted by most states for the purpose of establishing uniform procedures for handling the interstate placement of children in foster homes, adoptive homes, or other child care facilities.

N. "Non-Compact state" means a state that has not enacted the Interstate Compact on the Placement of Children.

O. "Preadoption requirements" are any conditions established by the laws or regulations of the Federal Government or of each state that must be met prior to the placement of a child in an adoptive home.

P. "Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

(a) inflicts, causes to be inflicted, or allows to be inflicted upon the child physical injury, by other than accidental means, that causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(b) creates a substantial risk of physical injury to the child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(c) commits or allows to be committed any sex offense against the child, as sex offenses are defined in the Criminal Code of 1961 and extending those definitions of sex offenses to include children under 18 years of age;

(d) commits or allows to be committed an act or acts of torture upon the child; or

(e) inflicts excessive corporal punishment.

Q. "Neglected child" means any child whose parent or other person responsible for the child's welfare withholds or denies nourishment or medically indicated treatment including food or care denied solely on the basis of the present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise does not provide the proper or necessary support, education as required by law, or medical or other remedial care recognized under State law as necessary for a child's well-being, or other care necessary for his or her well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare.

A child shall not be considered neglected or abused for the sole reason that the child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care as provided under Section 4 of the Abused and Neglected Child Reporting Act. A child shall not be considered neglected or abused for the sole reason that the child's parent or other person responsible for the child's welfare failed to vaccinate, delayed vaccination, or refused vaccination for the child due to a waiver on religious or medical grounds as permitted by law.

R. "Putative father" means a man who may be a child's father, but who (1) is not married to the child's mother on or before the date that the child was or is to be born and (2) has not established paternity of the child in a court proceeding before the filing of a petition for the adoption of the child. The term includes a male who is less than 18 years of age. "Putative father" does not mean a man who is the child's father as a result of criminal sexual abuse or assault as defined under Article 12 of the Criminal Code of 1961.

S. "Standby adoption" means an adoption in which a parent consents to custody and termination of parental rights to become effective upon the occurrence of a future event, which is either the death of the parent or the request of the parent for the entry of a final judgment of adoption.

T. (Blank).

(Source: P.A. 93-732, eff. 1-1-05; 94-229, eff. 1-1-06; 94-563, eff. 1-1-06; 94-939, eff. 1-1-07.)

Section 1115. The Parental Notice of Abortion Act of 1995 is amended by changing Section 10 as

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follows:

(750 ILCS 70/10)

Sec. 10. Definitions. As used in this Act:

"Abortion" means the use of any instrument, medicine, drug, or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of a child after live birth, or to remove a dead fetus.

"Actual notice" means the giving of notice directly, in person, or by telephone.

"Adult family member" means a person over 21 years of age who is the parent, grandparent, step-parent living in the household, or legal guardian.

"Constructive notice" means notice by certified mail to the last known address of the person entitled to notice with delivery deemed to have occurred 48 hours after the certified notice is mailed.

"Incompetent" means any person who has been adjudged as mentally ill or developmentally disabled and who, because of her mental illness or developmental disability, is not fully able to manage her person and for whom a guardian of the person has been appointed under Section 11a-3(a)(1) of the Probate Act of 1975.

"Medical emergency" means a condition that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

"Minor" means any person under 18 years of age who is not or has not been married or who has not been emancipated under the Emancipation of Minors Act.

"Neglect" means the failure of an adult family member to supply a child with necessary food, clothing, shelter, or medical care when reasonably able to do so or the failure to protect a child from conditions or actions that imminently and seriously endanger the child's physical or mental health when reasonably able to do so.

"Physical abuse" means any physical injury intentionally inflicted by an adult family member on a child.

"Physician" means any person licensed to practice medicine in all its branches under the Illinois Medical Practice Act of 1987.

"Sexual abuse" means any sexual conduct or sexual penetration as defined in Section ~~11-0.1~~ ~~42-12~~ of the Criminal Code of 1961 that is prohibited by the criminal laws of the State of Illinois and committed against a minor by an adult family member as defined in this Act.

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

Section 1120. The Landlord and Tenant Act is amended by changing Section 10 as follows:

(765 ILCS 705/10)

Sec. 10. Failure to inform lessor who is a child sex offender and who resides in the same building in which the lessee resides or intends to reside that the lessee is a parent or guardian of a child under 18 years of age. If a lessor of residential real estate resides at such real estate and is a child sex offender as defined in Section ~~11-9.3~~ ~~or~~ 11-9.4 of the Criminal Code of 1961 and rents such real estate to a person who does not inform the lessor that the person is a parent or guardian of a child or children under 18 years of age and subsequent to such lease, the lessee discovers that the landlord is a child sex offender, then the lessee may not terminate the lease based upon such discovery that the lessor is a child sex offender and such lease shall be in full force and effect. This subsection shall apply only to leases or other rental arrangements entered into after the effective date of this amendatory Act of the 95th General Assembly.

(Source: P.A. 95-820, eff. 1-1-09.)

Section 1125. The Illinois Securities Law of 1953 is amended by changing Section 7a as follows:

(815 ILCS 5/7a) (from Ch. 121 1/2, par. 137.7a)

Sec. 7a. (a) Except as provided in subsection (b) of this Section, no securities, issued by an issuer engaged in or deriving revenues from the conduct of any business or profession, the conduct of which would violate Section 11-14, ~~11-14.3~~, ~~11-14.4~~ as described in subdivision (a)(1), (a)(2), or (a)(3) or that involves soliciting for a juvenile prostitute, 11-15, 11-15.1, 11-16, 11-17, 11-19 or 11-19.1 of the Criminal Code of 1961, as now or hereafter amended, if conducted in this State, shall be sold or registered pursuant to Section 5, 6 or 7 of this Act nor sold pursuant to the provisions of Section 3 or 4 of this Act.

(b) Notwithstanding the provisions of subsection (a) hereof, such securities issued prior to the

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effective date of this amendatory Act of 1989 may be sold by a resident of this State in transactions which qualify for an exemption from the registration requirements of this Act pursuant to subsection A of Section 4 of this Act.  
(Source: P.A. 86-526.)

Section 1130. The Victims' Economic Security and Safety Act is amended by changing Section 10 as follows:

(820 ILCS 180/10)

Sec. 10. Definitions. In this Act, except as otherwise expressly provided:

(1) "Commerce" includes trade, traffic, commerce, transportation, or communication; and "industry or activity affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and includes "commerce" and any "industry affecting commerce".

(2) "Course of conduct" means a course of repeatedly maintaining a visual or physical proximity to a person or conveying oral or written threats, including threats conveyed through electronic communications, or threats implied by conduct.

(3) "Department" means the Department of Labor.

(4) "Director" means the Director of Labor.

(5) "Domestic or sexual violence" means domestic violence, sexual assault, or stalking.

(6) "Domestic violence" means abuse, as defined in Section 103 of the Illinois Domestic Violence Act of 1986, by a family or household member, as defined in Section 103 of the Illinois Domestic Violence Act of 1986.

(7) "Electronic communications" includes communications via telephone, mobile phone, computer, e-mail, video recorder, fax machine, telex, or pager, or any other electronic communication, as defined in Section 12-7.5 of the Criminal Code of 1961.

(8) "Employ" includes to suffer or permit to work.

(9) Employee.

(A) In general. "Employee" means any person employed by an employer.

(B) Basis. "Employee" includes a person employed as described in subparagraph (A) on a full or part-time basis, or as a participant in a work assignment as a condition of receipt of federal or State income-based public assistance.

(10) "Employer" means any of the following: (A) the State or any agency of the State; (B) any unit of local government or school district; or (C) any person that employs at least 15 employees.

(11) "Employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, pensions, and profit-sharing, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan". "Employee benefit plan" or "plan" means an employee welfare benefit plan or an employee pension benefit plan or a plan which is both an employee welfare benefit plan and an employee pension benefit plan.

(12) "Family or household member", for employees with a family or household member who is a victim of domestic or sexual violence, means a spouse, parent, son, daughter, other person related by blood or by present or prior marriage, other person who shares a relationship through a son or daughter, and persons jointly residing in the same household.

(13) "Parent" means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter. "Son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age, or is 18 years of age or older and incapable of self-care because of a mental or physical disability.

(14) "Perpetrator" means an individual who commits or is alleged to have committed any act or threat of domestic or sexual violence.

(15) "Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

(16) "Public agency" means the Government of the State or political subdivision thereof; any agency of the State, or of a political subdivision of the State; or any governmental agency.

(17) "Public assistance" includes cash, food stamps, medical assistance, housing assistance, and other benefits provided on the basis of income by a public agency or public employer.

(18) "Reduced work schedule" means a work schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(19) "Repeatedly" means on 2 or more occasions.

(20) "Sexual assault" means any conduct proscribed by the Criminal Code of 1961 in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, and 12-16.

(21) "Stalking" means any conduct proscribed by the Criminal Code of 1961 in Sections 12-7.3, 12-7.4, and 12-7.5.

(22) "Victim" or "survivor" means an individual who has been subjected to domestic or sexual violence.

(23) "Victim services organization" means a nonprofit, nongovernmental organization that provides assistance to victims of domestic or sexual violence or to advocates for such victims, including a rape crisis center, an organization carrying out a domestic violence program, an organization operating a shelter or providing counseling services, or a legal services organization or other organization providing assistance through the legal process.

(Source: P.A. 96-635, eff. 8-24-09)."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Dillard offered the following amendment and moved its adoption:

#### **AMENDMENT NO. 4 TO HOUSE BILL 5640**

AMENDMENT NO. 4. Amend House Bill 5640, AS AMENDED, by inserting the following immediately before Article 95:

#### "Article 5.

Section 5-5. The Criminal Code of 1961 is amended: by adding the headings of Subdivisions 1, 5, 10, 15, 20, 25, 30, and 35 of Article 17; by adding Sections 17-0.5, 17-3.5, 17-5.7, 17-6.3, 17-6.5, 17-8.5, 17-10.3, 17-10.5, 17-10.6, 17-10.7, 17-31, 17-32, 17-33, 17-34, 17-35, 17-36, 17-37, 17-38, 17-39, 17-40, 17-41, 17-42, 17-43, 17-44, 17-45, 17-46, 17-47, 17-48, 17-49, 17-49.5, 17-55, 17-61, and 17-62; by changing the heading of Article 17 and changing Sections 17-1, 17-1b, 17-2, 17-3, 17-5, 17-5.5, 17-6, 17-9, 17-11, 17-11.2, 17-13, 17-17, 17-20, 17-21, 17-24, 17-26, and 17-27; and by changing and renumbering Sections 16-1.3, 16-22, 16C-2, 16D-3, 16D-4, 16D-5, 16D-5.5, 16D-6, 16D-7, 17-7, 17-16, 17-22, 17-28, 17-29, and 39-1 as follows:

(720 ILCS 5/Art. 17 heading)

#### ARTICLE 17. DECEPTION AND FRAUD

(720 ILCS 5/Art. 17, Subdiv. 1 heading new)

#### SUBDIVISION 1. GENERAL DEFINITIONS

(720 ILCS 5/17-0.5 new)

Sec. 17-0.5. Definitions. In this Article:

"Altered credit card or debit card" means any instrument or device, whether known as a credit card or debit card, which has been changed in any respect by addition or deletion of any material, except for the signature by the person to whom the card is issued.

"Cardholder" means the person or organization named on the face of a credit card or debit card to whom or for whose benefit the credit card or debit card is issued by an issuer.

"Computer" means a device that accepts, processes, stores, retrieves, or outputs data and includes, but is not limited to, auxiliary storage and telecommunications devices connected to computers.

"Computer network" means a set of related, remotely connected devices and any communications facilities including more than one computer with the capability to transmit data between them through the communications facilities.

"Computer program" or "program" means a series of coded instructions or statements in a form acceptable to a computer which causes the computer to process data and supply the results of the data processing.

"Computer services" means computer time or services, including data processing services, Internet services, electronic mail services, electronic message services, or information or data stored in connection therewith.

"Counterfeit" means to manufacture, produce or create, by any means, a credit card or debit card without the purported issuer's consent or authorization.

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"Credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate or any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit or in consideration or an undertaking or guaranty by the issuer of the payment of a check drawn by the cardholder.

"Data" means a representation in any form of information, knowledge, facts, concepts, or instructions, including program documentation, which is prepared or has been prepared in a formalized manner and is stored or processed in or transmitted by a computer in a system or network. Data is considered property and may be in any form, including, but not limited to, printouts, magnetic or optical storage media, punch cards, or data stored internally in the memory of the computer.

"Debit card" means any instrument or device, known by any name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, and anything else of value, payment of which is made against funds previously deposited by the cardholder. A debit card which also can be used to obtain money, goods, services and anything else of value on credit shall not be considered a debit card when it is being used to obtain money, goods, services or anything else of value on credit.

"Document" includes, but is not limited to, any document, representation, or image produced manually, electronically, or by computer.

"Electronic fund transfer terminal" means any machine or device that, when properly activated, will perform any of the following services:

- (1) Dispense money as a debit to the cardholder's account; or
- (2) Print the cardholder's account balances on a statement; or
- (3) Transfer funds between a cardholder's accounts; or
- (4) Accept payments on a cardholder's loan; or
- (5) Dispense cash advances on an open end credit or a revolving charge agreement; or
- (6) Accept deposits to a customer's account; or
- (7) Receive inquiries of verification of checks and dispense information that verifies that funds are available to cover such checks; or

(8) Cause money to be transferred electronically from a cardholder's account to an account held by any business, firm, retail merchant, corporation, or any other organization.

"Electronic funds transfer system", hereafter referred to as "EFT System", means that system whereby funds are transferred electronically from a cardholder's account to any other account.

"Electronic mail service provider" means any person who (i) is an intermediary in sending or receiving electronic mail and (ii) provides to end-users of electronic mail services the ability to send or receive electronic mail.

"Expired credit card or debit card" means a credit card or debit card which is no longer valid because the term on it has elapsed.

"False academic degree" means a certificate, diploma, transcript, or other document purporting to be issued by an institution of higher learning or purporting to indicate that a person has completed an organized academic program of study at an institution of higher learning when the person has not completed the organized academic program of study indicated on the certificate, diploma, transcript, or other document.

"False claim" means any statement made to any insurer, purported insurer, servicing corporation, insurance broker, or insurance agent, or any agent or employee of one of those entities, and made as part of, or in support of, a claim for payment or other benefit under a policy of insurance, or as part of, or in support of, an application for the issuance of, or the rating of, any insurance policy, when the statement does any of the following:

(1) Contains any false, incomplete, or misleading information concerning any fact or thing material to the claim.

(2) Conceals (i) the occurrence of an event that is material to any person's initial or continued right or entitlement to any insurance benefit or payment or (ii) the amount of any benefit or payment to which the person is entitled.

"Financial institution" means any bank, savings and loan association, credit union, or other depository of money or medium of savings and collective investment.

"Governmental entity" means: each officer, board, commission, and agency created by the Constitution, whether in the executive, legislative, or judicial branch of State government; each officer, department, board, commission, agency, institution, authority, university, and body politic and corporate of the State; each administrative unit or corporate outgrowth of State government that is created by or pursuant to statute, including units of local government and their officers, school districts, and boards of election commissioners; and each administrative unit or corporate outgrowth of the foregoing items and as may be created by executive order of the Governor.

"Incomplete credit card or debit card" means a credit card or debit card which is missing part of the matter other than the signature of the cardholder which an issuer requires to appear on the credit card or debit card before it can be used by a cardholder, and this includes credit cards or debit cards which have not been stamped, embossed, imprinted or written on.

"Institution of higher learning" means a public or private college, university, or community college located in the State of Illinois that is authorized by the Board of Higher Education or the Illinois Community College Board to issue post-secondary degrees, or a public or private college, university, or community college located anywhere in the United States that is or has been legally constituted to offer degrees and instruction in its state of origin or incorporation.

"Insurance company" means "company" as defined under Section 2 of the Illinois Insurance Code.

"Issuer" means the business organization or financial institution which issues a credit card or debit card, or its duly authorized agent.

"Merchant" has the meaning ascribed to it in Section 16A-2.4 of this Code.

"Person" means any individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association or any other entity.

"Receives" or "receiving" means acquiring possession or control.

"Record of charge form" means any document submitted or intended to be submitted to an issuer as evidence of a credit transaction for which the issuer has agreed to reimburse persons providing money, goods, property, services or other things of value.

"Revoked credit card or debit card" means a credit card or debit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

"Sale" means any delivery for value.

"Scheme or artifice to defraud" includes a scheme or artifice to deprive another of the intangible right to honest services.

"Self-insured entity" means any person, business, partnership, corporation, or organization that sets aside funds to meet his, her, or its losses or to absorb fluctuations in the amount of loss, the losses being charged against the funds set aside or accumulated.

"Statement" means any assertion, oral, written, or otherwise, and includes, but is not limited to: any notice, letter, or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account, or other financial statement; estimate of property damage; bill for services; diagnosis or prognosis; prescription; hospital, medical, or dental chart or other record, x-ray, photograph, videotape, or movie film; test result; other evidence of loss, injury, or expense; computer-generated document; and data in any form.

"Universal Price Code Label" means a unique symbol that consists of a machine-readable code and human-readable numbers.

"With intent to defraud" means to act knowingly, and with the specific intent to deceive or cheat, for the purpose of causing financial loss to another or bringing some financial gain to oneself, regardless of whether any person was actually defrauded or deceived. This includes an intent to cause another to assume, create, transfer, alter, or terminate any right, obligation, or power with reference to any person or property.

(720 ILCS 5/Art. 17, Subdiv. 5 heading new)

#### SUBDIVISION 5. DECEPTION

(720 ILCS 5/17-1) (from Ch. 38, par. 17-1)

Sec. 17-1. Deceptive practices.

(A) Definitions.

As used in this Section:

(i) "Financial institution" means any bank, savings and loan association, credit union, or other depository of money, or medium of savings and collective investment.

(ii) An "account holder" is any person having a checking account or savings account in a financial institution.

(iii) To act with the "intent to defraud" means to act wilfully, and with the specific intent to deceive or cheat, for the purpose of causing financial loss to another, or to bring some financial gain to oneself. It is not necessary to establish that any person was actually defrauded or deceived.

(A) ~~(B)~~ General deception ~~Deception~~.

A person commits a deceptive practice when, with intent to defraud, the person does any of the following:

(1) ~~(a)~~ He or she knowingly causes another, by deception or threat, to execute a document disposing

[May 3, 2010]

of

property or a document by which a pecuniary obligation is incurred.

(2) ~~(b)~~ Being an officer, manager or other person participating in the direction of a financial institution, he or she knowingly receives or permits the receipt of a deposit or other investment, knowing that the institution is insolvent.

(3) ~~(c)~~ He or she knowingly makes or ~~directs another to make~~ a false or deceptive statement addressed to the public for

the purpose of promoting the sale of property or services.

(B) Bad checks.

A person commits a deceptive practice when:

(1) ~~(d)~~ With intent to obtain control over property or to pay for property, labor or services of another, or in satisfaction of an obligation for payment of tax under the Retailers' Occupation Tax Act or any other tax due to the State of Illinois, he or she issues or delivers a check or other order upon a real or fictitious depository for the payment of money, knowing that it will not be paid by the depository. The trier of fact may infer that the defendant knows that the check or other order will not be paid by the depository and that the defendant has acted with intent to defraud when the defendant fails ~~Failure~~ to have sufficient funds or credit with the depository when the check or other order is issued or delivered, or when such check or other order is presented for payment and dishonored on each of 2 occasions at least 7 days apart, ~~is prima facie evidence that the offender knows that it will not be paid by the depository, and that he or she has the intent to defraud.~~ In this paragraph (B)(1) ~~(d)~~, "property" includes rental property (real or personal).

(2) ~~(e)~~ He or she issues or delivers a check or other order upon a real or fictitious depository in an amount exceeding \$150 in payment of an amount owed on any credit transaction for property, labor or services, or in payment of the entire amount owed on any credit transaction for property, labor or services, knowing that it will not be paid by the depository, and thereafter fails to provide funds or credit with the depository in the face amount of the check or order within 7 days of receiving actual notice from the depository or payee of the dishonor of the check or order.

Sentence.

~~A person convicted of a deceptive practice under paragraph (a), (b), (c), (d), or (e) of this subsection (B), except as otherwise provided by this Section, is guilty of a Class A misdemeanor.~~

~~A person convicted of a deceptive practice in violation of paragraph (d) a second or subsequent time shall be guilty of a Class 4 felony.~~

~~A person convicted of deceptive practices in violation of paragraph (d), when the value of the property so obtained, in a single transaction, or in separate transactions within a 90 day period, exceeds \$150, shall be guilty of a Class 4 felony. In the case of a prosecution for separate transactions totaling more than \$150 within a 90 day period, such separate transactions shall be alleged in a single charge and provided in a single prosecution.~~

(C) Bank-related fraud Deception on a Bank or Other Financial Institution.

(1) False statement Statements.

~~A person commits false statement bank fraud if he or she~~ ~~Any person who~~, with the intent to defraud, makes or causes to be made any false statement in writing in order to obtain an account with a bank or other financial institution, or to obtain credit from a bank or other financial institution, or to obtain services from a currency exchange, knowing such writing to be false, and with the intent that it be relied upon, ~~is guilty of a Class A misdemeanor.~~

For purposes of this subsection (C), a false statement ~~means shall mean~~ any false statement representing identity, address, or employment, or the identity, address, or employment of any person, firm, or corporation.

(2) Possession of stolen or fraudulently obtained checks Stolen or Fraudulently Obtained Checks.

~~A person commits possession of stolen or fraudulently obtained checks when he or she~~ ~~Any person who~~ possesses, with the intent to obtain access to funds of another person held in a real or fictitious deposit account at a financial institution, makes a false statement or a misrepresentation to the financial institution, or possesses, transfers, negotiates, or presents for payment a check, draft, or other item purported to direct the financial institution to withdraw or pay funds out of the account holder's deposit account with knowledge that such possession, transfer, negotiation, or presentment is not authorized by the account holder or the issuing financial institution ~~is guilty of a Class A misdemeanor.~~ A person shall be deemed to have been authorized to possess, transfer, negotiate, or present for payment such item if the

person was otherwise entitled by law to withdraw or recover funds from the account in question and followed the requisite procedures under the law. ~~If in the event that~~ the account holder, upon discovery of the withdrawal or payment, claims that the withdrawal or payment was not authorized, the financial institution may require the account holder to submit an affidavit to that effect on a form satisfactory to the financial institution before the financial institution may be required to credit the account in an amount equal to the amount or amounts that were withdrawn or paid without authorization.

~~Any person who, within any 12 month period, violates this Section with respect to 3 or more checks or orders for the payment of money at the same time or consecutively, each the property of a different account holder or financial institution, is guilty of a Class 4 felony.~~

(3) Possession of implements of check fraud ~~Implements of Check Fraud.~~

A person commits possession of implements of check fraud when he or she ~~Any person who~~ possesses, with the intent to defraud and without the authority of the account holder or financial institution, any check imprinter, signature imprinter, or "certified" stamp ~~is guilty of a Class A misdemeanor.~~

(D) Sentence.

(1) The commission of a deceptive practice in violation of this Section, except as otherwise provided by this subsection (D), is a Class A misdemeanor.

(2) For purposes of paragraph (B)(1):

(a) The commission of a deceptive practice in violation of paragraph (B)(1) a second or subsequent time is a Class 4 felony.

(b) The commission of a deceptive practice in violation of paragraph (B)(1), when the value of the property so obtained, in a single transaction or in separate transactions within a 90-day period, exceeds \$150, is a Class 4 felony. In the case of a prosecution for separate transactions totaling more than \$150 within a 90-day period, those separate transactions shall be alleged in a single charge and prosecuted in a single prosecution.

(3) For purposes of paragraph (C)(2), a person who, within any 12-month period, violates paragraph (C)(2) with respect to 3 or more checks or orders for the payment of money at the same time or consecutively, each the property of a different account holder or financial institution, is guilty of a Class 4 felony.

(4) For purposes of paragraph (C)(3), a person who within any 12-month period violates paragraph (C)(3) as to possession of 3 or more such devices at the same time or consecutively is guilty of a Class 4 felony.

(E) Civil liability. A person who issues a check or order to a payee in violation of paragraph (B)(1) and who fails to pay the amount of the check or order to the payee within 30 days following either delivery and acceptance by the addressee of a written demand both by certified mail and by first class mail to the person's last known address or attempted delivery of a written demand sent both by certified mail and by first class mail to the person's last known address and the demand by certified mail is returned to the sender with a notation that delivery was refused or unclaimed shall be liable to the payee or a person subrogated to the rights of the payee for, in addition to the amount owing upon such check or order, damages of treble the amount so owing, but in no case less than \$100 nor more than \$1,500, plus attorney's fees and court costs. An action under this subsection (E) may be brought in small claims court or in any other appropriate court. As part of the written demand required by this subsection (E), the plaintiff shall provide written notice to the defendant of the fact that prior to the hearing of any action under this subsection (E), the defendant may tender to the plaintiff and the plaintiff shall accept, as satisfaction of the claim, an amount of money equal to the sum of the amount of the check and the incurred court costs, including the cost of service of process, and attorney's fees.

~~A person who within any 12 month period violates this subsection (C) as to possession of 3 or more such devices at the same time or consecutively, is guilty of a Class 4 felony.~~

(4) Possession of Identification Card:

~~Any person who, with the intent to defraud, possesses any check guarantee card or key card or identification card for cash dispensing machines without the authority of the account holder or financial institution is guilty of a Class A misdemeanor.~~

~~A person who, within any 12 month period, violates this Section at the same time or consecutively with respect to 3 or more cards, each the property of different account holders, is guilty of a Class 4 felony.~~

~~A person convicted under this Section, when the value of property so obtained, in a single transaction, or in separate transactions within any 90 day period, exceeds \$150 shall be guilty of a Class 4 felony.~~

(Source: P.A. 94-872, eff. 6-16-06.)

(720 ILCS 5/17-1b)

Sec. 17-1b. State's Attorney's bad check diversion program.

(a) In this Section:

"Offender" means a person charged with, or for whom probable cause exists to charge the person with, deceptive practices.

"Pretrial diversion" means the decision of a prosecutor to refer an offender to a diversion program on condition that the criminal charges against the offender will be dismissed after a specified period of time, or the case will not be charged, if the offender successfully completes the program.

"Restitution" means all amounts payable to a victim of deceptive practices under the bad check diversion program created under this Section, including the amount of the check and any transaction fees payable to a victim as set forth in subsection (g) but does not include amounts recoverable under Section 3-806 of the Uniform Commercial Code and ~~subsection (E) of Section 17-1~~ ~~47-1a~~ of this Code.

(b) A State's Attorney may create within his or her office a bad check diversion program for offenders who agree to voluntarily participate in the program instead of undergoing prosecution. The program may be conducted by the State's Attorney or by a private entity under contract with the State's Attorney. If the State's Attorney contracts with a private entity to perform any services in operating the program, the entity shall operate under the supervision, direction, and control of the State's Attorney. Any private entity providing services under this Section is not a "collection agency" as that term is defined under the Collection Agency Act.

(c) If an offender is referred to the State's Attorney, the State's Attorney may determine whether the offender is appropriate for acceptance in the program. The State's Attorney may consider, but shall not be limited to consideration of, the following factors:

- (1) the amount of the check that was drawn or passed;
- (2) prior referrals of the offender to the program;
- (3) whether other charges of deceptive practices are pending against the offender;
- (4) the evidence presented to the State's Attorney regarding the facts and circumstances of the incident;
- (5) the offender's criminal history; and
- (6) the reason the check was dishonored by the financial institution.

(d) The bad check diversion program may require an offender to do one or more of the following:

- (i) pay for, at his or her own expense, and successfully complete an educational class held by the State's Attorney or a private entity under contract with the State's Attorney;
- (ii) make full restitution for the offense;
- (iii) pay a per-check administrative fee as set forth in this Section.

(e) If an offender is diverted to the program, the State's Attorney shall agree in writing not to prosecute the offender upon the offender's successful completion of the program conditions. The State's Attorney's agreement to divert the offender shall specify the offenses that will not be prosecuted by identifying the checks involved in the transactions.

(f) The State's Attorney, or private entity under contract with the State's Attorney, may collect a fee from an offender diverted to the State's Attorney's bad check diversion program. This fee may be deposited in a bank account maintained by the State's Attorney for the purpose of depositing fees and paying the expenses of the program or for use in the enforcement and prosecution of criminal laws. The State's Attorney may require that the fee be paid directly to a private entity that administers the program under a contract with the State's Attorney. The amount of the administrative fees collected by the State's Attorney under the program may not exceed \$35 per check. The county board may, however, by ordinance, increase the fees allowed by this Section if the increase is justified by an acceptable cost study showing that the fees allowed by this Section are not sufficient to cover the cost of providing the service.

(g) (1) The private entity shall be required to maintain adequate general liability insurance of \$1,000,000 per occurrence as well as adequate coverage for potential loss resulting from employee dishonesty. The State's Attorney may require a surety bond payable to the State's Attorney if in the State's Attorney's opinion it is determined that the private entity is not adequately insured or funded.

(2) (A) Each private entity that has a contract with the State's Attorney to conduct a bad check diversion program shall at all times maintain a separate bank account in which all moneys received from the offenders participating in the program shall be deposited, referred to as a "trust account" "~~Trust Account~~", except that negotiable instruments received may be forwarded directly to a victim of the deceptive practice committed by the offender if that procedure is provided

for by a writing executed by the victim. Moneys received shall be so deposited within 5 business days after posting to the private entity's books of account. There shall be sufficient funds in the trust account at all times to pay the victims the amount due them.

(B) The trust account shall be established in a ~~financial institution bank, savings and loan association, or other recognized depository~~ which is federally or State insured or otherwise secured as defined by rule. If the account is interest bearing, the private entity shall pay to the victim interest earned on funds on deposit after the 60th day.

(C) Each private entity shall keep on file the name of the ~~financial institution bank, savings and loan association, or other recognized depository~~ in which each trust account is maintained, the name of each trust account, and the names of the persons authorized to withdraw funds from each account. The private entity, within 30 days of the time of a change of depository or person authorized to make withdrawal, shall update its files to reflect that change. An examination and audit of a private entity's trust accounts may be made by the State's Attorney as the State's Attorney deems appropriate. A trust account financial report shall be submitted annually on forms acceptable to the State's Attorney.

(3) The State's Attorney may cancel a contract entered into with a private entity under this Section for any one or any combination of the following causes:

(A) Conviction of the private entity or the principals of the private entity of any crime under the laws of any U.S. jurisdiction which is a felony, a misdemeanor an essential element of which is dishonesty, or of any crime which directly relates to the practice of the profession.

(B) A determination that the private entity has engaged in conduct prohibited in item (4).

(4) The State's Attorney may determine whether the private entity has engaged in the following prohibited conduct:

(A) Using or threatening to use force or violence to cause physical harm to an offender, his or her family, or his or her property.

(B) Threatening the seizure, attachment, or sale of an offender's property where such action can only be taken pursuant to court order without disclosing that prior court proceedings are required.

(C) Disclosing or threatening to disclose information adversely affecting an offender's reputation for creditworthiness with knowledge the information is false.

(D) Initiating or threatening to initiate communication with an offender's employer unless there has been a default of the payment of the obligation for at least 30 days and at least 5 days prior written notice, to the last known address of the offender, of the intention to communicate with the employer has been given to the employee, except as expressly permitted by law or court order.

(E) Communicating with the offender or any member of the offender's family at such a time of day or night and with such frequency as to constitute harassment of the offender or any member of the offender's family. For purposes of this clause (E) the following conduct shall constitute harassment:

(i) Communicating with the offender or any member of his or her family at any unusual time or place or a time or place known or which should be known to be inconvenient to the offender. In the absence of knowledge of circumstances to the contrary, a private entity shall assume that the convenient time for communicating with a consumer is after 8 o'clock a.m. and before 9 o'clock p.m. local time at the offender's residence.

(ii) The threat of publication or publication of a list of offenders who allegedly refuse to pay restitution, except by the State's Attorney.

(iii) The threat of advertisement or advertisement for sale of any restitution to coerce payment of the restitution.

(iv) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

(v) Using profane, obscene or abusive language in communicating with an offender, his or her family, or others.

(vi) Disclosing or threatening to disclose information relating to a offender's case to any other person except the victim and appropriate law enforcement personnel.

(vii) Disclosing or threatening to disclose information concerning the alleged criminal act which the private entity knows to be reasonably disputed by the offender without disclosing the fact that the offender disputes the accusation.

(viii) Engaging in any conduct which the State's Attorney finds was intended to cause and did cause mental or physical illness to the offender or his or her family.

(ix) Attempting or threatening to enforce a right or remedy with knowledge or reason to know that the right or remedy does not exist.

(x) Except as authorized by the State's Attorney, using any form of communication which simulates legal or judicial process or which gives the appearance of being authorized, issued or approved by a governmental agency or official or by an attorney at law when it is not.

(xi) Using any badge, uniform, or other indicia of any governmental agency or official, except as authorized by law or by the State's Attorney.

(xii) Except as authorized by the State's Attorney, conducting business under any name or in any manner which suggests or implies that the private entity is bonded if such private entity is or is a branch of or is affiliated with any governmental agency or court if such private entity is not.

(xiii) Misrepresenting the amount of the restitution alleged to be owed.

(xiv) Except as authorized by the State's Attorney, representing that an existing restitution amount may be increased by the addition of attorney's fees, investigation fees, or any other fees or charges when those fees or charges may not legally be added to the existing restitution.

(xv) Except as authorized by the State's Attorney, representing that the private entity is an attorney at law or an agent for an attorney if the entity is not.

(xvi) Collecting or attempting to collect any interest or other charge or fee in excess of the actual restitution or claim unless the interest or other charge or fee is expressly authorized by the State's Attorney, who shall determine what constitutes a reasonable collection fee.

(xvii) Communicating or threatening to communicate with an offender when the private entity is informed in writing by an attorney that the attorney represents the offender concerning the claim, unless authorized by the attorney. If the attorney fails to respond within a reasonable period of time, the private entity may communicate with the offender. The private entity may communicate with the offender when the attorney gives his consent.

(xviii) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(5) The State's Attorney shall audit the accounts of the bad check diversion program after notice in writing to the private entity.

(6) Any information obtained by a private entity that has a contract with the State's Attorney to conduct a bad check diversion program is confidential information between the State's Attorney and the private entity and may not be sold or used for any other purpose but may be shared with other authorized law enforcement agencies as determined by the State's Attorney.

(h) The State's Attorney, or private entity under contract with the State's Attorney, shall recover, in addition to the face amount of the dishonored check or draft, a transaction fee to defray the costs and expenses incurred by a victim who received a dishonored check that was made or delivered by the offender. The face amount of the dishonored check or draft and the transaction fee shall be paid by the State's Attorney or private entity under contract with the State's Attorney to the victim as restitution for the offense. The amount of the transaction fee must not exceed: \$25 if the face amount of the check or draft does not exceed \$100; \$30 if the face amount of the check or draft is greater than \$100 but does not exceed \$250; \$35 if the face amount of the check or draft is greater than \$250 but does not exceed \$500; \$40 if the face amount of the check or draft is greater than \$500 but does not exceed \$1,000; and \$50 if the face amount of the check or draft is greater than \$1,000.

(i) The offender, if aggrieved by an action of the private entity contracted to operate a bad check diversion program, may submit a grievance to the State's Attorney who may then resolve the grievance. The private entity must give notice to the offender that the grievance procedure is available. The grievance procedure shall be established by the State's Attorney.

(Source: P.A. 95-41, eff. 1-1-08.)

(720 ILCS 5/17-2) (from Ch. 38, par. 17-2)

Sec. 17-2. False personation; ~~use of title; solicitation; certain entities.~~

(a) False personation; solicitation.

(1) A person commits a false personation when he or she knowingly and falsely represents himself or herself to be a member or representative of any veterans' or public safety personnel organization or a

representative of any charitable organization, or when ~~he or she knowingly any person~~ exhibits or uses in any manner any decal, badge or insignia of any charitable, public safety personnel, or veterans' organization when not authorized to do so by the charitable, public safety personnel, or veterans' organization. "Public safety personnel organization" has the meaning ascribed to that term in Section 1 of the Solicitation for Charity Act.

(2) ~~(a-5)~~ A person commits a false personation when he or she knowingly and falsely represents himself or

herself to be a veteran in seeking employment or public office. In this paragraph subsection, "veteran" means a person who has served in the Armed Services or Reserve Forces of the United States.

~~(a-6) A person commits a false personation when he or she falsely represents himself or herself to be a recipient of, or wears on his or her person, any of the following medals if that medal was not awarded to that person by the United States government, irrespective of branch of service: the Congressional Medal of Honor, the Distinguished Service Cross, the Navy Cross, the Air Force Cross, the Silver Star, the Bronze Star, or the Purple Heart.~~

~~It is a defense to a prosecution under this subsection (a-6) that the medal is used, or is intended to be used, exclusively:~~

~~(1) for a dramatic presentation, such as a theatrical, film, or television production, or a historical re-enactment; or~~

~~(2) for a costume worn, or intended to be worn, by a person under 18 years of age.~~

(3) ~~(b)~~ No person shall knowingly use the words " ~~Chicago~~ Police,"  " ~~Chicago~~ Police Department,"  " ~~Chicago~~ Patrolman,"  " ~~Chicago~~ Sergeant,"

"~~Chicago~~ Lieutenant,"  " ~~Chicago~~ Peace Officer"  "~~Sheriff's~~ Police", "~~Sheriff~~", "~~Officer~~", "Law Enforcement", "Trooper", "Deputy", "Deputy Sheriff", "State Police", or any other words to the same effect (i) in the title of any organization, magazine, or other publication without the express approval of the named public safety personnel organization's governing board or (ii) in combination with the name of any state, state agency, public university, or unit of local government without the express written authorization of that state, state agency, public university, or unit of local government ~~Chicago Police Board~~.

~~(b-5) No person shall use the words "Cook County Sheriff's Police" or "Cook County Sheriff" or any other words to the same effect in the title of any organization, magazine, or other publication without the express approval of the office of the Cook County Sheriff's Merit Board. The references to names and titles in this Section may not be construed as authorizing use of the names and titles of other organizations or public safety personnel organizations otherwise prohibited by this Section or the Solicitation for Charity Act.~~

~~(b-10) No person may use, in the title of any organization, magazine, or other publication, the words "officer", "peace officer", "police", "law enforcement", "trooper", "sheriff", "deputy", "deputy sheriff", or "state police" in combination with the name of any state, state agency, public university, or unit of local government without the express written authorization of that state, state agency, or unit of local government.~~

~~(c) (Blank).~~

(4) ~~(e-1)~~ No person may knowingly claim or represent that he or she is acting on behalf of any public safety personnel organization police department, chief of a police department, fire department, chief of a fire department, sheriff's department, or sheriff when

soliciting financial contributions or selling or delivering or offering to sell or deliver any merchandise, goods, services, memberships, or advertisements unless the chief of the police department, fire department, and the corporate or municipal authority thereof, or the sheriff has first entered into a written agreement with the person or with an organization with which the person is affiliated and the agreement permits the activity and specifies and states clearly and fully the purpose for which the proceeds of the solicitation, contribution, or sale will be used.

(5) ~~(e-2)~~ No person, when soliciting financial contributions or selling or delivering or offering to sell or deliver any merchandise, goods, services, memberships, or advertisements may claim or represent that he or she is representing or acting on behalf of any nongovernmental organization by any name which includes "officer", "peace officer", "police", "law enforcement", "trooper", "sheriff", "deputy", "deputy sheriff", "State police", or any other word or words which would reasonably be understood to imply that the organization is composed of law enforcement personnel unless:

(A) the person is actually representing or acting on behalf of the nongovernmental organization; ~~and~~

(B) the nongovernmental organization is controlled by and governed by a membership of

and represents a group or association of active duty peace officers, retired peace officers, or injured peace officers; and

(C) before commencing the solicitation or the sale or the offers to sell any merchandise, goods, services, memberships, or advertisements, a written contract between the soliciting or selling person and the nongovernmental organization, which specifies and states clearly and fully the purposes for which the proceeds of the solicitation, contribution, or sale will be used, has been entered into.

~~(e-3) No person may solicit financial contributions or sell or deliver or offer to sell or deliver any merchandise, goods, services, memberships, or advertisements on behalf of a police, sheriff, or other law enforcement department unless that person is actually representing or acting on behalf of the department or governmental organization and has entered into a written contract with the police chief, or head of the law enforcement department, and the corporate or municipal authority thereof, or the sheriff, which specifies and states clearly and fully the purposes for which the proceeds of the solicitation, contribution, or sale will be used.~~

(6) ~~(e-4)~~ No person, when soliciting financial contributions or selling or delivering or offering to sell or deliver any merchandise, goods, services, memberships, or advertisements, may knowingly claim or represent that he or she is representing or acting on behalf of any nongovernmental organization by any name which includes the term "fireman", "fire fighter", "paramedic", or any other word or words which would reasonably be understood to imply that the organization is composed of fire fighter or paramedic personnel unless:

(A) the person is actually representing or acting on behalf of the nongovernmental organization; ~~and~~

(B) the nongovernmental organization is controlled by and governed by a membership of and represents a group or association of active duty, retired, or injured fire fighters (for the purposes of this Section, "fire fighter" has the meaning ascribed to that term in Section 2 of the Illinois Fire Protection Training Act) or active duty, retired, or injured emergency medical technicians - ambulance, emergency medical technicians - intermediate, emergency medical technicians - paramedic, ambulance drivers, or other medical assistance or first aid personnel; and

(C) before commencing the solicitation or the sale or delivery or the offers to sell or deliver any merchandise, goods, services, memberships, or advertisements, the soliciting or selling person and the nongovernmental organization have entered into a written contract that specifies and states clearly and fully the purposes for which the proceeds of the solicitation, contribution, or sale will be used ~~a written contract between the soliciting or selling person and the nongovernmental organization has been entered into.~~

~~(e-5) No person may solicit financial contributions or sell or deliver or offer to sell or deliver any merchandise, goods, services, memberships, or advertisements on behalf of a department or departments of fire fighters unless that person is actually representing or acting on behalf of the department or departments and has entered into a written contract with the department chief and corporate or municipal authority thereof which specifies and states clearly and fully the purposes for which the proceeds of the solicitation, contribution, or sale will be used.~~

(7) ~~(e-6)~~ No person may knowingly claim or represent that he or she is an airman, airline employee, airport employee, or contractor at an airport in order to obtain the uniform, identification card, license, or other identification paraphernalia of an airman, airline employee, airport employee, or contractor at an airport.

(8) No person, firm, copartnership, or corporation (except corporations organized and doing business under the Pawners Societies Act) shall knowingly use a name that contains in it the words "Pawners' Society".

(b) False personation; judicial process. A person commits a false personation if he or she knowingly and falsely represents himself or herself to be any of the following:

(1) An attorney authorized to practice law for purposes of compensation or consideration. This paragraph (b)(1) does not apply to a person who unintentionally fails to pay attorney registration fees established by Supreme Court Rule.

(2) A public officer or a public employee or an official or employee of the federal government.

(2.3) A public officer, a public employee, or an official or employee of the federal government, and the false representation is made in furtherance of the commission of felony.

(2.7) A public officer or a public employee, and the false representation is for the purpose of effectuating identity theft as defined in Section 16G-15 of this Code.

(3) A peace officer.

(4) A peace officer while carrying a deadly weapon.

(5) A peace officer in attempting or committing a felony.

(6) A peace officer in attempting or committing a forcible felony.

(7) The parent, legal guardian, or other relation of a minor child to any public official, public employee, or elementary or secondary school employee or administrator.

(8) A fire fighter.

(9) A fire fighter while carrying a deadly weapon.

(10) A fire fighter in attempting or committing a felony.

(11) An emergency management worker of any jurisdiction in this State.

(12) An emergency management worker of any jurisdiction in this State in attempting or committing a felony. For the purposes of this subsection (b), "emergency management worker" has the meaning provided under Section 2-6.6 of this Code.

(c) Fraudulent advertisement of a corporate name.

(1) A company, association, or individual commits fraudulent advertisement of a corporate name if he, she, or it, not being incorporated, puts forth a sign or advertisement and assumes, for the purpose of soliciting business, a corporate name.

(2) Nothing contained in this subsection (c) prohibits a corporation, company, association, or person from using a divisional designation or trade name in conjunction with its corporate name or assumed name under Section 4.05 of the Business Corporation Act of 1983 or, if it is a member of a partnership or joint venture, from doing partnership or joint venture business under the partnership or joint venture name. The name under which the joint venture or partnership does business may differ from the names of the members. Business may not be conducted or transacted under that joint venture or partnership name, however, unless all provisions of the Assumed Business Name Act have been complied with. Nothing in this subsection (c) permits a foreign corporation to do business in this State without complying with all Illinois laws regulating the doing of business by foreign corporations. No foreign corporation may conduct or transact business in this State as a member of a partnership or joint venture that violates any Illinois law regulating or pertaining to the doing of business by foreign corporations in Illinois.

(3) The provisions of this subsection (c) do not apply to limited partnerships formed under the Revised Uniform Limited Partnership Act or under the Uniform Limited Partnership Act (2001).

(d) False law enforcement badges.

(1) A person commits false law enforcement badges if he or she knowingly produces, sells, or distributes a law enforcement badge without the express written consent of the law enforcement agency represented on the badge or, in case of a reorganized or defunct law enforcement agency, its successor law enforcement agency.

(2) It is a defense to false law enforcement badges that the law enforcement badge is used or is intended to be used exclusively: (i) as a memento or in a collection or exhibit; (ii) for decorative purposes; or (iii) for a dramatic presentation, such as a theatrical, film, or television production.

(e) False medals.

(1) A person commits a false personation if he or she knowingly and falsely represents himself or herself to be a recipient of, or wears on his or her person, any of the following medals if that medal was not awarded to that person by the United States Government, irrespective of branch of service: The Congressional Medal of Honor, The Distinguished Service Cross, The Navy Cross, The Air Force Cross, The Silver Star, The Bronze Star, or the Purple Heart.

(2) It is a defense to a prosecution under paragraph (e)(1) that the medal is used, or is intended to be used, exclusively:

(A) for a dramatic presentation, such as a theatrical, film, or television production, or a historical re-enactment; or

(B) for a costume worn, or intended to be worn, by a person under 18 years of age.

(f) Sentence.

(1) A violation of paragraph (a)(8) is a petty offense subject to a fine of not less than \$5 nor more than \$100, and the person, firm, copartnership, or corporation commits an additional petty offense for each day he, she, or it continues to commit the violation. A violation of paragraph (c)(1) is a petty offense, and the company, association, or person commits an additional petty offense for each day he, she, or it continues to commit the violation. A violation of subsection (e) is a petty offense for which the offender shall be fined at least \$100 and not more than \$200.

(2) A violation of paragraph (a)(1) or (a)(3) is a Class C misdemeanor.

(3) A violation of paragraph (a)(2), (a)(7), (b)(2), or (b)(7) or subsection (d) is a Class A misdemeanor. A second or subsequent violation of subsection (d) is a Class 3 felony.

(4) A violation of paragraph (a)(4), (a)(5), (a)(6), (b)(1), (b)(2.3), (b)(2.7), (b)(3), (b)(8), or (b)(11)

is a Class 4 felony.

(5) A violation of paragraph (b)(4), (b)(9), or (b)(12) is a Class 3 felony.

(6) A violation of paragraph (b)(5) or (b)(10) is a Class 2 felony.

(7) A violation of paragraph (b)(6) is a Class 1 felony.

~~(d) Sentence. False personation, unapproved use of a name or title, or solicitation in violation of subsection (a), (b), (b 5), or (b 10) of this Section is a Class C misdemeanor. False personation in violation of subsections (a 5) and (e 6) is a Class A misdemeanor. False personation in violation of subsection (a 6) of this Section is a petty offense for which the offender shall be fined at least \$100 and not exceeding \$200. Engaging in any activity in violation of subsection (e 1), (e 2), (e 3), (e 4), or (e 5) of this Section is a Class 4 felony.~~

(Source: P.A. 95-331, eff. 8-21-07; 96-328, eff. 8-11-09.)

(720 ILCS 5/17-3) (from Ch. 38, par. 17-3)

Sec. 17-3. Forgery.

(a) A person commits forgery when, with intent to defraud, he or she knowingly:

(1) makes or alters any document apparently capable of defrauding another in such manner that it purports to have been made by another or at another time, or with different provisions, or by authority of one who did not give such authority; or

(2) issues or delivers such document knowing it to have been thus made or altered; or

(3) possesses, with intent to issue or deliver, any such document knowing it to have been thus made or altered; or

(4) unlawfully uses the digital signature, as defined in the Financial Institutions Electronic Documents and Digital Signature Act, of another; or

(5) unlawfully uses the signature device of another to create an electronic signature of that other person, as those terms are defined in the Electronic Commerce Security Act.

~~(b) (Blank). An intent to defraud means an intention to cause another to assume, create, transfer, alter or terminate any right, obligation or power with reference to any person or property. As used in this Section, "document" includes, but is not limited to, any document, representation, or image produced manually, electronically, or by computer.~~

(c) A document apparently capable of defrauding another includes, but is not limited to, one by which any right, obligation or power with reference to any person or property may be created, transferred, altered or terminated. A document includes any record or electronic record as those terms are defined in the Electronic Commerce Security Act. For purposes of this Section, a document also includes a Universal Price Code Label or coin.

(d) Sentence.

(1) Except as provided in paragraphs (2) and (3), forgery ~~Forgery~~ is a Class 3 felony.

(2) Forgery is a Class 4 felony when only one Universal Price Code Label is forged.

(3) Forgery is a Class A misdemeanor when an academic degree or coin is forged.

~~(e) It is not a violation of this Section if a false academic degree explicitly states "for novelty purposes only".~~

(Source: P.A. 94-458, eff. 8-4-05.)

(720 ILCS 5/17-3.5 new)

Sec. 17-3.5. Deceptive sale of gold or silver.

(a) Whoever makes for sale, or sells, or offers to sell or dispose of, or has in his or her possession with intent to sell or dispose of, any article or articles construed in whole or in part, of gold or any alloy or imitation thereof, having thereon or on any box, package, cover, wrapper or other thing enclosing or encasing such article or articles for sale, any stamp, brand, engraving, printed label, trade mark, imprint or other mark, indicating or designed, or intended to indicate, that the gold, alloy or imitation thereof, in such article or articles, is different from or better than the actual kind and quality of such gold, alloy or imitation, shall be guilty of a petty offense and shall be fined in any sum not less than \$50 nor more than \$100.

(b) Whoever makes for sale, sells or offers to sell or dispose of or has in his or her possession, with intent to sell or dispose of, any article or articles constructed in whole or in part of silver or any alloy or imitation thereof, having thereon--or on any box, package, cover, wrapper or other thing enclosing or encasing such article or articles for sale--any stamp, brand, engraving, printed label, trademark, imprint or other mark, containing the words "sterling" or "sterling silver," referring, or designed or intended to refer, to the silver, alloy or imitation thereof in such article or articles, when such silver, alloy or imitation thereof shall contain less than nine hundred and twenty-five one-thousandths thereof of pure silver, shall be guilty of a petty offense and shall be fined in any sum not less than \$50 nor more than \$100.

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(c) Whoever makes for sale, sells or offers to sell or dispose of or has in his or her possession, with intent to sell or dispose of, any article or articles constructed in whole or in part of silver or any alloy or imitation thereof, having thereon--or on any box, package, cover, wrapper or other thing enclosing or encasing such article or articles for sale--any stamp, brand, engraving, printed label, trademark, imprint, or other mark, containing the words "coin" or "coin silver," referring to or designed or intended to refer to, the silver, alloy or imitation thereof, in such article or articles, when such silver, alloy or imitation shall contain less than nine-tenths thereof pure silver, shall be guilty of a petty offense and shall be fined in any sum not less than \$50 and not more than \$100.

(720 ILCS 5/17-5) (from Ch. 38, par. 17-5)

Sec. 17-5. Deceptive collection practices.

A collection agency as defined in the "Collection Agency Act" or any employee of such collection agency commits a deceptive collection practice when, with the intent to collect a debt owed to an individual or a person, corporation, or other entity, he, she, or it does any of the following:

(a) Represents ~~represents~~ falsely that he or she is an attorney, a policeman, a sheriff or deputy sheriff, a bailiff, a county clerk or employee of a county clerk's office, or any other person who by statute is authorized to enforce the law or any order of a court, ~~or~~

(b) While ~~while~~ attempting to collect an alleged debt, misrepresents to the alleged debtor or to his or her immediate family the corporate, partnership or proprietary name or other trade or business name under which the debt collector is engaging in debt collections and which he, she, or it is legally authorized to use, ~~or~~

(c) While ~~while~~ attempting to collect an alleged debt, adds to the debt any service charge, interest or penalty which he, she, or it is not entitled by law to add, ~~or~~

(d) Threatens ~~threatens~~ to ruin, destroy, or otherwise adversely affect an alleged debtor's credit rating unless, at the same time, a disclosure is made in accordance with federal law that the alleged debtor has a right to inspect his or her credit rating, ~~or~~

(e) Accepts ~~accepts~~ from an alleged debtor a payment which he, she, or it knows is not owed.

Sentence. The commission of a deceptive collection practice is a Business Offense punishable by a fine not to exceed \$3,000.

(Source: P.A. 78-1248.)

(720 ILCS 5/17-5.5)

Sec. 17-5.5. Unlawful attempt to collect compensated debt against a crime victim.

(a) As used in this Section, "crime victim" means a victim of a violent crime or applicant as defined in the Crime Victims Compensation Act.

"Compensated debt" means a debt incurred by or on behalf of a crime victim and approved for payment by the Court of Claims under the Crime Victims Compensation Act.

(a) ~~(b)~~ A person or a vendor commits ~~the offense of~~ unlawful attempt to collect a compensated debt against a crime victim when, with intent to collect funds for a debt incurred by or on behalf of a crime victim, which debt has been approved for payment by the Court of Claims under the Crime Victims Compensation Act, but the funds are involuntarily withheld from the person or vendor by the Comptroller by virtue of an outstanding obligation owed by the person or vendor to the State under the Uncollected State Claims Act, the person or vendor:

- (1) communicates with, harasses, or intimidates the crime victim for payment;
- (2) contacts or distributes information to affect the compensated crime victim's credit rating as a result of the compensated debt; or
- (3) takes any other action adverse to the crime victim or his or her family on account of the compensated debt.

(b) ~~(c)~~ Sentence. ~~(c)~~ Unlawful attempt to collect a compensated debt against a crime victim is a Class A misdemeanor.

(c) ~~(d)~~ Nothing in this Code Act prevents the attempt to collect an uncompensated debt or an uncompensated portion of a compensated debt incurred by or on behalf of a crime victim and not covered under the Crime Victims Compensation Act.

(d) As used in this Section, "crime victim" means a victim of a violent crime or applicant as defined in the Crime Victims Compensation Act. "Compensated debt" means a debt incurred by or on behalf of a crime victim and approved for payment by the Court of Claims under the Crime Victims Compensation Act.

(Source: P.A. 92-286, eff. 1-1-02.)

(720 ILCS 5/17-5.7 new)

Sec. 17-5.7. Deceptive advertising.

(a) Any person, firm, corporation or association or agent or employee thereof, who, with intent to sell,

purchase, or in any wise dispose of, or to contract with reference to merchandise, securities, real estate, service, employment, money, credit or anything offered by such person, firm, corporation or association, or agent or employee thereof, directly or indirectly, to the public for sale, purchase, loan, distribution, or the hire of personal services, or with intent to increase the consumption of or to contract with reference to any merchandise, real estate, securities, money, credit, loan, service or employment, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, or to make any loan, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this State, in a newspaper, magazine, or other publication, or in the form of a book, notice, handbill, poster, sign, bill, circular, pamphlet, letter, placard, card, label, or over any radio or television station, or in any other way similar or dissimilar to the foregoing, an advertisement, announcement, or statement of any sort regarding merchandise, securities, real estate, money, credit, service, employment, or anything so offered for use, purchase, loan or sale, or the interest, terms or conditions upon which such loan will be made to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, misleading or deceptive, shall be guilty of a Class A misdemeanor.

(b) Any person, firm or corporation offering for sale merchandise, commodities or service by making, publishing, disseminating, circulating or placing before the public within this State in any manner an advertisement of merchandise, commodities, or service, with the intent, design or purpose not to sell the merchandise, commodities, or service so advertised at the price stated therein, or otherwise communicated, or with intent not to sell the merchandise, commodities, or service so advertised, may be enjoined from such advertising upon application for injunctive relief by the State's Attorney or Attorney General, and shall also be guilty of a Class A misdemeanor.

(c) Any person, firm or corporation who makes, publishes, disseminates, circulates or places before the public, or causes, directly or indirectly to be made, published, disseminated, circulated or placed before the public, in this State, in a newspaper, magazine or other publication published in this State, or in the form of a book, notice, handbill, poster, sign, bill, circular, pamphlet, letter, placard, card, or label distributed in this State, or over any radio or television station located in this State or in any other way in this State similar or dissimilar to the foregoing, an advertisement, announcement, statement or representation of any kind to the public relating to the sale, offering for sale, purchase, use or lease of any real estate in a subdivision located outside the State of Illinois may be enjoined from such activity upon application for injunctive relief by the State's Attorney or Attorney General and shall also be guilty of a Class A misdemeanor unless such advertisement, announcement, statement or representation contains or is accompanied by a clear, concise statement of the proximity of such real estate in common units of measurement to public schools, public highways, fresh water supply, public sewers, electric power, stores and shops, and telephone service or contains a statement that one or more of such facilities are not readily available, and name those not available.

(d) Subsections (a), (b), and (c) do not apply to any medium for the printing, publishing, or disseminating of advertising, or any owner, agent or employee thereof, nor to any advertising agency or owner, agent or employee thereof, nor to any radio or television station, or owner, agent, or employee thereof, for printing, publishing, or disseminating, or causing to be printed, published, or disseminated, such advertisement in good faith and without knowledge of the deceptive character thereof.

(e) No person, firm or corporation owning or operating a service station shall advertise or hold out or state to the public the per gallon price of gasoline, upon any sign on the premises of such station, unless such price includes all taxes, and unless the price, as so advertised, corresponds with the price appearing on the pump from which such gasoline is dispensed. Also, the identity of the product must be included with the price in any such advertisement, holding out or statement to the public. Any person who violates this subsection (e) shall be guilty of a petty offense.

(720 ILCS 5/Art. 17, Subdiv. 10 heading new)

#### SUBDIVISION 10. FRAUD ON A GOVERNMENTAL ENTITY

(720 ILCS 5/17-6) (from Ch. 38, par. 17-6)

Sec. 17-6. State ~~benefits fraud~~ **Benefits Fraud**.

(a) ~~A~~ Any person commits State benefits fraud when he or she ~~who~~ obtains or attempts to obtain money or benefits from the State of Illinois, from any political subdivision thereof, or from any program funded or administered in whole or in part by the State of Illinois or any political subdivision thereof through the knowing use of false identification documents or through the knowing misrepresentation of his or her age, place of residence, number of dependents, marital or family status, employment status, financial status, or any other material fact upon which his eligibility for or degree of participation in any benefit program might be based, ~~is guilty of State benefits fraud.~~

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(b) Notwithstanding any provision of State law to the contrary, every application or other document submitted to an agency or department of the State of Illinois or any political subdivision thereof to establish or determine eligibility for money or benefits from the State of Illinois or from any political subdivision thereof, or from any program funded or administered in whole or in part by the State of Illinois or any political subdivision thereof, shall be made available upon request to any law enforcement agency for use in the investigation or prosecution of State benefits fraud or for use in the investigation or prosecution of any other crime arising out of the same transaction or occurrence. Except as otherwise permitted by law, information disclosed pursuant to this subsection shall be used and disclosed only for the purposes provided herein. The provisions of this Section shall be operative only to the extent that they do not conflict with any federal law or regulation governing federal grants to this State.

(c) Any employee of the State of Illinois or any agency or political subdivision thereof may seize as evidence any false or fraudulent document presented to him or her in connection with an application for or receipt of money or benefits from the State of Illinois, from any political subdivision thereof, or from any program funded or administered in whole or in part by the State of Illinois or any political subdivision thereof.

(d) Sentence.

(1) State benefits fraud is a Class 4 felony except when more than \$300 is obtained, in which case State benefits fraud is a Class 3 felony.

(2) If State benefits fraud is a Class 3 felony when \$300 or less is obtained and a Class 2 felony when more than \$300 is obtained if a person knowingly misrepresents oneself as a veteran or as a dependent of a veteran with the intent of obtaining benefits or privileges provided by the State or its political subdivisions to veterans or their dependents, then State benefits fraud is a Class 3 felony when \$300 or less is obtained and a Class 2 felony when more than \$300 is obtained. For the purposes of this paragraph (2), benefits and privileges include, but are not limited to, those benefits and privileges available under the Veterans' Employment Act, the Viet Nam Veterans Compensation Act, the Prisoner of War Bonus Act, the War Bonus Extension Act, the Military Veterans Assistance Act, the Veterans' Employment Representative Act, the Veterans Preference Act, the Service Member's Employment Tenure Act, the Disabled Veterans Housing Act, the Under Age Veterans Benefits Act, the Survivors Compensation Act, the Children of Deceased Veterans Act, the Veterans Burial Places Act, the Higher Education Student Assistance Act, or any other loans, assistance in employment, monetary payments, or tax exemptions offered by the State or its political subdivisions for veterans or their dependents.

(Source: P.A. 94-486, eff. 1-1-06.)

(720 ILCS 5/17-6.3 new)

Sec. 17-6.3. WIC fraud.

(a) For the purposes of this Section, the Special Supplemental Food Program for Women, Infants and Children administered by the Illinois Department of Public Health or Department of Human Services shall be referred to as "WIC".

(b) A person commits WIC fraud if he or she knowingly (i) uses, acquires, possesses, or transfers WIC Food Instruments or authorizations to participate in WIC in any manner not authorized by law or the rules of the Illinois Department of Public Health or Department of Human Services or (ii) uses, acquires, possesses, or transfers altered WIC Food Instruments or authorizations to participate in WIC.

(c) Administrative malfeasance.

(1) A person commits administrative malfeasance if he or she knowingly or recklessly misappropriates, misuses, or unlawfully withholds or converts to his or her own use or to the use of another any public funds made available for WIC.

(2) An official or employee of the State or a unit of local government who knowingly aids, abets, assists, or participates in a known violation of this Section is subject to disciplinary proceedings under the rules of the applicable State agency or unit of local government.

(d) Unauthorized possession of identification document. A person commits unauthorized possession of an identification document if he or she knowingly possesses, with intent to commit a misdemeanor or felony, another person's identification document issued by the Illinois Department of Public Health or Department of Human Services. For purposes of this Section, "identification document" includes, but is not limited to, an authorization to participate in WIC or a card or other document that identifies a person as being entitled to WIC benefits.

(e) Penalties.

(1) If an individual, firm, corporation, association, agency, institution, or other legal entity is found by a court to have engaged in an act, practice, or course of conduct declared unlawful under subsection (a), (b), or (c) of this Section and:

(A) the total amount of money involved in the violation, including the monetary value of the

WIC Food Instruments and the value of commodities, is less than \$150, the violation is a Class A misdemeanor; a second or subsequent violation is a Class 4 felony;

(B) the total amount of money involved in the violation, including the monetary value of the WIC Food Instruments and the value of commodities, is \$150 or more but less than \$1,000, the violation is a Class 4 felony; a second or subsequent violation is a Class 3 felony;

(C) the total amount of money involved in the violation, including the monetary value of the WIC Food Instruments and the value of commodities, is \$1,000 or more but less than \$5,000, the violation is a Class 3 felony; a second or subsequent violation is a Class 2 felony;

(D) the total amount of money involved in the violation, including the monetary value of the WIC Food Instruments and the value of commodities, is \$5,000 or more but less than \$10,000, the violation is a Class 2 felony; a second or subsequent violation is a Class 1 felony; or

(E) the total amount of money involved in the violation, including the monetary value of the WIC Food Instruments and the value of commodities, is \$10,000 or more, the violation is a Class 1 felony and the defendant shall be permanently ineligible to participate in WIC.

(2) A violation of subsection (d) is a Class 4 felony.

(3) The State's Attorney of the county in which the violation of this Section occurred or the Attorney General shall bring actions arising under this Section in the name of the People of the State of Illinois.

(4) For purposes of determining the classification of an offense under this subsection (e), all of the money received as a result of the unlawful act, practice, or course of conduct, including the value of any WIC Food Instruments and the value of commodities, shall be aggregated.

(f) Seizure and forfeiture of property.

(1) A person who commits a felony violation of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(2) Property subject to forfeiture under this subsection (f) may be seized by the Director of State Police or any local law enforcement agency upon process or seizure warrant issued by any court having jurisdiction over the property. The Director or a local law enforcement agency may seize property under this subsection (f) without process under any of the following circumstances:

(A) If the seizure is incident to inspection under an administrative inspection warrant.

(B) If the property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal proceeding or in an injunction or forfeiture proceeding under Article 124B of the Code of Criminal Procedure of 1963.

(C) If there is probable cause to believe that the property is directly or indirectly dangerous to health or safety.

(D) If there is probable cause to believe that the property is subject to forfeiture under this subsection (f) and Article 124B of the Code of Criminal Procedure of 1963 and the property is seized under circumstances in which a warrantless seizure or arrest would be reasonable.

(E) In accordance with the Code of Criminal Procedure of 1963.

(g) Future participation as WIC vendor. A person who has been convicted of a felony violation of this Section is prohibited from participating as a WIC vendor for a minimum period of 3 years following conviction and until the total amount of money involved in the violation, including the value of WIC Food Instruments and the value of commodities, is repaid to WIC. This prohibition shall extend to any person with management responsibility in a firm, corporation, association, agency, institution, or other legal entity that has been convicted of a violation of this Section and to an officer or person owning, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor.

(720 ILCS 5/17-6.5 new)

Sec. 17-6.5. Persons under deportation order; ineligibility for benefits.

(a) An individual against whom a United States Immigration Judge has issued an order of deportation which has been affirmed by the Board of Immigration Review, as well as an individual who appeals such an order pending appeal, under paragraph 19 of Section 241(a) of the Immigration and Nationality Act relating to persecution of others on account of race, religion, national origin or political opinion under the direction of or in association with the Nazi government of Germany or its allies, shall be ineligible for the following benefits authorized by State law:

(1) The homestead exemptions and homestead improvement exemption under Sections 15-170, 15-175, 15-176, and 15-180 of the Property Tax Code.

(2) Grants under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act.

(3) The double income tax exemption conferred upon persons 65 years of age or older by Section

204 of the Illinois Income Tax Act.

(4) Grants provided by the Department on Aging.

(5) Reductions in vehicle registration fees under Section 3-806.3 of the Illinois Vehicle Code.

(6) Free fishing and reduced fishing license fees under Sections 20-5 and 20-40 of the Fish and Aquatic Life Code.

(7) Tuition free courses for senior citizens under the Senior Citizen Courses Act.

(8) Any benefits under the Illinois Public Aid Code.

(b) If a person has been found by a court to have knowingly received benefits in violation of subsection (a) and:

(1) the total monetary value of the benefits received is less than \$150, the person is guilty of a Class A misdemeanor; a second or subsequent violation is a Class 4 felony;

(2) the total monetary value of the benefits received is \$150 or more but less than \$1,000, the person is guilty of a Class 4 felony; a second or subsequent violation is a Class 3 felony;

(3) the total monetary value of the benefits received is \$1,000 or more but less than \$5,000, the person is guilty of a Class 3 felony; a second or subsequent violation is a Class 2 felony;

(4) the total monetary value of the benefits received is \$5,000 or more but less than \$10,000, the person is guilty of a Class 2 felony; a second or subsequent violation is a Class 1 felony; or

(5) the total monetary value of the benefits received is \$10,000 or more, the person is guilty of a Class 1 felony.

(c) For purposes of determining the classification of an offense under this Section, all of the monetary value of the benefits received as a result of the unlawful act, practice, or course of conduct may be accumulated.

(d) Any grants awarded to persons described in subsection (a) may be recovered by the State of Illinois in a civil action commenced by the Attorney General in the circuit court of Sangamon County or the State's Attorney of the county of residence of the person described in subsection (a).

(e) An individual described in subsection (a) who has been deported shall be restored to any benefits which that individual has been denied under State law pursuant to subsection (a) if (i) the Attorney General of the United States has issued an order cancelling deportation and has adjusted the status of the individual to that of an alien lawfully admitted for permanent residence in the United States or (ii) the country to which the individual has been deported adjudicates or exonerates the individual in a judicial or administrative proceeding as not being guilty of the persecution of others on account of race, religion, national origin, or political opinion under the direction of or in association with the Nazi government of Germany or its allies.

(720 ILCS 5/17-8.3) (was 720 ILCS 5/17-22)

Sec. 17-8.3 17-22. False information on an application for employment with certain public or private agencies; use of false academic degree.

(a) It is unlawful for an applicant for employment with a public or private agency that provides State funded services to persons with mental illness or developmental disabilities to knowingly willfully furnish false information regarding professional certification, licensing, criminal background, or employment history for the 5 years immediately preceding the date of application on an application for employment with the agency if the position of employment requires or provides opportunity for contact with persons with mental illness or developmental disabilities.

(b) It is unlawful for a person to knowingly use a false academic degree for the purpose of obtaining employment or admission to an institution of higher learning or admission to an advanced degree program at an institution of higher learning or for the purpose of obtaining a promotion or higher compensation in employment.

(c) ~~(b)~~ Sentence. A violation of this Section is a Class A misdemeanor.

(Source: P.A. 90-390, eff. 1-1-98.)

(720 ILCS 5/17-8.5 new)

Sec. 17-8.5. Fraud on a governmental entity.

(a) Fraud on a governmental entity. A person commits fraud on a governmental entity when he or she knowingly obtains, attempts to obtain, or causes to be obtained, by deception, control over the property of any governmental entity by the making of a false claim of bodily injury or of damage to or loss or theft of property or by causing a false claim of bodily injury or of damage to or loss or theft of property to be made against the governmental entity, intending to deprive the governmental entity permanently of the use and benefit of that property.

(b) Aggravated fraud on a governmental entity. A person commits aggravated fraud on a governmental entity when he or she commits fraud on a governmental entity 3 or more times within an 18-month period arising out of separate incidents or transactions.

(c) Conspiracy to commit fraud on a governmental entity. If aggravated fraud on a governmental entity forms the basis for a charge of conspiracy under Section 8-2 of this Code against a person, the person or persons with whom the accused is alleged to have agreed to commit the 3 or more violations of this Section need not be the same person or persons for each violation, as long as the accused was a part of the common scheme or plan to engage in each of the 3 or more alleged violations.

(d) Organizer of an aggravated fraud on a governmental entity conspiracy. A person commits being an organizer of an aggravated fraud on a governmental entity conspiracy if aggravated fraud on a governmental entity forms the basis for a charge of conspiracy under Section 8-2 of this Code and the person occupies a position of organizer, supervisor, financier, or other position of management within the conspiracy.

For the purposes of this Section, the person or persons with whom the accused is alleged to have agreed to commit the 3 or more violations of subdivision (a)(1) of Section 17-10.5 or subsection (a) of Section 17-8.5 of this Code need not be the same person or persons for each violation, as long as the accused occupied a position of organizer, supervisor, financier, or other position of management in each of the 3 or more alleged violations.

Notwithstanding Section 8-5 of this Code, a person may be convicted and sentenced both for the offense of being an organizer of an aggravated fraud conspiracy and for any other offense that is the object of the conspiracy.

(e) Sentence.

(1) A violation of subsection (a) in which the value of the property obtained or attempted to be obtained is \$300 or less is a Class A misdemeanor.

(2) A violation of subsection (a) in which the value of the property obtained or attempted to be obtained is more than \$300 but not more than \$10,000 is a Class 3 felony.

(3) A violation of subsection (a) in which the value of the property obtained or attempted to be obtained is more than \$10,000 but not more than \$100,000 is a Class 2 felony.

(4) A violation of subsection (a) in which the value of the property obtained or attempted to be obtained is more than \$100,000 is a Class 1 felony.

(5) A violation of subsection (b) is a Class 1 felony, regardless of the value of the property obtained, attempted to be obtained, or caused to be obtained.

(6) The offense of being an organizer of an aggravated fraud conspiracy is a Class X felony.

(7) Notwithstanding Section 8-5 of this Code, a person may be convicted and sentenced both for the offense of conspiracy to commit fraud and for any other offense that is the object of the conspiracy.

(f) Civil damages for fraud on a governmental entity. A person who knowingly obtains, attempts to obtain, or causes to be obtained, by deception, control over the property of a governmental entity by the making of a false claim of bodily injury or of damage to or loss or theft of property, intending to deprive the governmental entity permanently of the use and benefit of that property, shall be civilly liable to the governmental entity that paid the claim or against whom the claim was made or to the subrogee of the governmental entity in an amount equal to either 3 times the value of the property wrongfully obtained or, if property was not wrongfully obtained, twice the value of the property attempted to be obtained, whichever amount is greater, plus reasonable attorney's fees.

(g) Determination of property value. For the purposes of this Section, if the exact value of the property attempted to be obtained is either not alleged by the claimant or not otherwise specifically set, the value of the property shall be the fair market replacement value of the property claimed to be lost, the reasonable costs of reimbursing a vendor or other claimant for services to be rendered, or both.

(h) Actions by State licensing agencies.

(1) All State licensing agencies, the Illinois State Police, and the Department of Financial and Professional Regulation shall coordinate enforcement efforts relating to acts of fraud on a governmental entity.

(2) If a person who is licensed or registered under the laws of the State of Illinois to engage in a business or profession is convicted of or pleads guilty to engaging in an act of fraud on a governmental entity, the Illinois State Police must forward to each State agency by which the person is licensed or registered a copy of the conviction or plea and all supporting evidence.

(3) Any agency that receives information under this Section shall, not later than 6 months after the date on which it receives the information, publicly report the final action taken against the convicted person, including but not limited to the revocation or suspension of the license or any other disciplinary action taken.

(i) Definitions. For the purposes of this Section, "obtain", "obtains control", "deception", "property", and "permanent deprivation" have the meanings ascribed to those terms in Article 15 of this Code.

(720 ILCS 5/17-9) (from Ch. 38, par. 17-9)

[May 3, 2010]

Sec. 17-9. Public aid wire and mail fraud.

(a) Whoever knowingly (i) makes or transmits any communication by means of telephone, wire, radio, or television or (ii) places any communication with the United States Postal Service, or with any private or other mail, package, or delivery service or system, such communication being made, transmitted, placed, or received within the State of Illinois, intending that such communication be made, ~~or~~ transmitted, or delivered in furtherance of any plan, scheme, or design to obtain, unlawfully, any benefit or payment under the "The Illinois Public Aid Code", as amended, commits ~~the offense of~~ public aid wire and mail fraud.

(b) Whoever knowingly directs or causes any communication to be (i) made or transmitted by means of telephone, wire, radio, or television or (ii) placed with the United States Postal Service, or with any private or other mail, package, or delivery service or system, intending that such communication be made, ~~or~~ transmitted, or delivered in furtherance of any plan, scheme, or design to obtain, unlawfully, any benefit or payment under the "The Illinois Public Aid Code", as amended, commits ~~the offense of~~ public aid wire and mail fraud.

(c) Sentence. A violation of this Section Penalty. Public aid wire fraud is a Class 4 felony.

(Source: P.A. 84-1255.)

(720 ILCS 5/17-10.2) (was 720 ILCS 5/17-29)

Sec. ~~17-10.2~~ ~~17-29~~. Businesses owned by minorities, females, and persons with disabilities; fraudulent contracts with governmental units.

(a) In This Section:

"Minority person" means a person who is: (1) African American (a person having origins in any of the black racial groups in Africa); (2) Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race); (3) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or (4) Native American or Alaskan Native (a person having origins in any of the original peoples of North America).

"Female" means a person who is of the female gender.

"Person with a disability" means a person who is a person qualifying as being disabled.

"Disabled" means a severe physical or mental disability that: (1) results from:

amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders, including stroke and epilepsy, paraplegia, quadriplegia and other spinal cord conditions, sickle cell anemia, specific learning disabilities, or end stage renal failure disease; and (2) substantially limits one or more of the person's major life activities.

"Minority owned business" means a business concern that is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.

"Female owned business" means a business concern that is at least 51% owned by one or more females, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more females; and the management and daily business operations of which are controlled by one or more of the females who own it.

"Business owned by a person with a disability" means a business concern that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".

"Governmental unit" means the State, a unit of local government, or school district.

(b) In addition to any other penalties imposed by law or by an ordinance or resolution of a unit of local government or school district, any individual or entity that knowingly obtains, or knowingly assists another to obtain, a contract with a governmental unit, or a subcontract or written commitment for a subcontract under a contract with a governmental unit, by falsely representing that the individual or entity, or the individual or entity assisted, is a minority owned business, female owned business, or business owned by a person with a disability is guilty of a Class 2 felony, regardless of whether the preference for awarding the contract to a minority owned business, female owned business, or business owned by a person with a disability was established by statute or by local ordinance or resolution.

(c) In addition to any other penalties authorized by law, the court shall order that an individual or entity convicted of a violation of this Section must pay to the governmental unit that awarded the contract a penalty equal to one and one-half times the amount of the contract obtained because of the false representation.

(Source: P.A. 94-126, eff. 1-1-06; 94-863, eff. 6-16-06.)

(720 ILCS 5/17-10.3 new)

Sec. 17-10.3. Deception relating to certification of disadvantaged business enterprises.

(a) Fraudulently obtaining or retaining certification. A person who, in the course of business, fraudulently obtains or retains certification as a minority owned business or female owned business commits a Class 2 felony.

(b) Willfully making a false statement. A person who, in the course of business, willfully makes a false statement whether by affidavit, report or other representation, to an official or employee of a State agency or the Minority and Female Business Enterprise Council for the purpose of influencing the certification or denial of certification of any business entity as a minority owned business or female owned business commits a Class 2 felony.

(c) Willfully obstructing or impeding an official or employee of any agency in his or her investigation. Any person who, in the course of business, willfully obstructs or impedes an official or employee of any State agency or the Minority and Female Business Enterprise Council who is investigating the qualifications of a business entity which has requested certification as a minority owned business or a female owned business commits a Class 2 felony.

(d) Fraudulently obtaining public moneys reserved for disadvantaged business enterprises. Any person who, in the course of business, fraudulently obtains public moneys reserved for, or allocated or available to minority owned businesses or female owned businesses commits a Class 2 felony.

(e) Definitions. As used in this Article, "minority owned business", "female owned business", "State agency" and "certification" shall have the meanings ascribed to them in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

(720 ILCS 5/Art. 17, Subdiv. 15 heading new)

#### SUBDIVISION 15. FRAUD ON A PRIVATE ENTITY

(720 ILCS 5/17-10.5 new)

Sec. 17-10.5. Insurance fraud.

(a) Insurance fraud.

(1) A person commits insurance fraud when he or she knowingly obtains, attempts to obtain, or causes to be obtained, by deception, control over the property of an insurance company or self-insured entity by the making of a false claim or by causing a false claim to be made on any policy of insurance issued by an insurance company or by the making of a false claim or by causing a false claim to be made to a self-insured entity, intending to deprive an insurance company or self-insured entity permanently of the use and benefit of that property.

(2) A person commits health care benefits fraud against a provider, other than a governmental unit or agency, when he or she knowingly obtains or attempts to obtain, by deception, health care benefits and that obtaining or attempt to obtain health care benefits does not involve control over property of the provider.

(b) Aggravated insurance fraud.

(1) A person commits aggravated insurance fraud on a private entity when he or she commits insurance fraud 3 or more times within an 18-month period arising out of separate incidents or transactions.

(2) A person commits being an organizer of an aggravated insurance fraud on a private entity conspiracy if aggravated insurance fraud on a private entity forms the basis for a charge of conspiracy under Section 8-2 of this Code and the person occupies a position of organizer, supervisor, financier, or other position of management within the conspiracy.

(c) Conspiracy to commit insurance fraud. If aggravated insurance fraud on a private entity forms the basis for charges of conspiracy under Section 8-2 of this Code, the person or persons with whom the accused is alleged to have agreed to commit the 3 or more violations of this Section need not be the same person or persons for each violation, as long as the accused was a part of the common scheme or plan to engage in each of the 3 or more alleged violations.

If aggravated insurance fraud on a private entity forms the basis for a charge of conspiracy under Section 8-2 of this Code, and the accused occupies a position of organizer, supervisor, financier, or other position of management within the conspiracy, the person or persons with whom the accused is alleged to have agreed to commit the 3 or more violations of this Section need not be the same person or persons

for each violation as long as the accused occupied a position of organizer, supervisor, financier, or other position of management in each of the 3 or more alleged violations.

(d) Sentence.

(1) A violation of paragraph (a)(1) in which the value of the property obtained, attempted to be obtained, or caused to be obtained is \$300 or less is a Class A misdemeanor.

(2) A violation of paragraph (a)(1) in which the value of the property obtained, attempted to be obtained, or caused to be obtained is more than \$300 but not more than \$10,000 is a Class 3 felony.

(3) A violation of paragraph (a)(1) in which the value of the property obtained, attempted to be obtained, or caused to be obtained is more than \$10,000 but not more than \$100,000 is a Class 2 felony.

(4) A violation of paragraph (a)(1) in which the value of the property obtained, attempted to be obtained, or caused to be obtained is more than \$100,000 is a Class 1 felony.

(5) A violation of paragraph (a)(2) is a Class A misdemeanor.

(6) A violation of paragraph (b)(1) is a Class 1 felony, regardless of the value of the property obtained, attempted to be obtained, or caused to be obtained.

(7) A violation of paragraph (b)(2) is a Class X felony.

(8) A person convicted of insurance fraud, vendor fraud, or a federal criminal violation associated with defrauding the Medicaid program shall be ordered to pay monetary restitution to the insurance company or self-insured entity or any other person for any financial loss sustained as a result of a violation of this Section, including any court costs and attorney's fees. An order of restitution shall include expenses incurred and paid by the State of Illinois or an insurance company or self-insured entity in connection with any medical evaluation or treatment services.

(9) Notwithstanding Section 8-5 of this Code, a person may be convicted and sentenced both for the offense of conspiracy to commit insurance fraud and for any other offense that is the object of the conspiracy.

(e) Civil damages for insurance fraud.

(1) A person who knowingly obtains, attempts to obtain, or causes to be obtained, by deception, control over the property of any insurance company by the making of a false claim or by causing a false claim to be made on a policy of insurance issued by an insurance company, or by the making of a false claim or by causing a false claim to be made to a self-insured entity, intending to deprive an insurance company or self-insured entity permanently of the use and benefit of that property, shall be civilly liable to the insurance company or self-insured entity that paid the claim or against whom the claim was made or to the subrogee of that insurance company or self-insured entity in an amount equal to either 3 times the value of the property wrongfully obtained or, if no property was wrongfully obtained, twice the value of the property attempted to be obtained, whichever amount is greater, plus reasonable attorney's fees.

(2) An insurance company or self-insured entity that brings an action against a person under paragraph (1) of this subsection in bad faith shall be liable to that person for twice the value of the property claimed, plus reasonable attorney's fees. In determining whether an insurance company or self-insured entity acted in bad faith, the court shall relax the rules of evidence to allow for the introduction of any facts or other information on which the insurance company or self-insured entity may have relied in bringing an action under paragraph (1) of this subsection.

(f) Determination of property value. For the purposes of this Section, if the exact value of the property attempted to be obtained is either not alleged by the claimant or not specifically set by the terms of a policy of insurance, the value of the property shall be the fair market replacement value of the property claimed to be lost, the reasonable costs of reimbursing a vendor or other claimant for services to be rendered, or both.

(g) Actions by State licensing agencies.

(1) All State licensing agencies, the Illinois State Police, and the Department of Financial and Professional Regulation shall coordinate enforcement efforts relating to acts of insurance fraud.

(2) If a person who is licensed or registered under the laws of the State of Illinois to engage in a business or profession is convicted of or pleads guilty to engaging in an act of insurance fraud, the Illinois State Police must forward to each State agency by which the person is licensed or registered a copy of the conviction or plea and all supporting evidence.

(3) Any agency that receives information under this Section shall, not later than 6 months after the date on which it receives the information, publicly report the final action taken against the convicted person, including but not limited to the revocation or suspension of the license or any other disciplinary action taken.

(h) Definitions. For the purposes of this Section, "obtain", "obtains control", "deception", "property", and "permanent deprivation" have the meanings ascribed to those terms in Article 15 of this Code.

(720 ILCS 5/17-10.6 new)

Sec. 17-10.6. Financial institution fraud.

(a) Misappropriation of financial institution property. A person commits misappropriation of a financial institution's property whenever he or she knowingly obtains or exerts unauthorized control over any of the moneys, funds, or credits of a financial institution, or any securities entrusted to the custody or care of a financial institution or to the custody or care of any agent, officer, director, or employee of a financial institution.

(b) Commercial bribery of a financial institution.

(1) A person commits commercial bribery of a financial institution when he or she knowingly confers or offers or agrees to confer any benefit upon any employee, agent, or fiduciary without the consent of the latter's employer or principal, with the intent to influence his or her conduct in relation to his or her employer's or principal's affairs.

(2) An employee, agent, or fiduciary of a financial institution commits commercial bribery of a financial institution when, without the consent of his or her employer or principal, he or she knowingly solicits, accepts, or agrees to accept any benefit from another person upon an agreement or understanding that such benefit will influence his or her conduct in relation to his or her employer's or principal's affairs.

(c) Financial institution fraud. A person commits financial institution fraud when he or she knowingly executes or attempts to execute a scheme or artifice:

(1) to defraud a financial institution; or

(2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by or under the custody or control of a financial institution, by means of pretenses, representations, or promises he or she knows to be false.

(d) Loan fraud. A person commits loan fraud when he or she knowingly, with intent to defraud, makes any false statement or report, or overvalues any land, property, or security, with the intent to influence in any way the action of a financial institution to act upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan, or any change or extension of any of the same, by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security.

(e) Concealment of collateral. A person commits concealment of collateral when he or she, with intent to defraud, knowingly conceals, removes, disposes of, or converts to the person's own use or to that of another any property mortgaged or pledged to or held by a financial institution.

(f) Financial institution robbery. A person commits robbery when he or she knowingly, by force or threat of force, or by intimidation, takes, or attempts to take, from the person or presence of another, or obtains or attempts to obtain by extortion, any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, a financial institution.

(g) Conspiracy to commit a financial crime.

(1) A person commits conspiracy to commit a financial crime when, with the intent that any violation of this Section be committed, he or she agrees with another person to the commission of that offense.

(2) No person may be convicted of conspiracy to commit a financial crime unless an overt act or acts in furtherance of the agreement is alleged and proved to have been committed by that person or by a co-conspirator and the accused is a part of a common scheme or plan to engage in the unlawful activity.

(3) It shall not be a defense to conspiracy to commit a financial crime that the person or persons with whom the accused is alleged to have conspired:

(A) has not been prosecuted or convicted;

(B) has been convicted of a different offense;

(C) is not amenable to justice;

(D) has been acquitted; or

(E) lacked the capacity to commit the offense.

(h) Continuing financial crimes enterprise. A person commits a continuing financial crimes enterprise when he or she knowingly, within an 18-month period, commits 3 or more separate offenses under this Section or, if involving a financial institution, any other felony offenses under this Code.

(i) Organizer of a continuing financial crimes enterprise.

(1) A person commits being an organizer of a continuing financial crimes enterprise when he or she:

(A) with the intent to commit any offense under this Section, or, if involving a financial institution, any other felony offense under this Code, agrees with another person to the commission of that offense on 3 or more separate occasions within an 18-month period; and

(B) with respect to the other persons within the conspiracy, occupies a position of organizer,

supervisor, or financier or other position of management.

(2) The person with whom the accused agreed to commit the 3 or more offenses under this Section, or, if involving a financial institution, any other felony offenses under this Code, need not be the same person or persons for each offense, as long as the accused was a part of the common scheme or plan to engage in each of the 3 or more alleged offenses.

(j) Sentence.

(1) Except as otherwise provided in this subsection, a violation of this Section, the full value of which:

(A) does not exceed \$300, is a Class A misdemeanor;

(B) does not exceed \$300, and the person has been previously convicted of a financial crime or any type of theft, robbery, armed robbery, burglary, residential burglary, possession of burglary tools, or home invasion, is guilty of a Class 4 felony;

(C) exceeds \$300 but does not exceed \$10,000, is a Class 3 felony;

(D) exceeds \$10,000 but does not exceed \$100,000, is a Class 2 felony;

(E) exceeds \$100,000, is a Class 1 felony.

(2) A violation of subsection (f) is a Class 1 felony.

(3) A violation of subsection (h) is a Class 1 felony.

(4) A violation for subsection (i) is a Class X felony.

(k) A "financial crime" means an offense described in this Section.

(l) Period of limitations. The period of limitations for prosecution of any offense defined in this Section begins at the time when the last act in furtherance of the offense is committed.

(720 ILCS 5/17-10.7 new)

Sec. 17-10.7. Insurance claims for excessive charges.

(a) A person who sells goods or services commits insurance claims for excessive charges if:

(1) the person knowingly advertises or promises to provide the goods or services and to pay:

(A) all or part of any applicable insurance deductible; or

(B) a rebate in an amount equal to all or part of any applicable insurance deductible;

(2) the goods or services are paid for by the consumer from proceeds of a property or casualty insurance policy; and

(3) the person knowingly charges an amount for the goods or services that exceeds the usual and customary charge by the person for the goods or services by an amount equal to or greater than all or part of the applicable insurance deductible paid by the person to an insurer on behalf of an insured or remitted to an insured by the person as a rebate.

(b) A person who is insured under a property or casualty insurance policy commits insurance claims for excessive charges if the person knowingly:

(1) submits a claim under the policy based on charges that are in violation of subsection (a) of this Section; or

(2) knowingly allows a claim in violation of subsection (a) of this Section to be submitted, unless the person promptly notifies the insurer of the excessive charges.

(c) Sentence. A violation of this Section is a Class A misdemeanor.

(720 ILCS 5/Art. 17, Subdiv. 20 heading new)

#### SUBDIVISION 20. FRAUDULENT TAMPERING

(720 ILCS 5/17-11) (from Ch. 38, par. 17-11)

Sec. 17-11. Odometer or hour meter fraud. ~~Fraud. A~~ Any person commits odometer or hour meter fraud when he or she disconnects, resets, or alters, or causes ~~who shall, with intent to defraud another, disconnect, reset, or alter, or cause to be disconnected, reset, or altered,~~ the odometer of any used motor vehicle or the hour meter of any used farm implement ~~with the intent to~~ odometer or change the actual miles driven or hours of operation with the intent to defraud another. A violation of this Section is ~~shall be guilty of~~ a Class A misdemeanor. A ~~person convicted of~~ a second or subsequent violation ~~is of this Section shall be guilty of~~ a Class 4 felony. This Section ~~does shall~~ not apply to legitimate business practices of automotive or implement parts recyclers who recycle used odometers or hour meters for resale.

(Source: P.A. 84-1391; 84-1438.)

(720 ILCS 5/17-11.2)

Sec. 17-11.2. Installation of object in lieu of air bag. ~~A~~ Any person commits installation of object in lieu of airbag when he or she, ~~who~~ for consideration, knowingly installs or reinstalls in a vehicle any object in lieu of an air bag that was designed in accordance with federal safety regulations for the make, model, and year of the vehicle as part of a vehicle inflatable restraint system. A violation of this Section

is ~~guilty of~~ a Class A misdemeanor.

(Source: P.A. 92-809, eff. 1-1-03.)

(720 ILCS 5/17-11.5) (was 720 ILCS 5/16-22)

Sec. ~~17-11.5~~ ~~16-22~~. Tampering with a security, fire, or life safety system.

(a) A person commits ~~the offense of~~ tampering with a security, fire, or life safety system when he or she knowingly damages, sabotages, destroys, or causes a permanent or temporary malfunction in any physical or electronic security, fire, or life safety system or any component part of any of those systems including, but not limited to, card readers, magnetic stripe readers, Wiegand card readers, smart card readers, proximity card readers, digital keypads, keypad access controls, digital locks, electromagnetic locks, electric strikes, electronic exit hardware, exit alarm systems, delayed egress systems, biometric access control equipment, intrusion detection systems and sensors, burglar alarm systems, wireless burglar alarms, silent alarms, duress alarms, hold-up alarms, glass break detectors, motion detectors, seismic detectors, glass shock sensors, magnetic contacts, closed circuit television (CCTV), security cameras, digital cameras, dome cameras, covert cameras, spy cameras, hidden cameras, wireless cameras, network cameras, IP addressable cameras, CCTV camera lenses, video cassette recorders, CCTV monitors, CCTV consoles, CCTV housings and enclosures, CCTV pan-and-tilt devices, CCTV transmission and signal equipment, wireless video transmitters, wireless video receivers, radio frequency (RF) or microwave components, or both, infrared illuminators, video motion detectors, video recorders, time lapse CCTV recorders, digital video recorders (DVRs), digital image storage systems, video converters, video distribution amplifiers, video time-date generators, multiplexers, switchers, splitters, fire alarms, smoke alarm systems, smoke detectors, flame detectors, fire detection systems and sensors, fire sprinklers, fire suppression systems, fire extinguishing systems, public address systems, intercoms, emergency telephones, emergency call boxes, emergency pull stations, telephone entry systems, video entry equipment, annunciators, sirens, lights, sounders, control panels and components, and all associated computer hardware, computer software, control panels, wires, cables, connectors, electromechanical components, electronic modules, fiber optics, filters, passive components, and power sources including batteries and back-up power supplies.

(b) Sentence. A violation of this Section is a Class 4 felony.

(Source: P.A. 94-707, eff. 6-1-06.)

(720 ILCS 5/17-13)

Sec. 17-13. ~~Fraud in transfers of real and personal property~~ ~~Fraudulent land sales~~.

(a) Conditional sale; sale without consent of title holder. No person purchasing personal property under a conditional sales contract shall, during the existence of such conditional sales contract and before the conditions thereof have been fulfilled, knowingly sell, transfer, conceal, or in any manner dispose of such property, or cause or allow the same to be done, without the written consent of the holder of title.

(b) Acknowledgment of fraudulent conveyance. No officer authorized to take the proof and acknowledgment of a conveyance of real or personal property or other instrument shall knowingly certify that the conveyance or other instrument was duly proven or acknowledged by a party to the conveyance or other instrument when no such acknowledgment or proof was made, or was not made at the time it was certified to have been made, with intent to injure or defraud or to enable any other person to injure or defraud.

(c) Fraudulent land sales. No ~~A~~ person, after once selling, bartering, or disposing of a tract or tracts of land or a ~~;~~ town lot or lots, or executing a bond or agreement for the sale of lands, or a town lot or lots, shall ~~who~~ again knowingly and with intent to defraud sell, barter, or dispose ~~fraudulently sells, barter, or disposes~~ of the same tract or tracts of land, or town lot or lots, or any part ~~parts~~ of those tracts of land or ~~;~~ town lot or lots, or knowingly and with intent to defraud execute ~~fraudulently executes~~ a bond or agreement to sell, barter, or dispose of the same land, or lot or lots, or any part of that land or ~~;~~ lot or lots, to any other person for a valuable consideration ~~is guilty of a Class 3 felony~~.

(d) Sentence. A violation of subsection (a) of this Section is a Class A misdemeanor. A violation of subsection (b) of this Section is a Class 4 felony. A violation of subsection (c) of this Section is a Class 3 felony.

(Source: P.A. 89-234, eff. 1-1-96.)

(720 ILCS 5/17-17)

Sec. 17-17. ~~Fraud in~~ ~~Fraudulent issuance of~~ stock transactions.

(a) No ~~Every~~ president, cashier, treasurer, secretary, or other officer, director, or ~~and every~~ agent, attorney, servant, or employee of a bank, railroad, or manufacturing or other corporation, nor any ~~and every~~ other person, shall ~~who~~, knowingly and ~~designedly~~, and with intent to defraud, ~~issue, sell, transfer, assign, or pledge, or cause or procure~~ a person, bank, railroad, or manufacturing or other

~~corporation, issues, sells, transfers, assigns, or pledges, or causes or procures to be issued, sold, transferred, assigned, or pledged, any false, fraudulent, or simulated certificate or other evidence of ownership of a share or shares of the capital stock of a bank, railroad, or manufacturing or other corporation, is guilty of a Class 3 felony.~~

(b) No officer, director, or agent of a bank, railroad, or other corporation shall knowingly sign, with intent to issue, sell, pledge, or cause to be issued, sold, or pledged, any false, fraudulent, or simulated certificate or other evidence of the ownership or transfer of a share or shares of the capital stock of that corporation, or an instrument purporting to be a certificate or other evidence of the ownership or transfer, the signing, issuing, selling, or pledging of which by the officer, director, or agent is not authorized by law.

(c) Sentence. A violation of this Section is a Class 3 felony.

(Source: P.A. 89-234, eff. 1-1-96.)

(720 ILCS 5/17-20)

Sec. 17-20. Obstructing gas, water, or ~~and~~ electric current meters. A person commits obstructing gas, water, or electric current meters when he or she knowingly, and ~~who~~, with intent to injure or defraud a company, body corporate, copartnership, or individual, injures, alters, obstructs, or prevents the action of a meter provided for the purpose of measuring and registering the quantity of gas, water, or electric current consumed by or at a burner, orifice, or place, or supplied to a lamp, motor, machine, or appliance, or causes, procures, or aids the injuring or altering of any such meter or the obstruction or prevention of its action, or makes or causes to be made with a gas pipe, water pipe, or electrical conductor any connection so as to conduct or supply illumination or inflammable gas, water, or electric current to any burner, orifice, lamp, motor, or other machine or appliance from which the gas, water, or electricity may be consumed or utilized without passing through or being registered by a meter or without the consent or acquiescence of the company, municipal corporation, body corporate, copartnership, or individual furnishing or transmitting the gas, water, or electric current through the gas pipe, water pipe, or electrical conductor . A violation of this Section ~~;~~ is ~~guilty of~~ a Class B misdemeanor.

(Source: P.A. 89-234, eff. 1-1-96.)

(720 ILCS 5/17-21)

Sec. 17-21. Obstructing service meters. A person commits obstructing service meters when he or she knowingly, and ~~who~~, with the intent to defraud, tampers with, alters, obstructs or prevents the action of a meter, register, or other counting device that is a part of a mechanical or electrical machine, equipment, or device that measures service, without the consent of the owner of the machine, equipment, or device . A violation of this Section ~~;~~ is ~~guilty of~~ a Class B misdemeanor.

(Source: P.A. 89-234, eff. 1-1-96.)

(720 ILCS 5/17-24)

Sec. 17-24. Mail fraud and wire fraud. Fraudulent schemes and artifices.

(a) Mail fraud. A person commits mail fraud when he or she:

(1) ~~devises or intends to devise any scheme or artifice to defraud, or to obtain money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit obligation, security, or other article, or anything represented to be or intimated or held out to be such a counterfeit or spurious article; and~~

(2) with the intent to execute such scheme or artifice or to attempt to do so, does any of the following:

(A) Places in any post office or authorized depository for mail matter within this State any matter or thing to be delivered by the United States Postal Service, according to the direction on the matter or thing.

(B) Deposits or causes to be deposited in this State any matter or thing to be sent or delivered by mail or by private or commercial carrier, according to the direction on the matter or thing.

(C) Takes or receives from mail or from a private or commercial carrier any such matter or thing at the place at which it is directed to be delivered by the person to whom it is addressed.

(D) Knowingly causes any such matter or thing to be delivered by mail or by private or commercial carrier, according to the direction on the matter or thing.

(b) Wire fraud. ~~(a) Fraud by wire, radio, or television. (1) A person commits wire fraud when he or she:~~

(1) ~~(A)~~ ~~devises or intends to devise a scheme or artifice to defraud or to obtain money or property by means of false pretenses, representations, or promises; and~~

(2) for the purpose of executing the scheme or artifice, ~~(B) (i)~~ transmits or causes to be transmitted

any writings, signals, pictures, sounds, or electronic or electric impulses by means of wire, radio, or television communications:

(A) from within this State; or

(B) ~~(ii) transmits or causes to be transmitted so that the transmission is received by a person within this State; or~~

~~(C) (iii) transmits or causes to be transmitted so that the transmission may be reasonably foreseeable that it will be accessed by a person within this State;~~

~~any writings, signals, pictures, sounds, or electronic or electric impulses by means of wire, radio, or television communications for the purpose of executing the scheme or artifice.~~

(c) Jurisdiction.

(1) Mail fraud using a government or private carrier occurs in the county in which mail or other matter is deposited with the United States Postal Service or a private commercial carrier for delivery, if deposited with the United States Postal Service or a private or commercial carrier within this State, and the county in which a person within this State receives the mail or other matter from the United States Postal Service or a private or commercial carrier.

~~(2) Wire fraud occurs. A scheme or artifice to defraud using electronic transmissions is deemed to occur in the county from which a transmission is sent, if the transmission is sent from within this State, the county in which a person within this State receives the transmission, and the county in which a person who is within this State is located when the person accesses a transmission.~~

(d) Sentence. A violation of this Section is a Class 3 felony.

~~(3) Wire fraud is a Class 3 felony.~~

~~(b) Mail fraud.~~

~~(1) A person commits mail fraud when he or she:~~

~~(A) devises or intends to devise any scheme or artifice to defraud or to obtain money or property by means of false or fraudulent pretenses, representations or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit obligation, security, or other article, or anything represented to be or intimidated or held out to be such counterfeit or spurious article; and~~

~~(B) for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter within this State, any matter or thing whatever to be delivered by the Postal Service, or deposits or causes to be deposited in this State by mail or by private or commercial carrier according to the direction on the matter or thing, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing.~~

~~(2) A scheme or artifice to defraud using a government or private carrier is deemed to occur in the county in which mail or other matter is deposited with the Postal Service or a private commercial carrier for delivery, if deposited with the Postal Service or a private or commercial carrier within this State and the county in which a person within this State receives the mail or other matter from the Postal Service or a private or commercial carrier.~~

~~(3) Mail fraud is a Class 3 felony.~~

~~(c) (Blank).~~

~~(d) The period of limitations for prosecution of any offense defined in this Section begins at the time when the last act in furtherance of the scheme or artifice is committed.~~

~~(e) In this Section:~~

~~(1) "Scheme or artifice to defraud" includes a scheme or artifice to deprive another of the intangible right to honest services.~~

~~(2) (Blank).~~

(Source: P.A. 92-16, eff. 6-28-01; 93-440, eff. 8-5-03; revised 11-4-09.)

(720 ILCS 5/17-26)

Sec. 17-26. Misconduct by a corporate official.

(a) A person commits misconduct by a corporate official ~~is guilty of a crime~~ when:

(1) being a director of a corporation, he or she knowingly, ~~with the intent a purpose~~ to defraud, concurs in any

vote or act of the directors of the corporation, or any of them, which has the purpose of:

(A) making a dividend except in the manner provided by law;

(B) dividing, withdrawing or in any manner paying any stockholder any part of the capital stock of the corporation except in the manner provided by law;

(C) discounting or receiving any note or other evidence of debt in payment of an

installment of capital stock actually called in and required to be paid, or with purpose of providing the means of making such payment;

(D) receiving or discounting any note or other evidence of debt with the purpose of enabling any stockholder to withdraw any part of the money paid in by him or her on his or her stock; or

(E) applying any portion of the funds of such corporation, directly or indirectly, to the purchase of shares of its own stock, except in the manner provided by law; or  
 (2) being a director or officer of a corporation, he or she, with the intent purpose to defraud:

(A) issues, participates in issuing, or concurs in a vote to issue any increase of its capital stock beyond the amount of the capital stock thereof, duly authorized by or in pursuance of law;

(B) sells, or agrees to sell, or is directly interested in the sale of any share of stock of such corporation, or in any agreement to sell such stock, unless at the time of the sale or agreement he or she is an actual owner of such share, provided that the foregoing shall not apply to a sale by or on behalf of an underwriter or dealer in connection with a bona fide public offering of shares of stock of such corporation;

(C) executes a scheme or attempts to execute a scheme to obtain any share of stock of such corporation by means of false representation; or

(3) being a director or officer of a corporation, he or she with the intent purpose to defraud or evade

a

financial disclosure reporting requirement of this State or of Section 13(A) or 15(D) of the Securities Exchange Act of 1934, as amended, 15 U. S. C. 78M(A) or 78O(D); ~~he~~:

(A) causes or attempts to cause a corporation or accounting firm representing the corporation or any other individual or entity to fail to file a financial disclosure report as required by State or federal law; or

(B) causes or attempts to cause a corporation or accounting firm representing the corporation or any other individual or entity to file a financial disclosure report, as required by State or federal law, that contains a material omission or misstatement of fact.

(b) Sentence. If the benefit derived from a violation of this Section is \$500,000 or more, the violation offender is guilty of a Class 2 felony. If the benefit derived from a violation of this Section is less than \$500,000, the violation offender is guilty of a Class 3 felony.

(Source: P.A. 93-496, eff. 1-1-04; revised 11-4-09.)

(720 ILCS 5/17-27)

Sec. 17-27. Fraud on creditors in insolvency.

(a) Fraud in insolvency. A person commits fraud in insolvency when a crime if, knowing that proceedings have or are about to be instituted for the appointment of a receiver or other person entitled to administer property for the benefit of creditors, or that any other composition or liquidation for the benefit of creditors has been or is about to be made, he or she:

(1) destroys, removes, conceals, encumbers, transfers, or otherwise deals with any property or obtains any substantial part of or interest in the debtor's estate with the intent purpose to defeat or obstruct the claim of any creditor, or otherwise to obstruct the operation of any law relating to administration of property for the benefit of creditors;

(2) knowingly falsifies any writing or record relating to the property; or

(3) knowingly misrepresents or refuses to disclose to a receiver or other person entitled to administer property for the benefit of creditors, the existence, amount, or location of the property, or any other information which the actor could be legally required to furnish in relation to such administration.

Sentence. ~~(b)~~ If the benefit derived from a violation of this subsection (a) Section is \$500,000 or more, the violation offender is guilty of a Class 2 felony. If the benefit derived from a violation of this subsection (a) Section is less than \$500,000, the violation offender is guilty of a Class 3 felony.

(b) Fraud in property transfer. A person commits fraud in property transfer when he or she transfers or conveys any interest in property with the intent to defraud, defeat, hinder, or delay his or her creditors. A violation of this subsection (b) is a business offense subject to a fine not to exceed \$1,000.

(Source: P.A. 93-496, eff. 1-1-04.)

(720 ILCS 5/17-30) (was 720 ILCS 5/16C-2)

Sec. 17-30 ~~16C-2~~. Defaced, altered, or removed manufacturer or owner identification number.

(a) Unlawful sale of household appliances. A person commits ~~the offense of~~ unlawful sale of household appliances when he or she knowingly, with the intent to defraud or deceive another, keeps for sale, within any commercial context, any household appliance with a missing, defaced, obliterated, or otherwise altered manufacturer's identification number.

(b) Construction equipment identification defacement. A person commits construction equipment

identification defacement when he or she knowingly changes, alters, removes, mutilates, or obliterates a permanently affixed serial number, product identification number, part number, component identification number, owner-applied identification, or other mark of identification attached to or stamped, inscribed, molded, or etched into a machine or other equipment, whether stationary or mobile or self-propelled, or a part of such machine or equipment, used in the construction, maintenance, or demolition of buildings, structures, bridges, tunnels, sewers, utility pipes or lines, ditches or open cuts, roads, highways, dams, airports, or waterways or in material handling for such projects.

The trier of fact may infer that the defendant has knowingly changed, altered, removed, or obliterated the serial number, product identification number, part number, component identification number, owner-applied identification number, or other mark of identification, if the defendant was in possession of any machine or other equipment or a part of such machine or equipment used in the construction, maintenance, or demolition of buildings, structures, bridges, tunnels, sewers, utility pipes or lines, ditches or open cuts, roads, highways, dams, airports, or waterways or in material handling for such projects upon which any such serial number, product identification number, part number, component identification number, owner-applied identification number, or other mark of identification has been changed, altered, removed, or obliterated.

(c) Defacement of manufacturer's serial number or identification mark. A person commits defacement of a manufacturer's serial number or identification mark when he or she removes, alters, defaces, covers, or destroys the manufacturer's serial number or any other manufacturer's number or distinguishing identification mark upon any machine or other article of merchandise, other than a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code or a firearm as defined in the Firearm Owners Identification Card Act, with the intent of concealing or destroying the identity of such machine or other article of merchandise.

(d) Sentence.

(1) A violation of subsection (a) ~~(b) Violation~~ of this Section is a Class 4 felony, if the value of the appliance or appliances exceeds \$1,000 and a Class B misdemeanor if the value of the appliance or appliances is \$1,000 or less.

(2) A violation of subsection (b) of this Section is a Class A misdemeanor.

(3) A violation of subsection (c) of this Section is a Class B misdemeanor.

(c) No liability shall be imposed upon any person for the unintentional failure to comply with this Section.

(e) Definitions. In this Section:

"Commercial context" means a continuing business enterprise conducted for profit by any person whose primary business is the wholesale or retail marketing of household appliances, or a significant portion of whose business or inventory consists of household appliances kept or sold on a wholesale or retail basis.

"Household appliance" means any gas or electric device or machine marketed for use as home entertainment or for facilitating or expediting household tasks or chores. The term shall include but not necessarily be limited to refrigerators, freezers, ranges, radios, television sets, vacuum cleaners, toasters, dishwashers, and other similar household items.

"Manufacturer's identification number" means any serial number or other similar numerical or alphabetical designation imprinted upon or attached to or placed, stamped, or otherwise imprinted upon or attached to a household appliance or item by the manufacturer for purposes of identifying a particular appliance or item individually or by lot number.

(Source: P.A. 87-435.)

(720 ILCS 5/Art. 17, Subdiv. 25 heading new)

#### SUBDIVISION 25. CREDIT AND DEBIT CARD FRAUD

(720 ILCS 5/17-31 new)

Sec. 17-31. False statement to procure credit or debit card. A person commits false statement to procure credit or debit card when he or she makes or causes to be made, either directly or indirectly, any false statement in writing, knowing it to be false and with the intent that it be relied on, respecting his or her identity, his or her address, or his or her employment, or that of any other person, firm, or corporation, with the intent to procure the issuance of a credit card or debit card. A violation of this Section is a Class 4 felony.

(720 ILCS 5/17-32 new)

Sec. 17-32. Possession of another's credit, debit, or identification card.

(a) Possession of another's identification card. A person commits possession of another's identification

card when he or she, with the intent to defraud, possesses any check guarantee card or key card or identification card for cash dispensing machines without the authority of the account holder or financial institution.

(b) Possession of another's credit or debit card. A person commits possession of another's credit or debit card when he or she receives a credit card or debit card from the person, possession, custody, or control of another without the cardholder's consent or if he or she, with knowledge that it has been so acquired, receives the credit card or debit card with the intent to use it or to sell it, or to transfer it to a person other than the issuer or the cardholder. The trier of fact may infer that a person who has in his or her possession or under his or her control 2 or more such credit cards or debit cards each issued to a cardholder other than himself or herself has violated this Section.

(c) Sentence.

(1) A violation of subsection (a) of this Section is a Class A misdemeanor. A person who, within any 12-month period, violates subsection (a) of this Section at the same time or consecutively with respect to 3 or more cards, each the property of different account holders, is guilty of a Class 4 felony. A person convicted under subsection (a) of this Section, when the value of property so obtained, in a single transaction or in separate transactions within any 90-day period, exceeds \$150 is guilty of a Class 4 felony.

(2) A violation of subsection (b) of this Section is a Class 4 felony. A person who, in any 12-month period, violates subsection (b) of this Section with respect to 3 or more credit cards or debit cards each issued to a cardholder other than himself or herself is guilty of a Class 3 felony.

(720 ILCS 5/17-33 new)

Sec. 17-33. Possession of lost or mislaid credit or debit card. A person who receives a credit card or debit card that he or she knows to have been lost or mislaid and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder is guilty of a Class 4 felony.

A person who, in a single transaction, violates this Section with respect to 3 or more credit cards or debit cards each issued to different cardholders other than himself or herself is guilty of a Class 3 felony.

(720 ILCS 5/17-34 new)

Sec. 17-34. Sale of credit or debit card. A person other than the issuer who sells a credit card or debit card, without the consent of the issuer, is guilty of a Class 4 felony.

A person who knowingly purchases a credit card or debit card from a person other than the issuer, without the consent of the issuer, is guilty of a Class 4 felony.

A person who, in a single transaction, makes a sale or purchase prohibited by this Section with respect to 3 or more credit cards or debit cards each issued to a cardholder other than himself or herself is guilty of a Class 3 felony.

(720 ILCS 5/17-35 new)

Sec. 17-35. Use of credit or debit card as security for debt. A person who, with intent to defraud either the issuer, or a person providing an item or items of value, or any other person, obtains control over a credit card or debit card as security for debt or transfers, conveys, or gives control over a credit card or debit card as security for debt is guilty of a Class 4 felony.

(720 ILCS 5/17-36 new)

Sec. 17-36. Use of counterfeited, forged, expired, revoked, or unissued credit or debit card. A person who, with intent to defraud either the issuer, or a person providing an item or items of value, or any other person, (i) uses, with the intent to obtain an item or items of value, a credit card or debit card obtained or retained in violation of this Subdivision 25 or without the cardholder's consent, or a credit card or debit card which he or she knows is counterfeited, or forged, or expired, or revoked or (ii) obtains or attempts to obtain an item or items of value by representing without the consent of the cardholder that he or she is the holder of a specified card or by representing that he or she is the holder of a card and such card has not in fact been issued is guilty of a Class 4 felony if the value of all items of value obtained or sought in violation of this Section does not exceed \$300 in any 6-month period; and is guilty of a Class 3 felony if the value exceeds \$300 in any 6-month period. The trier of fact may infer that knowledge of revocation has been received by a cardholder 4 days after it has been mailed to him or her at the address set forth on the credit card or debit card or at his or her last known address by registered or certified mail, return receipt requested, and, if the address is more than 500 miles from the place of mailing, by air mail. The trier of fact may infer that notice was received 10 days after mailing by registered or certified mail if the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada.

(720 ILCS 5/17-37 new)

Sec. 17-37. Use of credit or debit card with intent to defraud. A cardholder who uses a credit card or

debit card issued to him or her, or allows another person to use a credit card or debit card issued to him or her, with intent to defraud the issuer, or a person providing an item or items of value, or any other person is guilty of a Class A misdemeanor if the value of all items of value does not exceed \$150 in any 6-month period; and is guilty of a Class 4 felony if the value exceeds \$150 in any 6-month period.

(720 ILCS 5/17-38 new)

Sec. 17-38. Use of account number or code with intent to defraud; possession of record of charge forms.

(a) A person who, with intent to defraud either an issuer, or a person providing an item or items of value, or any other person, utilizes an account number or code or enters information on a record of charge form with the intent to obtain an item or items of value is guilty of a Class 4 felony if the value of the item or items of value obtained does not exceed \$150 in any 6-month period; and is guilty of a Class 3 felony if the value exceeds \$150 in any 6-month period.

(b) A person who, with intent to defraud either an issuer or a person providing an item or items of value, or any other person, possesses, without the consent of the issuer or purported issuer, record of charge forms bearing the printed impression of a credit card or debit card is guilty of a Class 4 felony. The trier of fact may infer intent to defraud from the possession of such record of charge forms by a person other than the issuer or a person authorized by the issuer to possess record of charge forms.

(720 ILCS 5/17-39 new)

Sec. 17-39. Receipt of goods or services. A person who receives an item or items of value obtained in violation of this Subdivision 25, knowing that it was so obtained or under such circumstances as would reasonably induce him or her to believe that it was so obtained, is guilty of a Class A misdemeanor if the value of all items of value obtained does not exceed \$150 in any 6-month period; and is guilty of a Class 4 felony if the value exceeds \$150 in any 6-month period.

(720 ILCS 5/17-40 new)

Sec. 17-40. Signing another's card with intent to defraud. A person other than the cardholder or a person authorized by him or her who, with intent to defraud either the issuer, or a person providing an item or items of value, or any other person, signs a credit card or debit card is guilty of a Class A misdemeanor.

(720 ILCS 5/17-41 new)

Sec. 17-41. Altered or counterfeited card.

(a) A person commits an offense under this Section when he or she, with intent to defraud either a purported issuer, or a person providing an item or items of value, or any other person, commits an offense under this Section if he or she: (i) alters a credit card or debit card or a purported credit card or debit card, or possesses a credit card or debit card or a purported credit card or debit card with knowledge that the same has been altered; or (ii) counterfeits a purported credit card or debit card, or possesses a purported credit card or debit card with knowledge that the card has been counterfeited.

(b) Sentence. A violation of item (i) of subsection (a) is a Class 4 felony. A violation of item (ii) of subsection (a) is a Class 3 felony. The trier of fact may infer that possession of 2 or more credit cards or debit cards by a person other than the issuer in violation of subsection (a) is evidence that the person intended to defraud or that he or she knew the credit cards or debit cards to have been so altered or counterfeited.

(720 ILCS 5/17-42 new)

Sec. 17-42. Possession of incomplete card. A person other than the cardholder possessing an incomplete credit card or debit card, with intent to complete it without the consent of the issuer or a person possessing, with knowledge of its character, machinery, plates, or any other contrivance designed to reproduce instruments purporting to be credit cards or debit cards of an issuer who has not consented to the preparation of such credit cards or debit cards is guilty of a Class 3 felony. The trier of fact may infer that a person other than the cardholder or issuer who possesses 2 or more incomplete credit cards or debit cards possesses those cards without the consent of the issuer.

(720 ILCS 5/17-43 new)

Sec. 17-43. Prohibited deposits.

(a) A person who, with intent to defraud the issuer of a credit card or debit card or any person providing an item or items of value, or any other person, deposits into his or her account or any account, via an electronic fund transfer terminal, a check, draft, money order, or other such document, knowing such document to be false, fictitious, forged, altered, counterfeit, or not his or her lawful or legal property, is guilty of a Class 4 felony.

(b) A person who receives value as a result of a false, fictitious, forged, altered, or counterfeit check, draft, money order, or other such document having been deposited into an account via an electronic fund transfer terminal, knowing at the time of receipt of the value that the document so deposited was false,

fictitious, forged, altered, counterfeit, or not his or her lawful or legal property, is guilty of a Class 4 felony.

(720 ILCS 5/17-44 new)

Sec. 17-44. Fraudulent use of electronic transmission.

(a) A person who, with intent to defraud the issuer of a credit card or debit card, the cardholder, or any other person, intercepts, taps, or alters electronic information between an electronic fund transfer terminal and the issuer, or originates electronic information to an electronic fund transfer terminal or to the issuer, via any line, wire, or other means of electronic transmission, at any junction, terminal, or device, or at any location within the EFT System, with the intent to obtain value, is guilty of a Class 4 felony.

(b) Any person who, with intent to defraud the issuer of a credit card or debit card, the cardholder, or any other person, intercepts, taps, or alters electronic information between an electronic fund transfer terminal and the issuer, or originates electronic information to an electronic fund transfer terminal or to the issuer, via any line, wire, or other means of electronic transmission, at any junction, terminal, or device, or at any location within the EFT System, and thereby causes funds to be transferred from one account to any other account, is guilty of a Class 4 felony.

(720 ILCS 5/17-45 new)

Sec. 17-45. Payment of charges without furnishing item of value.

(a) No person shall process, deposit, negotiate, or obtain payment of a credit card charge through a retail seller's account with a financial institution or through a retail seller's agreement with a financial institution, card issuer, or organization of financial institutions or card issuers if that retail seller did not furnish or agree to furnish the item or items of value that are the subject of the credit card charge.

(b) No retail seller shall permit any person to process, deposit, negotiate, or obtain payment of a credit card charge through the retail seller's account with a financial institution or the retail seller's agreement with a financial institution, card issuer, or organization of financial institutions or card issuers if that retail seller did not furnish or agree to furnish the item or items of value that are the subject of the credit card charge.

(c) Subsections (a) and (b) do not apply to any of the following:

(1) A person who furnishes goods or services on the business premises of a general merchandise retail seller and who processes, deposits, negotiates, or obtains payment of a credit card charge through that general merchandise retail seller's account or agreement.

(2) A general merchandise retail seller who permits a person described in paragraph (1) to process, deposit, negotiate, or obtain payment of a credit card charge through that general merchandise retail seller's account or agreement.

(3) A franchisee who furnishes the cardholder with an item or items of value that are provided in whole or in part by the franchisor and who processes, deposits, negotiates, or obtains payment of a credit card charge through that franchisor's account or agreement.

(4) A franchisor who permits a franchisee described in paragraph (3) to process, deposit, negotiate, or obtain payment of a credit card charge through that franchisor's account or agreement.

(5) The credit card issuer or a financial institution or a parent, subsidiary, or affiliate of the card issuer or a financial institution.

(6) A person who processes, deposits, negotiates, or obtains payment of less than \$500 of credit card charges in any one-year period through a retail seller's account or agreement. The person has the burden of producing evidence that the person transacted less than \$500 in credit card charges during any one-year period.

(7) A telecommunications carrier that includes charges of other parties in its billings to its subscribers and those other parties whose charges are included in the billings of the telecommunications carrier to its subscribers.

(d) A person injured by a violation of this Section may bring an action for the recovery of damages, equitable relief, and reasonable attorney's fees and costs.

(e) A person who violates this Section is guilty of a business offense and shall be fined \$10,000 for each offense. Each occurrence in which a person processes, deposits, negotiates, or otherwise seeks to obtain payment of a credit card charge in violation of subsection (a) constitutes a separate offense.

(f) The penalties and remedies provided in this Section are in addition to any other remedies or penalties provided by law.

(g) As used in this Section:

"Franchisor" and "franchisee" have the same meanings as in Section 3 of the Franchise Disclosure Act of 1987.

"Retail seller" has the same meaning as in Section 2.4 of the Retail Installment Sales Act.

"Telecommunications carrier" has the same meaning as in Section 13-202 of the Public Utilities Act.  
(720 ILCS 5/17-46 new)

Sec. 17-46. Furnishing items of value with intent to defraud. A person who is authorized by an issuer to furnish money, goods, property, services or anything else of value upon presentation of a credit card or debit card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer or the cardholder, furnishes money, goods, property, services or anything else of value upon presentation of a credit card or debit card obtained or retained in violation of this Code or a credit card or debit card which he knows is counterfeited, or forged, or expired, or revoked is guilty of a Class A misdemeanor, if the value furnished in violation of this Section does not exceed \$150 in any 6-month period; and is guilty of a Class 4 felony if such value exceeds \$150 in any 6-month period.

(720 ILCS 5/17-47 new)

Sec. 17-47. Failure to furnish items of value. A person who is authorized by an issuer to furnish money, goods, property, services or anything else of value upon presentation of a credit card or debit card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer or the cardholder, fails to furnish money, goods, property, services or anything else of value which he represents in writing to the issuer that he has furnished is guilty of a Class A misdemeanor if the difference between the value of all money, goods, property, services and anything else of value actually furnished and the value represented to the issuer to have been furnished does not exceed \$150 in any 6-month period; and is guilty of a Class 4 felony if such difference exceeds \$150 in any 6-month period.

(720 ILCS 5/17-48 new)

Sec. 17-48. Repeat offenses. Any person convicted of a second or subsequent offense under this Subdivision 25 is guilty of a Class 3 felony.

For purposes of this Section, an offense is considered a second or subsequent offense if, prior to his or her conviction of the offense, the offender has at any time been convicted under this Subdivision 25, or under any prior Act, or under any law of the United States or of any state relating to credit card or debit card offenses.

(720 ILCS 5/17-49 new)

Sec. 17-49. Severability. If any provision of this Subdivision 25 or its application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Subdivision 25 which can be given effect without the invalid provision or application, and to this end the provisions of this Subdivision 25 are declared to be severable.

(720 ILCS 5/17-49.5 new)

Sec. 17-49.5. Telephone Charge Fraud Act unaffected. Nothing contained in this Subdivision 25 shall be construed to repeal, amend, or otherwise affect the Telephone Charge Fraud Act.

(720 ILCS 5/Art. 17, Subdiv. 30 heading new)

### SUBDIVISION 30. COMPUTER FRAUD

(720 ILCS 5/17-50) (was 720 ILCS 5/16D-5 and 5/16D-6)

Sec. 17-50 ~~16D-5~~. Computer fraud ~~Fraud~~.

(a) A person commits ~~the offense of~~ computer fraud when he or she knowingly:

(1) Accesses or causes to be accessed a computer or any part thereof, or a program or data, ~~with the intent for the purpose~~ of devising or executing any scheme ~~or~~ ; artifice to defraud, or as part of a deception;

(2) Obtains use of, damages, or destroys a computer or any part thereof, or alters, deletes, or removes any program or data contained therein, in connection with any scheme ~~or~~ ; artifice to defraud, or as part of a deception; or

(3) Accesses or causes to be accessed a computer or any part thereof, or a program or data, and obtains money or control over any such money, property, or services of another in connection with any scheme ~~or~~ ; artifice to defraud, or as part of a deception.

(b) Sentence.

(1) A violation of subdivision ~~person who commits the offense of computer fraud as set forth in subsection~~ (a)(1) of this Section ~~is shall be guilty of~~ a Class 4 felony.

(2) A violation of subdivision ~~person who commits the offense of computer fraud as set forth in subsection~~ (a)(2) of this Section ~~is shall be guilty of~~ a Class 3 felony.

(3) A violation of subdivision ~~person who commits the offense of computer fraud as set forth in subsection~~ (a)(3) of this Section ~~shall~~:

(i) ~~is be guilty of~~ a Class 4 felony if the value of the money, property, <sub>;</sub> or services is \$1,000 or less; or

(ii) ~~is be guilty of~~ a Class 3 felony if the value of the money, property, <sub>;</sub> or services is more than

\$1,000 but less than \$50,000; or

(iii) ~~is guilty of~~ a Class 2 felony if the value of the money, property, or services is \$50,000 or more.

~~(c) Sec. 16D-6.~~ Forfeiture of property. Any person who commits ~~the offense of~~ computer fraud as set forth in ~~subsection (a) Section 16D-5~~ is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(Source: P.A. 85-926; 96-712, eff. 1-1-10.)

(720 ILCS 5/17-51) (was 720 ILCS 5/16D-3)

Sec. ~~17-51 16D-3.~~ Computer ~~tampering~~ Tampering.

(a) A person commits ~~the offense of~~ computer tampering when he or she knowingly and without the authorization of a computer's owner, ~~as defined in Section 15-2 of this Code,~~ or in excess of the authority granted to him or her:

(1) Accesses or causes to be accessed a computer or any part thereof, a computer network, or a program or data;

(2) Accesses or causes to be accessed a computer or any part thereof, a computer network, or a program or data, and obtains data or services;

(3) Accesses or causes to be accessed a computer or any part thereof, a computer network, or a program or data, and damages or destroys the computer or alters, deletes, or removes a computer program or data;

(4) Inserts or attempts to insert a "program" into a computer or computer program knowing or having reason to know believe that such "program" contains information or commands that will or may :

(A) damage or destroy that computer, or any other computer subsequently accessing or being accessed by that computer; ~~or that will or may~~

(B) alter, delete, or remove a computer program or data from that computer, or any other computer program or data in a computer subsequently accessing or being accessed by that computer; ~~or or that will or may~~

(C) cause loss to the users of that computer or the users of a computer which accesses or which is accessed by such "program"; ~~or~~

(5) Falsifies or forges electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited bulk electronic mail through or into the computer network of an electronic mail service provider or its subscribers; ~~;~~

(a-5) Distributing software to falsify routing information. It is ~~shall be~~ unlawful for any person knowingly to sell, give, or otherwise distribute or possess with the intent to sell, give, or distribute software which :

(1) is primarily designed or produced for the purpose of facilitating or enabling the falsification of electronic mail transmission information or other routing information;

(2) has only a limited commercially significant purpose or use other than to facilitate or enable the falsification of electronic mail transmission information or other routing information; or

(3) is marketed by that person or another acting in concert with that person with that person's knowledge for use in facilitating or enabling the falsification of electronic mail transmission information or other routing information.

(a-10) For purposes of subsection (a), accessing a computer network is deemed to be with the authorization of a computer's owner if:

(1) the owner authorizes patrons, customers, or guests to access the computer network and the person accessing the computer network is an authorized patron, customer, or guest and complies with all terms or conditions for use of the computer network that are imposed by the owner; or

(2) the owner authorizes the public to access the computer network and the person accessing the computer network complies with all terms or conditions for use of the computer network that are imposed by the owner.

(b) Sentence.

(1) A person who commits ~~the offense of~~ computer tampering as set forth in ~~subsection subsection~~ (a)(1) ~~or~~ (a)(5); or ~~subsection (a-5)~~

of this Section is ~~shall be~~ guilty of a Class B misdemeanor.

(2) A person who commits ~~the offense of~~ computer tampering as set forth in ~~subsection subsection~~ (a)(2) of this Section is ~~shall be~~

guilty of a Class A misdemeanor and a Class 4 felony for the second or subsequent offense.

(3) A person who commits ~~the offense of~~ computer tampering as set forth in ~~subsection subsection~~

(a)(3) or ~~subsection~~ (a)(4) of

this Section ~~is shall be~~ guilty of a Class 4 felony and a Class 3 felony for the second or subsequent offense.

(4) If ~~an the~~ injury arises from the transmission of unsolicited bulk electronic mail, the injured person, other than an electronic mail service provider, may also recover attorney's fees and costs, and may elect, in lieu of actual damages, to recover the lesser of \$10 for each ~~and every~~ unsolicited bulk electronic mail message transmitted in violation of this Section, or \$25,000 per day. The injured person shall not have a cause of action against the electronic mail service provider that merely transmits the unsolicited bulk electronic mail over its computer network.

(5) If ~~an the~~ injury arises from the transmission of unsolicited bulk electronic mail, an injured electronic mail service provider may also recover attorney's fees and costs, and may elect, in lieu of actual damages, to recover the greater of \$10 for each ~~and every~~ unsolicited electronic mail advertisement transmitted in violation of this Section, or \$25,000 per day.

(6) The provisions of this Section shall not be construed to limit any person's right to pursue any additional civil remedy otherwise allowed by law.

(c) Whoever suffers loss by reason of a violation of ~~paragraph subsection~~ (a)(4) of this Section may, in a civil action against the violator, obtain appropriate relief. In a civil action under this Section, the court may award to the prevailing party reasonable attorney's fees and other litigation expenses.

(Source: P.A. 95-326, eff. 1-1-08; revised 11-4-09.)

(720 ILCS 5/17-52) (was 720 ILCS 5/16D-4)

Sec. ~~17-52 16D-4~~. Aggravated computer tampering ~~Computer Tampering~~.

(a) A person commits aggravated computer tampering when he or she commits ~~the offense of~~ computer tampering as set forth in ~~paragraph subsection~~ (a)(3) of Section ~~17-51 16D-3~~ and he or she knowingly:

- (1) causes disruption of or interference with vital services or operations of State or local government or a public utility; or
- (2) creates a strong probability of death or great bodily harm to one or more individuals.

(b) Sentence.

(1) A person who commits ~~the offense of~~ aggravated computer tampering as set forth in ~~paragraph subsection~~ (a)(1) of this

Section ~~is shall be~~ guilty of a Class 3 felony.

(2) A person who commits ~~the offense of~~ aggravated computer tampering as set forth in ~~paragraph subsection~~ (a)(2) of this

Section ~~is shall be~~ guilty of a Class 2 felony.

(Source: P.A. 86-820.)

(720 ILCS 5/17-52.5) (was 720 ILCS 5/16D-5.5)

Sec. ~~17-52.5 16D-5.5~~. Unlawful use of encryption.

(a) For the purpose of this Section:

~~"Access" means to intercept, instruct, communicate with, store data in, retrieve from, or otherwise make use of any resources of a computer, network, or data.~~

"Computer" means an electronic device which performs logical, arithmetic, and memory functions by manipulations of electronic or magnetic impulses and includes all equipment related to the computer in a system or network.

"Computer contaminant" means any data, information, image, program, signal, or sound that is designated or has the capability to: (1) contaminate, corrupt, consume, damage, destroy, disrupt, modify, record, or transmit; or (2) cause to be contaminated, corrupted, consumed, damaged, destroyed, disrupted, modified, recorded, or transmitted, any other data, information, image, program, signal, or sound contained in a computer, system, or network without the knowledge or consent of the person who owns the other data, information, image, program, signal, or sound or the computer, system, or network.

"Computer contaminant" includes, without limitation: (1) a virus, worm, or Trojan horse;

(2) spyware that tracks computer activity and is capable of recording and transmitting such information to third parties; or (3) any other similar data, information, image, program, signal, or sound that is designed or has the capability to prevent, impede, delay, or disrupt the normal operation or use of any component, device, equipment, system, or network.

~~"Data" means a representation in any form of information, knowledge, facts, concepts, or instructions which is being prepared or has been formally prepared and is intended to be processed, is being processed or has been processed in a system or network.~~

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"Encryption" means the use of any protective or disruptive measure, including, without limitation, cryptography, enciphering, encoding, or a computer contaminant, to: (1) prevent, impede, delay, or disrupt access to any data, information, image, program, signal, or sound; (2) cause or make any data, information, image, program, signal, or sound unintelligible or unusable; or (3) prevent, impede, delay, or disrupt the normal operation or use of any component, device, equipment, system, or network.

"Network" means a set of related, remotely connected devices and facilities, including more than one system, with the capability to transmit data among any of the devices and facilities. The term includes, without limitation, a local, regional, or global computer network.

"Program" means an ordered set of data representing coded instructions or statements which can be executed by a computer and cause the computer to perform one or more tasks.

"System" means a set of related equipment, whether or not connected, which is used with or for a computer.

(b) A person shall not knowingly use or attempt to use encryption, directly or indirectly, to:

- (1) commit, facilitate, further, or promote any criminal offense;
- (2) aid, assist, or encourage another person to commit any criminal offense;
- (3) conceal evidence of the commission of any criminal offense; or
- (4) conceal or protect the identity of a person who has committed any criminal offense.

(c) Telecommunications carriers and information service providers are not liable under this Section, except for willful and wanton misconduct, for providing encryption services used by others in violation of this Section.

(d) Sentence. A person who violates this Section is guilty of a Class A misdemeanor, unless the encryption was used or attempted to be used to commit an offense for which a greater penalty is provided by law. If the encryption was used or attempted to be used to commit an offense for which a greater penalty is provided by law, the person shall be punished as prescribed by law for that offense.

(e) A person who violates this Section commits a criminal offense that is separate and distinct from any other criminal offense and may be prosecuted and convicted under this Section whether or not the person or any other person is or has been prosecuted or convicted for any other criminal offense arising out of the same facts as the violation of this Section.

(Source: P.A. 95-942, eff. 1-1-09.)

(720 ILCS 5/17-54) (was 720 ILCS 5/16D-7)

~~Sec. 17-54 16D-7. Evidence of lack of Rebuttable Presumption without authority. For the purposes of Sections 17-50 through 17-52, the trier of fact may infer that a person accessed a computer without the authorization of its owner or in excess of the authority granted if the person, in the event that a person accesses or causes to be accessed a computer, which access requires a confidential or proprietary code which has not been issued to or authorized for use by that person, a rebuttable presumption exists that the computer was accessed without the authorization of its owner or in excess of the authority granted.~~

(Source: P.A. 85-926.)

(720 ILCS 5/17-55 new)

Sec. 17-55. Definitions. For the purposes of Sections 17-50 through 17-53:

In addition to its meaning as defined in Section 15-1 of this Code, "property" means: (1) electronic impulses; (2) electronically produced data; (3) confidential, copyrighted, or proprietary information; (4) private identification codes or numbers which permit access to a computer by authorized computer users or generate billings to consumers for purchase of goods and services, including but not limited to credit card transactions and telecommunications services or permit electronic fund transfers; (5) software or programs in either machine or human readable form; or (6) any other tangible or intangible item relating to a computer or any part thereof.

"Access" means to use, instruct, communicate with, store data in, retrieve or intercept data from, or otherwise utilize any services of, a computer, a network, or data.

"Services" includes but is not limited to computer time, data manipulation, or storage functions.

"Vital services or operations" means those services or operations required to provide, operate, maintain, and repair network cabling, transmission, distribution, or computer facilities necessary to ensure or protect the public health, safety, or welfare. Those services or operations include, but are not limited to, services provided by medical personnel or institutions, fire departments, emergency services agencies, national defense contractors, armed forces or militia personnel, private and public utility companies, or law enforcement agencies.

(720 ILCS 5/Art. 17, Subdiv. 35 heading new)

SUBDIVISION 35. MISCELLANEOUS SPECIAL FRAUD

(720 ILCS 5/17-56) (was 720 ILCS 5/16-1.3)

Sec. ~~17-56~~ ~~16-1.3~~. Financial exploitation of an elderly person or a person with a disability.

(a) A person commits ~~the offense of~~ financial exploitation of an elderly person or a person with a disability when he or she stands in a position of trust or confidence with the elderly person or a person with a disability and he or she knowingly and by deception or intimidation obtains control over the property of an elderly person or a person with a disability or illegally uses the assets or resources of an elderly person or a person with a disability. ~~The illegal use of the assets or resources of an elderly person or a person with a disability includes, but is not limited to, the misappropriation of those assets or resources by undue influence, breach of a fiduciary relationship, fraud, deception, extortion, or use of the assets or resources contrary to law.~~

(b) Sentence. Financial exploitation of an elderly person or a person with a disability is: (1) a Class 4 felony if the value of the property is \$300 or less, (2) a Class 3 felony if the value of the property is more than \$300 but less than \$5,000, (3) a Class 2 felony if the value of the property is \$5,000 or more but less than \$100,000, and (4) a Class 1 felony if the value of the property is \$100,000 or more or if the elderly person is over 70 years of age and the value of the property is \$15,000 or more or if the elderly person is 80 years of age or older and the value of the property is \$5,000 or more.

(c) ~~(b)~~ For purposes of this Section:

(1) "Elderly person" means a person 60 years of age or older.

(2) "Person with a disability" means a person who suffers from a physical or mental impairment resulting from disease, injury, functional disorder or congenital condition that impairs the individual's mental or physical ability to independently manage his or her property or financial resources, or both.

(3) "Intimidation" means the communication to an elderly person or a person with a disability that he or she shall be deprived of food and nutrition, shelter, prescribed medication or medical care and treatment.

(4) "Deception" means, in addition to its meaning as defined in Section 15-4 of this Code, a misrepresentation or concealment of material fact relating to the terms of a contract or agreement entered into with the elderly person or person with a disability or to the existing or pre-existing condition of any of the property involved in such contract or agreement; or the use or employment of any misrepresentation, false pretense or false promise in order to induce, encourage or solicit the elderly person or person with a disability to enter into a contract or agreement.

The illegal use of the assets or resources of an elderly person or a person with a disability includes, but is not limited to, the misappropriation of those assets or resources by undue influence, breach of a fiduciary relationship, fraud, deception, extortion, or use of the assets or resources contrary to law.

~~▲ (c) For purposes of this Section, a person stands in a position of trust and confidence with an elderly person or person with a disability when he (i) (→) is a parent, spouse, adult child or other relative by blood or marriage of the elderly person or person with a disability, (ii) (↔) is a joint tenant or tenant in common with the elderly person or person with a disability, (iii) (↔) has a legal or fiduciary relationship with the elderly person or person with a disability, or (iv) (↔) is a financial planning or investment professional.~~

(d) Limitations. Nothing in this Section shall be construed to limit the remedies available to the victim under the Illinois Domestic Violence Act of 1986.

(e) Good faith efforts. Nothing in this Section shall be construed to impose criminal liability on a person who has made a good faith effort to assist the elderly person or person with a disability in the management of his or her property, but through no fault of his or her own has been unable to provide such assistance.

(f) Not a defense. It shall not be a defense to financial exploitation of an elderly person or person with a disability that the accused reasonably believed that the victim was not an elderly person or person with a disability.

(g) Civil Liability. A person who is charged by information or indictment with the offense of financial exploitation of an elderly person or person with a disability and who fails or refuses to return the victim's property within 60 days following a written demand from the victim or the victim's legal representative shall be liable to the victim or to the estate of the victim in damages of treble the amount of the value of the property obtained, plus reasonable attorney fees and court costs. The burden of proof that the defendant unlawfully obtained the victim's property shall be by a preponderance of the evidence. This subsection shall be operative whether or not the defendant has been convicted of the offense.

(Source: P.A. 95-798, eff. 1-1-09.)

(720 ILCS 5/17-57) (was 720 ILCS 5/17-28)

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Sec. ~~17-57~~ ~~47-28~~. Defrauding drug and alcohol screening tests.

(a) It is unlawful for a person to:

(1) manufacture, sell, give away, distribute, or market synthetic or human substances or other products in this State or transport urine into this State with the intent of using the synthetic or human substances or other products to defraud a drug or alcohol screening test;

(2) ~~substitute or spike a sample or advertise a sample substitution or other spiking device or measure, with the intent of attempting~~ ~~attempt~~ to foil or defeat a drug or alcohol screening test ~~by the substitution or spiking of a sample or the advertisement of a sample substitution or other spiking device or measure;~~

(3) adulterate synthetic or human substances with the intent to defraud a drug or alcohol screening test; or

(4) manufacture, sell, or possess adulterants that are intended to be used to adulterate synthetic or human substances ~~with the intent for the purpose~~ of defrauding a drug or alcohol screening test.

(b) ~~The~~ ~~For the purpose of determining the intent of the defendant who is charged with a violation of this Section, the~~ trier of fact may ~~infer intent to violate this Section if~~ take into consideration whether or ~~not~~ a heating element or any other device used to thwart a drug or

alcohol screening test accompanies the sale, giving, distribution, or marketing of synthetic or human substances or other products or ~~whether or not~~ instructions that provide a method for thwarting a drug or alcohol screening test accompany the sale, giving, distribution, or marketing of synthetic or human substances or other products.

(c) Sentence. A violation of this Section is a Class 4 felony for which the court shall impose a minimum fine of \$1,000.

(d) For the purposes of this Section, "drug or alcohol screening test" includes, but is not limited to, urine testing, hair follicle testing, perspiration testing, saliva testing, blood testing, fingernail testing, and eye drug testing.

(Source: P.A. 93-691, eff. 7-9-04.)

(720 ILCS 5/17-58) (was 720 ILCS 5/17-16)

Sec. ~~17-58~~ ~~47-16~~. Fraudulent production of infant. A person who fraudulently produces an infant, falsely pretending it to have been born of parents whose child would be entitled to a share of a personal estate, or to inherit real estate, with the intent of intercepting the inheritance of the real estate, or the distribution of the personal property from a person lawfully entitled to the personal property, is guilty of a Class 3 felony.

(Source: P.A. 89-234, eff. 1-1-96.)

(720 ILCS 5/17-59) (was 720 ILCS 5/39-1)

Sec. ~~17-59~~ ~~39-1~~. Criminal usury ~~Usury~~.

(a) ~~A~~ ~~Any~~ person commits criminal usury when, in exchange for either a loan of money or other property or forbearance from the collection of such a loan, he ~~or she~~ knowingly contracts for or receives from an individual, directly or indirectly, interest, discount, or other consideration at a rate greater than 20% per annum either before or after the maturity of the loan.

(b) When a person has in his ~~or her~~ personal or constructive possession records, memoranda, or other documentary record of usurious loans, ~~the trier of fact may infer it shall be prima facie evidence~~ that he ~~or she~~ has violated subsection (a) of this Section ~~Subsection 39-1(a) hereof~~.

(c) Sentence. Criminal usury is a Class 4 felony.

(d) ~~Non-application to licensed persons. This Section does not apply to any loan authorized to be made by any person licensed under the Consumer Installment Loan Act or to any loan permitted by Sections 4, 4.2 and 4a of the Interest Act or by any other law of this State.~~

(Source: P.A. 76-1879.)

(720 ILCS 5/17-60) (was 720 ILCS 5/17-7)

Sec. ~~17-60~~ ~~47-7~~. Promotion of pyramid sales schemes.

(a) ~~A~~ ~~person who knowingly sells, offers to sell, or attempts to sell the right to participate in a pyramid sales scheme commits a Class A misdemeanor.~~

(b) ~~(a)~~ The term "pyramid sales scheme" means any plan or operation whereby a person, in exchange for money or other thing of value, acquires the opportunity to receive a benefit or thing of value, which is primarily based upon the inducement of additional persons, by himself or others, regardless of number, to participate in the same plan or operation and is not primarily contingent on the volume or quantity of goods, services, or other property sold or distributed or to be sold or distributed to persons for purposes of resale to consumers. For purposes of this subsection, "money or other thing of value" shall not include payments made for sales demonstration equipment and materials furnished on a nonprofit

basis for use in making sales and not for resale.

~~(b) Any person who knowingly sells, offers to sell, or attempts to sell the right to participate in a pyramid sales scheme commits a Class A misdemeanor.~~

(Source: P.A. 83-808.)

(720 ILCS 5/17-61 new)

Sec. 17-61. Unauthorized use of university stationery.

(a) No person, firm or corporation shall use the official stationery or seal or a facsimile thereof, of any State supported university, college or other institution of higher education or any organization thereof unless approved in writing in advance by the university, college or institution of higher education affected, for any private promotional scheme wherein it is made to appear that the organization or university, college or other institution of higher education is endorsing the private promotional scheme.

(b) A violation of this Section is a petty offense.

(720 ILCS 5/17-62 new)

Sec. 17-62. Unlawful possession of device for manufacturing a false universal price code label. It is unlawful for a person to knowingly possess a device the purpose of which is to manufacture a false, counterfeited, altered, or simulated universal price code label. A violation of this Section is a Class 3 felony.

(720 ILCS 5/16D-2 rep.) (720 ILCS 5/Art. 16H rep.) (720 ILCS 5/17-1a rep.) (720 ILCS 5/17-2.5 rep.) (720 ILCS 5/17-4 rep.) (720 ILCS 5/17-8 rep.) (720 ILCS 5/17-10 rep.) (720 ILCS 5/17-11.1 rep.) (720 ILCS 5/17-12 rep.) (720 ILCS 5/17-14 rep.) (720 ILCS 5/17-15 rep.) (720 ILCS 5/17-18 rep.) (720 ILCS 5/17-19 rep.) (720 ILCS 5/17-23 rep.) (720 ILCS 5/Art. 17A rep.) (720 ILCS 5/17B-1 rep.) (720 ILCS 5/17B-5 rep.) (720 ILCS 5/17B-10 rep.) (720 ILCS 5/17B-15 rep.) (720 ILCS 5/17B-20 rep.) (720 ILCS 5/17B-25 rep.) (720 ILCS 5/17B-30 rep.) (720 ILCS 5/32-5 rep.) (720 ILCS 5/32-5.1 rep.) (720 ILCS 5/32-5.1-1 rep.) (720 ILCS 5/32-5.2 rep.) (720 ILCS 5/32-5.2-5 rep.) (720 ILCS 5/32-5.3 rep.) (720 ILCS 5/32-5.4 rep.) (720 ILCS 5/32-5.4-1 rep.) (720 ILCS 5/32-5.5 rep.) (720 ILCS 5/32-5.6 rep.) (720 ILCS 5/32-5.7 rep.) (720 ILCS 5/Art. 33C rep.) (720 ILCS 5/Art. 39 heading rep.) (720 ILCS 5/39-2 rep.) (720 ILCS 5/39-3 rep.) (720 ILCS 5/Art. 46 rep.)

Section 5-6. The Criminal Code of 1961 is amended by repealing Article 16H, Article 17A, Article 33C, Article 46, the heading of Article 39, and Sections 16D-2, 17-1a, 17-2.5, 17-4, 17-8, 17-10, 17-11.1, 17-12, 17-14, 17-15, 17-18, 17-19, 17-23, 17B-1, 17B-5, 17B-10, 17B-15, 17B-20, 17B-25, 17B-30, 32-5, 32-5.1, 32-5.1-1, 32-5.2, 32-5.2-5, 32-5.3, 32-5.4, 32-5.4-1, 32-5.5, 32-5.6, 32-5.7, 39-2, and 39-3.

(720 ILCS 240/Act rep.)

Section 5-10. The Conditional Sales Protection Act is repealed.

(720 ILCS 245/Act rep.)

Section 5-12. The Construction Equipment Identification Defacement Act is repealed.

(720 ILCS 250/Act rep.)

Section 5-15. The Illinois Credit Card and Debit Card Act is repealed.

(720 ILCS 290/Act rep.)

Section 5-20. The Deceptive Sale of Gold and Silver Act is repealed.

(720 ILCS 295/Act rep.)

Section 5-25. The Deceptive Advertising Act is repealed.

(720 ILCS 305/Act rep.)

Section 5-30. The Gasoline Price Advertising Act is repealed.

(720 ILCS 325/Act rep.)

Section 5-35. The Insurance Claims for Excessive Charges Act is repealed.

(720 ILCS 335/Act rep.)

Section 5-37. The Marks and Serial Numbers Act is repealed.

(720 ILCS 390/Act rep.)

Section 5-40. The Use of University Stationery Act is repealed.

## Article 10.

Section 10-5. The Department of Revenue Law of the Civil Administrative Code of Illinois is amended by changing Section 2505-400 as follows:

(20 ILCS 2505/2505-400) (was 20 ILCS 2505/39b49)

Sec. 2505-400. Contracts for collection assistance.

(a) The Department has the power to contract for collection assistance on a contingent fee basis, with

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collection fees to be retained by the collection agency and the net collections to be paid to the Department. In the case of any liability referred to a collection agency on or after July 1, 2003, any fee charged to the State by the collection agency shall be considered additional State tax of the taxpayer imposed under the Act under which the tax being collected was imposed, shall be deemed assessed at the time payment of the tax is made to the collection agency, and shall be separately stated in any statement or notice of the liability issued by the collection agency to the taxpayer.

(b) The Department has the power to enter into written agreements with State's Attorneys for pursuit of civil liability under subsection (E) of Section 17-1 ~~47-1a~~ of the Criminal Code of 1961 against persons who have issued to the Department checks or other orders in violation of the provisions of paragraph (1) ~~(4)~~ of subsection (B) of Section 17-1 of the Criminal Code of 1961. Of the amount collected, the Department shall retain the amount owing upon the dishonored check or order along with the dishonored check fee imposed under the Uniform Penalty and Interest Act. The balance of damages, fees, and costs collected under subsection (E) of Section 17-1 ~~47-1a~~ of the Criminal Code of 1961 or under Section 17-1a of that Code shall be retained by the State's Attorney. The agreement shall not affect the allocation of fines and costs imposed in any criminal prosecution.

(c) The Department may issue the Secretary of the Treasury of the United States (or his or her delegate) notice, as required by Section 6402(e) of the Internal Revenue Code, of any past due, legally enforceable State income tax obligation of a taxpayer. The Department must notify the taxpayer that any fee charged to the State by the Secretary of the Treasury of the United States (or his or her delegate) under Internal Revenue Code Section 6402(e) is considered additional State income tax of the taxpayer with respect to whom the Department issued the notice, and is deemed assessed upon issuance by the Department of notice to the Secretary of the Treasury of the United States (or his or her delegate) under Section 6402(e) of the Internal Revenue Code; a notice of additional State income tax is not considered a notice of deficiency, and the taxpayer has no right of protest. (Source: P.A. 92-492, eff. 1-1-02; 93-25, eff. 6-20-03.)

Section 10-10. The Counties Code is amended by changing Section 3-9005 as follows:

(55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)

Sec. 3-9005. Powers and duties of State's attorney.

(a) The duty of each State's attorney shall be:

(1) To commence and prosecute all actions, suits, indictments and prosecutions, civil and criminal, in the circuit court for his county, in which the people of the State or county may be concerned.

(2) To prosecute all forfeited bonds and recognizances, and all actions and proceedings for the recovery of debts, revenues, moneys, fines, penalties and forfeitures accruing to the State or his county, or to any school district or road district in his county; also, to prosecute all suits in his county against railroad or transportation companies, which may be prosecuted in the name of the People of the State of Illinois.

(3) To commence and prosecute all actions and proceedings brought by any county officer in his official capacity.

(4) To defend all actions and proceedings brought against his county, or against any county or State officer, in his official capacity, within his county.

(5) To attend the examination of all persons brought before any judge on habeas corpus, when the prosecution is in his county.

(6) To attend before judges and prosecute charges of felony or misdemeanor, for which the offender is required to be recognized to appear before the circuit court, when in his power so to do.

(7) To give his opinion, without fee or reward, to any county officer in his county, upon any question or law relating to any criminal or other matter, in which the people or the county may be concerned.

(8) To assist the attorney general whenever it may be necessary, and in cases of appeal from his county to the Supreme Court, to which it is the duty of the attorney general to attend, he shall furnish the attorney general at least 10 days before such is due to be filed, a manuscript of a proposed statement, brief and argument to be printed and filed on behalf of the people, prepared in accordance with the rules of the Supreme Court. However, if such brief, argument or other document is due to be filed by law or order of court within this 10 day period, then the State's attorney shall furnish such as soon as may be reasonable.

(9) To pay all moneys received by him in trust, without delay, to the officer who by law is entitled to the custody thereof.

(10) To notify, by first class mail, complaining witnesses of the ultimate disposition

of the cases arising from an indictment or an information.

(11) To perform such other and further duties as may, from time to time, be enjoined on him by law.

(12) To appear in all proceedings by collectors of taxes against delinquent taxpayers for judgments to sell real estate, and see that all the necessary preliminary steps have been legally taken to make the judgment legal and binding.

(13) To notify, by first-class mail, the State Superintendent of Education, the applicable regional superintendent of schools, and the superintendent of the employing school district or the chief school administrator of the employing nonpublic school, if any, upon the conviction of any individual known to possess a certificate issued pursuant to Article 21 of the School Code of any offense set forth in Section 21-23a of the School Code or any other felony conviction, providing the name of the certificate holder, the fact of the conviction, and the name and location of the court where the conviction occurred. The certificate holder must also be contemporaneously sent a copy of the notice.

(b) The State's Attorney of each county shall have authority to appoint one or more special investigators to serve subpoenas, make return of process and conduct investigations which assist the State's Attorney in the performance of his duties. A special investigator shall not carry firearms except with permission of the State's Attorney and only while carrying appropriate identification indicating his employment and in the performance of his assigned duties.

Subject to the qualifications set forth in this subsection, special investigators shall be peace officers and shall have all the powers possessed by investigators under the State's Attorneys Appellate Prosecutor's Act.

No special investigator employed by the State's Attorney shall have peace officer status or exercise police powers unless he or she successfully completes the basic police training course mandated and approved by the Illinois Law Enforcement Training Standards Board or such board waives the training requirement by reason of the special investigator's prior law enforcement experience or training or both. Any State's Attorney appointing a special investigator shall consult with all affected local police agencies, to the extent consistent with the public interest, if the special investigator is assigned to areas within that agency's jurisdiction.

Before a person is appointed as a special investigator, his fingerprints shall be taken and transmitted to the Department of State Police. The Department shall examine its records and submit to the State's Attorney of the county in which the investigator seeks appointment any conviction information concerning the person on file with the Department. No person shall be appointed as a special investigator if he has been convicted of a felony or other offense involving moral turpitude. A special investigator shall be paid a salary and be reimbursed for actual expenses incurred in performing his assigned duties. The county board shall approve the salary and actual expenses and appropriate the salary and expenses in the manner prescribed by law or ordinance.

(c) The State's Attorney may request and receive from employers, labor unions, telephone companies, and utility companies location information concerning putative fathers and noncustodial parents for the purpose of establishing a child's paternity or establishing, enforcing, or modifying a child support obligation. In this subsection, "location information" means information about (i) the physical whereabouts of a putative father or noncustodial parent, (ii) the putative father or noncustodial parent's employer, or (iii) the salary, wages, and other compensation paid and the health insurance coverage provided to the putative father or noncustodial parent by the employer of the putative father or noncustodial parent or by a labor union of which the putative father or noncustodial parent is a member.

(d) For each State fiscal year, the State's Attorney of Cook County shall appear before the General Assembly and request appropriations to be made from the Capital Litigation Trust Fund to the State Treasurer for the purpose of providing assistance in the prosecution of capital cases in Cook County and for the purpose of providing assistance to the State in post-conviction proceedings in capital cases under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases. The State's Attorney may appear before the General Assembly at other times during the State's fiscal year to request supplemental appropriations from the Trust Fund to the State Treasurer.

(e) The State's Attorney shall have the authority to enter into a written agreement with the Department of Revenue for pursuit of civil liability under subsection (E) of Section 17-1 ~~47-1a~~ of the Criminal Code of 1961 against persons who have issued to the Department checks or other orders in violation of the provisions of paragraph (1) ~~(4)~~ of subsection (B) of Section 17-1 of the Criminal Code of 1961, with the Department to retain the amount owing upon the dishonored check or order along with the dishonored check fee imposed under the Uniform Penalty and Interest Act, with the balance of damages, fees, and

costs collected under subsection (E) of Section 17-1 ~~47-1a~~ of the Criminal Code of 1961 or under Section 17-1a of that Code to be retained by the State's Attorney. The agreement shall not affect the allocation of fines and costs imposed in any criminal prosecution.  
(Source: P.A. 96-431, eff. 8-13-09.)

Section 10-15. The Acupuncture Practice Act is amended by changing Section 117 as follows:  
(225 ILCS 2/117)

(Section scheduled to be repealed on January 1, 2018)

Sec. 117. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.  
(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-20. The Illinois Athletic Trainers Practice Act is amended by changing Section 16.5 as follows:

(225 ILCS 5/16.5)

(Section scheduled to be repealed on January 1, 2016)

Sec. 16.5. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.  
(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-25. The Clinical Psychologist Licensing Act is amended by changing Section 15.1 as follows:

(225 ILCS 15/15.1)

(Section scheduled to be repealed on January 1, 2017)

Sec. 15.1. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.  
(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-30. The Clinical Social Work and Social Work Practice Act is amended by changing Section 19.5 as follows:

(225 ILCS 20/19.5)

(Section scheduled to be repealed on January 1, 2018)

Sec. 19.5. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.  
(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-35. The Illinois Dental Practice Act is amended by changing Section 23c as follows:  
(225 ILCS 25/23c)

(Section scheduled to be repealed on January 1, 2016)

Sec. 23c. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person

whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-40. The Health Care Worker Background Check Act is amended by changing Section 25 as follows:

(225 ILCS 46/25)

Sec. 25. Persons ineligible to be hired by health care employers and long-term care facilities.

(a) In the discretion of the Director of Public Health, as soon after January 1, 1996, January 1, 1997, January 1, 2006, or October 1, 2007, as applicable, and as is reasonably practical, no health care employer shall knowingly hire, employ, or retain any individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility shall knowingly hire, employ, or retain any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has been convicted of committing or attempting to commit one or more of the following offenses: those defined in Sections 8-1(b), 8-1.1, 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1, 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-6, 11-9.1, 11-9.5, 11-19.2, 11-20.1, 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-19, 12-21, 12-21.6, 12-32, 12-33, 16-1, 16-1.3, 16A-3, 17-3, 17-56, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3, 19-4, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, or 33A-2 of the Criminal Code of 1961; those provided in Section 4 of the Wrongs to Children Act; those provided in Section 53 of the Criminal Jurisprudence Act; those defined in Section 5, 5.1, 5.2, 7, or 9 of the Cannabis Control Act; those defined in the Methamphetamine Control and Community Protection Act; or those defined in Sections 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois Controlled Substances Act, unless the applicant or employee obtains a waiver pursuant to Section 40.

(a-1) In the discretion of the Director of Public Health, as soon after January 1, 2004 or October 1, 2007, as applicable, and as is reasonably practical, no health care employer shall knowingly hire any individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility shall knowingly hire any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has (i) been convicted of committing or attempting to commit one or more of the offenses defined in Section 12-3.3, 12-4.2-5, 16-2, 16G-15, 16G-20, 17-33, 17-34, 17-36, 17-44, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6, 24-3.2, or 24-3.3, or subsection (b) of Section 17-32, of the Criminal Code of 1961; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card and Debit Card Act; or Section 5.1 of the Wrongs to Children Act; or (ii) violated Section 50-50 of the Nurse Practice Act, unless the applicant or employee obtains a waiver pursuant to Section 40 of this Act.

A health care employer is not required to retain an individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility is required to retain an individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has been convicted of committing or attempting to commit one or more of the offenses enumerated in this subsection.

(b) A health care employer shall not hire, employ, or retain any individual in a position with duties involving direct care of clients, patients, or residents, and no long-term care facility shall knowingly hire, employ, or retain any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, if the health care employer becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsection (a) or (a-1), as verified by court records, records from a state agency, or an FBI criminal history record check, unless the applicant or employee obtains a waiver pursuant to Section 40 of this Act. This shall not be construed to mean that a health care employer has an obligation to conduct a criminal history records check in other states in which an employee has resided.

(Source: P.A. 95-120, eff. 8-13-07; 95-639, eff. 10-5-07; 95-876, eff. 8-21-08; 96-710, eff. 1-1-10.)

Section 10-45. The Hearing Instrument Consumer Protection Act is amended by changing Section 18.5 as follows:

(225 ILCS 50/18.5)

(Section scheduled to be repealed on January 1, 2016)

Sec. 18.5. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this

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Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-50. The Home Medical Equipment and Services Provider License Act is amended by changing Section 77 as follows:

(225 ILCS 51/77)

(Section scheduled to be repealed on January 1, 2018)

Sec. 77. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-55. The Marriage and Family Therapy Licensing Act is amended by changing Section 87 as follows:

(225 ILCS 55/87)

(Section scheduled to be repealed on January 1, 2018)

Sec. 87. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-60. The Medical Practice Act of 1987 is amended by changing Section 22.5 as follows:

(225 ILCS 60/22.5)

(Section scheduled to be repealed on December 31, 2010)

Sec. 22.5. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-65. The Naprapathic Practice Act is amended by changing Section 113 as follows:

(225 ILCS 63/113)

(Section scheduled to be repealed on January 1, 2013)

Sec. 113. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-70. The Nurse Practice Act is amended by changing Section 70-20 as follows:

(225 ILCS 65/70-20) (was 225 ILCS 65/20-13)

(Section scheduled to be repealed on January 1, 2018)

Sec. 70-20. Suspension of license or registration for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the

Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.  
(Source: P.A. 94-577, eff. 1-1-06; 95-639, eff. 10-5-07.)

Section 10-75. The Illinois Occupational Therapy Practice Act is amended by changing Section 19.17 as follows:

(225 ILCS 75/19.17)

(Section scheduled to be repealed on January 1, 2014)

Sec. 19.17. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-80. The Illinois Optometric Practice Act of 1987 is amended by changing Section 24.5 as follows:

(225 ILCS 80/24.5)

(Section scheduled to be repealed on January 1, 2017)

Sec. 24.5. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-85. The Orthotics, Prosthetics, and Pedorthics Practice Act is amended by changing Section 93 as follows:

(225 ILCS 84/93)

(Section scheduled to be repealed on January 1, 2020)

Sec. 93. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-90. The Pharmacy Practice Act is amended by changing Section 30.5 as follows:

(225 ILCS 85/30.5)

(Section scheduled to be repealed on January 1, 2018)

Sec. 30.5. Suspension of license or certificate for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-95. The Illinois Physical Therapy Act is amended by changing Section 17.5 as follows:

(225 ILCS 90/17.5)

(Section scheduled to be repealed on January 1, 2016)

Sec. 17.5. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from

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practicing until the restitution is made in full.  
(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-100. The Physician Assistant Practice Act of 1987 is amended by changing Section 21.5 as follows:

(225 ILCS 95/21.5)

(Section scheduled to be repealed on January 1, 2018)

Sec. 21.5. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-105. The Podiatric Medical Practice Act of 1987 is amended by changing Section 24.5 as follows:

(225 ILCS 100/24.5)

(Section scheduled to be repealed on January 1, 2018)

Sec. 24.5. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-110. The Respiratory Care Practice Act is amended by changing Section 97 as follows:

(225 ILCS 106/97)

(Section scheduled to be repealed on January 1, 2016)

Sec. 97. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-115. The Professional Counselor and Clinical Professional Counselor Licensing Act is amended by changing Section 83 as follows:

(225 ILCS 107/83)

(Section scheduled to be repealed on January 1, 2013)

Sec. 83. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-120. The Illinois Speech-Language Pathology and Audiology Practice Act is amended by changing Section 16.3 as follows:

(225 ILCS 110/16.3)

(Section scheduled to be repealed on January 1, 2018)

Sec. 16.3. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from

practicing until the restitution is made in full.  
(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-125. The Perfusionist Practice Act is amended by changing Section 107 as follows:

(225 ILCS 125/107)

(Section scheduled to be repealed on January 1, 2020)

Sec. 107. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-130. The Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act is amended by changing Section 77 as follows:

(225 ILCS 130/77)

(Section scheduled to be repealed on January 1, 2014)

Sec. 77. Suspension of registration for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-135. The Genetic Counselor Licensing Act is amended by changing Section 97 as follows:

(225 ILCS 135/97)

(Section scheduled to be repealed on January 1, 2015)

Sec. 97. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 17-10.5 or 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

(Source: P.A. 94-577, eff. 1-1-06.)

Section 10-140. The Criminal Code of 1961 is amended by changing Sections 3-6 and 16-1 as follows:

(720 ILCS 5/3-6) (from Ch. 38, par. 3-6)

Sec. 3-6. Extended limitations. The period within which a prosecution must be commenced under the provisions of Section 3-5 or other applicable statute is extended under the following conditions:

(a) A prosecution for theft involving a breach of a fiduciary obligation to the aggrieved person may be commenced as follows:

(1) If the aggrieved person is a minor or a person under legal disability, then during the minority or legal disability or within one year after the termination thereof.

(2) In any other instance, within one year after the discovery of the offense by an aggrieved person, or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense, and is not himself or herself a party to the offense; or in the absence of such discovery, within one year after the proper prosecuting officer becomes aware of the offense. However, in no such case is the period of limitation so extended more than 3 years beyond the expiration of the period otherwise applicable.

(b) A prosecution for any offense based upon misconduct in office by a public officer or employee may be commenced within one year after discovery of the offense by a person having a legal duty to report such offense, or in the absence of such discovery, within one year after the proper prosecuting officer becomes aware of the offense. However, in no such case is the period of limitation so extended more than 3 years beyond the expiration of the period otherwise applicable.

(c) (Blank).

(d) A prosecution for child pornography, indecent solicitation of a child, soliciting for a juvenile

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prostitute, juvenile pimping or exploitation of a child may be commenced within one year of the victim attaining the age of 18 years. However, in no such case shall the time period for prosecution expire sooner than 3 years after the commission of the offense. When the victim is under 18 years of age, a prosecution for criminal sexual abuse may be commenced within one year of the victim attaining the age of 18 years. However, in no such case shall the time period for prosecution expire sooner than 3 years after the commission of the offense.

(e) Except as otherwise provided in subdivision (j), a prosecution for any offense involving sexual conduct or sexual penetration, as defined in Section 12-12 of this Code, where the defendant was within a professional or fiduciary relationship or a purported professional or fiduciary relationship with the victim at the time of the commission of the offense may be commenced within one year after the discovery of the offense by the victim.

(f) A prosecution for any offense set forth in Section 44 of the "Environmental Protection Act", approved June 29, 1970, as amended, may be commenced within 5 years after the discovery of such an offense by a person or agency having the legal duty to report the offense or in the absence of such discovery, within 5 years after the proper prosecuting officer becomes aware of the offense.

(f-5) A prosecution for any offense set forth in Section 16G-15 or 16G-20 of this Code may be commenced within 5 years after the discovery of the offense by the victim of that offense.

(g) (Blank).

(h) (Blank).

(i) Except as otherwise provided in subdivision (j), a prosecution for criminal sexual assault, aggravated criminal sexual assault, or aggravated criminal sexual abuse may be commenced within 10 years of the commission of the offense if the victim reported the offense to law enforcement authorities within 3 years after the commission of the offense.

Nothing in this subdivision (i) shall be construed to shorten a period within which a prosecution must be commenced under any other provision of this Section.

(j) When the victim is under 18 years of age at the time of the offense, a prosecution for criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual abuse, or felony criminal sexual abuse, or a prosecution for failure of a person who is required to report an alleged or suspected commission of any of these offenses under the Abused and Neglected Child Reporting Act may be commenced within 20 years after the child victim attains 18 years of age. When the victim is under 18 years of age at the time of the offense, a prosecution for misdemeanor criminal sexual abuse may be commenced within 10 years after the child victim attains 18 years of age.

Nothing in this subdivision (j) shall be construed to shorten a period within which a prosecution must be commenced under any other provision of this Section.

(k) A prosecution for theft involving real property exceeding \$100,000 in value under Section 16-1, identity theft under Section 16G-15, aggravated identity theft under Section 16G-20, or any offense set forth in Article 16H or Section 17-10.6 may be commenced within 7 years of the last act committed in furtherance of the crime.

(Source: P.A. 95-548, eff. 8-30-07; 96-233, eff. 1-1-10.)

(720 ILCS 5/16-1) (from Ch. 38, par. 16-1)

Sec. 16-1. Theft.

(a) A person commits theft when he knowingly:

- (1) Obtains or exerts unauthorized control over property of the owner; or
- (2) Obtains by deception control over property of the owner; or
- (3) Obtains by threat control over property of the owner; or
- (4) Obtains control over stolen property knowing the property to have been stolen or under such circumstances as would reasonably induce him to believe that the property was stolen; or
- (5) Obtains or exerts control over property in the custody of any law enforcement agency which is explicitly represented to him by any law enforcement officer or any individual acting in behalf of a law enforcement agency as being stolen, and

(A) Intends to deprive the owner permanently of the use or benefit of the property;

or

(B) Knowingly uses, conceals or abandons the property in such manner as to deprive the owner permanently of such use or benefit; or

(C) Uses, conceals, or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

(b) Sentence.

(1) Theft of property not from the person and not exceeding \$300 in value is a Class A

misdemeanor.

(1.1) Theft of property not from the person and not exceeding \$300 in value is a Class 4 felony if the theft was committed in a school or place of worship or if the theft was of governmental property.

(2) A person who has been convicted of theft of property not from the person and not exceeding \$300 in value who has been previously convicted of any type of theft, robbery, armed robbery, burglary, residential burglary, possession of burglary tools, home invasion, forgery, a violation of Section 4-103, 4-103.1, 4-103.2, or 4-103.3 of the Illinois Vehicle Code relating to the possession of a stolen or converted motor vehicle, or a violation of Section 17-36 of the Criminal Code of 1961 or Section 8 of the Illinois Credit Card and Debit Card Act is guilty of a Class 4 felony. When a person has any such prior conviction, the information or indictment charging that person shall state such prior conviction so as to give notice of the State's intention to treat the charge as a felony. The fact of such prior conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial.

(3) (Blank).

(4) Theft of property from the person not exceeding \$300 in value, or theft of property exceeding \$300 and not exceeding \$10,000 in value, is a Class 3 felony.

(4.1) Theft of property from the person not exceeding \$300 in value, or theft of property exceeding \$300 and not exceeding \$10,000 in value, is a Class 2 felony if the theft was committed in a school or place of worship or if the theft was of governmental property.

(5) Theft of property exceeding \$10,000 and not exceeding \$100,000 in value is a Class 2 felony.

(5.1) Theft of property exceeding \$10,000 and not exceeding \$100,000 in value is a Class 1 felony if the theft was committed in a school or place of worship or if the theft was of governmental property.

(6) Theft of property exceeding \$100,000 and not exceeding \$500,000 in value is a Class 1 felony.

(6.1) Theft of property exceeding \$100,000 in value is a Class X felony if the theft was committed in a school or place of worship or if the theft was of governmental property.

(6.2) Theft of property exceeding \$500,000 and not exceeding \$1,000,000 in value is a Class 1 non-probationable felony.

(6.3) Theft of property exceeding \$1,000,000 in value is a Class X felony.

(7) Theft by deception, as described by paragraph (2) of subsection (a) of this Section, in which the offender obtained money or property valued at \$5,000 or more from a victim 60 years of age or older is a Class 2 felony.

(8) Theft by deception, as described by paragraph (2) of subsection (a) of this Section, in which the offender falsely poses as a landlord or agent or employee of the landlord and obtains a rent payment or a security deposit from a tenant is a Class 3 felony if the rent payment or security deposit obtained does not exceed \$300.

(9) Theft by deception, as described by paragraph (2) of subsection (a) of this Section, in which the offender falsely poses as a landlord or agent or employee of the landlord and obtains a rent payment or a security deposit from a tenant is a Class 2 felony if the rent payment or security deposit obtained exceeds \$300 and does not exceed \$10,000.

(10) Theft by deception, as described by paragraph (2) of subsection (a) of this Section, in which the offender falsely poses as a landlord or agent or employee of the landlord and obtains a rent payment or a security deposit from a tenant is a Class 1 felony if the rent payment or security deposit obtained exceeds \$10,000 and does not exceed \$100,000.

(11) Theft by deception, as described by paragraph (2) of subsection (a) of this Section, in which the offender falsely poses as a landlord or agent or employee of the landlord and obtains a rent payment or a security deposit from a tenant is a Class X felony if the rent payment or security deposit obtained exceeds \$100,000.

(c) When a charge of theft of property exceeding a specified value is brought, the value of the property involved is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding the specified value.

(Source: P.A. 96-496, eff. 1-1-10; 96-534, eff. 8-14-09; revised 10-9-09.)

Section 10-145. The Code of Criminal Procedure of 1963 is amended by changing Sections 111-4 and 115-10.3 as follows:

(725 ILCS 5/111-4) (from Ch. 38, par. 111-4)

[May 3, 2010]

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

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

(b) Two or more defendants may be charged in the same indictment, information or complaint if they are alleged to have participated in the same act or in the same comprehensive transaction out of which the offense or offenses arose. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count.

(c) Two or more acts or transactions in violation of any provision or provisions of Sections 8A-2, 8A-3, 8A-4, 8A-4A and 8A-5 of the Illinois Public Aid Code, Sections 16-1, 16-2, 16-3, 16-5, 16-7, 16-8, 16-10, 16A-3, 16B-2, ~~16C-2~~, 17-1, 17-3, 17-6, ~~17-30, or 17-60, or item (ii) of subsection (a) or (b) of Section 17-9, or subdivision (a)(2) of Section 17-10.5, 17-7, 17-8, 17-9 or 17-10~~ of the Criminal Code of 1961 and Section 118 of Division I of the Criminal Jurisprudence Act, may be charged as a single offense in a single count of the same indictment, information or complaint, if such 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 such property, labor or services. In such a charge, the period between the dates of the first and the final such acts or transactions may be alleged as the date of the offense and, if any such act or transaction by any defendant was committed in the county where the prosecution was commenced, such county may be alleged as the county of the offense.

(Source: P.A. 95-384, eff. 1-1-08; 96-354, eff. 8-13-09.)

(725 ILCS 5/115-10.3)

Sec. 115-10.3. Hearsay exception regarding elder adults.

(a) In a prosecution for a physical act, abuse, neglect, or financial exploitation perpetrated upon or against an eligible adult, as defined in the Elder Abuse and Neglect Act, who has been diagnosed by a physician to suffer from (i) any form of dementia, developmental disability, or other form of mental incapacity or (ii) any physical infirmity, including but not limited to prosecutions for violations of Sections 10-1, 10-2, 10-3, 10-3.1, 10-4, 11-11, 12-1, 12-2, 12-3, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.5, 12-4.6, 12-4.7, 12-5, 12-6, 12-7.3, 12-7.4, 12-11, 12-11.1, 12-13, 12-14, 12-15, 12-16, 12-21, 16-1, 16-1.3, 17-1, 17-3, 17-56, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1.1, 24-1.2, and 33A-2 of the Criminal Code of 1961, the following evidence shall be admitted as an exception to the hearsay rule:

(1) testimony by an eligible adult, of an out of court statement made by the eligible adult, that he or she complained of such act to another; and

(2) testimony of an out of court statement made by the eligible adult, describing any complaint of such act or matter or detail pertaining to any act which is an element of an offense which is the subject of a prosecution for a physical act, abuse, neglect, or financial exploitation perpetrated upon or against the eligible adult.

(b) Such testimony shall only be admitted if:

(1) The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and

(2) The eligible adult either:

(A) testifies at the proceeding; or

(B) is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement.

(c) If a statement is admitted pursuant to this Section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given the statement and that, in making the determination, it shall consider the condition of the eligible adult, the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.

(d) The proponent of the statement shall give the adverse party reasonable notice of his or her intention to offer the statement and the particulars of the statement.

(Source: P.A. 92-91, eff. 7-18-01; 93-301, eff. 1-1-04.)

Section 10-150. The Unified Code of Corrections is amended by changing Sections 5-5-3, 5-8-4, and 5-9-1.3 as follows:

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

Sec. 5-5-3. Disposition.

(a) (Blank).

(b) (Blank).

(c) (1) (Blank).

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

- (A) First degree murder where the death penalty is not imposed.
- (B) Attempted first degree murder.
- (C) A Class X felony.
- (D) A violation of Section 401.1 or 407 of the Illinois Controlled Substances Act, or a violation of subdivision (c)(1), (c)(1.5), or (c)(2) of Section 401 of that Act which relates to more than 5 grams of a substance containing heroin, cocaine, fentanyl, or an analog thereof.
- (E) A violation of Section 5.1 or 9 of the Cannabis Control Act.
- (F) A Class 2 or greater felony if the offender had been convicted of a Class 2 or greater felony, including any state or federal conviction for an offense that contained, at the time it was committed, the same elements as an offense now (the date of the offense committed after the prior Class 2 or greater felony) classified as a Class 2 or greater felony, within 10 years of the date on which the offender committed the offense for which he or she is being sentenced, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.
- (F-5) A violation of Section 24-1, 24-1.1, or 24-1.6 of the Criminal Code of 1961 for which imprisonment is prescribed in those Sections.
- (G) Residential burglary, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.
- (H) Criminal sexual assault.
- (I) Aggravated battery of a senior citizen.
- (J) A forcible felony if the offense was related to the activities of an organized gang.

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

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

- (K) Vehicular hijacking.
- (L) A second or subsequent conviction for the offense of hate crime when the underlying offense upon which the hate crime is based is felony aggravated assault or felony mob action.
- (M) A second or subsequent conviction for the offense of institutional vandalism if the damage to the property exceeds \$300.
- (N) A Class 3 felony violation of paragraph (1) of subsection (a) of Section 2 of the Firearm Owners Identification Card Act.
- (O) A violation of Section 12-6.1 of the Criminal Code of 1961.
- (P) A violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961.
- (Q) A violation of Section 20-1.2 or 20-1.3 of the Criminal Code of 1961.
- (R) A violation of Section 24-3A of the Criminal Code of 1961.
- (S) (Blank).
- (T) A second or subsequent violation of the Methamphetamine Control and Community Protection Act.
- (U) A second or subsequent violation of Section 6-303 of the Illinois Vehicle Code committed while his or her driver's license, permit, or privilege was revoked because of a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar provision of a law of another state.
- (V) A violation of paragraph (4) of subsection (c) of Section 11-20.3 of the Criminal Code of 1961.
- (W) A violation of Section 24-3.5 of the Criminal Code of 1961.
- (X) A violation of subsection (a) of Section 31-1a of the Criminal Code of 1961.
- (Y) A conviction for unlawful possession of a firearm by a street gang member when the firearm was loaded or contained firearm ammunition.

(3) (Blank).

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

(4.1) (Blank).

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

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

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

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

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

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

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

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

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

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

(A) a period of conditional discharge;

(B) a fine;

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

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

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

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

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

(5.5) In addition to any other penalties imposed, a person convicted of violating Section 3-707 of the Illinois Vehicle Code during a period in which his or her driver's license, permit, or privileges were suspended for a previous violation of that Section shall have his or her driver's license, permit, or privileges suspended for an additional 6 months after the expiration of the original 3-month suspension and until he or she has paid a reinstatement fee of \$100.

(6) (Blank).

(7) (Blank).

(8) (Blank).

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

(10) (Blank).

(11) The court shall impose a minimum fine of \$1,000 for a first offense and \$2,000 for a second or subsequent offense upon a person convicted of or placed on supervision for battery when the individual harmed was a sports official or coach at any level of competition and the act causing harm to the sports official or coach occurred within an athletic facility or within the immediate vicinity of the athletic facility at which the sports official or coach was an active participant of the athletic contest held at the athletic facility. For the purposes of this paragraph (11), "sports official" means a person at an athletic contest who enforces the rules of the contest, such as an umpire or referee; "athletic facility" means an indoor or outdoor playing field or recreational area where sports activities are conducted; and "coach" means a person recognized as a coach by the sanctioning authority that conducted the sporting event.

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

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

(d) In any case in which a sentence originally imposed is vacated, the case shall be remanded to the trial court. The trial court shall hold a hearing under Section 5-4-1 of the Unified Code of Corrections which may include evidence of the defendant's life, moral character and occupation during the time since the original sentence was passed. The trial court shall then impose sentence upon the defendant. The trial court may impose any sentence which could have been imposed at the original trial subject to Section 5-5-4 of the Unified Code of Corrections. If a sentence is vacated on appeal or on collateral attack due to the failure of the trier of fact at trial to determine beyond a reasonable doubt the existence of a fact (other than a prior conviction) necessary to increase the punishment for the offense beyond the statutory maximum otherwise applicable, either the defendant may be re-sentenced to a term within the range otherwise provided or, if the State files notice of its intention to again seek the extended sentence, the defendant shall be afforded a new trial.

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

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

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

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

(i) removal from the household;

(ii) restricted contact with the victim;

(iii) continued financial support of the family;

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

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

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

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

For the purposes of this Section, "family member" and "victim" shall have the meanings ascribed to

them in Section 12-12 of the Criminal Code of 1961.

(f) (Blank).

(g) Whenever a defendant is convicted of an offense under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, the defendant shall undergo medical testing to determine whether the defendant has any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Any such medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the defendant's person. Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of the test results. The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or legal guardian of the test results. The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

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

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

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

(j) In cases when prosecution for any violation of Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961, any violation of the Illinois Controlled Substances Act, any violation of the Cannabis Control Act, or any violation of the Methamphetamine Control and Community Protection Act results in conviction, a disposition of court supervision, or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substance Act, or Section 70 of the Methamphetamine Control and Community Protection

Act of a defendant, the court shall determine whether the defendant is employed by a facility or center as defined under the Child Care Act of 1969, a public or private elementary or secondary school, or otherwise works with children under 18 years of age on a daily basis. When a defendant is so employed, the court shall order the Clerk of the Court to send a copy of the judgment of conviction or order of supervision or probation to the defendant's employer by certified mail. If the employer of the defendant is a school, the Clerk of the Court shall direct the mailing of a copy of the judgment of conviction or order of supervision or probation to the appropriate regional superintendent of schools. The regional superintendent of schools shall notify the State Board of Education of any notification under this subsection.

(j-5) A defendant at least 17 years of age who is convicted of a felony and who has not been previously convicted of a misdemeanor or felony and who is sentenced to a term of imprisonment in the Illinois Department of Corrections shall as a condition of his or her sentence be required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program offered by the Department of Corrections. If a defendant fails to complete the educational training required by his or her sentence during the term of incarceration, the Prisoner Review Board shall, as a condition of mandatory supervised release, require the defendant, at his or her own expense, to pursue a course of study toward a high school diploma or passage of the GED test. The Prisoner Review Board shall revoke the mandatory supervised release of a defendant who wilfully fails to comply with this subsection (j-5) upon his or her release from confinement in a penal institution while serving a mandatory supervised release term; however, the inability of the defendant after making a good faith effort to obtain financial aid or pay for the educational training shall not be deemed a wilful failure to comply. The Prisoner Review Board shall recommit the defendant whose mandatory supervised release term has been revoked under this subsection (j-5) as provided in Section 3-3-9. This subsection (j-5) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This subsection (j-5) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(k) (Blank).

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

- (1) a final order of deportation has been issued against the defendant pursuant to proceedings under the Immigration and Nationality Act, and
- (2) the deportation of the defendant would not deprecate the seriousness of the defendant's conduct and would not be inconsistent with the ends of justice.

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

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

- (1) a final order of deportation has been issued against the defendant pursuant to proceedings under the Immigration and Nationality Act, and
- (2) the deportation of the defendant would not deprecate the seriousness of the defendant's conduct and would not be inconsistent with the ends of justice.

(C) This subsection (l) does not apply to offenders who are subject to the provisions of paragraph (2) of subsection (a) of Section 3-6-3.

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

(m) A person convicted of criminal defacement of property under Section 21-1.3 of the Criminal Code of 1961, in which the property damage exceeds \$300 and the property damaged is a school building,

shall be ordered to perform community service that may include cleanup, removal, or painting over the defacement.

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

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

(Source: P.A. 95-188, eff. 8-16-07; 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-348, eff. 8-12-09; 96-400, eff. 8-13-09; 96-829, eff. 12-3-09.)

(730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

Sec. 5-8-4. Concurrent and consecutive terms of imprisonment.

(a) Concurrent terms; multiple or additional sentences. When an Illinois court (i) imposes multiple sentences of imprisonment on a defendant at the same time or (ii) imposes a sentence of imprisonment on a defendant who is already subject to a sentence of imprisonment imposed by an Illinois court, a court of another state, or a federal court, then the sentences shall run concurrently unless otherwise determined by the Illinois court under this Section.

(b) Concurrent terms; misdemeanor and felony. A defendant serving a sentence for a misdemeanor who is convicted of a felony and sentenced to imprisonment shall be transferred to the Department of Corrections, and the misdemeanor sentence shall be merged in and run concurrently with the felony sentence.

(c) Consecutive terms; permissive. The court may impose consecutive sentences in any of the following circumstances:

(1) If, having regard to the nature and circumstances of the offense and the history and character of the defendant, it is the opinion of the court that consecutive sentences are required to protect the public from further criminal conduct by the defendant, the basis for which the court shall set forth in the record.

(2) If one of the offenses for which a defendant was convicted was a violation of Section 32-5.2 (aggravated false personation of a peace officer) of the Criminal Code of 1961 (720 ILCS 5/32-5.2) or a violation of subdivision (b)(5) or (b)(6) of Section 17-2 of that Code (720 ILCS 5/17-2) and the offense was committed in attempting or committing a forcible felony.

(d) Consecutive terms; mandatory. The court shall impose consecutive sentences in each of the following circumstances:

(1) One of the offenses for which the defendant was convicted was first degree murder or a Class X or Class 1 felony and the defendant inflicted severe bodily injury.

(2) The defendant was convicted of a violation of Section 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), or 12-14.1 (predatory criminal sexual assault of a child) of the Criminal Code of 1961 (720 ILCS 5/12-13, 5/12-14, or 5/12-14.1).

(3) The defendant was convicted of armed violence based upon the predicate offense of any of the following: solicitation of murder, solicitation of murder for hire, heinous battery, aggravated battery of a senior citizen, criminal sexual assault, a violation of subsection (g) of Section 5 of the Cannabis Control Act (720 ILCS 550/5), cannabis trafficking, a violation of subsection (a) of Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), controlled substance trafficking involving a Class X felony amount of controlled substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), a violation of the Methamphetamine Control and Community Protection Act (720 ILCS 646/), calculated criminal drug conspiracy, or streetgang criminal drug conspiracy.

(4) The defendant was convicted of the offense of leaving the scene of a motor vehicle accident involving death or personal injuries under Section 11-401 of the Illinois Vehicle Code (625 ILCS 5/11-401) and either: (A) aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof under Section 11-501 of the Illinois Vehicle Code (625 ILCS 5/11-501), (B) reckless homicide under Section 9-3 of the Criminal Code of 1961 (720 ILCS 5/9-3), or (C) both an offense described in item (A) and an offense described in item (B).

(5) The defendant was convicted of a violation of Section 9-3.1 (concealment of homicidal death) or Section 12-20.5 (dismembering a human body) of the Criminal Code of 1961 (720

ILCS 5/9-3.1 or 5/12-20.5). ~~or~~

(5.5) The ~~(vi) the~~ defendant was convicted of a violation of Section 24-3.7 (use of a stolen firearm in

the commission of an offense) of the Criminal Code of 1961;

(6) If the defendant was in the custody of the Department of Corrections at the time of the commission of the offense, the sentence shall be served consecutive to the sentence under which the defendant is held by the Department of Corrections. If, however, the defendant is sentenced to punishment by death, the sentence shall be executed at such time as the court may fix without regard to the sentence under which the defendant may be held by the Department.

(7) A sentence under Section 3-6-4 (730 ILCS 5/3-6-4) for escape or attempted escape shall be served consecutive to the terms under which the offender is held by the Department of Corrections.

(8) If a person charged with a felony commits a separate felony while on pretrial release or in pretrial detention in a county jail facility or county detention facility, then the sentences imposed upon conviction of these felonies shall be served consecutively regardless of the order in which the judgments of conviction are entered.

(8.5) If a person commits a battery against a county correctional officer or sheriff's employee while serving a sentence or in pretrial detention in a county jail facility, then the sentence imposed upon conviction of the battery shall be served consecutively with the sentence imposed upon conviction of the earlier misdemeanor or felony, regardless of the order in which the judgments of conviction are entered.

(9) If a person admitted to bail following conviction of a felony commits a separate felony while free on bond or if a person detained in a county jail facility or county detention facility following conviction of a felony commits a separate felony while in detention, then any sentence following conviction of the separate felony shall be consecutive to that of the original sentence for which the defendant was on bond or detained.

(10) If a person is found to be in possession of an item of contraband, as defined in clause (c)(2) of Section 31A-1.1 of the Criminal Code of 1961, while serving a sentence in a county jail or while in pre-trial detention in a county jail, the sentence imposed upon conviction for the offense of possessing contraband in a penal institution shall be served consecutively to the sentence imposed for the offense in which the person is serving sentence in the county jail or serving pretrial detention, regardless of the order in which the judgments of conviction are entered.

(e) Consecutive terms; subsequent non-Illinois term. If an Illinois court has imposed a sentence of imprisonment on a defendant and the defendant is subsequently sentenced to a term of imprisonment by a court of another state or a federal court, then the Illinois sentence shall run consecutively to the sentence imposed by the court of the other state or the federal court. That same Illinois court, however, may order that the Illinois sentence run concurrently with the sentence imposed by the court of the other state or the federal court, but only if the defendant applies to that same Illinois court within 30 days after the sentence imposed by the court of the other state or the federal court is finalized.

(f) Consecutive terms; aggregate maximums and minimums. The aggregate maximum and aggregate minimum of consecutive sentences shall be determined as follows:

(1) For sentences imposed under law in effect prior to February 1, 1978, the aggregate maximum of consecutive sentences shall not exceed the maximum term authorized under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V for the 2 most serious felonies involved. The aggregate minimum period of consecutive sentences shall not exceed the highest minimum term authorized under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V for the 2 most serious felonies involved. When sentenced only for misdemeanors, a defendant shall not be consecutively sentenced to more than the maximum for one Class A misdemeanor.

(2) For sentences imposed under the law in effect on or after February 1, 1978, the aggregate of consecutive sentences for offenses that were committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective shall not exceed the sum of the maximum terms authorized under Section 5-8-2 (730 ILCS 5/5-8-2) for the 2 most serious felonies involved, but no such limitation shall apply for offenses that were not committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective. When sentenced only for misdemeanors, a defendant shall not be consecutively sentenced to more than the maximum for one Class A misdemeanor.

(g) Consecutive terms; manner served. In determining the manner in which consecutive sentences of imprisonment, one or more of which is for a felony, will be served, the Department of Corrections shall treat the defendant as though he or she had been committed for a single term subject to each of the

following:

(1) The maximum period of a term of imprisonment shall consist of the aggregate of the maximums of the imposed indeterminate terms, if any, plus the aggregate of the imposed determinate sentences for felonies, plus the aggregate of the imposed determinate sentences for misdemeanors, subject to subsection (f) of this Section.

(2) The parole or mandatory supervised release term shall be as provided in paragraph (e) of Section 5-4.5-50 (730 ILCS 5/5-4.5-50) for the most serious of the offenses involved.

(3) The minimum period of imprisonment shall be the aggregate of the minimum and determinate periods of imprisonment imposed by the court, subject to subsection (f) of this Section.

(4) The defendant shall be awarded credit against the aggregate maximum term and the aggregate minimum term of imprisonment for all time served in an institution since the commission of the offense or offenses and as a consequence thereof at the rate specified in Section 3-6-3 (730 ILCS 3/3-6-3).

(Source: P.A. 95-379, eff. 8-23-07; 95-766, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-190, eff. 1-1-10; revised 8-20-09.)

(730 ILCS 5/5-9-1.3) (from Ch. 38, par. 1005-9-1.3)

Sec. 5-9-1.3. Fines for offenses involving theft, deceptive practices, and offenses against units of local government or school districts.

(a) When a person has been adjudged guilty of a felony under Section 16-1, 16-9 or 17-1 of the Criminal Code of 1961, a fine may be levied by the court in an amount which is the greater of \$25,000 or twice the value of the property which is the subject of the offense.

(b) When a person has been convicted of a felony under Section 16-1 of the Criminal Code of 1961 and the theft was committed upon any unit of local government or school district, or the person has been convicted of any violation of Sections 33C-1 through 33C-4 or Sections 33E-3 through 33E-18, or subsection (a), (b), (c), or (d) of Section 17-10.3, of the Criminal Code of 1961, a fine may be levied by the court in an amount that is the greater of \$25,000 or treble the value of the property which is the subject of the offense or loss to the unit of local government or school district.

(c) All fines imposed under subsection (b) of this Section shall be distributed as follows:

(1) An amount equal to 30% shall be distributed to the unit of local government or school district that was the victim of the offense;

(2) An amount equal to 30% shall be distributed to the unit of local government whose officers or employees conducted the investigation into the crimes against the unit of local government or school district. Amounts distributed to units of local government shall be used solely for the enforcement of criminal laws protecting units of local government or school districts;

(3) An amount equal to 30% shall be distributed to the State's Attorney of the county in which the prosecution resulting in the conviction was instituted. The funds shall be used solely for the enforcement of criminal laws protecting units of local government or school districts; and

(4) An amount equal to 10% shall be distributed to the circuit court clerk of the county where the prosecution resulting in the conviction was instituted.

(d) A fine order under subsection (b) of this Section is a judgment lien in favor of the victim unit of local government or school district, the State's Attorney of the county where the violation occurred, the law enforcement agency that investigated the violation, and the circuit court clerk.

(Source: P.A. 90-800, eff. 1-1-99.)

Section 10-155. The Probate Act of 1975 is amended by changing Sections 2-6.2 and 2-6.6 as follows: (755 ILCS 5/2-6.2)

Sec. 2-6.2. Financial exploitation, abuse, or neglect of an elderly person or a person with a disability.

(a) In this Section:

"Abuse" means any offense described in Section 12-21 of the Criminal Code of 1961.

"Financial exploitation" means any offense described in Section 16-1.3 or 17-56 of the Criminal Code of 1961.

"Neglect" means any offense described in Section 12-19 of the Criminal Code of 1961.

(b) Persons convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability shall not receive any property, benefit, or other interest by reason of the death of that elderly person or person with a disability, whether as heir, legatee, beneficiary, survivor, appointee, claimant under Section 18-1.1, or in any other capacity and whether the property, benefit, or other interest passes pursuant to any form of title registration, testamentary or nontestamentary instrument, intestacy, renunciation, or any other circumstance. The property, benefit, or other interest shall pass as if the person convicted of the financial exploitation, abuse, or neglect died before the decedent, provided that with

respect to joint tenancy property the interest possessed prior to the death by the person convicted of the financial exploitation, abuse, or neglect shall not be diminished by the application of this Section. Notwithstanding the foregoing, a person convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability shall be entitled to receive property, a benefit, or an interest in any capacity and under any circumstances described in this subsection (b) if it is demonstrated by clear and convincing evidence that the victim of that offense knew of the conviction and subsequent to the conviction expressed or ratified his or her intent to transfer the property, benefit, or interest to the person convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability in any manner contemplated by this subsection (b).

(c) (1) The holder of any property subject to the provisions of this Section shall not be liable for distributing or releasing the property to the person convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability if the distribution or release occurs prior to the conviction.

(2) If the holder is a financial institution, trust company, trustee, or similar entity or person, the holder shall not be liable for any distribution or release of the property, benefit, or other interest to the person convicted of a violation of Section 12-19, 12-21, ~~¶ 16-1.3~~ or 17-56 of the Criminal Code of 1961 unless the holder knowingly distributes or releases the property, benefit, or other interest to the person so convicted after first having received actual written notice of the conviction in sufficient time to act upon the notice.

(d) If the holder of any property subject to the provisions of this Section knows that a potential beneficiary has been convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability within the scope of this Section, the holder shall fully cooperate with law enforcement authorities and judicial officers in connection with any investigation of the financial exploitation, abuse, or neglect. If the holder is a person or entity that is subject to regulation by a regulatory agency pursuant to the laws of this or any other state or pursuant to the laws of the United States, including but not limited to the business of a financial institution, corporate fiduciary, or insurance company, then such person or entity shall not be deemed to be in violation of this Section to the extent that privacy laws and regulations applicable to such person or entity prevent it from voluntarily providing law enforcement authorities or judicial officers with information.

(Source: P.A. 95-315, eff. 1-1-08.)

(755 ILCS 5/2-6.6)

Sec. 2-6.6. Person convicted of certain offenses against the elderly or disabled. A person who is convicted of a violation of Section 12-19, 12-21, ~~¶ 16-1.3~~ or 17-56 of the Criminal Code of 1961 may not receive any property, benefit, or other interest by reason of the death of the victim of that offense, whether as heir, legatee, beneficiary, joint tenant, tenant by the entirety, survivor, appointee, or in any other capacity and whether the property, benefit, or other interest passes pursuant to any form of title registration, testamentary or nontestamentary instrument, intestacy, renunciation, or any other circumstance. The property, benefit, or other interest shall pass as if the person convicted of a violation of Section 12-19, 12-21, ~~¶ 16-1.3~~ or 17-56 of the Criminal Code of 1961 died before the decedent; provided that with respect to joint tenancy property or property held in tenancy by the entirety, the interest possessed prior to the death by the person convicted may not be diminished by the application of this Section. Notwithstanding the foregoing, a person convicted of a violation of Section 12-19, 12-21, ~~¶ 16-1.3~~ or 17-56 of the Criminal Code of 1961 shall be entitled to receive property, a benefit, or an interest in any capacity and under any circumstances described in this Section if it is demonstrated by clear and convincing evidence that the victim of that offense knew of the conviction and subsequent to the conviction expressed or ratified his or her intent to transfer the property, benefit, or interest to the person convicted of a violation of Section 12-19, 12-21, ~~¶ 16-1.3~~ or 17-56 of the Criminal Code of 1961 in any manner contemplated by this Section.

The holder of any property subject to the provisions of this Section is not liable for distributing or releasing the property to the person convicted of violating Section 12-19, 12-21, ~~¶ 16-1.3~~ or 17-56 of the Criminal Code of 1961.

If the holder is a financial institution, trust company, trustee, or similar entity or person, the holder shall not be liable for any distribution or release of the property, benefit, or other interest to the person convicted of a violation of Section 12-19, 12-21, ~~¶ 16-1.3~~ or 17-56 of the Criminal Code of 1961 unless the holder knowingly distributes or releases the property, benefit, or other interest to the person so convicted after first having received actual written notice of the conviction in sufficient time to act upon the notice.

The Department of State Police shall have access to State of Illinois databases containing information that may help in the identification or location of persons convicted of the offenses enumerated in this

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Section. Interagency agreements shall be implemented, consistent with security and procedures established by the State agency and consistent with the laws governing the confidentiality of the information in the databases. Information shall be used only for administration of this Section.  
(Source: P.A. 93-301, eff. 1-1-04.)

Section 10-160. The Illinois Human Rights Act is amended by changing Section 4-101 as follows:  
(775 ILCS 5/4-101) (from Ch. 68, par. 4-101)

Sec. 4-101. Definitions. The following definitions are applicable strictly in the context of this Article:

(A) Credit Card. "Credit card" has the meaning set forth in Section 17-0.5 of the Criminal Code of 1961 2-03 of the Illinois Credit Card and Debit Card Act.

(B) Financial Institution. "Financial institution" means any bank, credit union, insurance company, mortgage banking company or savings and loan association which operates or has a place of business in this State.

(C) Loan. "Loan" includes, but is not limited to, the providing of funds, for consideration, which are sought for: (1) the purpose of purchasing, constructing, improving, repairing, or maintaining a housing accommodation as that term is defined in paragraph (C) of Section 3-101; or (2) any commercial or industrial purposes.

(D) Varying Terms. "Varying the terms of a loan" includes, but is not limited to, the following practices:

- (1) Requiring a greater down payment than is usual for the particular type of a loan involved.
- (2) Requiring a shorter period of amortization than is usual for the particular type of loan involved.
- (3) Charging a higher interest rate than is usual for the particular type of loan involved.
- (4) An under appraisal of real estate or other item of property offered as security.

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

Section 10-165. The Assumed Business Name Act is amended by changing Section 4 as follows:  
(805 ILCS 405/4) (from Ch. 96, par. 7)

Sec. 4. This Act shall in no way affect or apply to any corporation, limited liability company, limited partnership, or limited liability partnership duly organized under the laws of this State, or any corporation, limited liability company, limited partnership, or limited liability partnership organized under the laws of any other State and lawfully doing business in this State, nor shall this Act be deemed or construed to prevent the lawful use of a partnership name or designation, provided that such partnership shall include the true, real name of such person or persons transacting said business or partnership nor shall it be construed as in any way affecting subdivision (a)(8) or subsection (c) of Section 17-2 Sections 17-12 and 17-19 of the Criminal Code of 1961. This Act shall in no way affect or apply to testamentary or other express trusts where the business is carried on in the name of the trust and such trust is created by will or other instrument in writing under which title to the trust property is vested in a designated trustee or trustees for the use and benefit of the cestuis que trustent.

(Source: P.A. 96-328, eff. 8-11-09.)

Section 10-170. The Uniform Commercial Code is amended by changing Section 3-505A as follows:  
(810 ILCS 5/3-505A) (from Ch. 26, par. 3-505A)

Sec. 3-505A. Provision of credit card number as a condition of check cashing or acceptance prohibited.

(1) No person may record the number of a credit card given as identification or given as proof of creditworthiness when payment for goods or services is made by check or draft other than a transaction in which the check or draft is issued in payment of the credit card designated by the credit card number.

(2) This Section shall not prohibit a person from requesting a purchaser to display a credit card as indication of creditworthiness and financial responsibility or as additional identification, but the only information concerning a credit card which may be recorded is the type of credit card so displayed and the issuer of the credit card. This Section shall not require acceptance of a check or draft whether or not a credit card is presented.

(3) This Section shall not prohibit a person from requesting or receiving a credit card number or expiration date and recording the number or date, or both, in lieu of a deposit to secure payment in the event of default, loss, damage, or other occurrence.

(4) This Section shall not prohibit a person from recording a credit card number and expiration date as

a condition for cashing or accepting a check or draft if that person, firm, partnership or association has agreed with the card issuer to cash or accept checks and share drafts from the issuer's cardholders and the issuer guarantees cardholder checks and drafts cashed or accepted by that person.

(5) Recording a credit card number in connection with a sale of goods or services in which the purchaser pays by check or draft, or in connection with the acceptance of a check or draft, is a business offense with a fine not to exceed \$500.

As used in this Section, credit card has the meaning as defined in Section 17-0.5 of the Criminal Code of 1961 ~~the Illinois Credit Card and Debit Card Act.~~

(Source: P.A. 87-382.)

Section 10-175. The Credit Card Issuance Act is amended by changing Section 1 as follows:

(815 ILCS 140/1) (from Ch. 17, par. 6001)

Sec. 1. As used in this Act: (a) "Credit card" has the meaning set forth in Section 17-0.5 of the Criminal Code of 1961 ~~2-03 of the Illinois Credit Card and Debit Card Act~~, but does not include "debit card" as defined in that ~~Section 2-15 of the Illinois Credit Card and Debit Card Act~~, which can also be used to obtain money, goods, services and anything else of value on credit, nor shall it include any negotiable instrument as defined in the Uniform Commercial Code, as now or hereafter amended; (b) "merchant credit card agreement" means a written agreement between a seller of goods, services or both, and the issuer of a credit card to any other party, pursuant to which the seller is obligated to accept credit cards; and (c) "credit card transaction" means a purchase and sale of goods, services or both, in which a seller, pursuant to a merchant credit card agreement, is obligated to accept a credit card and does accept the credit card in connection with such purchase and sale.

(Source: P.A. 86-427; 86-952.)

Section 10-180. The Credit Card Liability Act is amended by changing Section 1 as follows:

(815 ILCS 145/1) (from Ch. 17, par. 6101)

Sec. 1. (a) No person in whose name a credit card is issued without his having requested or applied for the card or for the extension of the credit or establishment of a charge account which that card evidences is liable to the issuer of the card for any purchases made or other amounts owing by a use of that card from which he or a member of his family or household derive no benefit unless he has indicated his acceptance of the card by signing or using the card or by permitting or authorizing use of the card by another. A mere failure to destroy or return an unsolicited card is not such an indication. As used in this Act, "credit card" has the meaning ascribed to it in Section 17-0.5 of the Criminal Code of 1961 ~~2-03 of the Illinois Credit Card and Debit Card Act~~, except that it does not include a card issued by any telephone company that is subject to supervision or regulation by the Illinois Commerce Commission or other public authority.

(b) When an action is brought by an issuer against the person named on the card, the burden of proving the request, application, authorization, permission, use or benefit as set forth in Section 1 hereof shall be upon plaintiff if put in issue by defendant. In the event of judgment for defendant, the court shall allow defendant a reasonable attorney's fee, to be taxed as costs.

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

Section 10-185. The Interest Act is amended by changing Section 4.1 as follows:

(815 ILCS 205/4.1) (from Ch. 17, par. 6405)

Sec. 4.1. The term "revolving credit" means an arrangement, including by means of a credit card as defined in Section 17-0.5 of the Criminal Code of 1961 ~~2-03 of the Illinois Credit Card and Debit Card Act~~ between a lender and debtor pursuant to which it is contemplated or provided that the lender may from time to time make loans or advances to or for the account of the debtor through the means of drafts, items, orders for the payment of money, evidences of debt or similar written instruments, whether or not negotiable, signed by the debtor or by any person authorized or permitted so to do on behalf of the debtor, which loans or advances are charged to an account in respect of which account the lender is to render bills or statements to the debtor at regular intervals (hereinafter sometimes referred to as the "billing cycle") the amount of which bills or statements is payable by and due from the debtor on a specified date stated in such bill or statement or at the debtor's option, may be payable by the debtor in installments. A revolving credit arrangement which grants the debtor a line of credit in excess of \$5,000 may include provisions granting the lender a security interest in real property or in a beneficial interest in a land trust to secure amounts of credit extended by the lender. Credit extended or available under a revolving credit plan operated in accordance with the Illinois Financial Services Development Act shall be deemed to be "revolving credit" as defined in this Section 4.1 but shall not be subject to Sections 4.1a,

4.2 or 4.3 hereof.

Whenever a lender is granted a security interest in real property or in a beneficial interest in a land trust, the lender shall disclose the existence of such interest to the borrower in compliance with the Federal Truth in Lending Act, amendments thereto, and any regulations issued or which may be issued thereunder, and shall agree to pay all expenses, including recording fees and otherwise, to release any such security interest of record whenever it no longer secures any credit under a revolving credit arrangement. A lender shall not be granted a security interest in any real property or in any beneficial interest in a land trust under a revolving credit arrangement, or if any such security interest exists, such interest shall be released, if a borrower renders payment of the total outstanding balance due under the revolving credit arrangement and requests in writing to reduce the line of credit below that amount for which a security interest in real property or in a beneficial interest in a land trust may be required by a lender. Any request by a borrower to release a security interest under a revolving credit arrangement shall be granted by the lender provided the borrower renders payment of the total outstanding balance as required by this Section before the security interest of record may be released.

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

Section 10-190. The Consumer Fraud and Deceptive Business Practices Act is amended by changing Section 2NN as follows:

(815 ILCS 505/2NN)

Sec. 2NN. Receipts; credit card and debit card account numbers.

(a) Definitions. As used in this Section:

"Cardholder" has the meaning ascribed to it in Section 17-0.5 of the Criminal Code of 1961 ~~2-02 of the Illinois Credit Card and Debit Card Act.~~

"Credit card" has the meaning ascribed to it in Section 17-0.5 of the Criminal Code of 1961 ~~2-03 of the Illinois Credit Card and Debit Card Act.~~

"Debit card" has the meaning ascribed to it in Section 17-0.5 of the Criminal Code of 1961 ~~2-15 of the Illinois Credit Card and Debit Card Act.~~

"Issuer" has the meaning ascribed to it in Section 17-0.5 of the Criminal Code of 1961 ~~2-08 of the Illinois Credit Card and Debit Card Act.~~

"Person" has the meaning ascribed to it in Section 17-0.5 of the Criminal Code of 1961 ~~2-09 of the Illinois Credit Card and Debit Card Act.~~

"Provider" means a person who furnishes money, goods, services, or anything else of value upon presentation, whether physically, in writing, verbally, electronically, or otherwise, of a credit card or debit card by the cardholder, or any agent or employee of that person.

(b) Except as otherwise provided in this Section, no provider may print or otherwise produce or reproduce or permit the printing or other production or reproduction of the following: (i) any part of the credit card or debit card account number, other than the last 4 digits or other characters, (ii) the credit card or debit card expiration date on any receipt provided or made available to the cardholder.

(c) This Section does not apply to a credit card or debit card transaction in which the sole means available to the provider of recording the credit card or debit card account number is by handwriting or by imprint of the card.

(d) This Section does not apply to receipts issued for transactions on the electronic benefits transfer card system in accordance with 7 CFR 274.12(g)(3).

(e) A violation of this Section constitutes an unlawful practice within the meaning of this Act.

(f) This Section is operative on January 1, 2005.

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

Section 10-195. The Home Repair Fraud Act is amended by changing Section 5 as follows:

(815 ILCS 515/5) (from Ch. 121 1/2, par. 1605)

Sec. 5. Aggravated Home Repair Fraud. A person commits the offense of aggravated home repair fraud when he commits home repair fraud against an elderly ~~a person 60 years of age or older~~ or a ~~disabled~~ person with a disability as defined in Section 17-56 ~~46-1.3~~ of the Criminal Code of 1961.

(a) Aggravated violation of paragraphs (1) or (2) of subsection (a) of Section 3 of this Act shall be a Class 2 felony when the amount of the contract or agreement is more than \$500, a Class 4 felony when the amount of the contract or agreement is \$500 or less, and a Class 3 felony for a second or subsequent offense when the amount of the contract or agreement is \$500 or less. If 2 or more contracts or agreements for home repair exceed an aggregate amount of \$500 or more and such contracts or agreements are entered into with the same victim by one or more of the defendants as part of or in furtherance of a common fraudulent scheme, design or intention, the violation shall be a Class 2 felony.

(b) Aggravated violation of paragraph (3) of subsection (a) of Section 3 of this Act shall be a Class 2 felony when the amount of the contract or agreement is more than \$5,000 and a Class 3 felony when the amount of the contract or agreement is \$5,000 or less.

(c) Aggravated violation of paragraph (4) of subsection (a) of Section 3 of this Act shall be a Class 3 felony when the amount of the contract or agreement is more than \$500, a Class 4 felony when the amount of the contract or agreement is \$500 or less and a Class 3 felony for a second or subsequent offense when the amount of the contract or agreement is \$500 or less.

(d) Aggravated violation of paragraphs (1) or (2) of subsection (b) of Section 3 of this Act shall be a Class 3 felony.

(e) If a person commits aggravated home repair fraud, then any State or local license or permit held by that person that relates to the business of home repair may be appropriately suspended or revoked by the issuing authority, commensurate with the severity of the offense.

(f) A defense to aggravated home repair fraud does not exist merely because the accused reasonably believed the victim to be a person less than 60 years of age.

(Source: P.A. 93-542, eff. 1-1-04)."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Dillard offered the following amendment and moved its adoption:

**AMENDMENT NO. 5 TO HOUSE BILL 5640**

AMENDMENT NO. 5. Amend House Bill 5640, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 4, on page 3, line 23, by replacing "computer in" with "computer or in".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

**READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

On motion of Senator Dillard, **House Bill No. 5640**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 52; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Sandoval
Bond	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Maloney	Steans
Clayborne	Holmes	Martinez	Sullivan
Collins	Hultgren	Meeks	Syverson
Cronin	Hunter	Millner	Trotter
Crotty	Hutchinson	Muñoz	Wilhelmi
Dahl	Jacobs	Murphy	Mr. President
Delgado	Jones, E.	Noland	
Demuzio	Jones, J.	Pankau	
Dillard	Koehler	Radogno	
Duffy	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

**READING BILL FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME**

On motion of Senator Forby, **House Bill No. 5765** was taken up, read by title a second time and ordered to a third reading.

**CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY'S DESK**

On motion of Senator Forby, **Senate Bill No. 575**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Forby moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 47; NAY 1.

The following voted in the affirmative:

Althoff	Dillard	Koehler	Raoul
Bivins	Forby	Kotowski	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Sandoval
Burzynski	Haine	Luechtefeld	Schoenberg
Clayborne	Harmon	Maloney	Steans
Collins	Holmes	Martinez	Sullivan
Cronin	Hultgren	Meeks	Syverson
Crotty	Hunter	Muñoz	Trotter
Dahl	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Jones, J.	Radogno	

The following voted in the negative:

Duffy

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 575**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Cronin, **Senate Bill No. 580**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Cronin moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 49; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lauzen	Risinger
Bomke	Frerichs	Lightford	Sandoval
Bond	Garrett	Link	Schoenberg

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Burzynski	Haine	Luechtefeld	Steans
Clayborne	Harmon	Maloney	Sullivan
Collins	Holmes	Martinez	Syverson
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Muñoz	Wilhelmi
Dahl	Jacobs	Murphy	Mr. President
Delgado	Jones, E.	Noland	
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 580**.

Ordered that the Secretary inform the House of Representatives thereof.

#### CONSIDERATION OF RESOLUTION ON SECRETARY'S DESK

Senator Noland moved that **Senate Resolution No. 812**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Noland moved that Senate Resolution No. 812 be adopted.

The motion prevailed.

And the resolution was adopted.

#### CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY'S DESK

On motion of Senator Demuzio, **Senate Bill No. 663**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Demuzio moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 48; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Risinger
Bivins	Frerichs	Lightford	Sandoval
Bomke	Garrett	Link	Schoenberg
Bond	Haine	Luechtefeld	Steans
Burzynski	Harmon	Maloney	Sullivan
Clayborne	Holmes	Martinez	Syverson
Collins	Hultgren	Meeks	Trotter
Crotty	Hunter	Muñoz	Wilhelmi
Dahl	Jacobs	Murphy	Mr. President
Delgado	Jones, E.	Noland	
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	
Duffy	Kotowski	Righter	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 663**.

Ordered that the Secretary inform the House of Representatives thereof.

[May 3, 2010]

On motion of Senator Muñoz, **Senate Bill No. 941**, with House Amendments numbered 1, 4 and 5 on the Secretary's Desk, was taken up for immediate consideration.

Senator Muñoz moved that the Senate concur with the House in the adoption of their amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 31; NAYS 11; Present 3.

The following voted in the affirmative:

Althoff	Haine	Kotowski	Sandoval
Clayborne	Holmes	Link	Schoenberg
Collins	Hunter	Maloney	Steans
Crotty	Hutchinson	Martinez	Sullivan
Dahl	Jacobs	Meeks	Trotter
Delgado	Jones, E.	Muñoz	Wilhelmi
Forby	Jones, J.	Radogno	Mr. President
Garrett	Koehler	Raoul	

The following voted in the negative:

Bivins	Duffy	Luechtefeld	Righter
Bomke	Hultgren	Murphy	Syverson
Burzynski	Lauzen	Noland	

The following voted present:

Harmon  
Lightford  
Risinger

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1, 4 and 5 to **Senate Bill No. 941**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Sullivan, **Senate Bill No. 1826**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Sullivan moved that the Senate concur with the House in the adoption of their amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 47; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Burzynski	Garrett	Link	Sandoval
Clayborne	Haine	Luechtefeld	Schoenberg
Collins	Harmon	Maloney	Steans
Cronin	Holmes	Martinez	Sullivan
Crotty	Hultgren	Meeks	Syverson
Dahl	Hunter	Muñoz	Trotter
Delgado	Jacobs	Murphy	Wilhelmi
Demuzio	Jones, J.	Noland	Mr. President
Dillard	Koehler	Radogno	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 1826**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Martinez, **Senate Bill No. 2554**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Martinez moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 47; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Kotowski	Raoul
Bivins	Frerichs	Lauzen	Righter
Bomke	Garrett	Lightford	Risinger
Burzynski	Haine	Link	Sandoval
Clayborne	Harmon	Luechtefeld	Schoenberg
Collins	Holmes	Maloney	Steans
Crotty	Hultgren	Martinez	Sullivan
Dahl	Hunter	Meeks	Syverson
Delgado	Jacobs	Muñoz	Trotter
Demuzio	Jones, E.	Murphy	Wilhelmi
Dillard	Jones, J.	Noland	Mr. President
Duffy	Koehler	Radogno	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 2554**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Steans, **Senate Bill No. 2630**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Steans moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 48; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Risinger
Bivins	Frerichs	Lightford	Sandoval
Bomke	Garrett	Link	Schoenberg
Burzynski	Haine	Luechtefeld	Steans
Clayborne	Harmon	Maloney	Sullivan
Collins	Holmes	Martinez	Syverson
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Muñoz	Wilhelmi
Dahl	Jacobs	Murphy	Mr. President
Delgado	Jones, E.	Noland	
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	
Duffy	Kotowski	Righter	

The motion prevailed.

[May 3, 2010]

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 2630**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Haine, **Senate Bill No. 3030**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Haine moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 48; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Risinger
Bivins	Frerichs	Lightford	Sandoval
Bomke	Garrett	Link	Schoenberg
Burzynski	Haine	Luechtefeld	Steans
Clayborne	Harmon	Maloney	Sullivan
Collins	Holmes	Martinez	Syverson
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Muñoz	Wilhelmi
Dahl	Jacobs	Murphy	Mr. President
Delgado	Jones, E.	Noland	
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	
Duffy	Kotowski	Righter	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 3030**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Althoff, **Senate Bill No. 3061**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Althoff moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 47; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Koehler	Radogno
Bivins	Forby	Kotowski	Raoul
Bomke	Frerichs	Lauzen	Risinger
Burzynski	Garrett	Lightford	Sandoval
Clayborne	Haine	Link	Schoenberg
Collins	Harmon	Luechtefeld	Steans
Cronin	Holmes	Maloney	Sullivan
Crotty	Hultgren	Martinez	Syverson
Dahl	Hunter	Meeks	Trotter
Delgado	Jacobs	Muñoz	Wilhelmi
Demuzio	Jones, E.	Murphy	Mr. President
Dillard	Jones, J.	Noland	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 2 to **Senate Bill No. 3061**.

[May 3, 2010]

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Althoff, **Senate Bill No. 3070**, with House Amendment No. 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Althoff moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 47; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Kotowski	Raoul
Bivins	Frerichs	Lauzen	Righter
Bomke	Garrett	Lightford	Risinger
Clayborne	Haine	Link	Sandoval
Collins	Harmon	Luechtefeld	Schoenberg
Cronin	Holmes	Maloney	Steans
Crotty	Hultgren	Martinez	Sullivan
Dahl	Hunter	Meeks	Syverson
Delgado	Jacobs	Muñoz	Trotter
Demuzio	Jones, E.	Murphy	Wilhelmi
Dillard	Jones, J.	Noland	Mr. President
Duffy	Koehler	Radogno	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 2 to **Senate Bill No. 3070**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Garrett, **Senate Bill No. 3118**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Garrett moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 48; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Risinger
Bivins	Forby	Lightford	Sandoval
Bomke	Frerichs	Link	Schoenberg
Bond	Garrett	Luechtefeld	Steans
Burzynski	Haine	Maloney	Sullivan
Clayborne	Harmon	Martinez	Syverson
Collins	Holmes	Meeks	Trotter
Cronin	Hultgren	Muñoz	Wilhelmi
Crotty	Hunter	Murphy	Mr. President
Dahl	Jacobs	Noland	
Delgado	Jones, E.	Radogno	
Demuzio	Jones, J.	Raoul	
Dillard	Koehler	Righter	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 3118**.

Ordered that the Secretary inform the House of Representatives thereof.

[May 3, 2010]

Senator Lauzen asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the affirmative on **Senate Bill No. 3118**.

On motion of Senator Haine, **Senate Bill No. 3183**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Haine moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 48; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Risinger
Bivins	Forby	Lightford	Sandoval
Bomke	Frerichs	Link	Schoenberg
Bond	Garrett	Luechtefeld	Steans
Burzynski	Haine	Maloney	Sullivan
Clayborne	Harmon	Martinez	Syverson
Collins	Holmes	Meeks	Trotter
Cronin	Hultgren	Muñoz	Wilhelmi
Crotty	Hunter	Murphy	Mr. President
Dahl	Jones, E.	Noland	
Delgado	Jones, J.	Radogno	
Demuzio	Koehler	Raoul	
Dillard	Kotowski	Righter	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 3183**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Bond, **Senate Bill No. 1020**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Bond moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 49; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lauzen	Risinger
Bomke	Frerichs	Lightford	Sandoval
Bond	Garrett	Link	Schoenberg
Burzynski	Haine	Luechtefeld	Steans
Clayborne	Harmon	Maloney	Sullivan
Collins	Holmes	Martinez	Syverson
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Muñoz	Wilhelmi
Dahl	Jacobs	Murphy	Mr. President
Delgado	Jones, E.	Noland	
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1020**.

[May 3, 2010]

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Risinger, **Senate Bill No. 3282**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Risinger moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 48; NAYS None.

The following voted in the affirmative:

Bivins	Forby	Lauzen	Risinger
Bomke	Frerichs	Lightford	Sandoval
Bond	Garrett	Link	Schoenberg
Burzynski	Haine	Luechtefeld	Stears
Clayborne	Harmon	Maloney	Sullivan
Collins	Holmes	Martinez	Syverson
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Muñoz	Wilhelmi
Dahl	Jacobs	Murphy	Mr. President
Delgado	Jones, E.	Noland	
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	
Duffy	Kotowski	Righter	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 3282**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator J. Jones, **Senate Bill No. 3320**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator J. Jones moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 49; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lauzen	Risinger
Bomke	Frerichs	Lightford	Sandoval
Bond	Garrett	Link	Schoenberg
Burzynski	Haine	Luechtefeld	Stears
Clayborne	Harmon	Maloney	Sullivan
Collins	Holmes	Martinez	Syverson
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Muñoz	Wilhelmi
Dahl	Jacobs	Murphy	Mr. President
Delgado	Jones, E.	Noland	
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 3320**.

Ordered that the Secretary inform the House of Representatives thereof.

[May 3, 2010]

On motion of Senator Bivins, **Senate Bill No. 3433**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Bivins moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 48; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Risinger
Bivins	Forby	Lightford	Sandoval
Bomke	Frerichs	Link	Schoenberg
Bond	Garrett	Luechtefeld	Steans
Burzynski	Haine	Maloney	Sullivan
Clayborne	Harmon	Martinez	Syverson
Collins	Holmes	Meeks	Trotter
Cronin	Hultgren	Muñoz	Wilhelmi
Crotty	Hunter	Murphy	Mr. President
Dahl	Jones, E.	Noland	
Delgado	Jones, J.	Radogno	
Demuzio	Koehler	Raoul	
Dillard	Kotowski	Righter	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 3433**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Sandoval, **Senate Bill No. 3249**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Sandoval moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 46; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Sandoval
Bond	Garrett	Link	Schoenberg
Clayborne	Haine	Luechtefeld	Steans
Collins	Holmes	Maloney	Sullivan
Cronin	Hultgren	Martinez	Syverson
Crotty	Hunter	Meeks	Trotter
Dahl	Jacobs	Muñoz	Wilhelmi
Delgado	Jones, E.	Murphy	Mr. President
Demuzio	Jones, J.	Noland	
Dillard	Koehler	Radogno	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 3249**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Syverson, **Senate Bill No. 3478**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Syverson moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 49; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lauzen	Risinger
Bomke	Frerichs	Lightford	Sandoval
Bond	Garrett	Link	Schoenberg
Burzynski	Haine	Luechtefeld	Steans
Clayborne	Harmon	Maloney	Sullivan
Collins	Holmes	Martinez	Syverson
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Muñoz	Wilhelmi
Dahl	Jacobs	Murphy	Mr. President
Delgado	Jones, E.	Noland	
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 3478**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Jones, E. III, **Senate Bill No. 3540**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Jones, E. III moved that the Senate concur with the House in the adoption of their amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 46; NAYS 3.

The following voted in the affirmative:

Althoff	Dillard	Koehler	Righter
Bivins	Forby	Kotowski	Risinger
Bomke	Frerichs	Lightford	Sandoval
Bond	Garrett	Link	Schoenberg
Burzynski	Haine	Luechtefeld	Steans
Clayborne	Harmon	Maloney	Sullivan
Collins	Holmes	Martinez	Syverson
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Muñoz	Wilhelmi
Dahl	Jacobs	Noland	Mr. President
Delgado	Jones, E.	Radogno	
Demuzio	Jones, J.	Raoul	

The following voted in the negative:

Duffy  
Lauzen  
Murphy

The motion prevailed.

[May 3, 2010]

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 3540**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Delgado, **Senate Bill No. 3568**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Delgado moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 46; NAYS 2.

The following voted in the affirmative:

Althoff	Forby	Kotowski	Righter
Bivins	Frerichs	Lauzen	Risinger
Bomke	Garrett	Lightford	Sandoval
Bond	Haine	Link	Schoenberg
Burzynski	Harmon	Luechtefeld	Steans
Clayborne	Holmes	Maloney	Sullivan
Collins	Hultgren	Martinez	Syverson
Cronin	Hunter	Meeks	Trotter
Crotty	Jacobs	Muñoz	Wilhelmi
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	

The following voted in the negative:

Dahl  
Duffy

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 3568**.

Ordered that the Secretary inform the House of Representatives thereof.

#### COMMUNICATION

ILLINOIS STATE SENATE  
DON HARMON  
ASSISTANT MAJORITY LEADER  
STATE SENATOR · 39<sup>TH</sup> DISTRICT

May 3, 2010

The Honorable Jillayne Rock  
Secretary of the Senate  
Room 403 Capitol Building  
Springfield, IL 62704

Madame Secretary:

Today, Senator Muñoz presented concurrences to House amendments 1, 4 and 5 to Senate Bill 941 in both the Senate Executive Committee and to the full Senate. The bill would allow the RTA to issue working cash notes. Other lawyers in the law firm that employs me from time to time participate in RTA bond financings. Accordingly, to avoid the appearance of conflict on interest, I abstained from

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voting on the concurrences to the House amendments to Senate Bill 941 and I hereby disclose that fact to the Senate.

Sincerely,  
s/Don Harmon

At the hour of 6:25 o'clock p.m., the Chair announced that the Senate stand adjourned until Tuesday, May 4, 2010, at 9:00 o'clock a.m.

[May 3, 2010]